

Agreement Number:

G-CLOUD SERVICES AGREEMENT (Time and Materials)

This Agreement is made between:-

CGI IT UK Limited ("Supplier") of 14th Floor, 20 Fenchurch Street, London, EC3M 3BY; and

[] ("the Customer") of

The following is agreed:

1. This Agreement is made up of the following documents:
 - (a) this signature page;
 - (b) the attached Supplier Terms and Conditions for G-Cloud Services (Time and Materials);
 - (c) the attached Statement of Supply [to be attached];
 - (d) the attached Statement of Price [to be attached];
 - (e) the attached Statement of Additional Customer Responsibilities (if any) [to be attached]; and
 - (f) any licence or other document which is expressly stated and agreed by the parties to be part of this Agreement

(all of the above documents taken together (as amended in accordance with this Agreement) being referred to as the "Agreement").
2. The Supplier shall perform the G-Cloud services as specified in the Statement of Supply (the "Supply").
3. The Customer shall pay to Supplier the sums specified in the Statement of Price (the "Price") and all other sums payable under this Agreement.
4. The Effective Date of this Agreement is [dd\mm\yyyy] .

Signature:
For and on behalf of Supplier

Signature:
For and on behalf of the Customer

Name:

Name:

Title:

Title:

Date:

Date:

Supplier Terms and Conditions for G-Cloud Services (Time & Materials)

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1. Definitions

- 1.1 In these general terms and conditions unless the context otherwise requires, the following shall mean:-

“Affiliate”

means any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

“Applicable Data Protection Legislation”

means all Applicable Law relating to the processing, privacy, and/or use of Personal Data, as applicable to either party or the Services, including: (a) the UK GDPR (which has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; (b) the Data Protection Act 2018; (c) any laws which implement or supplement any such laws; and (d) any laws which replace, extend, re-enact, consolidate or amend any of the foregoing.

“Confidential Information”

Any material (including any software), document, idea, data or other information which:

- (a) relates to either party's research and development, trade secrets or business affairs; or
 - (b) is marked as confidential or is by its nature confidential.
8. Confidentiality and Publicity
9. Title and Intellectual Property Rights and is disclosed by either party or their representatives to the other for the purpose of this Agreement but excluding termination
 10. Limitations of Liability
 11. Termination
 12. Export Control
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 - (i) is known to the receiving party, at the time of disclosure by the other party;
 - (ii) is or becomes publicly known through no wrongful act or omission of the receiving party;
 - (iii) is lawfully obtained by the receiving party from a third party who in making such disclosure breaches no obligation of confidence to the other party; or
 - (iv) is independently developed by the receiving party.

“Completion”

Completion of the Supply which shall occur upon delivery of the Deliverables in accordance with Clause 4.

“Data Controller”

has the meaning set out in the Applicable Data Protection Legislation.

“Data Processor”

has the meaning set out in the Applicable Data Protection Legislation.

“Data Protection Impact Assessment”

means an assessment carried out pursuant to the Applicable Data Protection Legislation.

“Data Subject”

has the meaning set out in the Applicable Data Protection Legislation.

“Delay Payments”

means payments detailed in paragraph 4.1 of the Order Form

“Deliverables”

The deliverables provided by the Supplier as part of the Supply.

“Fee Rates”

The specific rates for the Consultancy Services set out in the Statement in Price (subject to Clause 5.5) or, if none are set out the Supplier’s current fee rates for its G-Cloud Services on a time and materials basis prevailing from time to time, as published under the G-Cloud Framework.

“G-Cloud Framework”

The framework arrangements established by the Government Procurement Service for the provision of G-Cloud Services to Contracting Bodies by Framework Suppliers

“G-Cloud Services”

the cloud services described in Schedule 1 of the G-Cloud Framework provided by the Supplier.

“Intellectual Property Rights”

Rights relating to trademarks, registered designs, patents, applications for any of the foregoing, copyright, design rights, know-how, trade and business names, moral rights, publication rights, performance rights, trade get-up, goodwill and any other similar protected rights in any country.

“Loss”

losses, claims, fines, damages, liabilities, costs, charges, expenses, demands, legal and other professional costs.

“Order Form”

The order form to be completed by the Customer and agreed with the Supplier as set out in Schedule 2 of the G-Cloud Framework.

