



# Cloud Services Terms & Conditions

## 1 ACCEPTANCE OF TERMS

By placing an Order via an authorised partner (including Arrow) or by accessing or using the Services, the Customer confirms that it has read, understood and agrees to be bound by these Terms.

These Terms constitute a master services agreement and apply to all Services provided by Pea Soup Hosting Limited via authorised partners.

## 2 Definitions and Interpretations

In these terms, unless the context otherwise requires, the following expressions have the following meanings:

"Business day"	means any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in England;
"Confidential Information"	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with these Terms or otherwise (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked or may be interpreted as such);
"Customer"	entity purchasing Services via an authorised partner
"Customer Data"	means all data, content and information uploaded to, stored in, transmitted via or processed using the Services.
"Customer Systems"	means the Customer's own systems, devices, software, credentials and networks used to access the Services.
"Data Breach"	means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored, or otherwise processed;
"Data Controller"	has the meaning given to 'Data Controller' or 'Controller', as appropriate, in the Data Protection Legislations and is the Customer;
"Data Processor"	has the meaning given to Data Processor or Processor, as appropriate, in the Data Protection Legislation and is the Service Provider;
"Data Protection Legislation"	means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the UK GDPR (the retained EU law version of the General Data Protection Regulation ((EU) 2016/679), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018); the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended;
"Downtime"	means the non-availability of one or more parts of the Services as defined in these Terms;
"Intellectual Property Rights"	means any and all patents, rights in inventions, rights in designs, trade marks, trade and business names and all associated goodwill, rights to sue for passing-off or for unfair competition, copyright, moral rights and related rights, rights in databases, topography

rights, domain names, rights in information (including know-how and trade secrets) and all other similar or equivalent rights (subsisting now or in the future) in any part of the world, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights for their full term;

"Performance Monitor"	means the PeaSoup Chief Technical Officer appointed by the Service Provider to monitor the provision of the Services in accordance with the Service Levels under Clause 9;
"Personal Data"	has the meaning given in the Data Protection Legislation;
"Platform"	means the Service Provider's cloud infrastructure, systems, software, networks, storage platforms and facilities used to deliver the Services.
"Services"	"Services" means S3-compatible Object Storage and Veeam Cloud Connect Backup & Replication, as described in the applicable Order.
"Service Provider"	means the company providing the services, PeaSoup;
"Scheduled Service Downtime"	means Downtime which is pre-planned by the Service Provider for maintenance, upgrades and similar activities
"Service Levels"	means the agreed levels to which the Service Provider's performance in providing the Services must adhere
"Support Ticket"	means a message sent to the Service Provider via the Service Provider's online support system;
"Uptime"	means the normal, fully functional availability of the Services and all components thereof.

2.1 Unless the context otherwise requires, each reference in these Terms to:

- (a) "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
- (b) a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted from time to time;
- (c) "these Terms" is a reference to these Terms as amended or updated from time to time.

2.2 The headings used in these terms are for convenience only and shall have no effect upon the interpretation of these Terms.

2.3 Words imparting the singular number shall include the plural and vice versa.

### 3 Basis of Contract and Term

- 3.1 These Terms constitute a master services agreement and apply to all Orders. An "Order" means an order form, quotation, statement of work, online order, portal checkout, or written confirmation (including email) describing the Services.
- 3.2 A contract is formed when the Service Provider provisions or activates the Services, or otherwise begins providing the Services.
- 3.3 By placing an Order or using the Services, the Customer confirms acceptance of these Terms.
- 3.4 Services commence upon activation and continue for the duration of the applicable Order, unless terminated in accordance with these Terms or the relevant partner Term.
- 3.5 Any Customer purchase order terms or other terms the Customer seeks to impose are excluded unless expressly agreed in writing by the Service Provider.

