

## 1. INTRODUCTION

- 1.1 These Terms and Conditions form part for the G-Cloud 14 Call-off Contract (the **Call-Off Contract**) between a buyer and Inform Communications Ltd (the **Supplier**). These General Terms and Conditions are supplemented by the Call-off Contract, which together make up the Contract.
  - 1.2 The buyer detailed in Part A of the Call-Off Contract (the **Client**), wishes to subscribe to the Services. The Customer and Supplier will be referred to individually as a Party and jointly as the Parties
- ## 2. Definitions
- The following definitions will apply throughout these terms & conditions.
- 2.1 **“Charges”** means the charges for the provision of the Service(s), as specified in the Proposal and/or the Order Form, which include, inter alia, the charges for setting up the Service (**“Setup Charges”**) as well as the charges for the continued provision of the Service (**“Service Charges”**) and any charges for upgrades (**“Upgrade Charges”**)
  - 2.2 **“Commencement Date”** means the date specified in the Order Form
  - 2.3 **“Contract”** means, together, the Order Form, the Proposal, these Terms and Conditions, the SLA and DPA
  - 2.4 **“Data Protection Legislation”** means, as binding on either party or the Services (a) the GDPR (being the General Data Protection Regulation, Regulation (EU) 2016/679, as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time)); (ii) the Data Protection Act 2018; (iii) any laws which implement any such laws; and (iv) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing
  - 2.5 **“Documentation”** the documentation that may be made available to the Client that contains user instructions to enable the Client to make proper use of the facilities and functions of the Services
  - 2.6 **“DPA”** means the UK GDPR Information Schedule, at Schedule 7 to the Call-off Contract
  - 2.7 **“Initial Term”** means the initial term of the Contract specified in the Order Form
  - 2.8 **“Network Provider”** means any third party organisation providing services that are required by the Client to access the Services such as but not limited to telephone, email or internet networks that are wholly out of the Supplier’s control
  - 2.9 **“Number/s”** shall mean the telephone number(s) as may be designated to the Service(s) by the Supplier
  - 2.10 **“Order Form”** means the G-Cloud 14 Call-off Contract between the Client and the Supplier, also referred to as the **“Call-off Contract”**
  - 2.11 **“Proposal”** means the Pliaz Engage Service Proposal identified in the Order Form which sets out the Supplier’s proposal for the provision of the Service for the Client
  - 2.12 **“Service”** or **“services”** shall mean the services as specified in the Order Form and Proposal or as otherwise provided under the terms of the Contract
  - 2.13 **“Service Output”** means information and data or processing results that may be generated by the Services which may be made available to the Client in connection with the Services
  - 2.14 **“SLA”** means the Service Level Agreement identified in the Order Form, as may be amended by the Supplier from time to time
  - 2.15 **“Term”** means the term of the Contract as defined in clause 3.1
  - 2.16 **“Terms and Conditions”** means these terms and conditions
  - 2.17 Words denoting the masculine shall include the feminine and vice versa and words denoting the singular include the plural and vice versa.
  - 2.18 In the Contract references to any condition, sub-condition, paragraph or annexure without further designation shall be construed as a reference to a condition, sub-condition, paragraph or annexure of/to the Contract.
  - 2.19 Headings are for convenience only and shall not affect the interpretation of the Contract.
  - 2.20 References to any statute or any section thereof or legislation generally shall, unless the context requires otherwise, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted and includes all instruments, orders, bye-laws and regulations for the time being made, issued or given there under or deriving validity there from and all other legislation of the European Community that is directly applicable to the United Kingdom.
  - 2.21 **“Including”** shall be construed so as not to limit the generality of any words or expressions in connection with which it is used.

## 3. Period of the Contract

- 3.1 The Contract shall, unless terminated early in whole or in part in accordance with its terms, commence on the Commencement Date and shall continue for the Initial Term. Thereafter, the Contract shall be automatically renewed for successive periods of 12 months (each, a **“Renewal Period”**) unless (i) either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Term (or any Renewal Period), in which case the Contract shall terminate upon the expiry of the Initial Term or relevant Renewal Period (as applicable); or (ii) it is otherwise terminated in accordance with the provisions of the Contract, and the Initial Term together with any subsequent Renewal Period(s) shall constitute the Term.
- 3.2 For the avoidance of doubt, if the Client has instructed the Supplier to provide a service and the Supplier has provided the service, supplied the Contract documents to the Client, and raised an invoice for the service, then a contract shall be deemed to exist in accordance with the terms of the Contract.