“Overlay Terms and Conditions”

The mandated terms and conditions that apply to this Agreement as set out in Schedule 2 of the G-Cloud Framework

“Personal Data”

has the meaning set out in the Applicable Data Protection Legislation and relates only to personal data, or any part of such

personal data, in respect of which the Client is the Data Controller as detailed in Annex A and in relation to which the Supplier is providing services under this Agreement.

“Personal Data Breach”

has the meaning set out in the Applicable Data Protection Legislation.

“Processing” or “processing” or “process”

have the meaning set out in the Applicable Data Protection Legislation.

“Milestone”

A milestone within the implementation plan as defined in the G-Cloud Framework

“Price”

The total amount to be paid by the Customer for the Supply and stated within the Statement of Price.

“Project Management”

The management of the Supplier’s resources.

“Report”

Any report provided by the Supplier as part of the Deliverables.

“Special Categories of Personal Data”

the special categories of personal data referred to in the Applicable Data Protection Legislation.

1.2 The headings to the clauses of this Agreement and the Index are for reference only and shall not affect the interpretation or construction of this Agreement.

2. Progress Reports and Meetings

2.1 When specified in the Statement of Supply, the Supplier shall provide the Customer with status reports until Completion. Further, the parties shall conduct progress meetings at the request of either party, until

- Completion. Status reports and progress meetings (if applicable) shall occur monthly unless otherwise agreed in writing.
- 2.2 Supplier and the Customer agree that the Consultancy Services to be provided under this Agreement shall be provided on a time and material basis by Supplier under the Customer's Project Management.
- 3. Changes to the Supply**
- 3.1 At any time before Completion, either party may request that a change is made to the Supply. Each party shall have the right to reject the requested change but shall not exercise that right unreasonably. Change requests shall be made in writing.
- 3.2 Supplier shall inform the Customer if the evaluation of any requested change would, in its reasonable opinion, involve additional work or time and/or would adversely affect the deployment of staff and other resources engaged in performing the Supply. In this event, Supplier shall carry out that evaluation following the Customer's written approval (and shall not be obliged to do so without that approval) and Supplier reserves the right to charge for that evaluation on a time and materials basis at the Fee Rates.
- 3.3 If the parties agree to make a change to the Supply, the details of that change shall be specified and confirmed in writing by the parties. Supplier shall not be obliged to implement that change until it has been so confirmed and any revision to the Price and any timetable of work and/or delivery dates has been agreed in writing. If the parties do not agree to make a change to the Supply, Supplier shall continue to provide the Supply as previously agreed.
- 4. Completion of the Supply**
- 4.1 The Deliverables shall be submitted to the Customer in draft form for the Customer's review.
- 4.2 As the Supply is to be provided on a time and materials basis under the Customer's Project Management time shall not be of the essence for the Supply and the Supplier shall not be held liable for any delay in delivery.
- 4.3 In the event that the Supplier is delayed in the performance of the G-Cloud Services by the Customer or for any reason outside the Supplier's direct control the impact of such delay shall be assessed via the procedure for changes to the Supply detailed in clause 3 and shall be agreed and approved by the Customer.
- 4.4 If the Customer makes no review comments to Supplier within fourteen (14) days, Supplier will be entitled to issue the Deliverables in final form at the end of that period. Where the Customer makes comments in such timescale, following discussion of the same, Supplier shall incorporate any agreed changes to the draft Deliverables and shall then reissue them in final form to the Customer.
- 4.5 Upon issue of the Deliverables in final form, they shall be deemed to have been accepted by the Customer.
- 4.6 Supplier shall have no obligation to update the Deliverable issued in final form unless pursuant to a change request agreed under Clause 3.
- 5. Price and Payment**
- 5.1 Supplier shall raise invoices monthly in arrears and as otherwise provided under this Agreement. The Customer shall pay each invoice within thirty (30) days of the date of issue.
- 5.2 The Price and all other sums payable under this Agreement are exclusive of VAT and any other taxes or duties (with the exception of any tax based on Supplier's income), which shall be paid by the Customer at the rate and in the manner prescribed by law.

5.3 If the Customer fails to pay any sum due under this Agreement, interest shall accrue on such sum from the date of the applicable invoice until the date of payment at the rate of three (3) per cent per annum above the base lending rate of Barclays Bank plc from time to time, such interest to accrue on a daily basis and to be compounded quarterly.

