



G-Cloud 14 - Terms and Conditions

COMXPS LTD



G-Cloud Contact – Emily Wells

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Terms and Conditions

COMXPS LTD will use the standard and agreed framework Order Form and Call-off 'OVERLAY' Terms, issued subject to the provisions of the Framework Agreement entered into between the Authority and the Supplier (COMX PS Ltd).

General Terms and Conditions

This Agreement for Services takes effect from the xxxxx.

Between

COMXPS Ltd whose Registered Office is situated at 3 Toynbec Close, Chislehurst, Kent, BR7 6TH, No. 8189147 (known hereinafter as the Company) of the one part,

and

xxxxx whose Company Office is situated at xxxxx, No. xxxxx (known hereinafter as the Client) of the other part.

Recitals

The Company is in business as a provider of services (inter alia), the Services, and has skills and abilities and can undertake services that may be of use to the Client from time to time.

The Client and the Company agree that if and when the Company undertakes services to the Client it will do so in accordance with the Operative Provisions of the Agreement for Services and acknowledge that extensions to this agreement (or derived new agreements) will be undertaken through a revision to, or new version of, this Agreement.

Operative Provisions

The Services to be Undertaken, Price(s), Rights and Obligations and Associated Matters

1. This Agreement for Services shall commence on the date of this agreement and thereafter will terminate in accordance with the dates stated in the framework conditions, unless it is terminated in accordance with clause 19 of this agreement.



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2. The Company agrees that when it undertakes the Services it will do so in a professional manner at all times to the satisfaction of all parties concerned, most especially the end-user.¹
3. The Client shall not control, nor have any right to supervise, direct or control how the Company is to perform the Services, provided that they meet the end-user's requirements.
4. The Company will use its own initiative in how the Services are to be completed and will have flexibility as to the hours worked on location, but will nonetheless assist the Client and the end-user by making all reasonable attempts to work within an overall agreed deadline, will observe Health and Safety regulations and will comply with all reasonable operational requirements relating to working hours and security.
5. The Company its director's employees or consultants are not obliged to seek permission from the Client or end-user to leave a location at any time but agree to notify the client and end-user, as necessary, of any such absence to ensure smooth delivery of the services and compliance with Health and Safety Legislation as/if appropriate.
6. The Company may use a suitably qualified and experienced substitute or delegate to perform the Services, subject to the agreement of the end-user, first instance service provider² and COMXPS Ltd provided that such agreement is not unreasonably withheld.
7. Where a substitute or delegate is used by the Company, the Client shall have no contractual, financial or legal relationship with the substitute or delegate. The Company is solely responsible for arranging payments to the substitute or delegate and the substitute or delegate is answerable only to the Company.
8. The whole or part of this Agreement for Services may be assigned or subcontracted to any third party providing that the subcontractor is suitably experienced and qualified and that the end-user, any intermediary service provider and COMXPS Ltd are notified and agreed in advance, and the Company will notify the client if any part of the contract works is subcontracted or assigned. If such assignment / subcontracting occurs, the third party will be bound by terms identical to those in this contract.

¹ The "end-user" is defined as the organisation for whom the services are ultimately provided and which contracts for the provision of services directly, or indirectly through a third party, with COMXPS Ltd.

² The "first instance service provider" is the third party with which the end-user contracts in the first instance.



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9. The Company may utilise suitably qualified directors, employees or self-employed persons in order to perform the Services at its own discretion and may also utilise the services of employees or self-employed persons in an administration capacity. Such persons will be answerable solely to the Company and the Client shall have no contractual, financial or legal relationship with the hired assistance. Payments to the above persons will be the sole responsibility of the Company.
10. The Price for the Services will be as detailed in the SFIA Rate Card.
11. The Client will pay the Company the Contract Price (plus VAT) in accordance with the rates set out in the SFIA Rate Card against the presentation of an invoice and any supporting documentation deemed appropriate by the Client. Full payment will be made within 30 days of approved invoice.
12. The Client cannot require the Company to undertake the Services at a different site or location from that agreed at the outset of this Contract for Services (or detailed in Schedule A of this Contract). The Company may agree to undertake the Services at a different site or location from that originally agreed, although the Company is under no obligation to do so, but reserves the right to renegotiate the price for the Services.
13. The Company may, at its own discretion, use its own equipment to undertake the provision of the services but, due to the nature of the services, the Company may have to use the end-user's equipment to undertake their provision, where this is necessary for the proper performance of the services and is agreed to by the end-user.³

Financial Risk

14. The Company will negotiate the Price for the Services and is obliged to honour any agreed Price, unless both parties re-negotiate the Price.
15. Defective work by the Company, its directors, employees, consultants, substitutes or hired assistance must be corrected by the Company at its own cost and in its own time.
16. The Company warrants that it is qualified to perform the Services.

³ If the Company uses its own IT, it must ensure the integrity and security of end user data in accordance with the requirements of the end user client and indemnifies the Client against any failure to do so. See also Paragraph 28.