## 4. Obligations of the Supplier

- 4.1 Subject to the Client paying the Charges, and to the other terms and conditions of the Contract, the Supplier shall provide the Services and Documentation during the Term with all reasonable care, skill and diligence in accordance with best practice in the Supplier’s industry.
- 4.2 The Services shall conform in all material respects with the descriptions and specifications set out in the Proposal and Documentation.
- 4.3 The Supplier shall provide the equipment for providing the Services (if any) as may be specified in the Proposal and will maintain such equipment in good working order in accordance with the SLA.
- 4.4 Where applicable, and as specified in the Proposal, the Supplier will make the Service available only on the Number/s email or electronic/web addresses allocated. These Number/s email or electronic/web addresses will be for the exclusive use of the Client for the duration of the Term. Upon termination of the Contract, if requested in writing by the Client, the Supplier

agrees to port all Numbers to the Client for future use.

- 4.5 The Supplier will only direct the Client’s customers (or provide them with information) in accordance with pre-approved voice, chat, email and electronic scripts, logic workflows and/or models (**“Scripts”**). During the term of the Contract, the Client may request in writing that the Supplier make changes to the agreed Scripts and the Supplier shall make all such changes at the applicable charge rates and within the timescales set out in the SLA, and strictly in accordance with the Client’s written instructions.
  - 4.6 The Services may generate Service Output, and any such Service Output may include data and information received, directly or indirectly, from the Client or users of the Services.
  - 4.7 The Supplier shall maintain Employers Liability Insurance as required by Employers Liability (Compulsory Insurance) Act 1969, Third Party (Public Liability) Insurance and Professional Indemnity Insurance and shall produce evidence of such insurances at the Client’s request.
- ## 5. Obligations of the Client
- 5.1 The Client shall provide the Supplier with all necessary co-operation in relation to this Contract, and all necessary access to such information as may be required by the Supplier in order to provide the Services.
  - 5.2 The Client will ensure that the content and/or promotion of all Services complies with all codes of practice applicable to the Services as issued from time to time by an authorised body and as supplied by the Client to the Supplier from time to time. Any failure to comply with a code of practice which results in a charge, fine or other sanction being levied or applied to the Supplier will result in that charge, fine or sanction being passed to the Client only to the extent that the Supplier’s failure to so comply does not result from or in connection with an act or omission of the Supplier. The Client also agrees to make reasonable endeavours to ensure that the content and/or promotion is accurate, legal, decent and honest and shall comply in all respects with the provision of any statutes, statutory instruments, regulations or other obligations imposed by law including (but without limitation) the Misrepresentation Act 1967, the Trades Descriptions Act 1968, the Consumer Credit Act 1974, the Local Government (Miscellaneous Provisions) Act 1976, the Surrogacy Arrangements Act 1985, the Financial Services Act 1986, the Consumer Protection Act 1987 and the Lotteries Act 1976.
  - 5.3 The Client agrees to supply the Supplier with any necessary and reasonable information/scripts/updates etc. relating to the content of the Service for the duration of this Contract.
  - 5.4 The Client shall keep the Supplier indemnified from and against all proceedings, claims, demands, damages, fines, costs, expenses and charges taken, made, incurred or awarded against the Supplier arising out of or directly in connection with the Client’s breach of the terms of this Contract provided that the Client’s breach does not result from or arise in connection with the Supplier’s act or omission.
  - 5.5 Where the Services include the provision of the Pliaz Engage Fatigue App, the Client acknowledges that the Pliaz Engage Fatigue App is only a tool to assist in monitoring the safety of its workers and that the Client must have its own comprehensive health and safety, and worker monitoring, policies in place.
- ## 6. Charges
- 6.1 The Client shall pay the Charges to the Supplier without deduction or set off in accordance with this Clause 6 and the Order Form. Unless specified otherwise in the Order Form, all Set-up Charges are payable on signing the Order Form and all other Charges (including Service Charges) will be invoiced monthly in advance and are payable within 30 days of receipt of a valid VAT invoice.
  - 6.2 Failure to comply with these payment terms will be considered a breach of this Contract and the Service(s) may be liable to suspension or termination subject to the Supplier providing the Client with notice and an opportunity to remedy the breach within 14 days. All services will be chargeable up to and including the day when payment is received. Any such action will not affect the Supplier’s accrued rights.
  - 6.3 All amounts and Charges stated or referred to in the Contract (i) shall be payable in pounds sterling; (ii) are no cancellable and non-refundable; and (iii) are exclusive of VAT, which shall be added to the Supplier’s invoices at the appropriate rate.
  - 6.4 From the expiry of the Initial Term, the Supplier may increase the Service Charges on an annual basis by the aggregate of (i) the percentage increase in UK Consumer Price Index (CPI) and (ii) 3 %.
- ## 7. Termination
- 7.1 Either Party may (without prejudice to any other right, action or remedy), terminate this Contract in the event that the other party is in material breach of any of the terms of this Contract, which, in the case of a breach capable of remedy, shall not have been remedied within a period of 30 days after being notified in writing to do so.
  - 7.2 Should either party waive the other party’s breach of any provision of the Contract, such waiver shall be limited to that particular breach and shall not in any way allow the other party to claim avoidance of its obligations for any future breach and no delay on the part of a party shall be deemed to be a waiver of any such breach.
  - 7.3 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
    - (a) a petition is filed, a notice is given, a resolution is passed, an order is made for or in connection with the winding up of the other party;
    - (b) an application is made to the court or an order is made for appointment of an administrator in respect of the other party;
    - (c) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
    - (d) an event occurs, or proceeding is taken, with respect to the other party that has an effect equivalent to or similar to any of the events mentioned in Clause 7.3(a) to Clause 7.3(c) (inclusive)
  - 7.4 On termination of the Contract for any reason:
    - (a) all licences granted under the Contract shall immediately terminate and the Client shall immediately cease all use of the Services;
    - (b) each party shall return and make no further use of any equipment, property, documentation and other items (and all copies of them) belonging to the other party, and shall certify to the other party that it has done so. Notwithstanding the foregoing, the returning party may retain a copy of all records in whatever form it deems practical, if required to do so by law; and

