



G-Cloud 15

Standard Terms and Conditions

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The contract between the client and Akeso and Company Limited is set out in the G-Cloud arrangement letter and these standard terms and conditions. Any non-standard terms will be stipulated in the arrangement letter and agreed upon discussion with the client.

The company with whom you are contracting is **Akeso and Company Limited**, a company registered in United Kingdom with registered number 08382731 having its principal place of business at 11 Cursitor St, London EC4A 1LL and for ease of expression is referred to as "Akeso&Co", the arrangement letter or proposal document (including its attachments) is referred to as "the arrangement letter", the recipient of the arrangement letter is referred to as "the Client" and the services and deliverables detailed in the arrangement letter to be provided to the Client are referred to as "the Service".

1 Service Overview

1.1 Akeso&Co and the Client acknowledge that the success of the Service is the joint responsibility of both parties.

1.2 Akeso&Co and the Client recognise they must both use reasonable endeavours to meet agreed target dates.

2 Payment and Taxes

2.1 All fees and expenses will be charged monthly in arrears or as otherwise specified in the arrangement letter and are payable within 30 days of the date of Akeso&Co's invoice ("**Due Date**"). Akeso&Co reserves the right to charge interest on any sum which remains outstanding after the Due Date. Interest will be calculated on a daily basis from the Due Date until paid in full. This interest will be calculated at a daily compound rate of 1% above the Bank of England base rate.

2.2 The Client shall pay for all taxes incurred in connection with the Service including value-added, sales, use, excise, services, consumption, withholding and other taxes and duties assessed on the provision of services and deliverables by Akeso&Co to the Client in relation to the Service and on any goods or services used or consumed by either party in connection with the Service.

2.3 In the event that any payments received by Akeso&Co in connection with the Service are subjected to or reduced by any taxes required to be withheld by the Client, the payments shall be grossed up so as to result in Akeso&Co's receipt of an amount equal to that which would have been received by Akeso&Co but for the said taxes.

2.4 The Client agrees to indemnify and hold Akeso&Co harmless from any deficiency (including penalties and interest) relating to taxes which are the responsibility of the Client under the Service and reimburse Akeso&Co for all accounting and legal fees and expenses incurred in connection with an assessment of such a deficiency.

2.5 The fees quoted in the arrangement letter may increase if the scope of the Service changes. Any additional services provided by Akeso&Co shall be charged to the Client by reference to Akeso&Co's then current day rates.

3 Confidentiality

3.1 The arrangement letter, including its attachments, are the confidential property of Akeso&Co. The Client agrees that no part of them shall be disclosed to any third party without the prior written consent of Akeso&Co or used for purposes other than the Service, unless required by order of a Court of competent jurisdiction, Supervisory or regulatory body or by Akeso&Co's auditors. The Client further agrees that it has no rights to the arrangement letter other than as expressly granted to it by Akeso&Co.

3.2 The Client and Akeso&Co each agree to keep confidential and not to disclose to any third party any information (excluding information which is or becomes public knowledge other than as a result of the default of the recipient) relating to the business or trade secrets of the other ("Confidential Information"), or to make use of any such Confidential Information for any purpose other than in connection with the Service or as required by law.

4 Remedies and Liabilities

4.1 The Client agrees to give Akeso&Co a reasonable opportunity to remedy any failure or shortcoming in the provision by Akeso&Co of the services or deliverables comprised in the Service to the Client, including, without limitation, any failure to achieve any service levels specified in the arrangement letter. Akeso&Co undertakes, at its expense, to use all reasonable efforts to implement such remedy as soon as reasonably practicable after any such failure or shortcoming is identified and reported to it by the Client in writing.

4.2 Akeso&Co accepts liability without limit for death or personal injury which is due to the negligence of Akeso&Co or its employees.

4.3 Akeso&Co also accepts liability for physical damage or loss to the Client's tangible property which is directly caused by the negligence of Akeso&Co or its employees. Such liability will be limited to a maximum amount of £250,000 in respect of each incident or series of connected incidents and limited further to an aggregate amount of £1,000,000 in respect of all property claims falling within the scope of this paragraph 4.3.

4.4 In respect of any liability which is not within the scope of paragraphs 4.2 or 4.3, Akeso&Co's total liability under or in connection with the Service (whether in contract, tort (including negligence) or otherwise) shall not exceed in aggregate the total fees received by Akeso&Co in respect of the Service.

4.5 Akeso&Co will not be liable (whether in contract, tort (including negligence) or otherwise) for any:

(a) loss of production;
(b) loss of or corruption to software or data;
(c) loss of profits or of contracts;
(d) loss of business or of revenues;
(e) loss of operation time;
(f) loss of goodwill or reputation;, or
(g) indirect, incidental, punitive or consequential loss, damage, cost or expense

whatsoever.

4.6 Akeso&Co will not be liable for any loss, damage, cost or expense whatsoever and howsoever caused arising from any fraudulent or unauthorised act or statement, misrepresentation or default on the part of the Client, its directors, employees, agents and other contractors.