5.4 If the Customer fails to pay any sum due under this Agreement, Supplier may also (without prejudice to its other rights and remedies) give the Customer not less than fourteen (14) days' written notice that it intends to stop work. If, following that notice, Supplier stops work, Supplier shall be entitled to recover from the Customer the additional costs and expenses incurred in stopping work and/or later resuming work and the Customer shall grant a reasonable extension of time for the performance of this Agreement.

5.5. This Agreement is performed on a time and materials basis and accordingly and for the avoidance of doubt:

(a) any timetable of work and/or delivery dates relating to the whole and each part of the Supply shall be deemed to be estimates only; and

(b) Supplier gives no undertaking to complete the whole or any part of the G-Cloud Services for a fixed or ascertainable sum and, if such sums are referred to in relation to the Consultancy Services, they shall be deemed to be estimates only.

6. Customer Responsibilities

6.1 The Customer shall provide all reasonable assistance to Supplier in providing the G-Cloud Services and agrees to nominate in writing an authorised representative (and if the Customer should elect to change that authorised representative, it shall advise Supplier in writing in a timely fashion of the replacement

representative and their starting date) who shall:

(a) be authorised to make binding decisions for the Customer with regard to this Agreement, including any change to the Supply; and

(b) promptly review all documents, including the draft Deliverables, that are provided by Supplier for Customer's review so that corrections or changes may be made by Supplier; and

(c) promptly provide Supplier with complete and accurate information concerning the Customer and its business which may reasonably be required by Supplier for the performance of the G-Cloud Services.

6.2 Where participation by, or access by Supplier to, the Customer's own staff is necessary for the performance of the Supply, the Customer agrees that those staff shall be available at the times agreed by the parties. Further, where those staff participate in providing the Supply, the Customer shall ensure that they possess the appropriate skills and experience for the tasks assigned to them.

6.3 The Customer further agrees:

(a) at Supplier's request, to provide Supplier staff with such office accommodation, facilities and access to the Customer's premises as may be reasonably necessary to perform the Supply;

(b) to execute promptly any licences or documents which may be required pursuant to this Agreement; and

(c) to procure promptly all necessary licences and consents to use software, data

- and any other material which it makes available to Supplier in respect of the performance of the Supply.
- (d) to promptly give electronic access to all services and media required to carry out the tasks assigned
- 6.4 If at any time during the provision of the Supply, the Customer shall notice or suspect that wrong assumptions have been made or wrong directions have been taken by Supplier, it shall inform Supplier in writing.
- 7. Staff**
- 7.1 Each party's staff shall comply with any applicable rules and regulations relating to the other party's premises when working at those premises. For the avoidance of doubt, Supplier's staff shall at all times remain under the direction and control of Supplier.
- 7.2 If Supplier agrees to the Customer's written request that a member of Supplier's staff should cease to be engaged in providing the Consultancy Services, that staff member will be removed by Supplier within a reasonable period. The Customer shall provide reasons for its request and Supplier's consent to the removal will not be unreasonably withheld. If available, Supplier will provide a suitably qualified replacement. The Customer shall bear all costs and effects of delays incurred by Supplier that are associated with the removal and/or replacement of the member of staff and the impact of such change on the provision of the Supply, except where the Customer's reason for the requested removal demonstrates the Supplier staff member's misconduct, incompetence or negligence.
- 7.3 Holidays taken by Supplier staff shall be those normally applicable to such staff. Authorisation for taking such holidays shall not be required from the Customer but Supplier will consult with the Customer to co-ordinate holidays where appropriate.
- 7.4 If Supplier deems it necessary to replace any member of Supplier staff, Supplier shall endeavour to give reasonable written notice of this and to maintain continuity of effort. Supplier shall bear the cost of training replacement staff unless the replacement is necessitated by an event outside Supplier's reasonable control.
- 7.5 Neither party shall, from the Effective Date of this Agreement until six (6) months after Completion or termination of this Agreement, whichever is the sooner, without the other party's prior agreement in writing, directly or indirectly:
- (a) employ or engage on any other basis or offer such employment or engagement to any Employee of the other party; or
- (b) endeavour to entice away or solicit from the other party any Employee for the purposes of employment or engagement of such person.
- In this Clause 7.5 "Employee" shall mean any employee of or other person provided by either party who has been materially involved in the provision of the Supply.
- 7.6 Each party agrees that if it employs, engages or solicits any Employee contrary to Clause 7.5, the party in default shall be liable to pay to the other party liquidated damages equal to that person's gross income (direct or indirect) in the preceding twelve (12) months, (which the parties agree to be a reasonable estimate of the costs of hiring and training a replacement for any such Employee).
- 7.7 The Customer acknowledges and represents that the Transfer of Undertakings (Protection of Employment) Regulations 2006, as the same may be amended or varied