- (c) the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination shall not be affected or prejudiced.
- 8. IPR Claims**
- 8.1 The Supplier shall defend the Client, its officers, directors and employees against any claim that the Client's use of the Services in accordance with the Contract infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Client for any amounts awarded against the Client in judgment or settlement of such claims, provided that (i) the Supplier is given prompt notice of any such claim; (ii) the Client provides reasonable co-operation to the Supplier in the defence and settlement of such claim, at the Supplier's expense; and (iii) the Supplier is given sole authority to defend or settle the claim.
- 8.2 In the defence or settlement of any claim, the Supplier may procure the right for the Client to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate the Contract on 10 Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.
- 8.3 In no event shall the Supplier, its employees, agents and sub-contractors be liable to the Client to the extent that the alleged infringement is based on (i) a modification of the Services by anyone other than the Supplier; or (ii) the Client's use of the Services in a manner contrary to the instructions given to the Client by the Supplier; or (iii) the Client's use of the Services after notice of the alleged or actual infringement from the Supplier or any appropriate authority.
- 8.4 The foregoing states the Client's sole and exclusive rights and remedies, and the Supplier's (including the Supplier's employees, agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.
- 9. Liability**
- 9.1 Nothing in the Contract excludes the liability of the Supplier (i) for death or personal injury caused by the Supplier's negligence; or (ii) for fraud or fraudulent misrepresentation
- 9.2 Subject always to the provisions of clause 9.1:
- (a) neither party will be liable to the other whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under the Contract; and
- (b) the total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the Supplier's the performance or contemplated performance of the Contract shall be limited to 100% of the annual Service Charges as specified in the Order Form.
- 10. Force Majeure**
- 10.1 Neither party shall be liable to the other party for any breach of this Contract if such breach was caused by act of God, insurrection or civil disorder, war or military operation, national or local emergency, acts or omissions of government or other competent authority, fire, lightning, explosion, flood, subsidence or weather of exceptional severity, which are referred to as an event of force majeure.
- 10.2 If either party is prevented from performance of its obligations for a continuous period in excess of three months, the other party may terminate this Contract forthwith on service of written notice upon the party so prevented, in which case neither party shall be any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.
- 11. Proprietary Rights**
- 11.1 The Client acknowledges and agrees that the Supplier and/or its licensors own all intellectual property rights in the Services (including but not limited to design, process maps, scripts, audio recordings and content), Documentation and Service Output and any work performed by the Supplier in connection with the Services. Except as expressly stated herein, this Contract does not grant the Client any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Service Output.
- 11.2 The Supplier hereby grants the Client a non-transferable and non-exclusive licence to use the Services, Documentation and Service Output during the Term in order for the Client to use the Services in accordance with the Contract. The Supplier acknowledges that all rights to the data and information submitted by Client, or by its users, directly or indirectly, to the Supplier for the purpose of the Services (the "Data"), shall, as between the Supplier and the Client, belong to Client. The Supplier further acknowledges that it shall not use the Data except as expressly licensed by the Contract.
- 11.3 In circumstances where the Services are not provided as hosted services but are installed and used on the Client's equipment, the Supplier grants a temporary, revokable licence to the Client for the term of the Contract, to use the Services to broadcast to and collect information from its customers or provide communications or data infrastructure.
- 11.4 The Services may not be used by the Client for any other purposes other than as set out in the Contract, and shall not, by way of trade or otherwise, be reverse engineered, copied, lent, re-sold, hired out, or otherwise circulated, without the prior written consent of the Supplier.
- 11.5 The Client hereby consents to and grants the Supplier a worldwide, non-exclusive and royalty-free licence to use, copy, modify and adapt the Data to the extent reasonably required for the Services (such licence shall include, but not be limited to, a right to provide the Services and make such Service Output available in accordance with the Contract).
- 11.6 The Client grants the Supplier a worldwide, non-exclusive and royalty-free licence to use the Data (and such licence shall include a right for the Supplier to allow its group companies to use the Data) to create Derived Data for its business purposes as the Supplier sees fit. For these purposes, "Derived Data" means data of any kind resulting directly or indirectly from the manipulation, derivation, calculation and/or analysis of the Data, whether generated by human or machine and whether alone or in conjunction with other data, provided that such Derived Data does not contain any personal data, and is created in such a way that it is not possible for a third party to reverse engineer the Data or any part of it to create or identify personal data. The Client acknowledges and agrees that Supplier owns all intellectual property rights in the Derived Data and that the Client does not have any rights to, or in, the Derived

