
Business Subscriber Terms

These Business Subscriber Terms (**Subscriber Terms**) contain the subscription services terms and conditions that form a part of the Subscription Services Agreement (Business) (**Agreement**) between you and the ACG entity identified in your Agreement or Order Form, or if no ACG entity is identified, then the applicable ACG entity listed [here](#) (**ACG, us, our or we**). The Agreement, inclusive of these Subscriber Terms, forms a binding agreement governing the access and use of the Subscription Services by you, your agents and your Users. If these Subscriber Terms and your Order Form or any other provisions of your Agreement are inconsistent or conflict, the terms of your Order Form or the other provisions of your Agreement, as applicable, shall control. If the terms of your Order Form and the other provisions of your Agreement are inconsistent or conflict, the terms of your Order Form shall control. Capitalized terms that are not defined in these Subscriber Terms will have the meaning defined in your Order Form or the Agreement.

These Subscriber Terms are also subject to our [ACG Privacy Policy](#) which covers how we collect, use, share, and store your and your User's information or content provided to us in connection with the Subscription Services (**Your Data**). We may modify our [ACG Privacy Policy](#) (including our Cookies Policy) from time to time. If such modifications constitute material changes, we will provide you with reasonable prior notice of the material changes either via a message on your Subscription Services page on the ACG Site or via email to the email address associated with your subscriber account.

1. CERTAIN DEFINITIONS

The following are certain definitions used in the Agreement:

ACG Group means the ACG entity that is the contracting party to the Agreement, its affiliates and its third party service providers listed in the [ACG Privacy Policy](#) that provide the Third Party Services.

ACG Site means the proprietary website or mobile application hosted, operated and maintained by ACG, through which ACG provides the Subscription Services.

Confidential Information means all data, information (including without limitation, pricing and your Agreement (inclusive of your Order Form), Your Data and our Intellectual Property Rights) disclosed or provided to the Receiving Party pursuant to the Agreement or the Subscription Services.

Intellectual Property Rights means any and all intellectual property rights (including moral rights), whether registered or unregistered, including but not limited to any patents, trademarks, service marks, domain names, URLs, design rights, copyright, software rights, database rights, rights in and to business names, product names and logos, product configuration, processes, trade secrets, know how, confidential information and any similar right in any jurisdiction whether or not specifically listed herein, which may subsist in any part of the world, in each case, including all applications for, and renewals or extensions of, such rights for their full term.

Order Form means the order form for the initial Subscription Term signed by you and us, as may be amended or supplemented by additional or renewal invoices or Order Forms from time to time.

Subscription Content means all training materials available via the Subscription Services, whether prior to or after the date of the Agreement, including without limitation, all formatting, documentation, PowerPoint presentations, images, photographs, printed or graphic matter, forms, designs, "look and feel," illustrations, drawings, audio, video and/or audio-visual works and recordings, research, and similar material created, developed, furnished or made in connection therewith.

Subscription Services means your and your Users' access to the Subscription Content via the ACG Site in accordance with the subscription described in your Order Form.

Subscription Term means the period during which you have agreed to subscribe to the Subscription Services.

Third Party Services means Subscription Content, products and services not owned by ACG, but instead provided by a third party as a required function to provide the Subscription Services or as a value-add to you and your Users.

User or Users means your employees, independent contractors or other individual persons that you have designated and authorized to use the Subscription Services.

User Content has the meaning set forth in the [ACG Terms of Use – Website and App](#).

You, Your, Subscriber or any related capital term means the subscribing entity set forth in your Order Form.

2. ACCESS AND USE OF THE SUBSCRIPTION SERVICES

2.1. You will ensure that only one person accesses the Subscription Services per User license. A User may also be an employee, contractor or other individual person authorized by one of your affiliates, provided that: (a) such affiliate User shall reduce the permitted number of User licenses set forth in your Order Form and (b) you agree that you will be responsible for your affiliate's and its Users' compliance with the Agreement.

