



Network Futures Limited G-Cloud Terms and Conditions

These Network Futures Limited Terms and Conditions form part of an agreement for the provision of **#CloudFutures Specialist Cloud Services** by Network Futures Limited under a Call-Off Agreement as defined in the UK Government Crown Commercial Services G-Cloud Services Framework Agreement between Network Futures Limited and Crown Commercial Services. They apply between Network Futures Limited and each party (The Client) entering into a Call-Off Agreement.

The Parties

- (1) Network Futures Limited, registered company number 2707332; address of 35 Stroatley Rise, Haslemere, Surrey, GU27 1AG (**The Supplier**)
- (2) **Client Name** of **Registered Address** (**The Client**) to whom the Services are supplied

It is Agreed as follows:

The supplier will provide the Services to The Client on the terms and subject to the conditions of this agreement.

1. Definitions

1.1. In these Terms and Conditions, the following definitions apply:

“Agreement”	means the agreement between The Supplier and The Client, incorporating the terms and conditions contained herein, the Call Off Agreement and Terms;
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“Applicable Law”	means any applicable statute, statutory rule, order, directive, health and safety and other regulations or other instrument having force of law and all legislation for the time being in force;
“Charges”	means the charges as notified to The Client at the commencement of the Services as outlined in the Call Off Terms;
“Client”, “You” “Your”	means [Client Name] with its registered office at [Registered Address].
“Consultants”	means the associate, person, employee, firm or corporate body introduced to The Client by The Supplier to carry out the supply of Services;
“Services”	means all or any part of the work or #CloudFutures Specialist Cloud Services that Network Futures Limited have agreed to provide to The Client under the contract and in the Call Off Agreement and Terms.
“Call Off Agreement and Terms”	means the ‘Call-Off Agreement Terms and Conditions’ document with the ‘Call Off Terms’ document. The ‘Terms’ document constitutes the proposal or engagement letter, statement of work specification or similar as may be required which sets out the Services, the Charges and anything else that may be agreed between the parties for the Services.
“Deliverable”	means a work produced by The Supplier in the course of Services for delivery to The Client.
“The Supplier” “Us” “We”	means Network Futures Limited, registered company number 2707332; address of 35 Stootley Rise, Haslemere, Surrey, GU27 1AG

1.2. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

2. Nature of this Agreement

2.1 Entering this Agreement does not of itself oblige The Client to offer any work to The Supplier nor for The Supplier to provide or The Client to accept or pay for any particular consultancy services. Neither party wishes to create or imply any mutuality of obligation between themselves either in the course of or between any performance of the services or during any notice period. Where it is agreed between the parties that any Services are to be provided, a Call Off Agreement and Terms setting out the nature of the Services, the charging basis, and any other material terms will be produced by The Supplier in accordance with Schedule 2 of the Framework Agreement and provided to The Client.

2.2 On receipt of a Call Off Agreement and Terms

- 2.2.1 if The Client accepts its terms, The Client will promptly sign and return one copy to The Supplier
 - 2.2.2 if The Client does not accept its terms, The Client will promptly advise The Supplier.
- 2.3 Upon a Call Off Agreement and Terms being signed by both parties, it will become a contract binding on the parties.
- 2.4 A contract formed on the basis of a Call Off Agreement and Terms referencing the Framework Agreement and these terms shall be governed only by these terms and by no others, except where both parties expressly agree in writing. Save to the extent expressly provided, all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.
- 2.5 Either party may request a change to the nature or scope of Services covered by a Call Off Agreement and Terms. Any such request shall be sufficiently detailed to enable the other party to assess the impact of the proposed change. No such change will become effective until agreed in writing between the parties.
- 2.6 This Agreement is not exclusive; The Client acknowledges that The Supplier enters this Agreement in the course of its business of providing services to its customers, and The Supplier is and remains at liberty to also provide services to third parties; it shall be The Supplier's responsibility to ensure it does not enter any third party engagement which might cause a conflict of interest to arise. The Client is and remains at liberty to engage services (including similar services) from third parties. The Supplier reserves the right to decline to provide any advice and assistance outside the scope of the Services as specified in a Call Off Agreement and Terms agreed between the parties, even if The Supplier may previously have provided such additional advice and assistance.

3. Services

- 3.1 The Supplier will provide Services as agreed from time to time in Call Off Agreement and Terms, so far as is reasonably practicable within any agreed timescale, and with reasonable skill and care.
- 3.2 As a limited company, The Supplier will not require or be subject to supervision direction or control as to its daily activities or the manner of performance thereof, and itself accepts the responsibility for the proper provision of Services. It shall be The Supplier's responsibility to maintain adequate Professional Indemnity, Employer's Liability, and Public Liability insurance.
- 3.3 The Supplier shall be responsible for maintaining reasonable continuity in personnel providing Services on its behalf, but reserves the right in its sole discretion to make personnel changes from time to time for all Services performed on its behalf. Where The Supplier's charges are on a time and materials basis, it shall be The Supplier's responsibility to ensure that the relevant skills and experience of any personnel remain commensurate with the fee rates charged.