("Transfer Regulations"), do not apply to any use of, or provision of, the G-Cloud Services pursuant to this Agreement. If it is subsequently determined by a court or other tribunal of competent jurisdiction that the Transfer Regulations do apply to the G-Cloud Services and/or the manner in which they are performed by the Supplier pursuant to this Agreement and/or any employee or former employee of the Customer or any Authorised User, the Customer shall indemnify and hold harmless the Supplier against any costs, claims, liabilities, damages, expenses and/or fines incurred by the Supplier in respect of redundancy, unfair dismissal, wrongful dismissal, breach of the Transfer Regulations or other claims relating to such employees, former employees and/or third parties. Each party agrees, at the other party's request, to provide reasonable assistance to comply with legal obligations and to help the other party to mitigate its liability in relation to this clause.

8. Confidentiality and Publicity

- 8.1 Subject to the licences granted under this Agreement, each party undertakes to hold in confidence for the other party, to use only for the purposes of this Agreement and not to print, publicise or otherwise disclose to any third party, the other's Confidential Information.
- 8.2 Notwithstanding Clause 8.1, nothing in this Agreement shall stop Supplier from disclosing or using in the course of its business any technical knowledge, skill or expertise of a generic nature acquired by Supplier in the performance of this Agreement.
- 8.3 Supplier may refer to the Customer in Supplier's publicity material as being a Customer, but shall not, without the Customer's permission, publicise Supplier's work under this Agreement. The Customer undertakes not to publicise work undertaken by Supplier through the use of Supplier's name

without the prior written consent of Supplier.

- 8.4 The Customer shall not directly or indirectly disclose the Deliverable or any part thereof to any third party unless and until it has obtained the Supplier's prior written authorisation to do so. The Customer shall indemnify and keep indemnified the Supplier from and against any claim, demand, proceedings, loss, damage, cost, reasonable expenses (including but not limited to legal fees and disbursements) of whatever nature it incurs or suffers arising out of or in connection with breach of this clause 8.4.
- 8.5 The receiving party shall keep all Confidential Information in strict confidence and not disclose it to a third party or submit it to generative AI tools (such as ChatGPT™), exercising the same degree of care and measures as it would normally exercise for its own information of like nature, but not less than the reasonable degree of care and measures necessary to safeguard such Confidential Information.

9. Title and Intellectual Property Rights

- 9.1 Subject to the provisions of clause 9.3 and 9.4 and unless otherwise agreed by the Parties in the Special Terms, the Intellectual Property Rights and title thereto in the Deliverables or in any original document, material, idea, data or other information developed or provided by Supplier in performing the G-Cloud Services shall belong to Supplier.
- 9.2 Supplier hereby grants to the Customer a non-exclusive, personal, royalty-free licence to use, reproduce and modify for the Customer's own business purposes those items described in Clause 9.1 that are submitted by Supplier to the Customer in providing the Supply, subject to the Customer's continuing compliance with its obligations under this Agreement and to full payment of the Price. The Customer shall ensure that

all copies of those items bear a clear and prominent notice that Supplier or the relevant third party owns the Intellectual Property Rights.

9.3 To the extent that the Deliverable or any document, material, idea, data or other information submitted or disclosed by Supplier to the Customer in performing the G-Cloud Services constitutes a pre-existing proprietary item of Supplier or a third party, the Intellectual Property Rights therein shall remain with Supplier or the third party, as appropriate. The Customer's rights to use such items will either be set out in a separate licence or, in the absence of such a licence, are as set out in Clause 9.2. Supplier's financial liability for any separately licensed item shall not exceed that specified under this Agreement.

9.4 Unless otherwise agreed by the Parties in the Special Terms the Customer shall retain its Intellectual Property Rights and any amendments thereto made by the Supplier in any documentation, data, software programs or other material which constitute pre-existing proprietary items of the Customer and which are submitted by the Customer to Supplier for the provision of the G-Cloud Services.