### 4 CHANNEL PARTNER

Where Services are purchased via an authorised partner (including Arrow):

- 4.1 The partner is responsible for pricing, billing and collections
- 4.2 The Service Provider has no direct billing relationship with the Customer
- 4.3 Commercial terms are governed by the partner terms and conditions
- 4.4 The Service Provider remains responsible for delivery of the Services only.

### 5 TERM

Services commence upon activation and continue for the duration of the applicable Order unless terminated in accordance with these Terms or the partner Terms

### 6 Service Provider's Obligations

- 6.1 The Service Provider shall provide the Services with reasonable skill and care in accordance with generally accepted industry standards for cloud service providers in the United Kingdom.
- 6.2 The Service Provider shall provide the Customer with such information and advice in connection with the Services and the provision thereof as the Customer may, from time to time, reasonably require both before and during the provision of the Services.
- 6.3 The Service Provider shall use reasonable endeavours to keep the Customer informed of any special requirements (including, but not limited to, legislative requirements) applicable to the provision of the Services. To the extent necessary and appropriate, the Service Provider shall promptly take steps to comply with any such requirements. These steps shall not otherwise alter these Terms in any way.
- 6.4 The Service Provider shall scale resources as per request of the Customer provided the resource is in accordance with the minimum requirement specified.
- 6.5 The Services are provided on a shared-infrastructure basis and are not guaranteed to be uninterrupted or error-free

## 7 Customer's Obligations

- 7.1 The Customer shall provide the Service Provider with such information in connection with the Services and the provision thereof as the Service Provider may, from time to time, reasonably require both before and during the provision of the Services.
- 7.2 The Customer shall comply with any and all terms and conditions which the Service Provider may apply to the Services.
- 7.3 The Customer is responsible for:
- 7.3.1 configuration, security and maintenance of Customer Systems
  - 7.3.2 access credentials, API keys and authentication
  - 7.3.3 operating systems, applications and data uploaded to the Services
  - 7.3.4 compliance with applicable laws relating to its use of the Services
  - 7.3.5 maintaining independent backups of Customer Data unless backup services are expressly included in an Order
- 7.4 The Customer agrees not to:
- 7.4.1 Transmit, or otherwise permit any unsolicited or unauthorised advertising or promotional material or any other form of similar marketing material, also known as SPAM or Unsolicited Commercial Email (UCE);
  - 7.4.2 Publish or otherwise distribute Warez, copy written or other illegal material.
  - 7.4.3 Undertake any of the following actions which are either strictly prohibited or are considered unacceptable whether they be committed wilfully, inadvertently or innocently;
    - 7.4.3.1 *Any attempt to crash the service or network;*
    - 7.4.3.2 *Any attack including "denial of service" attacks, "mail bombing" attacks or "flooding" attacks against the service or network;*
    - 7.4.3.3 *Any attempt to circumvent the user authentication or security of the service or network;*
    - 7.4.3.4 *Activities such as IP scanning, spoofing or vulnerability assessments within the Service or wider environment, unless agreed in advance for the purpose of vulnerability assessments;*
    - 7.4.3.5 *Leverage of optimisation or performance tools that could adversely impact the service;*
    - 7.4.3.6 *The creation, transmission, storage, or publication of any kind of virus or corrupting program or corrupted data;*
  - 7.4.4 Any other action that may adversely affect the service or its operation
- 7.5 Material published to or transmitted through the Services must not:
- 7.5.1 Be defamatory of any person;
  - 7.5.2 Be obscene, offensive or inflammatory;
  - 7.5.3 Display any photograph, film, video, picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means depicting child pornography as defined in the United Nations Convention on the Rights of the Child;
  - 7.5.4 Infringe any copyright or trade mark or other intellectual property rights of whatsoever nature;
  - 7.5.5 Be likely to deceive any person;
  - 7.5.6 Be threatening, abusive or invade another's privacy, or cause annoyance, inconvenience or needless anxiety;
  - 7.5.7 Be used to misrepresent your identity or affiliation with any person or organisation.
- 7.6 In the event of failures to comply with sub clauses 6.6 and 6.7 the Service Provider reserves the right to:
- 7.6.1 Immediately, temporarily or permanently suspend Services;
  - 7.6.2 Issue a warning to the Customer;
  - 7.6.3 Disclose such information to law enforcement authorities as reasonably necessary.