- 3.4 It shall be The Client's responsibility to afford The Supplier with such access, information and staff cooperation as The Supplier may reasonably require for the proper performance of any Services, and for ensuring that all relevant Health and Safety policies, risks, information and relevant statutory compliance measures are disclosed to The Supplier.
- 3.5 We are dependent upon You and any of Your employees, sub-contractors or agents performing Your or their obligations as outlined in any Call Off Terms and section 7.10.
- 3.6 Acceptance of the Services shall take place as agreed in the Call Off Agreement and Terms. If the Call Off Terms does not contain an acceptance procedure, acceptance shall be deemed when the Services or the relevant part of them have been completed and the Services are not rejected by You in writing within 7 working days of commencement or when You first make use of the Services or any part thereof.

4. Access to Premises

- 4.1 If We are required to provide the Services from Your premises, You will obtain any approvals, licences and security clearances and give Us sufficient access to allow Us to carry out the Services.
- 4.2 While on Your premises, We shall comply with all Applicable Law, Your reasonable working and safety procedures and rules and security procedures including security over and access to Your IT systems, networks and infrastructure which have been brought to Our attention.
- 4.3 Unless stated in the Call Off Terms, for work on The Client site, travelling time in excess of the employees normal travel to work time will be charged at cost (pro rata of their agreed daily rate). On such journeys the cost of air travel, rail travel or a car mileage allowance at the prevailing company rate will be charged. For site work involving overnight stays the cost of bed, breakfast, evening meal and The Supplier standard employee disturbance allowance will be charged. Incidental expenses for site work outside of the UK such as travel and medical insurance may also be charged.

5. Confidentiality

- 5.1 Unless the parties have signed a separate mutual secrecy agreement containing more specific provisions in relation to confidentiality (in which case the provisions of such agreement will continue to apply in lieu of this clause), each party will keep any confidential information disclosed by the other undisclosed, and on termination (or sooner if required) will at the option of the owner thereof return or destroy (including electronic disposal) such confidential information.
- 5.2 Neither party may use or take advantage of any such confidential information without the discloser's consent, even after the end of this Agreement.
- 5.3 This obligation does not apply to
 - 5.3.1 information known to the receiver before disclosure by the other party, and free of any obligation of confidentiality, or

- 5.3.2 information independently developed or acquired by the receiver, without reference or access to the discloser's confidential information, and free of any obligation of confidentiality, or
- 5.3.3 information which becomes public knowledge without fault on the part of the receiver, or
- 5.3.4 disclosures made to the extent required by some applicable legal or regulatory requirement.

6. Copyright and Intellectual Property Rights

- 6.1 Where pre-existing works are with the knowledge and consent of The Client incorporated in any Deliverable, The Client has non-exclusive irrevocable world-wide royalty free licence to use modify and distribute such pre-existing works, but only as part of the Deliverable; all other rights in the pre-existing works are reserved. Subject thereto, all rights in any Deliverable pass to The Client upon payment of all fees due to The Supplier which relate to that Deliverable, and The Supplier will execute a formal assignment thereof on request by The Client.
- 6.2 The Supplier will indemnify The Client against infringement of third party rights by a Deliverable, provided that The Client notifies The Supplier of any relevant third party rights promptly on such rights becoming known to or suspected by The Client.
- 6.3 Nothing shall prevent The Supplier from using techniques, ideas, and other know-how gained during the performance of Services under this Agreement in the furtherance of its own business, to the extent that such does not result in disclosure or abuse of confidential information in breach hereof, or any infringement of any Intellectual Property Rights of The Client.

7. Charges and Payment

- 7.1 The Supplier shall invoice The Client for Fees and Expenses. All sums due shall be invoiced and paid as specified in the applicable Call Off Agreement and Terms. The Client will pay The Supplier's invoices by BACs or Faster Payments thirty (30) days from the receipt thereof.
- 7.2 The Client's obligations under this clause shall be performed without any right of The Client to invoke set-off, deductions, withholdings or other similar rights.
- 7.3 The Client shall be charged on a daily basis at the rates quoted on the Call Off Terms, additional hours worked will be charged on an hourly pro rata basis. The Supplier may revise the charges in any published updates to the Digital Market Place.
- 7.4 The Supplier shall be entitled to charge The Client for any travel or subsistence expenses reasonably incurred by the individuals whom The Supplier engages in connection with the Services and for the cost of services provided by third parties and required by The Supplier for the performance of the Services, and for the cost of any materials (including Third Party Materials). The Supplier may invoice The Client for such expenses or costs at any time.

