



## Terms and Conditions for Cloud Services

### 1. GENERAL.

This Terms and Conditions for Cloud Services (“Terms and Conditions for Cloud Services”) sets forth specific terms and conditions for the cloud services (“Cloud Services”) provided to Client by International Consulting Group, Inc. (“ICG”) and is incorporated into the Cloud Services Agreement by and between Client and ICG (“Cloud Services Agreement”). Each capitalized term used, but not defined, in this Terms and Conditions for Cloud Services has the meaning ascribed to such capitalized term in the Cloud Services Agreement (including, without limitation, the General Terms and Conditions incorporated into and made a part of the Cloud Services Agreement).

### 2. SPECIFIC DESCRIPTION.

2.1 Scope of Services. ICG will provide Client with the Cloud Services set forth in the Cloud Services Agreement. The Cloud Services Agreement, which includes this Terms and Conditions for Cloud Services and the General Terms and Conditions, only covers the Cloud Services set forth in the Cloud Services Agreement. Any additional services requested by and provided to Client will be charged to Client at ICG’s then prevailing hourly rate (which are posted on [www.icgi.com/legal](http://www.icgi.com/legal)) at the time of providing the out-of-scope service.

2.2 Operating Hours. ICG’s standard hours of operation (“Operating Hours”) for providing the Managed Services are from 8:00 a.m. to 5:00 p.m. EST during regular business days (Monday through Friday, excluding U.S. federal holidays). Managed Services that are covered under the Managed Services Agreement and must be performed outside of Operating Hours will not generate any additional charges. All Support inquiries must be communicated to ICG via one of the following (“ICG Support System”):

E-mail: [service@icgi.com](mailto:service@icgi.com)  
Phone: 305-463-4000  
Phone (toll-free): 888-809-4685

2.3 Hosted Infrastructure as a Service. Subject to the Cloud Services Agreement, ICG will provide Client with remote access to, and the right to use (as applicable), the applications and programs (“Service Applications”) installed on ICG’s multi-tenant servers, other technology infrastructure, and networking capabilities (collectively, the “Service Infrastructure”) located within a third-party hosting facility (“Hosting Facility”). ICG will also connect the Service Infrastructure to the Internet for access by Client.

2.4 Service Infrastructure. Client will not have physical access to the Service Infrastructure. The Service Infrastructure will be the sole property of ICG, or its licensors and/or service providers. Client will have no rights whatsoever in or to the Service Infrastructure other than the right to access and use the Service Applications installed on the Service Infrastructure during the Term. Client acknowledges and agrees that the Cloud Services Agreement is a service agreement only and nothing in the Cloud Services Agreement will be deemed or construed as a lease or other grant or transfer of any real or personal property. Specifically, Client acknowledges and agrees that Client has not been granted any real property interest in any ICG or third party data center, hosting facility or other premises, and Client has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations, or ordinances pursuant to the Cloud Services Agreement.

2.5 Hosting Facility. ICG will maintain the Service Infrastructure at a Hosting Facility with (i) primary and backup power; (ii) primary and backup HVAC; and (iii) sufficient administrative, physical and technical security. ICG may relocate the Service Infrastructure to a different Hosting Facility at any time without prior notice to Client, provided that ICG later provides notice to Client of such relocation.

2.6 Users. Client shall limit access to and use of the Cloud Services to current employees, agents, contractors and other representatives of Client who have been properly trained to use the Cloud Service (each, a “User”). Client is strictly liable for training Client’s employees, agents, contractors and other representatives to properly access and use the Cloud Services. Client is also strictly liable for monitoring access to and use of the Cloud Services by Client’s employees, agents, contractor and other representatives. Client may add additional Users at any time upon providing prior written notice to ICG, which notice shall include the username for the applicable User.

### 3. **PRICING AND PAYMENT.**

3.1 **Pricing.** Pricing for the Cloud Services is set forth in the Cloud Services Agreement.