## 8 Security and Legal Suspension

- 8.1 The Service Provider may suspend all or part of the Services immediately where the Customer's use of the Services:
- 8.1.1 poses a security or operational risk to the Platform or other customers; or
  - 8.1.2 is required to be suspended to comply with applicable law, regulation, or a lawful request from a competent authority.
- 8.2 Any suspension under this clause shall not constitute termination of these Terms and the Services will remain active subject to these Terms and any applicable partner Terms.

## 9 Service Levels

- 9.1 The Service Provider shall use reasonable endeavours to ensure an Uptime rate of 99.95%.
- 9.2 The Service Provider shall implement reasonable organisational and technical measures to support the target Uptime.
- 9.3 Downtime is measured in whole 30-minute periods and must be reported via a Support Ticket.
- 9.4 Service credits may be issued for verified Downtime, calculated as 5% of the monthly service value for each 30-minute period, up to a maximum of 100% of the monthly service value. Where Services are purchased via a partner, any service credits will be applied via that partner.
- 9.5 Service Levels do not apply to Downtime resulting from:
- 9.5.1 Customer systems, configuration or misuse;
  - 9.5.2 failure to follow reasonable instructions;
  - 9.5.3 events outside the Service Provider's control (including network or provider failures);
  - 9.5.4 security incidents, attacks or malicious activity;
  - 9.5.5 Scheduled Maintenance.
- 9.6 Service credits are the Customer's sole and exclusive remedy for failure to meet the Service Levels.

## 10 Scheduled Service Downtime

- 10.1 The Service Provider may perform scheduled maintenance from time to time to maintain, update or improve the Platform and Services.
- 10.2 The Service Provider shall use reasonable endeavours to minimise disruption and keep any maintenance period as short as reasonably practicable.
- 10.3 Where reasonably practicable, the Service Provider will provide at least 48 hours' notice of scheduled maintenance, including an outline of the work and estimated duration.
- 10.4 The Service Provider may perform maintenance without prior notice where reasonably necessary, including for urgent or security-related reasons

## 11 Confidentiality

- 11.1 Each party shall keep confidential all Confidential Information of the other party and shall not disclose such information to any third party except as permitted under these Terms.
- 11.2 Confidential Information may be disclosed:
- 11.2.1 to employees, contractors and advisers who need to know it for the purposes of providing or receiving the Services, provided they are bound by confidentiality obligations;
  - 11.2.2 where required by law, regulation or a competent authority;
  - 11.2.3 where such information is already public other than through a breach of these Terms.
- 11.3 Each party shall use Confidential Information only for the purposes of performing its obligations under these Terms.
- 11.4 The obligations in this clause shall continue during the provision of the Services and for a period of three (3) years after termination, except for trade secrets which shall remain confidential indefinitely.

## 12 INTELLECTUAL PROPERTY AND CUSTOMER DATA

- 12.1 All Intellectual Property Rights in Customer Data remain with the Customer
- 12.2 The Customer grants the Service Provider a limited, non-exclusive, royalty-free licence to host, process, transmit and copy Customer Data solely as necessary to provide the Services.
- 12.3 The Service Provider retains all Intellectual Property Rights in the Platform and Services, including any improvements, modifications or enhancements.
- 12.4 Except as expressly stated in these Terms, no Intellectual Property Rights are transferred between the parties.
- 12.5 The Service Provider may collect and use aggregated and anonymised data derived from the use of the Services for the purposes of operating, improving and securing the Services, provided such data does not identify the Customer.

