

The order of precedence is specified in section 8.3 of the G-Cloud 14 Framework Agreement. In the event of conflicting terms, the G-Cloud 14 Framework Agreement shall apply. The Client Relationship Agreement (CRA) and applicable Attachments and Transaction Documents (TDs) are incorporated into each Call-Off Contract for the G-Cloud 14 Framework Agreement. Where "IBM" is used, it shall mean "Supplier" and where "Client" is used, it shall mean "Buyer" and where "Supplier Terms" is used, it shall mean the Agreement as defined below.

This Client Relationship Agreement (CRA) and applicable Attachments and Transaction Documents are the complete agreement regarding each transaction under this CRA (together, the "Agreement") under which the Client may order Cloud and other Services, (collectively, IBM Products) and third-party services (Non-IBM Products).

Transaction Documents (TDs) provide the specifics of transactions, such as charges and a description of and information about the Product. Examples of TDs include statements of work, service descriptions, ordering documents, supplements, or invoices. There may be more than one TD applicable to a transaction.

Attachments provide supplemental terms that apply across certain types of IBM Products or Non-IBM Products.

In the event of conflict, an Attachment prevails over this CRA, and a TD prevails over both the CRA and any Attachment and only applies to the specific transaction.

1. Services – Cloud Services

- a. A Cloud Service is an "as a service" IBM offering that IBM makes available via a network, such as software as a service, platform as a service, infrastructure as a service, or other network delivered services. Supplier Cloud Services shall include Lot 1 Cloud hosting and Lot 2 Cloud software as acquired under a Call-Off Contract
- b. Cloud Services are designed to be available 24/7, subject to maintenance. IBM will provide advance notice of scheduled maintenance. Technical support and service level commitments, if any, are specified in an Attachment or TD.
- c. When IBM accepts Client's order, IBM provides Client the authorisations specified in the TD. IBM provides the facilities, personnel, equipment, software, and other resources necessary to provide Cloud Services. IBM provides generally available user guides and documentation to support Client's use of the IBM Cloud Service.
- d. Enabling Software is software that Client downloads to Client systems that facilitates the use of a Cloud Service and will be identified in a TD. Enabling Software is not part of the Cloud Service and Client may use Enabling Software only in connection with use of the Cloud Service and in accordance with any licensing terms specified in a TD. The licensing terms will specify applicable warranties, if any. **Otherwise, Enabling Software is provided as-is, without warranties of any kind.**
- e. Client will provide hardware, software, and connectivity to access and use Cloud Services, including any required Client-specific URL addresses and associated certificates.
- f. Client's authorised users may access Cloud Services only to the extent of authorisations Client acquires. Client is responsible for use of Cloud Services by any user who accesses the Cloud Services with Client's account credentials.
- g. The following acceptable use terms apply for Client's use of the Cloud Services. Cloud Services may not be used to undertake any activity or host Content that: i) is unlawful, fraudulent, harmful, malicious, obscene, or offensive; ii) threatens or violates the rights of others; iii) disrupts or gains (or intends to disrupt or gain) unauthorised access to data, services, networks, or computing environments within or external to IBM; iv) sends unsolicited, abusive or deceptive messages of any type; or v) distributes any form of malware. Client may not use Cloud Services for crypto-mining, unless otherwise agreed by IBM in writing. Client may not: i) reverse engineer any portion of a Cloud Service; ii) assign or resell direct access to a Cloud Service to a third party; or iii) combine a Cloud Service with Client's value add to create a Client-branded solution that Client markets to its end user customers unless otherwise agreed by IBM in writing.

1.1 Changes and Withdrawal of IBM Cloud Services

- a. At any time and at IBM's discretion, IBM may change Cloud Services, including corresponding published descriptions.
- b. The intent of any change will be to: i) make available additional features and functionality; ii) improve and clarify existing commitments; or iii) maintain alignment to current adopted operational and security standards or applicable laws. Changes will not degrade the security or functionality of the Cloud Services.
- c. Changes will be effective when published or on the specified effective date. Any Changes that do not meet the conditions specified above will only take effect, and Client accepts, upon: i) a new order; ii) the term renewal date for the Cloud Services that automatically renew; or iii) notification from IBM of the change effective date for ongoing services that do not have a specified term.
- d. IBM may withdraw a Cloud Service on 12 months' notice unless stated otherwise in a TD. IBM will continue to provide withdrawn Cloud Services for the remainder of Client's unexpired term or work with Client to migrate to another generally available IBM offering available under the G-Cloud 14 Framework Agreement.

