



G-Cloud 15

Service Terms and Conditions

These are general Terms and Conditions and are subject to change in accordance to individual contractual agreements.

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1. General

- a. These Terms and Conditions apply to and govern every supply of systems and services by Asura Limited whose registered office is at 125 Stag Lane, Edgware, London, HA8 5LJ (hereinafter called "Asura") to any customer (hereinafter called "the Client") and shall be incorporated in every contract for the supply by Asura of systems and services unless otherwise agreed in writing by a Director on behalf of Asura.
- b. If any provision in these terms and conditions is held to be invalid or unenforceable, it shall be deemed severed from the terms and conditions and this shall not affect the validity or enforceability of the remaining provisions.
- c. Any variation of these terms and conditions must be in writing and signed by a duly authorised Asura official.
- d. Any notices given under these terms and conditions shall be in writing and sent
 - a. by first class pre-paid post to the last known address of the party; or
 - b. by fax to their last known fax number; or
 - c. by e-mail to the last notified e-mail address of the party.
- e. These terms and conditions shall be governed by and construed in accordance with the laws of England & Wales and the parties submit to the non-exclusive jurisdiction of the English courts.
- f. Asura may at its discretion record telephone transactions for staff training and quality control purposes.

2. Definitions

- a. "Client" means the client to whom Asura is providing the services.
- b. "Asura" means Asura Limited, its subsidiaries and any of its subcontractors.
- c. "Services" means the services which Asura will perform as described in a packaged service description or a signed statement of works.
- d. "Data" means client data to the extent that it relates to their requirements for services or is necessary for the proper provision of the services to the client.
- e. "Normal Working Hours" means 9.00am to 5.00pm on a working day.
- f. "Working Day" means Monday to Friday, excluding Bank or other Public holidays in England.
- g. "Statement of Works" means the document agreed by the parties which specifies the services to be provided and the requirements for their provision.
- h. "Equipment" means the products sold by Asura as set out in the statement of works or in a packaged service description.
- i. "Out of Hours" means time outside of normal working hours.





j. "Packaged Service" means a standard pre-defined and repeatable service offering which Asura will perform as described in a packaged service description.

k. "Packaged Service Description" means the document setting out the scope of a packaged service.

3. Orders

- a. All contracts for the provision of services and equipment by Asura shall be deemed to incorporate these terms and conditions, which shall prevail over any other terms from the client. Once an order has been received, if the client wishes to cancel the order, the client will be liable for the cancellation and postponement charges as set out in these terms and conditions (see "Cancellation/Postponement" below).
- b. All orders are subject to acceptance and to availability to provide the devices ordered: Asura is entitled to refuse any order placed by the client.
- c. The client undertakes that all details it provides to Asura for the purpose of purchasing equipment or services are correct.

4. Fees

- a. Services and equipment, together with VAT, are invoiced at the price as set out in the statement of works or quote. The statement of works and quote pricing are valid for 30 days only from the date of the statement of works or quote, unless otherwise stated therein.
- b. Asura reserves the right to modify the prices from time to time for future orders.
- c. Any estimates made by Asura for the cost of any services and equipment shall be estimates only. Whenever estimated prices are quoted, Asura shall use all reasonable efforts to perform the relevant services at the estimated price but in no event shall such estimates constitute a fixed price or a not-to-exceed price agreement unless stated otherwise in the statement of works or quote.
- d. Any prices quoted by Asura in a local currency may be adjusted by Asura due to fluctuations in the US Dollar/Euro exchange rate.

5. Customer Obligations

- a. The Client will pay Asura the fees in clause 4 in return for the proper performance of the Services.
- b. The Client may not sell, re-sell, sub-license, lease, rent, supply or make the Services as such, available to any third party but may use the Services to provide its own services to its own customers.
- c. The Client will provide all decisions, instructions, information, access and assistance reasonably requested by Asura in order for Asura to meet its obligations under the Agreement.