4.7 The express obligations and warranties made by Akeso&Co in the arrangement letter and these Terms and Conditions are in place of and to the exclusion (to the fullest extent permitted by law) of any other warranty, condition, term or undertaking of any kind, express or implied, statutory or otherwise, including (without limitation) as to the condition, performance, fitness for purpose or satisfactory quality of the Service or any part of the Service.

4.8 Any action by either party against the other relating to or arising out of the Service must be brought within two (2) years after the aggrieved party became aware of (or should reasonably have become aware of) the cause of action, failing which the alleged wrongdoer will be discharged of any liability with respect to such claim.

4.9 The allocations of liability in these Terms and Conditions represent the agreed and negotiated understanding of the parties and Akeso&Co's charges for services reflect such allocations.

4.10 This paragraph 4 survives the termination of the Service for any reason.

5 Indemnities

5.1 Akeso&Co will defend, at its expense, any third party claim that any deliverable provided as part of the Service infringes a UK copyright provided that the Client (a) allows Akeso&Co conduct of the defence of such claim, including any settlement, (b) makes no prejudicial admission or statement, (c) notifies Akeso&Co promptly of any claim and (d) actively co-operates and assists Akeso&Co, at its expense, in the defence of the claim. In the event that any damages are finally awarded against the Client in respect of such a claim or agreed by Akeso&Co in final settlement, these will be paid by Akeso&Co. This indemnity will not apply if the infringement is the result of (a) the Client modifying or misusing the relevant deliverable or providing such deliverable to a third party, or (b) the failure of the Client to use enhancements or modifications offered by Akeso&Co to avoid infringement, but which retain the objectives of the Service or (c) the use of information, documents, facilities or items supplied by the Client for the purposes of the Service. This indemnity constitutes the Client's sole and exclusive remedy and Akeso&Co's entire liability with respect to any part of the Service infringing any third party rights of any kind.

5.2 Save as set out in paragraph 5.1, the Client shall defend, indemnify and hold harmless Akeso&Co and its partners and employees and associated companies and partnerships from and against any and all claims made by third parties for damages, losses, expenses or costs (including legal fees and expenses) arising out of or in connection directly or indirectly with the Service, provided that Akeso&Co (a) allows the Client conduct of the defence of such claim, including any settlement, (b) makes no prejudicial admission or statement, (c) notifies the Client promptly of any claim and (d) actively co-operates and assists the Client, at

its expense, in the defence of the claim.

6 Intellectual Property Rights

6.1 The copyright and all other proprietary rights existing now or in the future in all computer programs, documentation and other materials as well as in any idea, method, invention, discovery, design, concept or other work ("the Works") arising from Akeso&Co's performance of the Service (whether conceived or developed individually or jointly with the Client and others) shall belong to and be the absolute property of Akeso&Co. At the request and expense of Akeso&Co, the Client will do all such things and sign all documents reasonably necessary to enable Akeso&Co to obtain all such rights in the Works.

6.2 Subject to the payment of all fees and expenses due to Akeso&Co for the Service, Akeso&Co will grant to the Client a non-transferable, non-exclusive licence for a period of 25 years to use and reproduce for its own internal use only any deliverable provided under the Service.

6.3 The Client acknowledges that in the course of its performance of the Service Akeso&Co may use products, materials or methodologies proprietary to Akeso&Co or a third party or Akeso&Co may produce proprietary materials or methodologies that are not part of the deliverables. The Client agrees that it will not have nor obtain rights in such proprietary products, materials and methodologies except pursuant to a separate written agreement on terms to be agreed and the Client agrees to maintain the confidentiality of such items.

7 Responsibilities

7.1 The Client agrees to provide Akeso&Co promptly with accurate and complete information concerning its activities, decisions and approvals relevant to the Service. If any of Akeso&Co's personnel work on the Client's premises, the Client will provide such personnel with suitable office accommodation and services, and full and free access to any required computing facilities. Akeso&Co's personnel will observe all Client requirements for computer use, security and safety. The Client is responsible for the provision of suitable environmental conditions, including electrical supplies, at its premises. The Client will ensure that all computing and ancillary facilities provided to Akeso&Co's personnel for use in connection with the Service and the working environment at the Client's premises will comply with all applicable health and safety regulations including the Health and Safety (Display Screen Equipment) Regulations 1992.

8 Force Majeure

8.1 Neither Akeso&Co nor the Client will be liable for any delay in performing or failure to perform their obligations if such failure or delay is as a result of causes outside the reasonable control of the responsible party.

9 Termination

9.1 Akeso&Co may terminate all work on the Service with immediate effect with no liability to the Client if the Client is in breach of any terms of the arrangement letter and/or Terms and Conditions.

10 Recruitment of Personnel

10.1 Neither party will for the duration of the Service and for a period of 6 months after its termination (for whatever reason), directly or indirectly solicit for employment, nor offer employment to, nor enter into any contract for services with any person who, at the time of such action or during a period of 6 months immediately preceding such action, carried out work in connection with the Service.