2.2. You will be deemed to have taken any action that any User takes related to these the Agreement, Your Data or use of the Subscription Services and you are responsible for any User's use of Your Data and the Subscription Services. You will ensure that your Users comply with your obligations under the Agreement and that the terms of your agreement with each of your Users are consistent with the Agreement. You will immediately notify us if you become aware of any violation of your obligations under these Subscriber Terms caused by any of your Users so we may suspend access to the Subscription Services by such User.

2.3. You will ensure that Your Data and your and your Users' use of Your Data or the Subscription Services will not violate any applicable law. You and your Users will maintain the confidentiality and security of your or your Users' passwords, accounts, and other identification information and not provide it to any other person or entity. You agree that a high speed internet connection is required to properly provide the Subscription Services and that you and your Users are solely responsible for procuring and maintaining such network connections that support the Subscription Services and the ACG Site.

3. TERM AND RENEWAL

3.1. Unless otherwise terminated in accordance with the provisions of these Subscriber Terms, the initial Subscription Term shall begin on the date that the Agreement is first executed by you and ACG (**Effective Date**) and continue for the number of years ordered in your initial Order Form. At the end of each Subscription Term, the Agreement shall automatically renew for a Subscription Term equivalent in length to the then expiring Subscription Term until Subscriber provides at least sixty (60) days' advance written notice to ACG of Subscriber's intention to not renew the Agreement at the end of the expiring Subscription Term.

3.2. Unless otherwise agreed to in writing by Subscriber and ACG, prior to the end of the expiring Subscription Term ACG shall provide a renewal invoice to Subscriber for the upfront non-refundable renewal subscription fee at the then-current market rate based on the aggregate number of Users and Additional Users Subscriber will have at the time the subsequent Subscription Term commences (**Renewal Subscription Fee**). The invoice for the Renewal Subscription Fees will be sent to Subscriber by email and such Renewal Subscription Fees shall be due and payable pursuant to the terms set forth in such invoice. Each subsequent Subscription Term shall commence immediately upon the expiration of the expiring Subscription Term on the terms set forth in your Order Form and the Agreement.

4. INVOICING AND PAYMENT

4.1. You will pay us the applicable Subscription Fees in accordance with the terms of your Order Form. All Subscription Fees (including Renewal Subscription Fees) are to be paid upfront and, except as set forth in Section 7.4, are non-refundable.

4.2. All Subscription Fees payable by you are exclusive of applicable taxes and duties, including without limitation, excise taxes, sales and transaction taxes, gross receipts tax, VAT, Service Tax, and GST. ACG may charge and you will pay such applicable taxes that we are legally obligated or authorized to collect from you, if any. All payments made by you to us under the Agreement will be made free and clear of any deduction or withholding, except as may be required by law. If any such deduction or withholding is required on any payment by law, you will pay such additional amounts so we receive the net amount equal to the amount then due and payable under the Agreement.

4.3. If you choose to increase the number of Users authorized to access and use the Subscription Services during a Subscription Term, any incremental Subscription Fees associated with such increase will be charged and invoiced in accordance with the terms of your Order Form. In any future Subscription Term, your Subscription Fees will reflect your Additional Users.

5. OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS

5.1. We or our licensors own and will continue to own our Subscription Services and Subscription Content, including all related Intellectual Property Rights. During the Subscription Term and subject to your and your Users' compliance with the Agreement, we grant you and your Users the non-exclusive, non-sub licensable, non-transferable, limited right to access and use the Subscription Services for your internal business purposes. ACG and ACG's licensors reserve all Intellectual Property Rights and other rights in the Subscription Services, Subscription Content and Third Party Services not expressly granted to you in these Subscriber Terms. You and your Users will use the Subscription Services only (a) for internal business purposes, (b) for purposes that are in accordance with applicable laws and regulations, and (c) in accordance with all license terms imposed by third party service providers of any of the Third Party Services, as each are listed in the [ACG Privacy Policy](#). You and your Users will not (i) circumvent any security feature of the Subscription Services or the Subscription Content, (ii) use the Subscription Services to provide services or Subscription Content to any third party other than your Users, (iii) permit any third party to view, use, access, or copy the Subscription Services or the Subscription Content, (iv) access or use the Subscription Services in a way intended to avoid incurring fees or exceeding usage limits or quotas, including allowing multiple persons to use one User license, (v) use the Subscription Services or the Subscription Content in any manner that infringes upon or violates any Intellectual Property Rights of any third party, or (vi) disclose, publish, broadcast, sell, or otherwise redistribute the Subscription Services or the Subscription Content.