1.2 Term and Termination of Cloud Services

- a. The term begins on the date IBM notifies Client that Client can access the Cloud Services. The ordering TD will specify whether the Cloud Services renew automatically, proceed on a continuous use basis, or terminate at the end of the term. For automatic renewal, unless Client provides written notice to not to renew at least 30 days prior to the term expiration date, the Cloud Services will automatically renew for the specified term. For continuous use, the Cloud Services will continue to be available on a month-to-month basis until Client provides 30 days written termination notice to IBM. The Cloud Services will remain available until the end of the calendar month after such 30-day period.
- b. IBM may suspend or limit, to the extent necessary, Client's use of a Cloud Service if IBM reasonably determines there is a material breach of Client's obligations, security breach, violation of law, or breach of the acceptable use terms set forth in section 1 above. IBM will provide notice prior to a suspension, as commercially reasonable. If the cause of a suspension can reasonably be remedied, IBM will provide notice of the actions Client must take to reinstate the Cloud Services. If Client fails to take such actions within a reasonable time, IBM may terminate the Cloud Services.
- c. Client may terminate a Cloud Service on 30 days' notice: i) at the written recommendation of a government or regulatory agency following a change in either applicable law or the Cloud Services; ii) if a change to the Cloud Services causes Client to be noncompliant with applicable laws; or iii) if IBM notifies Client of a change to the Cloud Services that has a material adverse effect on Client's use of the Cloud Services, provided that IBM will have 90 days to work with Client to minimise such effect. In the event of any such Client termination above or a similar termination of a Non-IBM Product as permitted in the third-party agreement terms, IBM shall refund a portion of any prepaid amounts for the applicable Cloud Service for the period after the date of termination. Client may terminate a Cloud Services for material breach of IBM's obligations by IBM giving notice and reasonable time to comply. If the Cloud Services or Non-IBM Products are terminated for any other reason, Client will pay to IBM, on the date of termination, the total amounts due per the Agreement. Upon termination, IBM may assist Client in transitioning Content to an alternative technology for an additional charge and under separately agreed terms.

2. Services – Other Services

- a. Services are project or other labor-based Services, such as consulting, installation, customisation and configuration, maintenance, and remote services IBM provides to Client. When IBM accepts Client's order, IBM will provide or make the Services as described in an Attachment or TD.

2.1 Service Deliverables Ownership and Licensing

- a. When IBM provides deliverables, Client will own the copyright in works of authorship that IBM develops for Client as described in a TD (Project Materials). Project Materials exclude Existing Works. Existing Works are works of authorship delivered to Client, but not created, under the TD, and includes any modifications or enhancements of such works made during the performance of the Services. Some Existing Works may be subject to a separate license agreement (Existing Licensed Works).
- b. IBM grants Client an irrevocable (subject to Client's payment obligations), nonexclusive, worldwide license to use, execute, reproduce, display, perform and prepare derivatives of Existing Works that are not Existing Licensed Works. IBM retains an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works of Project Materials.

2.2 Services Termination

- a. Either party may terminate a Service if a material breach concerning the Service is not remedied within a reasonable time.
- b. IBM will provide at least 90 days' notice prior to withdrawal of standard Services offerings.
- c. Client agrees to pay charges for Services provided through the effective date of termination.
- d. If Client terminates without cause or IBM terminates for breach, Client will:
 - (1) meet all minimum commitments;
 - (2) pay termination or adjustment charges specified in a TD; and
 - (3) pay any additional costs IBM reasonably incurs because of early termination, such as costs relating to subcontracts or resource relocation.

IBM will take reasonable steps to mitigate any such additional costs.

- e. Specific termination rights for a Service may be specified in a TD.

3. Content and Data Protection

- a. Content consists of all data, software, and information that Client or its authorised users provides, authorises access to, or inputs to the Cloud Service or information or data Client may provide, make available or grant access to, in connection with IBM providing other Services. Client grants the rights and permissions to IBM, its affiliates, and Subcontractors of either, to use, provide, store, and otherwise process Content solely for the purpose of providing the Cloud Services or other Services. Use of the Cloud Services or other Services will not affect Client's ownership or license rights in Content.