3.2 **Payment.** On the first day of each month, ICG will provide Client with an invoice for the Cloud Services to be performed by ICG for the Client during that month. Client shall pay ICG a monthly per user fee (“**User Fee**”) for each User as set forth in the Cloud Services Agreement on a monthly basis in advance on the first day of each month. Client shall also pay ICG a Service Infrastructure fee (“**Service Infrastructure Fee**”) as set forth in the Cloud Services Agreement on a monthly basis in advance on the first day of each month. The total monthly User Fee is referred to as the “**Total User Fee**” and collectively with the monthly Service Infrastructure Fee are collectively referred to as the “**Total Monthly Fee**.” Client shall pay ICG the Total Monthly Fee for the first month of the Initial Term on the Go-Live Date, which is based on the Estimated Go-Live Date set forth in the Cloud Services Agreement. Client acknowledges and agrees that if ICG does not receive written notice from Client of a request for termination of the Cloud Services per the terms of the Cloud Services Agreement, then Client shall continue to pay ICG the Total Monthly Fee as long as Client's account remains active regardless if Client is using the Cloud Services. Total Monthly Fee is non-refundable and there will be no credits for partial months of use or months unused with an open account. The full User Fee will apply for each User during a month regardless if a User is added at the start of or during the applicable month. All Fees are due upon Client's receipt of invoice from ICG; *provided, however*, if Client does not receive an invoice from ICG, Client is not relieved of the obligation, as applicable, to pay ICG the Setup Fee within thirty (30) days of the Effective Date or Total Monthly Fee within thirty (30) days of the first day of the applicable month. In addition to the payment terms set forth in this Terms and Conditions for Cloud Services, the payment terms set forth in the General Terms and Conditions apply to payment for Cloud Services, including without limitation, relating to Costs, Taxes and Expenses.

### 4. **TERM AND TERMINATION.**

4.1 **Term.** The term of the Cloud Services Agreement commences on the acceptance of the Cloud Services Agreement by Client (“**Effective Date**”), and will continue for a period of three (3) years following completion of the onboarding process for the Cloud Services and ICG providing the first invoice for Total Monthly Fees (“**Initial Term**”), and thereafter shall automatically renew for successive one (1) year periods (each, a “**Renewal Term**” and collectively with the Initial Term, the “**Term**”) unless and until terminated in accordance with the General Terms and Conditions. Notwithstanding the foregoing, the Term shall continue, and the Cloud Services Agreement shall remain in effect, while Client continues to receive the Cloud Services from ICG.

4.2 **Termination.** The Cloud Services Agreement may be terminated by either Client or ICG pursuant to the General Terms and Conditions.

4.3 **Termination Responsibilities.** The expiration or earlier termination of the Cloud Services Agreement does not relieve Client of the obligation to pay ICG for any Fees, Costs or Taxes incurred with third parties by or on behalf of Client which extend beyond the Term of the Cloud Services Agreement. By way of example, if the Cloud Services Agreement expires or is terminated before the end of the term of the Microsoft subscriptions for Cloud Services for Client (“**Microsoft Agreement**”), then Client remains responsible to pay ICG, and shall pay ICG, the Fees, Costs and Taxes for the Microsoft Agreement through the end of the term of such Microsoft Agreement. Microsoft Agreement includes products such as: Azure Reserved Instance, Office 365 subscription, Operating System licensing, SQL Server licensing, etc.

4.4 **Suspension.** Client acknowledges and agrees that the Cloud Services use a shared infrastructure, and that Client's abuse or misuse of the Cloud Services could adversely affect the Hosting Facility, ICG and/or other ICG clients. Client agrees to avoid exceeding any storage, bandwidth or other limitations set forth in the Cloud Services Agreement. ICG reserves the right to throttle, limit or suspend Client's use of the Cloud Services in the event Client breaches the Cloud Services Agreement or abuses or misuses the Cloud Services, including, without limitation, any use that ICG determines, at its sole discretion, may adversely affect the Hosting Facility, ICG or any other ICG client.