## 13 TERMINATION

- 13.1 Services may be terminated in accordance with the applicable Order or partner Terms.
- 13.2 Either party may terminate the Services for convenience by giving not less than thirty (30) days' written notice, such notice to expire on the anniversary of the Service commencement date.
- 13.3 Either party may terminate the Services immediately by written notice if the other party:
  - 13.3.1 commits a material breach of these Terms and, where capable of remedy, fails to remedy that breach within 30 days of notice;
  - 13.3.2 becomes insolvent, enters administration or liquidation, or ceases (or threatens to cease) business;
  - 13.3.3 is subject to any event analogous to insolvency under applicable law.
- 13.4 The Service Provider may suspend or terminate the Services where required to comply with applicable law or to protect the security or integrity of the Platform.
- 13.5 Termination shall not affect any accrued rights or remedies of either party.

## 14 POST-TERMINATION

Upon termination of the Services for any reason:

- 14.1 Any rights or obligations accrued prior to termination shall continue in full force and effect.
- 14.2 Termination shall not affect any rights or remedies available to either party in respect of any breach.
- 14.3 The Customer shall be responsible for removing all Customer Data from the Services prior to termination.
- 14.4 All buckets and object stores must be deleted by the Customer before the termination date, or the Customer must provide evidence that data removal is in progress where it is not reasonably possible to complete within the notice period.
- 14.5 Where data removal is in progress, the Service Provider may allow a reasonable extension period solely for the purpose of completing data deletion.
- 14.6 Following termination (or any agreed extension period), the Service Provider may permanently delete any remaining Customer Data without liability.
- 14.7 The Service Provider shall have no obligation to retain Customer Data beyond the termination date or any agreed extension period.
- 14.8 Each party shall cease use of the other party's Confidential Information and, upon request, return or securely delete such information.
- 14.9 Where Customer Data is subject to immutability, object lock, retention policies or legal hold, such data cannot be deleted until the applicable retention period has expired.
- 14.10 The Customer remains responsible for all applicable charges (via the partner) for any retained data for the duration of the retention period, regardless of termination of the Services.
- 14.11 The Service Provider shall have no obligation to remove or alter any data subject to immutability or retention restrictions.

## 15 LIABILITY

- 15.1 Nothing in these Terms shall limit or exclude either party's liability for:
- 15.1.1 death or personal injury caused by negligence;
  - 15.1.2 fraud or fraudulent misrepresentation; or
  - 15.1.3 any liability which cannot be limited or excluded by applicable law.
- 15.2 Subject to Clause 15.1, neither party shall be liable to the other, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for:
- 15.2.1 any loss of revenue, business, contracts, profits or anticipated savings;
  - 15.2.2 any loss, corruption or deletion of data, or any costs associated with the restoration or recovery of data;
  - 15.2.3 any indirect or consequential loss.
- 15.3 Subject to Clauses 15.1 and 15.2, the Service Provider's total aggregate liability arising out of or in connection with the Services shall not exceed the value of the Services supplied in the one (1) month immediately preceding the event giving rise to the claim (whether paid directly or via a partner).
- 15.4 Any service credits or similar remedies provided under these Terms shall count towards, and not be in addition to, the liability cap set out above.
- 15.5 The Customer acknowledges that the Services are not intended to replace the Customer's own insurance arrangements and that the Customer is responsible for maintaining appropriate insurance in respect of its data, systems and business operations.

## 16 Force Majeure

- 16.1 Neither party shall be liable for any failure or delay in performing its obligations under these Terms where such failure or delay results from events beyond its reasonable control, including but not limited to: power failure, network or internet service provider failure, industrial action, civil unrest, fire, flood, storm, earthquake, acts of terrorism, acts of war, governmental action, or any other event beyond the reasonable control of the affected party.
- 16.2 The affected party shall use reasonable endeavours to mitigate the impact of such event and resume performance as soon as reasonably practicable.