- b. IBM, its affiliates, and Subcontractors of either may access and use the Content solely for the purpose of providing and managing the applicable Cloud Services or other Services. IBM will treat all Content as confidential by only disclosing to IBM employees and Subcontractors to the extent necessary to provide the Cloud Services or perform other Services.
- c. Client is responsible for obtaining all necessary rights and permissions to permit processing of Content in the Cloud Services or to provide other Services. Client will make disclosures and obtain consent required by law before Client provides, authorises access to or inputs individuals' information, including personal or other regulated data, for processing in the Cloud Services or use by IBM in providing the other Services.
- d. If any Content could be subject to governmental regulation or may require security measures beyond those specified by IBM for the Cloud Services or to provide other Services, Client will not provide, allow access to, or input the Content for processing in the Cloud Services or provide or allow access of Content to IBM to provide other Services unless specifically permitted in the applicable TD or unless IBM has first agreed in writing to implement additional security and other measures. Client is responsible for adequate back-up of Content on Client managed systems prior to providing or allowing access of Content to IBM to provide Services.
- e. IBM Data Security and Privacy Principles (DSP), at Appendix A, apply for generally available standard Cloud Services and other Services as identified in a TD. At IBM's discretion, IBM may change the DSP from time to time and the change will be effective when published or on the specified effective date. The intent of any change will be to improve and clarify existing commitments and maintain alignment to current adopted operational and security standards or applicable laws. The intent is not to degrade the security or functionality. The most up to date version of the DSP can be found at <https://www.ibm.com/support/customer/csol/terms/?ref=Z126-7745-04-10-2020-zz-en>.
- f. The specific security features and functions of a Cloud Service or other Services will be described in the applicable Attachment and TD. Client is responsible for selecting, ordering, enabling, or using available data protection features appropriate to support Client's use of Cloud Services. Client is responsible for assessing the suitability of the Cloud Services for the Content and Client's intended use or the use of Content with the Services IBM will provide. Client acknowledges that the use of Cloud Services and other Services meet Client's requirements and processing instructions required to comply with applicable laws.
- g. IBM's Data Processing Addendum (DPA) is detailed in Appendix B. The DPA and applicable DPA Exhibit(s) apply to IBM's processing of personal data on behalf of the Client. Each IBM Product has a DPA Exhibit that specifies how IBM will process the Client's data. The applicable DPA Exhibit is included by reference in the TD.
- h. For Cloud Services with self-managed features, Client can remove Content at any time. Otherwise, IBM will return or remove Content from IBM computing resources upon the expiration or cancellation of the Cloud Service, other Services, or earlier upon Client's request. IBM may charge for certain activities performed at Client's request (such as delivering Content in a specific format). IBM does not archive Content; however, some Content may remain in backup files until expiration of such files as governed by IBM's backup retention practices.

4. Warranties

- a. IBM warrants that it provides Cloud Services and Services using commercially reasonable care and skill and as described in an applicable Attachment or TD, including any completion criteria. Project Materials will comply with the Attachment or TD at the time of delivery. The warranty for Cloud Services or Services ends when the Cloud Services or Services end.
- b. **These warranties are the exclusive warranties from IBM and replace all other warranties, including the implied warranties or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose. IBM does not warrant uninterrupted or error-free operation of an IBM Product or that IBM will correct all defects or prevent third-party disruptions or unauthorised third-party access to an IBM Product. IBM warranties will not apply if there has been misuse, modification, damage not caused by IBM, or failure to comply with written instructions provided by IBM. Non-IBM Products and preview products, or identified non-warranted IBM Products, are sold under the Agreement as-is, without warranties of any kind. Third parties may provide their own warranties to Client for Non-IBM Products.**