## 5. RESPONSIBILITIES.

5.1 Client Responsibilities. Client may use the Cloud Services for any legal purpose, provided such use does not violate the terms and conditions of the Cloud Services Agreement, including, without limitation, the Acceptable Use Policy. Client is solely responsible for:

- Installing, configuring, maintaining and supporting the ongoing stability and operation of Client's on-site network and technology infrastructure (i.e., not the Service Infrastructure).
- Acquiring and maintaining appropriate and sufficient licenses for all software for Client's on-site network and technology infrastructure (i.e., not the Service Applications).
- Acquiring and maintaining appropriate and sufficient licenses for all software hosted by ICG on the Service Infrastructure which is not provided by ICG per the Cloud Services Agreement ("Client Applications").
- Maintaining a robust and secure Internet connection or other network connection from Client's facility (or other points of access) to the Hosting Facility.
- Implementing both a disaster recovery plan and business continuity plan.
- All access to and use of the Cloud Services by Client's employees, contractors, agents and other representatives.
- Securing all usernames and passwords provided to Client or created by Client for access to and use of the Cloud Services.
- Promptly notifying ICG of any and all actual or suspected viruses, disabling or enabling codes, malware attacks, security attacks or security breaches of the Service Applications and/or Service Infrastructure, and cooperating with ICG in remediation or defense efforts related to such incidents.
- Complying with the Acceptable Use Policy.
- Causing all Users to comply with the Acceptable Use Policy.

5.2 ICG Responsibilities. Per the terms of the Cloud Services Agreement, ICG will do each of the following to provide Client with the Cloud Services (i) configure the Service Infrastructure; (ii) install, maintain the right for Client to use and provide Client with remote access to use the Service Applications (except for Client Applications); (iii) install and provide Client with remote access to use the Client Applications; (iv) allocate bandwidth for the Cloud Services; and (v) provide the service levels for the Cloud Services per the Service Level Agreement attached as Exhibit A. ICG will provide Client with prompt notice upon receiving notification from the Hosting Facility that a breach has occurred to Client's Data.

## 6. CLIENT DATA.

6.1 Ownership. As between Client and ICG, Client will own all data of Client provided to ICG by or on behalf of Client (“Client Data”). Client acknowledges and agrees that ICG does not intend to review, process or use any Client Data; except (i) as requested by Client, (ii) as may be required to meet ICG’s obligations to Client as set forth in the Cloud Services Agreement; or (iii) as ordered by a court of law or law enforcement.

6.2 Representations. Client represents and warrants to ICG that the Client Data does not and will not (i) infringe any copyright, patent, trademark, trade secret or any other intellectual property right of a third party; (ii) include any virus or other software or hardware enabling or disabling code; and (iii) include any federally and/or state regulated data, unless Client has previously disclosed the applicable regulation to ICG in writing, and ICG has acknowledged in writing the receipt of such written notice.

6.3 Backup and Storage During the Term. ICG will provide automated backups and storage of the Client Data at the operating system level only. If Client requests ICG to restore a backup of Client Data, then ICG will use commercially reasonable efforts to do so, and Client shall pay ICG for performing such restoration on a time and materials basis at ICG’s then-current prevailing rates as posted on [www.icgi.com/legal](http://www.icgi.com/legal). ICG will not be responsible for restoring operation of any Client Applications after a backup is restored, and ICG will not be liable for any loss of data that occurs as a result of the restoration of a backup. While ICG will use commercially reasonable efforts to make timely backups of Client Data, ICG does not warrant or guarantee that such backups will be error free or will provide a complete disaster recovery solution for Client. Client should make such plans as are reasonably necessary for Client to implement a robust and fault tolerant disaster recovery plan and business continuity plan.

6.4 Suspension Upon Default. If Client defaults in the performance of any of Client’s material obligations pursuant to the Cloud Services Agreement, and if any such default is not corrected within ten (10) days of ICG providing notice of such default to Client, then ICG will have the right, at ICG’s sole discretion and in addition to any other remedies ICG may have, to immediately suspend Client’s access to and use of the Cloud Services. Under no circumstances will ICG assume responsibility or be liable for Client’s failure to access or for the loss of any Client Data resulting from a suspension of Client’s access to and use of the Cloud Services because of an uncured default by Client.

6.5 Backup and Storage Upon Termination. Following the termination of the Cloud Services Agreement, ICG may cease backing-up Client Data and will store the Client Data (at the operating system level only) on the Service Infrastructure as of the date of termination until the earlier of (i) thirty (30) days; or (ii) transfer of such Client Data to a Client-provided storage device. Following this commitment to store Client Data, ICG may immediately cease storing Client Data without any liability, obligation or responsibility to Client with respect to Client Data.