5.2. As between us on the one hand, and you and any of your Users on the other, you will own all of Your Data. You (for yourself and all of your Users) hereby grant the ACG Group a worldwide, non-exclusive, limited license to access, use, process, copy, distribute, perform, export and display Your Data only as reasonably necessary (a) to provide, maintain, enhance and update the Subscription Services; (b) to prevent or address service, security, support or technical issues; (c) as required by law or as permitted by the [ACG Privacy Policy](#); and (d) as expressly permitted in writing by you. You represent and warrant that you have secured all rights in and to Your Data from your Users as may be necessary to grant this license and, to the extent Your Data may be User Content, such data and content will not violate any provision of the [ACG Terms of Use – Website and App](#) related to User Content. You further represent and covenant that, to the extent Your Data includes the personal information of your Users (**Personal Data**), you shall at all times have the authority and have obtained the consent required by applicable law from each User to provide ACG with such Personal Data. Such consents include, but are not limited to: (w) consent to transfer such User's Personal Data to the United States, (x) consent to ACG's compilation of reports as to the usage of the Subscription Services by such User, (y) consent to ACG's provision such reports to you, and (z) any other consents that may be required in order for the ACG Group to provide the Subscription Services or collect the Personal Data on your behalf.

6. CONFIDENTIALITY; DATA SECURITY AND PRIVACY; INSURANCE

6.1. The party receiving Confidential Information (**Receiving Party**) will (a) treat all Confidential Information with the same degree of care as Receiving Party provides to its own confidential or proprietary information but, in no case, less than commercially reasonable care, and (b) promptly advise the disclosing party (**Disclosing Party**) if Receiving Party learns of any unauthorized use or disclosure of any Confidential Information. Each party may use each other's Confidential Information solely to exercise its respective rights and perform its respective obligations under the Agreement and, without prior written consent of Disclosing Party, shall disclose such Confidential Information (i) solely to the employees and third party service providers and contractors who have a need to know such Confidential Information in order to provide the Subscription Services (and the Third Party Services related to the Subscription Services) and who are bound by terms of confidentiality consistent with this Section 6.1, or (ii) as necessary to comply with any court order, subpoena or applicable law, provided that if Receiving Party believes that it is required to disclose Confidential Information due to court order, subpoena or applicable law, Receiving Party will (y) use commercially reasonable efforts not to disclose such Confidential Information until Receiving Party has notified Disclosing Party in writing of such legal process and (z) take all reasonable precautions so that Disclosing Party may file for a protective order, at the expense of Disclosing Party, to ensure confidential treatment of any Confidential Information so disclosed. Disclosing Party owns and will continue to own all of its Confidential Information. Receiving Party shall be liable for any unauthorized disclosure of Confidential Information made by its Users or third party service providers, as applicable.

6.2. You acknowledge and agree that Your Data, the Subscription Services and Subscription Content will be stored and hosted in our production environment which is maintained by Amazon Web Services (**AWS**) at AWS US-East-1 (N. Virginia). We will use commercially reasonable efforts to make the Subscription Services available on a consistent basis, excluding

planned downtime. We and AWS may provide updates to servers and systems in our discretion and such servers and systems may be subject to scheduled or emergency maintenance from time to time. While we expect any planned downtime to be infrequent, during such period of update or maintenance you acknowledge that the ACG Site, Subscription Services and/or Subscription Content may not be accessible.