10. Limitation of Liability

10.1 In the performance of the Supply under this Agreement, Supplier may give advice to the Customer. Supplier shall exercise reasonable skill and care in providing the Supply and in giving such advice. Supplier shall not be responsible for the accuracy of its advice based on information supplied by the Customer or third parties or advice based on inaccurate or incomplete information provided by the Customer. Responsibility and liability for decisions taken on the basis of the Report or advice given by Supplier shall remain with the Customer and Supplier expressly excludes any liability for any reliance upon or implementation of the

Report by the Customer itself or via a third party.

10.2 Each Party's total aggregate liability during the Term of this Agreement in respect of any breach of Clause 13.11 or Annex 1 of this Agreement (Data Protection), including Clause 3 (indemnities) within Annex 1 (Data Protection)], shall be limited to 100% of the charges paid or payable by the Customer to the Supplier under this Agreement during the Term.

10.3 Supplier's aggregate liability arising out of or in connection with this Agreement, however arising, including, but not limited to, all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or late or purported late supply or non-supply or non-performance of the G-Cloud Services by the Supplier, shall not exceed 125% of the charges paid or payable by the Customer to the Supplier under this Agreement during the Term.

10.4 Without prejudice to 10.3, any liability which Supplier may have to the Customer arising out of or in connection with this Agreement for any loss or damage shall (so far as permitted by law) be limited to such an amount as is finally determined to be just and equitable, having regard to the extent of responsibility for or contribution to the loss or damage of each of Supplier, the Customer (including the Customer's directors, officers, employees or agents) and any other person (irrespective of whether that person - in any capacity - is liable to the Customer) for all or part of the same loss or damage.

10.5 Notwithstanding the foregoing:

(a) Supplier does not exclude or restrict liability for death or personal injury caused by the negligence of Supplier or its employees; and

<p>(b) subject to Clause 10.5(a), Supplier shall not be liable for:</p> <p>(i) any loss of profits, revenue, business, contracts, ex gratia payments, payments in kind or anticipated savings; or</p> <p>(ii) any consequential or indirect loss or damage however caused.</p>	<p>of it, such notice to specifically reference this Clause 11.1, the nature of the breach and any steps required to remedy it; or</p> <p>(b) has an order made for its winding up or enters into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency) or makes an arrangement with its creditors or petitions for an administration order or a notice is given of the intention to appoint an administrator or has an administrative receiver, receiver or manager appointed over any of its assets or ceases or threatens to cease to trade or generally becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.</p>
<p>10.6 This Agreement has been negotiated in good faith by the parties and each clause of this Agreement has been separately negotiated and specifically agreed upon for inclusion by the parties. Each and every limit and exclusion in this Clause 10 is independent and severable from the other and if any be held unlawful or unenforceable it shall be struck out and the remainder shall remain in effect.</p>	
<p>10.7 The Customer agrees that if any fact, matter or circumstance leads to a breach by the Supplier of Clause 13.11 (Data Protection), then the Customer shall not be entitled to bring a claim in relation to a breach of any other warranty, representation or provision of this Agreement. The only remedies then available to the Customer is to claim under the indemnity under Clause 3 of Annex 1 of this Agreement, subject to the limitations of liability in Clause 10.2.</p>	<p>11.2 On termination or expiry of this Agreement:</p> <p>(a) any rights of either party which arose on or before termination or expiry shall be unaffected; and</p> <p>(b) the rights and obligations created by any clause of this Agreement which are intended to continue after termination or expiration of this Agreement shall continue in full force and effect, notwithstanding this Agreement's termination or expiry.</p>
<p>11. Termination and Cancellation</p>	
<p>11.1 Either party may terminate this Agreement immediately by written notice to the other party, if the other party:</p> <p>(a) commits a serious breach of a material obligation under this Agreement and (where remediable) fails to remedy that breach within thirty (30) days of receiving written notice</p>	<p>12. Export Control</p> <p>12.1 The Customer acknowledges that the provision of the Supply (and associated technology) is subject to:</p> <p>(a) Supplier obtaining all necessary export and re-export licences and permissions from the UK, US and other relevant</p>