5. Charges, Taxes, Payment and Verification

- a. Client's right to use IBM Cloud Services or Non-IBM Cloud Services is contingent on Client paying applicable charges as specified in a TD or applicable agreement under which Client acquired the entitlements. Client is responsible to acquire additional entitlements in advance of any increase of its use.
- b. Client agrees to pay all applicable charges specified in a TD for an IBM Product or Non-IBM Product and charges for use in excess of authorisations. Charges are exclusive of any customs or other duty, tax, and similar levies imposed by any authority resulting from Client's acquisitions under the Agreement and will be invoiced in addition to such charges. Amounts are due upon receipt of the invoice from IBM and payable within 30 days of the invoice date to an account specified by IBM and late payment fees may apply. Prepaid IBM Products or Non-IBM Products must be used within the applicable period. IBM does not give credits or refunds for any prepaid, one-time charges, or other charges already due or paid, except as may be specified in an Agreement.
- c. In the event Client is required to pay any withholding or deduction of tax required under an applicable governmental entity regulation based on IBM's charge for a cross border transaction, Client will increase the sum payable by the amount necessary to ensure IBM receives an amount equal to the sum it would have received had no withholdings or

deductions been made. Client is responsible to pay any withholding tax directly to the appropriate government entity where required by law.

- d. If Client imports, exports, transfers, accesses, or uses an IBM Product or Non-IBM Product across a border, Client agrees to be responsible for and pay authorities any custom, duty, tax, or similar levy assessed by the authorities. This excludes those taxes based on IBM's net income.
- e. IBM will invoice: i) recurring charges at the beginning of the selected billing frequency term; ii) overage and usage charges in arrears; and iii) one-time charges upon IBM's acceptance of an order.
- f. IBM may change recurring charges, labor rates and minimum commitments on 90 days' notice, except for Cloud Services. For Cloud Services, if IBM commits to pricing as specified in a TD, IBM will not change such pricing during the specified term. If there is not a specified commitment, then IBM may change pricing on thirty days' notice. A change applies on the invoice date or the first day of the charging period or new term on or after the effective date IBM specifies in the notice. IBM may change one-time charges without notice. However, a change to a one-time charge does not apply to an order if: i) IBM receives the order before the announcement date of the increase; and ii) within 90 days after IBM's receipt of the order, the Product is made available to Client.

6. Liability and Intellectual Property Protection

- a. IBM's entire liability for all claims related to the Agreement will not exceed the amount of any actual direct damages incurred by Client up to 125% of the amounts paid (if recurring charges, up to 12 months' charges apply) for the Product that is the subject of the claim, regardless of the basis of the claim. **IBM will not be liable for special, incidental, exemplary, indirect, or consequential damages, or lost profits, business, value, revenue, goodwill, or anticipated savings.** These limitations apply collectively to IBM, its affiliates, Subcontractors, and suppliers.
- b. The following amounts are not subject to the above cap: i) third-party payments related to infringement claims described in the paragraph c below; and ii) damages that cannot be limited under applicable law.
- c. If a third party asserts a claim against Client that an IBM Product acquired under the Agreement infringes a patent or copyright, IBM will defend Client against that claim and pay amounts finally awarded by a court against Client or included in a settlement approved by IBM. To obtain IBM's defense against and payment of infringement claims, Client must promptly: i) notify IBM in writing of the claim; ii) supply information requested by IBM; and iii) allow IBM to control, and reasonably cooperate in, the defense and settlement, including mitigation efforts. IBM's defense and payment obligations for infringement claims extend to claims of infringement based on open-source code that IBM selects and embeds in an IBM Product.
- d. IBM has no responsibility for claims based on: i) Non-IBM Products; ii) items not provided by IBM; iii) IBM's proper use of any Client required third-party product or service related to the administration of the transaction; iv) any violation of law or third-party rights caused by Content or any Client materials, designs, specifications; or v) Client's use of a non-current version or release of an IBM Product when an infringement claim could have been avoided by using a current version or release.

7. Termination

- a. Either party may terminate: i) this CRA without cause on at least 30 days' notice to the other after expiration or termination of its obligations under each Agreement; or ii) immediately for cause if the other is in material breach of an Agreement, provided the non-complying party is given notice and reasonable time to comply. Termination of this CRA does not terminate transactions in effect and not affected by the cause of a material breach and provisions of the Agreement, as they relate to such transactions, remain in effect until fulfilled or otherwise terminated in accordance with the Agreement term.
- b. Any terms that by their nature extend beyond the Agreement termination remain in effect until fulfilled and apply to successors and assignees.
- c. Each party will allow the other reasonable opportunity to comply before it claims the other has not met its obligations. Client's failure to pay, or Client providing inaccurate or fraudulent account or payment information to acquire IBM Products or Non-IBM Products, is a material breach.