Data.

## 12. Confidentiality

- 12.1 Each party undertakes that it shall not at any time during the Term, and for a period of three years after termination or expiry of this Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 12.
- 12.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 12; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.
- 12.4 The Client acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Supplier's confidential information.
- 12.5 No party shall make, or permit any person to make, any public announcement concerning this agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- 13. General**
- 13.1 The relationship between the Supplier and the Client shall not be deemed to be that of principal/agent employer/employee joint venture partnership or otherwise.
- 13.2 Notices pursuant to this Contract shall only be transmitted by recorded delivery post to the registered office of either party.
- 13.3 The Client cannot assign this Contract in whole or in part without the written permission of the Supplier, which consent shall not be unreasonably withheld or delayed.
- 13.4 During the term of this Contract additional services and/or telephone numbers to those in the Contract may be provided to the Client by the Supplier. These will be subject to the same terms and conditions as this Contract, and any applicable Upgrade Charges, unless agreed otherwise in writing.
- 13.5 The Supplier shall not assign or transfer the Contract the provision of the Services or any part thereof to any person without the prior written consent of the Client, such consent not to be unreasonably withheld or delays. The Supplier may at any time sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract
- 13.6 No addition to or modification of any provisions of the Contract shall be binding upon the parties unless made by a written instrument signed by a duly authorised representative of each of the parties.
- 13.7 If any provision of the Contract shall become or shall be declared by any Court of competent jurisdiction to be invalid or unenforceable in any way such invalidity or unenforceability shall not in any way impair or affect any other provision all of which shall remain in full force and effect.
- 13.8 The Contract embodies and sets forth the entire agreement and understanding of the parties and supersedes all prior oral or written agreements understandings or arrangements relating to the subject matter of this Contract. Neither party shall be entitled to rely on any agreement, understanding or arrangement which is not expressly set forth in this Contract.
- 13.9 The parties do not intend any provision of this Contract to be enforceable by a third party by virtue of the provisions of the Contracts (Rights of Third Parties) Act 1999.
- 13.10 The parties shall each comply with all applicable requirements of the Data Protection Legislation and all comply with their respective obligations, and may exercise their respective rights and remedies, under the Data Protection Addendum.
- 13.11 The Supplier acknowledges that the Client may be subject to obligations under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, the Safeguarding Vulnerable Groups Act 2006 and any subordinate legislation made under these Acts or Regulations from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation and shall assist and co-operate with the Client to enable the Client to comply with its obligations under such legislation.
- 13.12 To the extent these Terms and Conditions conflict with the Order Form, the Order Form shall prevail. To the extent these Terms and Conditions conflict with the DPA, the DPA shall prevail. To the extent that any provisions contained in a Proposal conflict with these Terms and Conditions, these Terms and Conditions shall prevail.
- 14. Governing Law and Jurisdiction**
- 14.1 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 14.2 The parties will attempt in good faith to promptly resolve any controversy, claim or dispute ("Dispute") relating to this Contract by negotiation. Any Dispute that is not settled by the parties within 28 days after notification of such Dispute given by one party to the other (the "Initial Negotiation Period") which may be extended by mutual written agreement, will be referred to a senior executive of the parties who is authorized to settle such Dispute on behalf of its respective party ("Senior Executive"). The Senior Executives of the parties will enter into direct negotiations within 14 days after expiration of the Initial Negotiation Period to seek to promptly resolve the Dispute. If the Dispute has not been resolved by the Senior Executives within 28 days after the end of the Initial Negotiation Period, then either party may immediately commence a claim before a court of England.
- 14.3 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).