6.3. We will take commercially reasonable precautions, including, without limitation, technical (e.g., firewalls and data encryption), administrative and physical measures, to help safeguard Your Data against unauthorized use, disclosure, or modification. Subscriber and ACG each agree to comply in all material respects with all applicable country specific data protection laws (**Data Laws**), including but not limited to the EU General Data Protection Regulation 2016/679 (**GDPR**), applicable to the Subscription Services. ACG has in place with its affiliates Personal Data transfer mechanisms which are compliant with European Union law (such as Standard Contractual Clauses) in the event that ACG transfers Your Data from the European Economic Area (**EEA**) to an affiliate outside the EEA. We will use our best efforts to ensure that our third party service providers of Third Party Services listed in the [ACG Privacy Policy](#) are either: (a) bound by written agreements which are inclusive of the Standard Contractual Clauses, (b) processing the Personal Data in a country that ensures an adequate level of protection (as determined by Art. 45(3) of the GDPR) and are bound by terms similar to those set forth in this Section 6.3, or (c) compliant with the EU-U.S. and/or Swiss-U.S. Privacy Shield and are registered under the U.S. Department of Commerce's Privacy Shield certification program. We will notify you without undue delay on becoming aware of a confirmed breach of Personal Data.

6.4. You agree and consent to our use of the members of the ACG Group and the third party service providers listed in the [ACG Privacy Policy](#) to process Your Data and otherwise assist in providing the Subscription Services to you and your Users. You further agree that such members and providers each shall have the right to use, modify, reproduce, distribute, display, disclose and otherwise process Your Data to the extent necessary to provide or improve the Subscription Services, including, without limitation, in response to your support requests. Any third party service providers utilized by the ACG Group will only be given access to Your Data as is reasonably necessary to provide or enhance the Subscription Services and will be subject to (a) confidentiality obligations which are commercially reasonable and substantially consistent with the standards described in Section 6.1; and (b) their agreement to comply with the data transfer restrictions applicable to Personal Data as set forth in Section 6.3. ACG will endeavor to list the third party service providers that process Your Data in the [ACG Privacy Policy](#) from time to time.

6.5. We shall at all times during the Subscription Term carry such types and amounts of insurance as are customarily carried by providers of services similar to the Subscription Services. Upon your request, we shall (a) provide you with proof of such insurance coverages and (b) require our insurance providers to give you thirty (30) days' notice of cancellation or termination of such insurance.

7. TERMINATION; SUSPENSION

7.1. ACG or Subscriber may terminate the Subscription Services and the Agreement on notice to the other party if the other party materially breaches the Agreement and such breach is not cured within thirty (30) days after the non-breaching party provides notice of the breach. You are responsible for your Users, including for any breaches of the Agreement caused by your Users.

7.2. We may terminate the Subscription Services and the Agreement immediately on notice to you if we reasonably believe that the Subscription Services are being used by you or your Users in violation of applicable law.

7.3. ACG or Subscriber may terminate the Subscription Services for convenience without cause upon sixty (60) days' prior written notice to the other party.

7.4. Upon any termination for cause by you or for convenience by us, we will refund you on a pro-rata basis any Subscription Fees applicable to the remainder of the current Subscription Term. The Subscription Fees will not be refundable in the event of any termination for convenience by you, for cause by us, or due to your or your Users violation of law. Upon termination of the Agreement or the Subscription Services for any reason, (a) all rights and licenses granted hereunder shall be terminated immediately, and (b) each party shall return or destroy the other party's Confidential Information in its possession. Notwithstanding the foregoing, all provisions relating to proprietary rights (including Intellectual Property Rights), payment of fees, Confidential Information, disclaimers, indemnification, and limitation of liability, and all of this Section 7 and Section 11 shall survive the termination or expiration of the Agreement and shall continue to apply in accordance with their terms. Upon written request we shall, at your election, delete or return to you Personal Data (including

copies) in our possession, save to the extent that we are required by any applicable law to retain some or all of the Personal Data. Unless otherwise required by any Data Laws, we shall not be required to maintain Your Data upon the termination or expiration of the Agreement.