- governments ("Permissions"); and
- (b) the Customer providing all supporting documentation, including, but not limited to, international import certificates and end-use undertakings, required by Supplier to procure necessary Permissions.
- 12.2 The Customer shall not export or re-export, directly or indirectly, any of the Supply (or associated technology) without first obtaining all necessary Permissions.
- 13. General Provisions**
- 13.1 Neither party shall be liable for any delay or failure to perform its obligations caused by any industrial dispute or by circumstances beyond its reasonable control. In such event the party unable to meet its obligations shall promptly notify the other in writing of the circumstances and the time for performance of this Agreement shall be automatically extended by a reasonable period. If the circumstances still exist 180 days after such notification, either party may terminate this Agreement with immediate effect on giving written notice to the other. In the event of termination for this reason, the Customer shall pay Supplier a reasonable sum for the Supply which shall include the costs and expenses relating to equipment, materials or services obtained or ordered in connection with providing the Supply which cannot reasonably be defrayed elsewhere.
- 13.2 All notices required to be given in writing under this Agreement shall be effectively given if given in writing (referencing the Agreement Number shown at the head of this Agreement) and sent to the address of the recipient set out in this Agreement or to such other address as it may have properly notified from time to time. Any notice may be delivered personally or by first class post or by fax (with a confirmatory postal copy) and shall be deemed to have been served if by hand when delivered, if by first class post three (3) working days after posting to a UK address or eight (8) working days to an international address and if by fax, the following working day.
- 13.3 Neither party shall assign or otherwise transfer this Agreement or any of its rights and obligations under it without the prior written consent of the other. Supplier may however sub-contract all or part of this Agreement without the Customer's consent.
- 13.3 Nothing in this Agreement confers or purports to confer on any third party any benefit or right to enforce any term of this Agreement. The parties agree that the provisions of the Contracts (Rights of Third Parties) Act 1999 (as amended or modified from time to time) shall not grant any right or benefit to any third party.
- 13.5 This Agreement:
- (a) supersedes any prior agreements, proposals, representations and undertakings between the parties in relation to its subject matter; and
- (b) together with the Overlay Terms and Conditions constitutes the entire agreement between the parties relating to its subject matter.
- Each party hereby confirms that, in entering into this Agreement:
- (i) it has not relied upon and shall have no remedy in respect of any representations or warranties outside of this Agreement (other than any representations or warranties made by the Supplier in the Overlay Terms and Conditions); and

- (ii) the only remedy available to it for breach of warranties shall be for breach of contract under the terms of this Agreement or the Overlay Terms and Conditions.

This Clause 13.5 does not exclude or limit the liability of either party in respect of any fraud.

- 13.6 If any part of this Agreement is held unlawful or unenforceable the offending section or part shall be struck out and the remainder of this Agreement shall remain in effect.
- 13.7 No delay, neglect or forbearance by either party in enforcing its rights under this Agreement shall be a waiver of, or prejudice, those rights.
- 13.8 No purported variation of this Agreement shall take effect unless made in writing and signed by an authorised representative of each party.
- 13.9 The Supply is being provided by Supplier upon the basis of applicable laws and regulations existing and applied to the Supply at the Effective Date. To the extent that changes to the Supply, whether before or after Completion, are required as a result of changes to such laws or regulations, such changes shall be dealt with in the manner prescribed in Clause 3.
- 13.10 Given the nature of the Supply and the value of the Deliverables the Supplier will not be required to provide a parent company guarantee relating to the delivery of this Supply.
- 13.11 The Parties shall comply with Annex 1 in relation to Data Protection.
- 13.12 In view of Covid-19, the Customer acknowledges and agrees that: (i) there is considerable uncertainty as to the extent of the impact on the performance of the Supplier's obligations in providing the G-Cloud Services (ii) without limiting the foregoing, the Supplier cannot foresee, plan for, or mitigate all

of the consequences relating to or arising from Covid-19, including, without limitation, the actions, recommendations or directives of applicable government authorities; and (iii) the Supplier's obligations, responsibilities or ability to perform the G-Cloud Services may be adversely impacted, hindered or delayed. The Supplier shall perform its obligations with reasonable skill and care and shall not be liable to the Customer or any third party for any damages howsoever arising from or related to (i), (ii) or (iii) above. In the event of any adverse impact, hindrance or delay arising from or related to Covid-19, the Parties shall work together in good faith to effect any changes or amendments as reasonably required.