- d. The Client will use the Services in accordance with the Agreement and any documentation or reasonable instructions of Asura. The Client will give Asura reasonable prior notice of any activity likely to use abnormal compute, bandwidth or storage resource. Abnormal means usage likely to adversely affect Asura or its other customers.
- e. The Client will not use the Services to access, store, distribute or transmit any Objectionable material or for any Objectionable purpose. "Objectionable" means unlawful, false, fraudulent, misleading, offensive, pornographic, obscene, derogatory, discriminatory, racist, defamatory, inflammatory, malicious, threatening, causing nuisance or anxiety, unsolicited mass mailing, flooding, mail-bombing, spamming, or infringing the rights of Asura or others or likely to expose Asura to prosecution or third-party claims or actions.
- f. The Client will make all of its users aware of Asura's privacy policy
- g. The Client accepts that Asura may be required by law to monitor the Content and use of the Services and to provide details, which may include identification of logon credentials and their usage, to any party with relevant statutory authority.
- h. The Service Description may stipulate the way in which The Client can manage some of its own cloud services but otherwise The Client may not attempt to repair, adjust, modify or interfere with any Asura systems, software or equipment; nor attempt to circumvent any security measures put in place by Asura except where penetration tests have been agreed in advance. The Client will co-operate with any reasonable requests from Asura concerning security measures and monitoring systems.
- i. The Client will not remove, modify or obscure any copyright, trademark, or other proprietary rights notices that appear on any software supplied by Asura. Except as permitted by law, The Client may not copy, reverse engineer, decompile or disassemble such software. The Client may copy and use documentation supplied by Asura only in connection with the proper use of the Services.
- j. The Client will comply with Asura's reasonable procedures concerning access to Asura sites and conduct whilst on site. Asura will give The Client adequate notice of these procedures.
- k. The Client will only use the call reporting and handling processes agreed with Asura to notify any problems with the Services and to raise service requests. The Client will provide the information, resources and access that Asura may reasonably require to analyse reported problems and will ensure that its nominated technical contact has the ability to undertake routine diagnostics and assist with maintenance and systems administration of the Services
- l. The Client accepts that communications and computer systems in general cannot be free of errors or interruptions and agrees that their existence does not constitute a breach of the Agreement.





- m. The Client will ensure that administrative and similar privileges are only assigned to suitably experienced persons who are sufficiently familiar with the Services and that all users protect their passwords and generally apply Best Industry Practice to security.
- n. The Client must retain the accreditations appropriate to the Services and will provide evidence of the same to Asura upon request.
- o. The Client is solely responsible for the legality, accuracy, completeness, development, operation, maintenance, security and insurance of the Content and The Client's own equipment and for compliance with any third party AUP or other policies. The Client will ensure that Asura is aware of all relevant restrictions and requirements before using the Content with the Services. Asura has no responsibility for restoring Content or for disaster recovery except to the extent expressly set out in the Service Description.
- p. The Client is solely responsible for the compatibility, legality, accuracy, completeness, operation, maintenance, security, backup and use of applications, software, systems and network connectivity that it uses in connection with the Services unless these items are expressly included as part of the Services. The Client will ensure that the terms and conditions for all such items allow use with the Services.
- q. The Client will use Best Industry Practice to prevent its use of the Services, the Content, The Client's own equipment and the applications, software, systems and network connectivity that it uses with the Services from:
 - 1) Unauthorised access and use.
 - 2) Causing physical damage to Asura's equipment, facilities or premises.
 - 3) Causing damage to Asura's systems, services or customers through the introduction of the most common viruses, spyware, malware, trojan horses or other damaging code or devices.

6. Pre-requisites & Essential Requirements

- a. The client shall provide Asura and its staff sufficient working space as well as such access to the client's personnel, files and equipment at the client's facility as Asura reasonably deems necessary for the performance of the Services.
- b. The client shall:
 - a. Comply with the obligations set out in these terms and conditions;
 - b. Undertake the specific obligations specified in the statement of works or packaged service description;





- c. Ensure that any assumptions or dependencies set out in the statement of works or packaged service description are fulfilled or complied with as the case may be.
- c. If the client fails to fulfil any of its responsibilities under these terms and conditions in a proper and timely manner and such failure causes a delay in the performance of the services or results in additional costs to Asura, Asura shall take such action as it deems reasonably prudent and shall provide the client with a written specification of such delay and the resulting costs. The client agrees to pay these costs to Asura at the then current standard Asura rates for the services involved.
- d. In the event that Asura removes any of the client's hardware from its site, unless it is otherwise specifically agreed in writing by the parties at the time, Asura shall be entitled to assume that all data of a sensitive nature and personal data (as defined by the Data Protection Act 1998) has been removed from the tapes or other media and the client agrees to indemnify Asura from all and any claims and proceedings made or brought by any person in respect of any loss, damage or distress to that person by reason of any wrongful disclosure of any personal data on any such media or tapes.
- e. Client shall be solely responsible for maintaining back-up copies of all data.
- f. Unless specified in the statement of works or packaged service description, services do not include any electrical, network or external communications infrastructure cabling specification or installation.
- g. All such network cabling and associated sockets should be in their correct location and tested by the client prior to the equipment installation date.
- h. All agreed equipment locations will be final and adequate power sockets must be available.
- i. No additional work will be undertaken if not included on the statement of works or packaged service description. A request for change document may be drawn up by Asura to cover such work but it must be agreed and signed by the client before such additional work can be carried out.
- j. Under no circumstances will any equipment be released or the client given access to any equipment, until Asura has finished the services unless otherwise expressly stated in the statement of works or packaged service description.
- k. Any existing equipment belonging to the client being utilised or connected, must be fully operational and virus free, and fully accessible to Asura during the installation.
- l. Delays on site caused by faulty equipment, not supplied by Asura, services not being ready, or access restrictions may incur additional charges at the then current Asura rates.