17. The Company, its directors, employees or consultants will not be entitled to receive holiday pay or sick pay in any circumstances from the Client.⁴
18. The Company will not be entitled to receive payment for cancelled assignments, contracts or agreements other than for services already delivered before cancellation.
19. The Company may be removed from an Assignment immediately and without notice if, in the reasonable opinion of the end-user, the Company fails to provide the services with reasonable care or skill or if the Company's conduct falls below the standard reasonably required by end-user. The Company may request evidence as to the reasons why it failed to provide the services with such care and skill, or other conduct.
20. The Company is not entitled to partake in any grievance procedure of the Client and as an independent company is not entitled to any employment law rights.
21. The Company accepts it has legal risk in respect of public liability and professional indemnity and will therefore pay the costs of such insurance premiums and maintain adequate cover at all times.⁵
22. The Company is not entitled to receive any company benefits from the Client or partake in any pension run by the Client. Pension provision may be made by the Company at its own discretion for its directors or employees.

Freedom of the Company to Undertake other Works

23. The Company is free to undertake other agreements or contracts for services for other parties at any time, either before, after, or concurrently with this Agreement for Services, providing that the provision of such services does not create a conflict of interest or prevent the Company from providing services to the Client.
24. The Client acknowledges and agrees that it does not have first call on the services of the Company and cannot require the Company to give the Client any priority over another Client.

Confidentiality

⁴ AWR 2010 Opt-Out. The Company clearly states that the provisions of Agency Workers Regulations 2010 do not apply to the provision of these Services, and both parties acknowledge that they have freely entered into this Opt Out.

⁵ The levels of liability and indemnity cover required are contained in Schedule A. A copy of the relevant Company policy is to be provided to the Client within seven days.

25. The Company undertakes that it and its directors, employees, consultants and substitutes shall keep in the strictest confidence all details of trade secrets and confidential or classified information (whatever its form) which may come into its possession during the completion of the contract and to protect same in strict compliance with the requirements of the information owner.
26. At the end of the term of this Agreement for Services the Company undertakes to deliver to the Client or as directed by the Client all documents relating to the agreement which contain trade secrets or confidential information relating to the Client's or the end-user's business.
27. All copyright and other intellectual property rights in all work, including all work of a preparatory or design nature, or developed or created from such work in performing the Services for the Client shall be deemed to be the undisputed property of the end user client or first instance service provider, as appropriate.
28. In the event of the Client or the end-user supplying to the Company any material in which the Client owns the copyright or any other intellectual property rights the material will be supplied by the Client under a license which may be terminated by the Client on immediate notice, to use the same or any part thereof as the Client shall in its absolute discretion deem fit.

Data Protection

29. The Company will adhere to and comply with relevant and current Data Protection Legislation (including GDPR).

Taxation and National Insurance

30. The Company as an independent business is responsible for its own tax and National Insurance and must ensure its and its employee's compliance with the relevant regulations and legal requirements.⁶

Business Organisation

⁶ The Company indemnifies the Client against any liability for the non-deduction of income tax on any remuneration receivable by the staff of the Company and against any liability on behalf of the Company to make payment of any statutory levies and/or social security premiums or fringes.



31. The Company will prepare invoices for all Services undertaken, on a frequency detailed in the standard and agreed framework schedule 2 order form and call off overlay terms.
32. The Company will at all times represent itself as an independent business and will in no circumstances represent itself or hold itself out as a representative, servant or employee of the Client. The Company hereby acknowledges it is in business on its own account and is not part and parcel of the Client's business, or any other business.

Intention of the Parties

33. Both parties agree and intend that this legal relationship is one of contracting for independent specialist services and specifically is not a relationship of master and servant or employer and employee.

Flow Down Conditions

34. If appropriate, additional conditions stemming from the contract issued by the end user and/or that issued by any intermediate service provider are described at **Schedule B** and the Company warrants that it will observe and be bound by these additional conditions.

The Parties agree and intend to be bound by this Agreement for Services.

The Client:

Signed:

Position:

Dated:

The Company:

Signed:

Position:

Dated:

NB. Any and all individuals working for the Client through this Provision of Services Agreement are required to observe the relevant parts of COMXPS Ltd's Company Quality Policy.



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SCHEDULE A**PROVISION OF SERVICES**

Section A	The Company
Name Trading Address Phone Number (s) Company Number VAT Number Resource Name	
Section B	Duration and Location of the Services
Commencement Date End Date Location(s)	
Section C	Contract Price
Nature of Services to be undertaken Agreed number of Days Agreed price per day Agreed expenses Payment mechanism	
Section D	Invoicing Frequency
Weekly/Monthly/Other	
Section E	Indemnity and Liability Insurances
	The Company warrants that it has in place: Maximum Liability Level £1,000,000 (One Million) – Professional Liability/ Public Liability / £5m Employers Liability.



Contact Details

For any further enquiries regarding COMXPS Ltd or the content of this document, please contact Emily Wells.

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