14. Disputes and Law

- 14.1 The parties shall attempt to resolve any dispute relating to this Agreement through negotiations between senior executives of the parties who have authority to settle the dispute.
- 14.2 Subject to clause 14.3, if the matter is not resolved through negotiation, the parties may, at their election, attempt in good faith to resolve the dispute through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Dispute Resolution in London.
- 14.3 If the matter has not been resolved by an ADR procedure within thirty (30) days of the initiation of that procedure, or if either party does not wish to participate in an ADR procedure, the dispute may be referred by either party to the English courts and the parties submit to their non-exclusive jurisdiction for that purpose.
- 14.4 Any dispute resolution or legal proceedings arising from this Agreement must be commenced within two (2) years from the earlier of:

(a) the date when the party bringing the proceedings first becomes aware of the facts which give rise to the liability or alleged liability; or

(b) the date when that party ought reasonably to have become

aware of the facts which give rise to the liability or alleged liability.

14.5 This Agreement is governed by the laws of England.

Annex 1

Data Protection

1. Data Controller and Data Processor

- 1.1 The Customer and the Supplier acknowledge that, for the purposes of the Applicable Data Protection Legislation, the Customer is the Data Controller and it appoints the Supplier as a Data Processor in respect of the personal data described in Annex 1A.
- 1.2 The Customer warrants that it will only provide the Supplier with the personal data described in Annex 1A.
- 1.3 Any changes to Annex 1A (including, but not limited to, the categories of data) by either Party must be in accordance with the Variation process. The Parties agree that all reasonable costs of the Supplier in complying with the Request shall be borne by the Customer.

2. Obligations

- 2.1 Each Party will Process the Personal Data in compliance with Applicable Data Protection Legislation.
- 2.2 The Supplier shall:
 - 2.2.1 Process the Personal Data only in accordance with the Customer's documented instructions from time to time and shall not Process the Personal Data for any purpose other than those expressly authorised by the Customer, except where otherwise required by any EU (or any EU Member State) law applicable to the Supplier and, in such a case, the Supplier shall inform the Customer of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest. The Customer acknowledges that this [Schedule and the] Agreement are Customer's complete and final instructions to the Supplier for the Processing of Personal Data. Supplier shall not be bound by additional or alternative instructions except pursuant to the parties' mutual written agreement. The parties acknowledge and agree that a failure or delay by Supplier to identify that an additional or alternative instruction infringes the Applicable Data Protection Legislation shall not cause Supplier to be in breach of this Agreement nor relieve Customer from its liability under this Agreement.
 - 2.2.2 ensure that any person it authorises to Process the Personal Data is subject to obligations of confidentiality in relation to the Personal Data.
 - 2.2.3 subject to Clause 3.3 of this Annex 1, having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures [as set out in Schedule []] designed to protect against the unauthorised or unlawful Processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:
 - (a) the harm that might result from such unauthorised or unlawful Processing or accidental loss, destruction or damage; and
 - (b) the nature of the Personal Data to be protected.

- 2.2.4 provide reasonable and timely assistance to the Customer (at the Customer's expense) to enable the Customer to respond to: (i) any request from a Data Subject to exercise any of its rights under Applicable Data Protection Legislation (including its rights of access, correction, objection, erasure and data portability, as applicable); and (ii) any other correspondence, enquiry or complaint received from a Data Subject, regulator or other third party in connection with the Processing of the Personal Data. In the event that any such request, correspondence, enquiry or complaint is made directly to the Supplier, the Supplier shall promptly inform the Customer providing full details of the same.
- 2.2.5 notify the Customer without undue delay after becoming aware of a confirmed Personal Data Breach and shall provide such information as the Customer may reasonably require so that the Customer can fulfil any data breach reporting obligations it may have under (and in accordance with the timescales required by) Applicable Data Protection Legislation.
- 2.2.6 not transfer the Personal Data outside the European Economic Area ("**EEA**") unless it has taken such measures as are necessary to ensure the transfer is in compliance with Applicable Data Protection Legislation.
- 2.2.7 assist the Customer by providing any reasonable contribution required by the Customer to the Customer's Data Protection Impact Assessments (such contribution to be provided by the Supplier at the fee rates stated in the Agreement or, if none are set out, at its then standard fee rates).
- 2.3 Customer shall not disclose (and shall not permit any data subject to disclose) any Special Categories of Personal Data or Personal Data relating to criminal convictions and offences to the Supplier for Processing.
- 2.4 Each Party shall inform the other as soon as reasonably practicable if it becomes aware of any material breach or potential material breach of the Applicable Data Protection Legislation in relation to the Personal Data, regardless of who may be responsible for the breach.
- 2.5 Other than as expressly permitted under Clause 2.6 of this Annex 1 below or elsewhere within this Agreement, on expiry or termination of this Agreement for whatever reason the Supplier shall return, destroy or permanently erase, at the Customer's option, all copies of the Personal Data in its possession or control.
- 2.6 In carrying out its obligations under Clause 2.5 of this Annex 1, the Supplier shall be permitted to retain copies of the Personal Data:
- (a) where required by law; or
 - (b) where such Personal Data is maintained on tapes, discs, servers or other storage devices solely or substantially for routine back-up purposes in the ordinary course of business.
- 2.7 The Supplier shall respond to any written audit questions submitted to it by the Customer, provided that the Customer shall not exercise this right more than once per year.