7. Changes

- a. In order to improve its operations or the Services, Asura may revise the Services by giving The Client at least sixty days' notice. By giving The Client at least sixty days' notice, Asura may also revise these Business Terms with effect from the end of the initial term shown in the Agreement or with effect from any anniversary of the Agreement Acceptance Date after the initial term.





- b. If The Client reasonably believes that any revision reduces its rights or benefits it may terminate the Services by giving Asura at least thirty days' notice prior to the date when the revision would become effective. Asura will repay The Client fees already received for Services that would have been supplied after the date of termination, less any third-party termination fees agreed between the Parties during the thirty-day notice period.
- c. The Client may at any time request reasonable changes to the Services by using Asura's standard forms and processes or any other forms and processes as the Parties have agreed.
- d. Asura may not unreasonably withhold its agreement to any change request that is consistent with the scope of the existing Services and Agreement.
- e. Asura will promptly advise The Client if any change request is likely to affect price or timescales.
- f. Until any change is agreed in writing by both Parties, Asura will continue to perform and to be paid for the Services as if the change had not been requested.
- g. Asura reserves the right to charge for any significant activity undertaken in response to any Customer change request where The Client does not proceed with the change.
- h. The Client will not seek to introduce changes except as described in this clause 7 and will avoid issuing oral or informal instructions to Asura's personnel.
- i. The Agreement may only be changed as set out or by any other written agreement of the Parties which is stated to be a change made under this clause

8. Intellectual Property

- a. All service data collected by Asura (including but not limited to asset databases, call data and system configuration details) shall belong to Asura.
- b. All intellectual property rights in the services provided by Asura shall belong to Asura.
- c. If any claim is made against The Client's Intellectual Property, The Client may at its sole option and expense obtain the right for Asura to continue using the Content or modify it to avoid the infringement or withdraw the Content in question.

9. Suspension and Termination

9.1 Asura may suspend or terminate the Services:

- a. If either party materially breaches any of its obligations and the breach has not been remedied within 30 days after written notice is given to the defaulting party specifying the breach, the party not in default may by written notice terminate this agreement (including the relevant





statements of works or packaged service description) as of the date specified in such termination notice.

- b. Either party may terminate this agreement or the relevant statement of works or packaged service description or suspend work if:
 - 1) the other party fails to promptly pay any amount due to be paid under this agreement or statement of works or packaged service description; or
 - 2) the other party passes a resolution for winding up (save for the purpose of solvent amalgamation or reconstruction) or suffers a winding-up order being made against it; or
 - 3) a receiver, administrative receiver, administrator or similar officer is appointed over the other party.

10. Liability

- a. Asura shall under no circumstances be liable for any consequential or indirect damage or loss, however caused, including (but not restricted to) loss of business or profits in the ordinary course, loss of goodwill, damage to trading relationships loss of data and other financial loss. Asura's liability in respect of all other losses shall be limited to the invoiced amount of the relevant order.
- b. Nothing in this agreement shall limit Asura's liability for death, personal injury fraud or fraudulent misrepresentation.

11. Data Protection and Confidentiality

- a. Each Party warrants that it will comply with the Data Protection Act. Where the Services require Asura to process The Client's personal data, the Parties acknowledge that Asura is the data processor and The Client is the data controller and Asura will only process The Client's personal data in accordance with The Client's instructions.
- b. Confidential Information is information which the disclosing Party identifies as being confidential or which is usually considered to be confidential in the industry. Confidential Information excludes information already legitimately known by the receiving Party before the start of discussions leading to the Agreement or which is or becomes independently known to it or becomes public knowledge without any breach of this clause. Each Party will only disclose the other Party's Confidential Information to those of its own personnel who need to know for purposes connected with the Agreement and to those third parties who have relevant statutory authority. Each Party will apply Best Industry Practice measures to protect the other Party's Confidential Information from unauthorised disclosure. The obligations in this clause survive termination of the Agreement.





12. Anti-Bribery

- a. Each Party will:
 - 1) Comply with all laws and regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements").
 - 2) Ensure that all of its personnel comply with the Relevant Requirements.
 - 3) Maintain its own policies to ensure compliance with the Relevant Requirements.