8. Governing Laws and Geographic Scope

- a. Both parties agree to the application of the laws of England, without regard to conflict of law principles. Any disputes will be brought before a court of competent jurisdiction within such country.
- b. The rights and obligations of each party are valid only in the country where the transaction is performed (or for IBM or Non-IBM Cloud Services or remotely delivered IBM or Non-IBM Services, the country of Client's business address) or, if IBM agrees, the country where the IBM Product or Non-IBM Product is placed in productive use, except all licenses are valid as specifically granted.
- c. Each party is also responsible for complying with: i) laws and regulations applicable to its business and Content; and ii) import, export and economic sanction laws and regulations, including the defense trade control regime of the United States of America and any applicable jurisdiction, that prohibit or restrict the import, export, re-export, or transfer of products, technology, services or data, directly or indirectly, to or for certain countries, end uses or end users. IBM will not serve as Client's exporter or importer, except as required by data protection laws, for: i) any Content; or ii) use of any portion of a Cloud Service from a country outside Client's business address.

- d. If any provision of the Agreement is invalid or unenforceable, the remaining provisions remain in full force and effect. Nothing in the Agreement affects statutory rights of consumers that cannot be waived or limited by contract. The United Nations Convention on Contracts for the International Sale of Goods does not apply to transactions under the Agreement.

9. General

- a. IBM is an independent contractor, not Client's agent, joint venturer, partner, or fiduciary, and does not undertake to perform any of Client's regulatory obligations or assume any responsibility for Client's business or operations. Client is responsible for its use of IBM Products and Non-IBM Products. IBM is acting as an information technology provider only. IBM's direction, suggested usage, guidance, or Client's use of an IBM Product does not constitute medical, clinical, legal, accounting, or other licensed professional advice. Client should obtain its own expert advice. Each party is responsible for determining the assignment of its and its affiliates personnel and their respective Subcontractors, and for their direction, control, and compensation.
- b. Client may not use IBM Products or Non-IBM Products if failure or interruption of the IBM Products or Non-IBM Products could lead to death, serious bodily injury, or property or environmental damage.
- c. Parties will not disclose confidential information to employees or Subcontractors of the other party without a separate, signed confidentiality agreement. If confidential information is exchanged in connection with the Agreement, the applicable confidentiality agreement is incorporated into, and subject to, this CRA. This paragraph does not apply to Content provided in the use of an IBM Cloud Service or Non-IBM Cloud Service.
- d. Client accepts an Attachment or TD by ordering, enrolling, using, or making a payment for, the IBM Product or Non-IBM Product. Since this CRA may apply to many future orders, IBM may change this CRA by providing Client at least 90 days' written notice. Changes are not retroactive. They will only apply as of the effective date to: i) new orders; ii) ongoing or continuous IBM Product or Non-IBM Product offerings that do not expire; and iii) renewals. For transactions with a defined renewable contract period stated in a TD, Client may request that IBM defer the change effective date until the end of the current contract period. Client accepts changes by placing new orders or continuing use after the change effective date or allowing transactions to renew after receipt of the change notice. Except as specifically provided in this CRA or as specified in an Attachment or TD, all changes to an Agreement must be in writing accepted by both parties.
- e. IBM maintains a robust set of business conduct and related guidelines covering conflicts of interest, market abuse, anti-bribery and corruption, and fraud. IBM and its personnel comply with such policies and require Subcontractors to have similar policies.
- f. IBM, its affiliates, and Subcontractors of either require use of business contact information and certain account usage information. This information is not Content. Business contact information is used to communicate and manage business dealings with the Client. Examples of business contact information include name, business telephone, address, email, user ID, and tax registration information. Account usage information is required to enable, provide, manage, support, administer, and improve IBM Products. Examples of account usage information include reported errors and digital information gathered using tracking technologies, such as cookies and web beacons, during use of IBM Products. The IBM Privacy Statement at <https://www.ibm.com/privacy/> provides additional details with respect to IBM's collection, use, and handling of business contact and account usage information. When Client provides information to IBM and notice to, or consent by, the individuals is required for such processing, Client will notify individuals and obtain consent.
- g. IBM may offer Non-IBM Products, or an IBM Product may enable access to Non-IBM Product, that may require acceptance of third-party terms presented to the Client. Linking to or use of Non-IBM Products constitutes Client's agreement with such terms. Third-party terms and privacy practices govern use of a Non-IBM Cloud Service or other Service, including Content Client may provide, grant access to or input to. IBM will invoice Client for charges due and submit Client's order details to the third-party provider for the enablement and delivery of the Non-IBM Product. IBM is not a party to any third-party agreement and is not responsible for Non-IBM Products. Access to ongoing Non-IBM Products may be discontinued at any time if the third party discontinues or IBM no longer makes available such Non-IBM Products.
- h. An IBM Product or Non-IBM Product or feature of an IBM Product or Non-IBM Product is considered "preview product" when IBM makes such product or features available at no charge, with limited or pre-release functionality, or for a limited time, to try available functionality (such as beta, trial, evaluation, no-charge, or designated preview products). Service level agreements, if any, do not apply to preview products. A preview product may not be covered by support and IBM may change or discontinue a preview product at any time and without notice. For any preview product that is provided as pre-release, IBM is not obligated to release a generally available product. Client is responsible to return a preview product or place an order under generally available terms for acquiring IBM Product or Non-IBM Product beyond the preview period. IBM may provide Client opportunities to voluntarily provide feedback in connection with the use of IBM Products, which IBM may use for any purpose.
- i. Neither party may assign the Agreement, in whole or in part, without the prior written consent of the other. IBM may assign rights to receive payments. IBM will remain responsible to perform its obligations. Assignment by IBM in conjunction with the sale of the portion of IBM's business that includes an IBM Product or Non-IBM Product is not restricted. IBM may share an Agreement and related documents in conjunction with any assignment.