- 7.5 Where Charges are on a time and materials basis in relation to Services, The Supplier shall invoice The Client in arrears on the basis of the Call Off Agreement and Terms and any estimate provided by The Supplier in the Call Off Agreement and Terms (or as otherwise agreed by the parties in writing). Amounts invoiced in arrears shall be reconciled against actual time taken by The Supplier from time to time and The Supplier shall adjust future invoices, issue credit notes or further invoices as applicable in relation to such Charges.
- 7.6 Where the Proposal includes an Advance to be payable by The Client, the Advance shall be invoiced on the Commencement Date in addition to the Charges and shall be credited against the Charges to be invoiced by The Supplier after the Cancellation Period has expired. Specific resources shall not be assured for the Services by The Supplier unless and until the Advance is paid.
- 7.7 Invoices may not be disputed more than seven (7) days after they are issued. Time is of the essence for payment of any sum under this Agreement.
- 7.8 All amounts payable by The Client under the Contract are priced exclusive of VAT.
- 7.9 Without limiting any other right or remedy of The Supplier if The Client fails to make any payment due to The Supplier under the Contract by the due date for payment:
- 7.9.1 The Supplier may immediately suspend provision of the Services; and/or
- 7.9.2 If The Supplier has reallocated its resources, any timetable for provision of Services set out in the Call Off Terms shall no longer apply and the parties shall meet to agree a separate timetable; and/or
- 7.9.3 The Supplier shall have the right to charge statutory interest and VAT on the overdue amount at the rate of eight (8) per cent plus the then Bank of England base rate accruing on a daily basis from the due date for payment until the date of actual payment of the overdue amount, whether before or after judgment.
- 7.9.4 If the Services are suspended The Supplier may apply a re-connection charge equivalent to one month's charges for the relevant Services.
- 7.9.5 In the event of any dispute with regard to a portion of an invoice, the undisputed portion shall be paid as normal.
- 7.10 Estimates are subject to change if based on incorrect information provided by The Client, or if any specified dependencies / facilities are not available on time, or if any equipment required to be provided by The Client fails to operate correctly.

8. Liability

- 8.1 Neither Party excludes or limits its liability for:
- 8.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors;
- 8.1.2 bribery, Fraud or fraudulent misrepresentation by it or its employees; or
- 8.1.3 breach of any obligations implied by section 2 of the Supply of Goods & Services Act 1982.
- 8.1.4 any other matter which, by Law, may not be excluded or limited.

- 8.2 Subject always to Clause 8.1, the aggregate liability of either Party under or in connection with each Year of the Call-Off Agreement (whether expressed as an indemnity or otherwise):
- 8.2.1 for all defaults resulting in direct loss to the property (including technical infrastructure, assets, IPR or equipment but excluding any loss or damage to The Client Personal Data or Client Data) of the other Party, shall be subject to the financial limits set out in paragraph 8 of the Call Off Terms Order Form:
 - 8.2.2 and in respect of all other defaults, claims, losses or damages, whether arising from breach of contract, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall not exceed a sum equivalent to the financial limit set out in paragraph 8 of the Call Off Terms Order Form
- 8.3 The Supplier shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of The Client or by breach by The Client of its obligations under the Call-Off Agreement.
- 8.4 Subject to Clauses 8.1, in no event shall either Party be liable to the other for any:
- 8.4.1 loss of profits;
 - 8.4.2 loss of business;
 - 8.4.3 loss of revenue;
 - 8.4.4 loss of or damage to goodwill;
 - 8.4.5 loss of savings (whether anticipated or otherwise); and/or
 - 8.4.6 any indirect, special or consequential loss or damage.
- 8.5 The annual aggregate liability for all defaults resulting in direct loss, destruction, corruption, degradation or damage to The Client Data or The Client Personal Data or any copy of such Client Data, caused by The Supplier's default under or in connection with the Call-Off Agreement shall be subject to the financial limits set out in paragraph 8 of the Call Off Terms Order Form.
- 8.6 Whilst reasonable efforts are made by The Supplier to give satisfaction to The Client by ensuring reasonable standards of skills, integrity and reliability from the Consultants and to provide the same in accordance with the Assignment details provided by The Client, no liability (whether in Contract, tort or otherwise) for any loss or damage of whatsoever nature suffered by The Client whether arising from any act, default or neglect on the part of The Supplier, its employees, agents or sub-contractors or from any defect in, failure in, or unsuitability for any purpose of, the Services, or otherwise howsoever, to the extent that the amount of such loss or damage exceeds (or would when aggregated with the amount of any previous loss or damage exceed) the financial limits set out in paragraph 8.1 of the Call Off Terms Order Form
- 8.7 The Supplier shall not in any event be liable for any indirect or consequential loss whatever or however caused.