7.5. We may take what we determine to be appropriate action, including immediate suspension or termination of access and use of the Subscription Services, if we believe that there is a violation of the Agreement that is a credible risk of harm to the ACG Group, the Users, our Intellectual Property Rights or Confidential Information, the Subscription Services, or any third parties.

8. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS

8.1. ACG and Subscriber represent that they (a) each have the legal and corporate authority to enter into the Agreement and have each validly done so and (b) will comply with export, economic sanction, anti-corruption, child labour and human rights laws that are directly applicable to the provision or use of the Subscription Services and to which ACG or Subscriber are required to adhere, as applicable (**Fundamental Laws**), in all material respects.

8.2. ACG represents and warrants that (a) the Subscription Services will substantially conform to the specifications set forth in the Order Form and these Subscriber Terms and (b) ACG will perform the Subscription Services in accordance with accepted industry standards. For any breach of the foregoing warranties, your exclusive remedies are those described in Section 7.1 and Section 7.4.

8.3. You represent and warrant that you are responsible for the conduct of your Users and their compliance with the terms of the Agreement.

8.4. EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, THE SUBSCRIPTION SERVICES AND ALL SUBSCRIPTION CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND WE EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT WE DO NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. Certain jurisdictions do not allow the exclusion of implied warranties, so the exclusions set forth above may not apply to you.

9. INDEMNIFICATION

9.1. ACG will defend you from and against any and all third party claims, actions, suits, proceedings, and demands (a) alleging that the use of the Subscription Services as permitted under the Agreement infringes or misappropriates a third party's Intellectual Property Rights or (b) related to our material breach of a Data Law or Fundamental Law. We will indemnify you for all reasonable attorney's fees incurred and damages and other costs finally awarded against you or your Users; provided however, that our IP infringement obligations will not apply to the extent that the applicable third party claim results solely from any of the following: (a) modifications to the Subscription Services or Subscription Content by any party other than ACG or its authorized third parties, (b) the combination of the Subscription Services or Subscription Content with other products, processes, or materials, or (c) your or your Users' use of the Subscription Services in a manner that materially violates the terms and conditions of the Agreement or applicable law.

9.2. You will defend us, our affiliates and our respective officers, directors, employees, contractors and agents (**ACG Parties**) from and against any and all third party claims, actions, suits, proceedings, and demands related to (a) your and your Users' use of the Subscription Services, (b) any breach of the Agreement or violation of applicable law by you or your Users, or (c) a dispute between you and any User. You will indemnify the ACG Parties for all reasonable attorney's fees incurred and damages and other costs finally awarded against the ACG Parties.

9.3. The obligations under this Section 9 will apply only if the party seeking defense or indemnity (**Indemnified Party**) (a) gives the other party reasonably prompt written notice of the claim, and (b) reasonably cooperates with the other party (at the other party's expense) in the defense and settlement of the claims. In no event will a party agree to any settlement of any claim that involves any commitment, other than the payment of money, without the written consent of the Indemnified Party.

10. LIMITATION OF LIABILITY

10.1. IN NO EVENT WHATSOEVER SHALL YOU OR ANY MEMBER OF THE ACG GROUP BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, LOST TIME, LOSS OF DATA, LOSS OF USE, OR GOODWILL, EVEN IF YOUR OR ACG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

10.2. OTHER THAN IN CONNECTION WITH APPLICABLE IP INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL THE ACG GROUP'S MAXIMUM CUMULATIVE LIABILITY IN CONNECTION WITH SUBSCRIPTION SERVICES, THE SUBSCRIPTION CONTENT AND/OR THE AGREEMENT, REGARDLESS OF THE FORM OF ACTION, EXCEED THE AMOUNT OF THE PAYMENTS MADE TO ACG FOR THE SPECIFIC SUBSCRIPTION SERVICE(S) GIVING RISE TO SUCH CLAIM IN THE TWELVE (12) MONTHS PRIOR TO SUCH CLAIM. EACH PARTY ACKNOWLEDGES THAT THESE LIMITATIONS OF LIABILITY SHALL APPLY EVEN IF THE REMEDIES FAIL THEIR ESSENTIAL PURPOSE.