6.6 Disposition of Client Data Following Termination. Client acknowledges and agrees that all Client Data stored pursuant to the Cloud Services Agreement will be deleted on or after thirty (30) days following the date of termination (“Final Storage Period”), and that such Client Data will no longer be accessible by Client following the Final Storage Period. Under no circumstances will ICG assume responsibility or be liable for Client’s failure to access or for the loss of any Client Data following the Final Storage Period.

6.7 Transition Services. If Client requests transition services related to the Cloud Services, then ICG will provide Client with reasonable and customary transition services subject to Client paying ICG in advance for performing such transition services on a time and materials basis at ICG’s then-current prevailing rates as posted on [www.icgi.com/legal](http://www.icgi.com/legal) and per the scope agreed to in writing in advance by the parties. However, ICG shall not be required to provide any such transition services to Client in the event (i) Client has failed to pay ICG any amount due pursuant to the Cloud Services Agreement (including, without limitation, for the transition services) or any other agreement between the parties; (ii) the Cloud Services Agreement or any other agreement between the parties is terminated by ICG as a result of any breach by Client; or (iii) Client is in violation of any applicable law, rule or regulation.

**Exhibit A****SERVICE LEVEL AGREEMENT****1. AVAILABILITY.**

ICG will provide the Client with 99.9% Availability.

“Availability” means providing power for the Service Infrastructure, as well as contracted bandwidth and remote access to use the Service Applications by Client. Availability is based on Client’s access to the Service Applications through the Internet. Availability is calculated on monthly minutes; *provided, however*, Downtime resulting from a Client Cause, Maintenance (scheduled or emergency) and/or force majeure event will not be included in the calculation of monthly minutes. ICG’s system will be used to calculate Availability and Downtime.

“Client Cause” means any (a) act, omission, use or misuse of the Cloud Services by Client; (b) damage to the Cloud Services, Service Applications and/or Service Infrastructure caused by Client; (c) failure of Client to acquire or maintain appropriate and sufficient licenses for a Client Application; (d) use of the Cloud Services by Client in a manner inconsistent with the Cloud Services Agreement; (e) use by Client of any third-party products that ICG has not authorized in writing to be used to access the Cloud Services; or (f) use by Client of a non-current version or release of software, which has not been authorized by ICG in writing to be used for accessing the Cloud Services.

“Downtime” means the unavailability of the Cloud Services for access by Client as a result of ICG’s failure to provide Availability up to Client’s point of entry at the Hosting Facility. Downtime is measured from the minute Client notifies ICG in writing of the Downtime, until the minute availability is restored.

“Maintenance” means periodic, planned or emergency upgrades or maintenance of the Cloud Services, Service Applications and/or Service Infrastructure. Maintenance may result in reduced performance or the functionality of the Cloud Services being unavailable for some period of time. ICG will use commercially reasonable efforts to provide Client with at least twenty-four (24) hours prior notice of scheduled maintenance and to schedule such maintenance outside of Business Hours. Emergency Maintenance may be performed at any time, without prior notice, and may also result in periods of unavailability or reduced performance. No refund or credit will be provided for Downtime or reduced performance resulting from scheduled or emergency Maintenance.

**2. SERVICE LEVELS.**

All requests to address a service level issue must be communicated to ICG via the ICG Support System. Reported service level issues will be evaluated and categorized by ICG, and addressed as follows (all times set forth below are Business Hours):

<u>Service Level Issue:</u>	<u>Response Time:</u>
Standard Issue	24 hours
Minor Issue	8 hours
Major Issue	4 hours
Critical Issue	2 hours

“Standard Issue” means an isolated, standard problem with no work-stoppage, downtime or major business impact affecting more than 5 Users.

“Minor Issue” means a non-standard, minor issue with performance involving either a partial or impaired work-stoppage, downtime or business impact affecting more than five (5) Users.

“Major Issue” means a major issue with performance and enterprise-wide effects involving unavailability of a feature or significant degrading of performance.

“Critical Issue” means a critical connectivity, system or infrastructure failure involving enterprise-wide unavailability.