13. Errors and Omissions

- a. Asura makes every effort to ensure that all prices and descriptions quoted are correct and accurate. In the case of a manifest error or omission, Asura will be entitled to rescind the contract, notwithstanding that it has already accepted the client's order and/or received payment from the client. Asura's liability in that event will be limited to the return of any money the client has paid in respect of the order. In the case of a manifest error in relation to price, the client will be entitled to purchase the equipment or services by paying the difference between the quoted price and the correct price, as confirmed in writing by Asura after the manifest error has been discovered.
- b. A 'manifest error', as the term is used in sub-paragraph (a) above, means, in relation to an incorrect price, a price quoted in error by Asura which is more than 10% less than the price that would have been quoted had the mistake not been made.

14. Service Performance

- a. Asura shall use reasonable endeavors to provide the services by the date agreed with the client, but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond Asura's reasonable control. If a delay is likely, Asura shall contact the client and advise of the delay.
- b. Unless otherwise agreed, the arrival time on site is for a 9.00am start on the date booked.
- c. Installation and completion dates are an estimate and are dependent on the client complying with its obligations and third parties complying with their obligations. Installation and completion dates are not guaranteed. If, solely due to Asura's negligence, a component of the services is unreasonably delayed the client's sole remedy is to reject that component.
- d. Clients are required to give Asura access to provide/install the services within normal working hours and out of hours (where agreed).





- e. If the client cannot allow Asura access to provide/install the services on the agreed date Asura may re-arrange provision/installation of the services provided that Asura may charge the client for the additional costs incurred at the then current Asura rates.
- f. It is the responsibility of the client to ensure that the services provided correspond with the statement of works or packaged service description.
- g. Upon completion of the services, client will be notified of the same. The services are deemed to be accepted if the client has not raised any concerns in writing with Asura within 2 days thereafter.

15. Payments

- a. Asura shall invoice the client on the payment dates specified in the statement of works or in the packaged service description, if none are specified, Asura shall invoice the client: on acceptance of the client's order in respect of software; on shipment in respect of hardware; on completion of professional services or monthly in arrears in respect of recurring services unless otherwise agreed in writing; and in advance in respect of maintenance and support services. Payment is due on presentation of invoice unless credit terms have been agreed in writing with Asura.
- b. If payment is not made on the due date, Asura will be entitled to charge interest daily at the statutory interest rate from time to time and in any event an administration fee in the sum of £75 shall be applied to each overdue invoice.
- c. The provision of any services outside the scope of the services as set out in the statement of works or packaged service description shall be billed to the client at the then current Asura rates for such services.
- d. Amounts stated do not include taxes. All additional taxes or duties which Asura shall have to pay or collect in connection with the provision of the services shall be borne by the client (except for taxes based on Asura's income). VAT will be charged at the rate prevailing at the date of invoice.

16. Cancellation/Postponement

- a. Once a purchase order has been received for the services defined within the statement of works or packaged service description, the client will be liable for the following cancellation and postponement charges;
 - 1) A minimum of 14 days in advance of cancellation/postponement date will result in only days/effort actually worked being billed for, this includes the notice period.





- b. Notwithstanding the above, any built-to-order or non-cancellable hardware or software cannot be cancelled.

17. Notices

- a. Any notice or agreement under the Agreement shall be made:
 - 1) By recorded mail or courier to the other Party's authorised representative at any address shown in the Agreement, or to any other address as one Party has notified the other of, and will be valid on the date of recorded receipt, or
 - 2) By email to the email address of the other Party's authorised representative or to any other email address as one Party has notified the other of, and will be valid at the time of sending unless the email system generates an unsuccessful transmission or unsuccessful delivery report.

18. Force Majeure

- a. Where, in spite of its reasonable efforts, Asura is unable to perform an obligation due to circumstances beyond its reasonable control, it shall not be deemed to be in breach of its contract with the Client.

19. Compliance with relevant requirements

- a. The client shall:
 - 1) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (relevant requirements)
 - 2) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK
 - 3) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the relevant requirement, the relevant policies and clause (1), and will enforce them where appropriate
 - 4) promptly report to Asura any request or demand for any undue financial or other advantage of any kind received by the client in connection with the performance of this agreement





5) immediately notify Asura if a foreign public official becomes an officer or employee of the client or acquires a direct or indirect interest in the client (and the client warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement);

b. Breach of this clause shall be deemed a material breach.

c. For the purpose of this clause, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

20. Legal Construction of the Agreement

- a. Except as set out in clause 3, no part of the Agreement may be enforced by any person who is not a party to it whether relating to the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- b. The Agreement is governed by English law and subject to the exclusive jurisdiction of the English courts. The United Nation's Convention on Contracts for the International Sale of Goods does not apply.
- c. The Agreement represents the entire agreement and understanding between the Parties in respect of its subject matter. The terms and conditions of any purchase orders, acknowledgements or similar put forward by The Client have no effect even if Asura supplies the Services without expressly rejecting such terms and conditions.
- d. The Client accepts these Business Terms by submitting an Agreement to Asura. Asura accepts these Business Terms by accepting the Agreement.