10.3. Certain jurisdictions do not allow the exclusion of limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to you.

11. MISCELLANEOUS

11.1. The Governing Laws, without reference to conflict of law rules, govern the Agreement and any dispute of any sort that might arise between you and us. The United Nations Convention for the International Sale of Goods does not apply to the Agreement. **Governing Laws** means (i) where A Cloud Guru Ltd. is the ACG party to the Agreement, the laws of England and Wales and the jurisdiction of the courts of England and Wales and (ii) where Serverless Heroes, Inc. is the ACG party to the Agreement, the laws of the state of Texas and the jurisdiction of the state and federal courts located in Travis County, Texas. Subscriber and ACG both waive any objections to the jurisdiction or venue of such courts set forth above.

11.2. Neither you nor ACG will be in default of the Agreement by reason of any failure of such party's performance under the Agreement (other than a party's obligation of payment) if such failure results, whether directly or indirectly, from a cause beyond such party's reasonable control, including any (a) local law, statute, or regulation, (b) act of God, (c) Internet failures or delays, (d) war or terrorism, (v) civil disturbance, (vi) act of government or (vii) actions of a third party.

11.3. You will not assign or otherwise transfer the Agreement or any of your rights and obligations under the Agreement, without our prior written consent. Any assignment or transfer in violation of this section will be void. We may assign the Agreement without your consent (a) in connection with a merger, acquisition or sale of all or substantially all of our assets, or (b) to any affiliate or as part of a corporate reorganization. Upon such permitted assignment, the assignor is deemed substituted as a party to the Agreement. Subject to the foregoing, the Agreement will be binding upon and inure to the benefit of each party's respective successors and permitted assigns.

11.4. The Agreement may be changed, waived or discharged only pursuant to a written agreement between parties. The waiver or failure of a party to exercise in any respect any right provided for under the Agreement will not be deemed a waiver of any further right under the Agreement by a party.

11.5. The Agreement embodies the entire agreement and understanding between the parties relating to the subject matter of the Agreement and supersedes all prior agreements and understandings relating to the subject matter of the Agreement; provided, however, that any separate non-disclosure agreement entered into by the parties or their affiliates prior to the Effective Date shall remain in full force and effect with respect to information disclosed pursuant thereto.

11.6. A breach or threatened breach of the Agreement by a party may cause irreparable harm and injury to the other party for which money damages are inadequate. In the event of such breach or threatened breach, the non-breaching party shall be entitled to seek injunctive relief in addition to all other available remedies.

11.7. ACG and Subscriber are independent contractors and the Agreement does not create a joint venture or partnership.

11.8. If any provision of the Agreement is determined to be invalid or unenforceable, the provision will be severed from the Agreement and such invalidity or unenforceability will not affect the validity or enforceability of the remaining provisions.

11.9. A person who is not a party to the Agreement shall have no right (including any rights under the Contracts (Rights of Third Parties) Act 1999) to enforce any of its terms. Each party represents to the other that their respective rights to terminate, rescind or agree any amendment, variation, waiver or settlement under the Agreement are not subject to the consent of any person that is not a party to the Agreement.

11.10. Notice to you may be provided to the email address associated with your subscriber account or via your Subscription Services page. Notice to us shall be sent to your designated ACG representative by email or to ACG at support@acloud.guru.

11.11. The applicable ACG entity that is a party to the Agreement shall be the entity that is set forth next to the jurisdiction description that describes the jurisdiction in which you and your Users access the Subscription Services:

ACG Party	Jurisdiction
A Cloud Guru Ltd.	All jurisdictions outside the U.S. and Canada
Serverless Heroes, Inc.	All jurisdictions within the U.S. and Canada