- j. All notices under the Agreement must be in writing and sent to the business address specified for the Agreement unless a party designates in writing a different address. The parties consent to the use of electronic means and facsimile transmissions for communications as a signed writing. Any reproduction of the Agreement made by reliable means is considered an original. The Agreement supersedes any course of dealing, discussions, or representations between the parties. Where approval, acceptance, consent, access, cooperation, or similar action by either party is required, such action will not be unreasonably delayed or withheld.
- k. No right or cause of action for any third party is created by the Agreement or any transaction under it. Neither party will bring a legal action arising out of or related to the Agreement more than two years after the cause of action arose. Neither party is responsible for failure to fulfil its non-monetary obligations due to causes beyond its control.
- l. IBM may use personnel and resources in locations worldwide, including Subcontractors to support the delivery of IBM Products and Non-IBM Products. Client's use of IBM Products or Non-IBM Products may result in the transfer of Content, including personally identifiable information, across country borders. A list of countries where Content may be transferred and processed is described in the applicable TD or support documentation. IBM is responsible for the obligations under the Agreement even if IBM uses a Subcontractor and will have appropriate agreements in place to enable IBM to meet its obligations.
- m. If IBM and Client agree to use a Client requested third-party service to support the procurement or payment activities associated with an Agreement, IBM agrees to submit or receive applicable documents (such as invoices or similar contracting documents) using the third-party service. In the event: i) the third-party service becomes unavailable for any reason; or ii) the third-party provider modifies the service or terms of use in a manner IBM deems commercially unacceptable, the Client agrees to directly accept documents. Client remains responsible to IBM for timely payments of invoices and for any claims or proceedings related to the third-party service provider's failure to comply with applicable laws or for such provider's use, misuse, or disclosure of data or confidential information. IBM agrees to promptly notify Client in writing of any such claim or proceeding.

Agreed to:	Agreed to:
Client Company Name (Client):	IBM Company (IBM):
	IBM United Kingdom Limited
By _____	By _____
Authorised signature	Authorised signature
Title:	Title:
Name (type or print):	Name (type or print):
Date:	Date:
Client number:	Agreement number:
Enterprise number:	
Client address:	IBM address:
	Registered in England and Wales with number 741598
	Registered Office: PO Box 41 North Harbour, Portsmouth, PO6 3AU