## 17 General

- 17.1 The Customer may not assign or transfer its rights or obligations under these Terms without the prior written consent of the Service Provider.
- 17.2 The Service Provider may assign, transfer or subcontract its rights or obligations under these Terms at any time, provided that this does not materially reduce the level of service provided.
- 17.3 These Terms constitute the entire agreement between the parties in relation to the Services and supersede all prior agreements, understandings or arrangements.
- 17.4 The Service Provider may update or modify these Terms from time to time. Updated Terms will apply to new Orders and, where reasonable, to existing Services upon notice.
- 17.5 Each party acknowledges that it does not rely on any representation, warranty or statement not expressly set out in these Terms.
- 17.6 No failure or delay by either party in exercising any right shall constitute a waiver of that right.
- 17.7 If any provision of these Terms is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.
- 17.8 Each party shall, at its own cost, do all reasonable things necessary to give effect to these Terms.

## 18 Severance

- 18.1 If any provision of these Terms is found to be unlawful, invalid or unenforceable, that provision shall be deemed severed and the remaining provisions shall remain in full force and effect.

## 19 Relationship of the Parties

- 19.1 Nothing in these Terms shall create or be deemed to create any partnership, joint venture or agency relationship between the parties.
- 19.2 Neither party has authority to act on behalf of, or to bind, the other party in any way unless expressly agreed in writing.

## 20 Notices

- 20.1 Any notice under these Terms shall be given in writing.
- 20.2 Notices may be delivered by email to the most recent contact details provided by the receiving party.
- 20.3 A notice shall be deemed received at the time of transmission, or if sent outside normal business hours, at the start of the next Business Day.
- 20.4 The Service Provider may also provide notices via its customer portal or other electronic means where appropriate.

## 21 Governing Law and Jurisdiction

- 21.1 These Terms (including any non-contractual matters arising from them) shall be governed by and construed in accordance with the laws of England and Wales.
- 21.2 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute arising out of or in connection with these Terms.

## 22 Data Protection

- 22.1 Both parties shall comply with applicable Data Protection Legislation.
- 22.2 The Customer is the Data Controller and the Service Provider is the Data Processor.
- 22.3 The Customer is responsible for ensuring that it has all necessary rights, consents and legal grounds to transfer Personal Data to the Service Provider.
- 22.4 The Service Provider shall:
  - 22.4.1 process Personal Data only as necessary to provide the Services or as required by law;
  - 22.4.2 implement appropriate technical and organisational measures to protect Personal Data;
  - 22.4.3 ensure personnel are subject to confidentiality obligations;
  - 22.4.4 notify the Customer without undue delay upon becoming aware of a Personal Data breach;
  - 22.4.5 assist the Customer, where reasonably required, in meeting its data protection obligations.
- 22.5 The Service Provider may use sub-processors to deliver the Services. The Service Provider shall remain responsible for its sub-processors and shall ensure they are subject to appropriate data protection obligations.
- 22.6 The Service Provider may transfer Personal Data outside the UK or EEA where appropriate safeguards are in place.
- 22.7 Upon termination of the Services:
  - 22.7.1 the Customer may request a copy of its Customer Data within thirty (30) days;
  - 22.7.2 after this period, the Service Provider may permanently delete Customer Data unless required to retain it by law.
- 22.8 Audit rights shall be limited to reasonable requests for information or third-party certifications and must not unreasonably interfere with the Service Provider's operations or compromise security.

# Document Information

## Important Notice

This document sets out the terms and conditions under which PeaSoup Cloud provides Services via authorised partners.

These Terms may be provided to Customers, partners and prospective customers for the purposes of evaluating and purchasing the Services.

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## Change History

Version	Date	Author	Notes
1.0	13/08/2021	Kyle Bradburn	Initial Draft
2.0	13/08/2021	Art Malinowski	Marketing and branding updates
2.1	24/03/2022	Mollie Moran	Updated layout
3.0	14/06/2022	Kyle Bradburn	Updated Document Information, images and reformatted to meet ISO
4.0	06/01/2026	Martin Bradburn	Legal Updates