3. Indemnity

- 3.1 Each Party shall indemnify the other Party in respect of any Losses suffered by the indemnified Party as a result of any breach by the indemnifying Party (or its employees or agents) to

observe or comply with its obligations under the Applicable Data Protection Legislation (whether or not in relation to the Personal Data .

3.2 The Customer shall indemnify the Supplier in respect of any Losses suffered by the Supplier as a result of any failure by the Customer to observe or comply with its obligations under the Applicable Data Protection Legislation (whether or not in relation to the Personal Data).

3.3 The Customer acknowledges that the Supplier is reliant on the Customer for direction as to the extent to which the Supplier is entitled to use and Process the Personal Data. Consequently, the Supplier will not be liable for any claim or enforcement action brought by a third party (including any Data Subjects or regulators) arising from any act or omission by the Supplier at the direction of the Customer, and the Customer shall indemnify the Supplier for any related Losses incurred as a result of such claims.

3.4 The Parties acknowledge and agree that where:

(a) the Supplier has advised or advises the Customer on how the Supplier can best provide the Services and facilitate the Parties' compliance with their obligations in accordance the Applicable Data Protection Legislation, including measures designed to comply with Article 32 of the GDPR (Security of Processing) and protect Personal Data against a Personal Data Breach, or makes recommendations related to such compliance (including as to enhanced or different service offerings or design recommendations), and

(b) the Customer fails or chooses not to implement the Supplier's advice or recommendation,

the Supplier will not be liable for any claim or enforcement action brought against either the Supplier or the Customer by a third party (including any Data Subject or regulator) arising from any such failure and the Customer shall indemnify the Supplier for any related Losses to the extent incurred as a result of such failure.

3.5 Customer shall indemnify the Supplier in respect of any Losses suffered by the Supplier as a result of the failure by the Customer to comply with Clauses 1.2 or 2.3 resulting in the disclosure of any Special Categories of Personal Data or Personal Data relating to criminal convictions and offences to the Supplier for Processing.

4. Appointment of subcontractors

4.1 Subject to Clause 4.2, the Supplier shall not provide any third party with access to Personal Data or subcontract any of its obligations under this Agreement without the prior written approval of the Customer, such consent not to be unreasonably withheld or delayed.

4.2 Notwithstanding the provisions of Clause 4.1, the Customer hereby gives consent to the Supplier engaging any of the subcontractors or Supplier Affiliates listed in **Schedule [X]** to Process the Personal Data.

4.3 In all cases where has consent has been granted under Clauses 4.1 and 4.2:

(a) the subcontractor's contract shall contain terms which are substantially the same as those set out in Clauses 2 and 4; and

- (b) the Supplier shall remain liable for any breach of this Clause that is caused by an act, error or omission of its subcontractors.

Annex 1A

Data Processing Description

This Annex 1A forms part of the Agreement and describes the Processing that the Data Processor will perform on behalf of the Data Controller.

Subject matter of the processing – documented instructions

Please document Supplier's Processing activities relevant to the Services. The Personal Data will be subject to the following Processing activities:

Duration of Processing

Please document the duration of the Processing activities:

Categories of data subjects

The Personal Data to be Processed concern the following categories of Data Subjects (please specify):

Types of data

The Personal Data to be processed concern the following types of data (please specify):