11 Third Party Rights

11.1 Nothing in these Terms and Conditions or the attached arrangement letter is intended to confer any benefit on any third party (whether referred to by name, class, description or otherwise) or any right to enforce a term of these Terms and Conditions or the attached arrangement letter.

12 Entire Agreement

12.1 The arrangement letter and these Terms and Conditions constitute the entire agreement between the Client and Akeso&Co relating to the Service and supersede all previous communications, representations and arrangements, written or oral, except in respect of any fraudulent misrepresentation made by either party. The Client acknowledges that no reliance is placed on any representation made but not embodied in the arrangement letter and these Terms and Conditions. The printed terms of any purchase order and other communications issued by the Client in connection with the Service will not apply unless accepted in writing by Akeso&Co. No variation will be effective unless in writing and signed by authorised representatives of both parties. In the event of any conflict between the terms of the arrangement letter and these Terms and Conditions, the terms of the arrangement letter shall prevail.

13 Assignment

13.1 Akeso&Co's may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the arrangement letter and these Terms and Conditions. The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the arrangement letter and Terms and Conditions without the prior consent of Akeso&Co.

14 Data Protection

14.1 Both parties will comply with all Data Protection Legislation. For the purpose of this clause, 'Data Protection Legislation' means all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications including, without limitation, any data protection legislation from time to time in force in the UK including the Data Protection Act 2018, as well as (ii) the General Data Protection Regulation (*(EU) 2016/679*) any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK)

14.2 The parties acknowledge that, to the extent Akeso&Co process the Client's personal data (as defined in the Data Protection Legislation), for the purposes of the Data Protection Legislation the Customer is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

14.3 Without prejudice to the generality of clause 14.1, the Client will ensure that:

(a) it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Akeso&Co for the duration and purposes of the Service;
(b) ensure that any personal data that it provides is lawfully disclosed or provided to Akeso&Co;
(c) not cause Akeso&Co to be in breach of the Data Protection Legislation;
(d) ensure that any instructions provided to Akeso&Co regarding the processing of Personal Data are lawful and shall, at all times, be in accordance with Data Protection Legislation;
(e) have sole responsibility for the technical and organisational measures employed in its own environments and shall put in place any reasonable measures recommended by Akeso&Co in respect of the security of the personal data, which may include the pseudonymisation and encryption of the personal data;
(f) ensure that the personal data shall not include any sensitive personal data or special categories of data (as defined in the Data Protection Legislation) without first agreeing additional data protection and information security controls with Akeso&Co; and
(g) indemnify Akeso&Co for any costs, damages, penalties, awards or fines suffered or incurred by Akeso&Co as a result of any claim by a third party, including a Data Subject or which are imposed upon by a supervisory authority in the event of any breach of this clause 14 by the Client.

14.4 Akeso&Co shall, in relation to any personal data processed on behalf of the Client:

(h) process that personal data only on the written instructions of the Client unless Akeso&Co is required by applicable laws to otherwise process that personal data. Where Akeso&Co is relying on laws of a member of the European Union or European Union law as the basis for processing personal data, Akeso&Co shall promptly notify the Client of this before performing the processing required by the applicable laws unless those applicable laws prohibit Akeso&Co from so notifying the Client;

(i) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(j) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and

(k) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:

i. the Client or Akeso&Co has provided appropriate safeguards in relation to the transfer;

ii. the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;

iii. Akeso&Co complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and

iv. Akeso&Co complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the personal data;

(l) assist the Client, at the Client's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(m) notify the Client without undue delay on becoming aware of a personal data breach;

(n) at the written direction of the Client, delete or return personal data and copies to the Client on termination of the Service unless required by applicable law to store the personal data; and

(o) maintain complete and accurate records and information to demonstrate its compliance with this clause 14.

14.5 The Client consents to Akeso&Co appointing third-party processors of the personal data under the arrangement letter and Terms and Conditions. Akeso&Co confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 14. As between the Client and Akeso&Co, Akeso&Co shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.

15 Relationship Between the Parties

15.1 In connection with the arrangement letter and these Terms and Conditions, each party is an independent contractor and, as such will not have any authority to bind or commit the other party. Nothing in the arrangement letter or in these Terms and Conditions will be deemed or construed to create a joint venture, partnership or agency relationship between the parties for any purpose. In performing the works under the arrangement letter and these Terms and Conditions, Akeso&Co staff do so as employees of Akeso&Co (or its Akeso&Co Affiliates) and do not act as partners of any partnerships.

16 Severability

16.1 If any term or provision of the arrangement letter or these Terms and Conditions is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions or the whole of the arrangement letter and these Terms and Conditions, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties set forth in the arrangement letter and these Terms and Conditions.

17 Applicable Law

17.1 The arrangement letter and these Terms and Conditions will be governed by and construed in accordance with the laws of England and will be subject to the non-exclusive jurisdiction of the English Courts.

18 Interpretation

18.1 A reference to a party includes its personal representatives, successors and permitted assigns.

18.2 A reference in these Terms and Conditions to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

18.3 Headings in the arrangement letter and Terms and Conditions are for convenience and shall not affect their interpretation.