- 8.8 The Client agrees fully and promptly to indemnify The Supplier against all costs, claims, demands, damages, losses and expenses to which The Supplier may become liable or which The Supplier may suffer or incur as a result directly or indirectly of The Supplier acting in accordance with The Client's instructions, or arising from any act, default or neglect on the part of The Client, its employees, agents or subcontractors.
- 8.9 Any liability or remedy for innocent or negligent (but not fraudulent) misrepresentation is expressly excluded.

9. Termination

- 9.1 Either party may terminate this Agreement at any time when there is no current Call Off Agreement and Terms, by immediate written notice.
- 9.2 Either party may terminate this Agreement and any current Call Off Agreement and Terms at any time if the other is in material breach or if the other becomes insolvent, by immediate written notice.
- 9.3 Any rights or obligations of a continuing nature shall survive termination.

10. Force Majeure

If either party is obstructed in performing any of its obligations under a Call Off Agreement and Terms by an event outside its reasonable control, then performance to the extent obstructed is suspended for so long as the obstruction continues.

11. Staff obligations and third party rights

- 11.1 Each party solely retains all the responsibilities and rights of an employer towards and in relation to its own employees. Neither party second its employees or any of them to the other. No person providing Services shall be expected or required to integrate into The Client's business organisation or employed workforce.
- 11.2 Each party will indemnify the other against any claims brought by or in relation to its own employees, whether such claims relate to employment, tax, national insurance, or otherwise. Where applicable, The Supplier shall be solely responsible for complying with the requirements of the Working Time Regulations 1998 (as amended) and any other legislation relating to workers, in relation to any individual providing Services on its behalf.
- 11.3 You agree not to solicit or offer employment or engage in any manner any of The Supplier personnel or sub-contractors who have been involved in the provision of the Services, directly or indirectly, for six months from the completion of the Services. If you do engage or employ any such person, a fee may be chargeable.
- 11.4 No third party rights are intended to be conferred or created by this Agreement or any Call Off Agreement.

12. Equality and Diversity

- 12.1 The Supplier shall:

- 12.1.1 perform its obligations under this Agreement (including those in relation to the provision of the Services) in accordance with:
- 12.1.2 all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and
- 12.1.3 any other requirements and instructions which the Authority and/or the Contracting Body reasonably imposes in connection with any equality obligations imposed on the Authority and/or the Contracting Body at any time under applicable equality Law.

13. Data Protection

- 13.1 The parties mutually acknowledge their respective responsibilities (a) to comply with the provisions of the Data Protection Act 1998 in relation to Personal Data, and (b) to use Personal Data provided by the other so far as necessary for the proper performance of this Agreement and any Call Off Agreement and Terms hereto, but not further or otherwise.
- 13.2 Where a party Processes Personal Data in connection with this Agreement and any Call Off Agreement and Terms hereto, that party shall:
 - 13.2.1 where the other party is the Data Controller in relation to such Personal Data, act only on instructions from the other party; and
 - 13.2.2 where that party is the Data Controller in relation to such Personal Data, comply with the provisions of the DPA, including (without limitation) its obligations to take appropriate technical and organisational measures against unauthorised or unlawful Processing of such Personal Data and against accidental loss or destruction of, or damage to, such Personal Data.
- 13.3 For the purposes of this clause, the terms "Data Controller", "Data Processor", "Personal Data" and "Process" shall have the meanings given to them in the Data Protection Act 1998 ("DPA").

14. Agency Workers Regulations 2011 ('AWR')

The Supplier is a business carried on by (and substantially owned by) the individual(s) who it is envisaged will have primary responsibility for the provision of the Services. If any supervision and direction of any individual providing Services on behalf of The Supplier is required, The Supplier is responsible for providing such supervision and direction. No individual providing Services on its behalf will work under the supervision and direction of The Client. The understanding and intention of all parties is that no individual providing Services on behalf of The Supplier will be an 'agency worker', within the meaning of AWR, and that AWR will not apply in respect of any engagement under these Terms.

15. Notices

Any notice to be given by either party to the other shall be in writing and may be sent by recorded delivery to the registered address of the other and shall be deemed to be served 2 days following the date of posting.

16. Law

These terms are governed by the laws of England & Wales, whose courts shall have sole jurisdiction in relation to all matters arising.

Signed by the parties' authorised representatives as follows:

On behalf of **The Supplier** by **Network Futures Limited**
(Authorised Signature)

Title:..... Date:.....

Print Name:.....

On behalf of **The Client** by 
(Authorised Signature)

Title:..... Date:.....

Print Name:.....