



CPS Terms and Conditions G-Cloud14

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1 Application

- 1.1 These Terms and Conditions shall apply to the provision of Services by the Service Provider to the Client.
- 1.2 In the event of conflict between these Terms and Conditions and any other terms and conditions (of the Client or otherwise), the former shall prevail unless expressly otherwise agreed by the Service Provider in writing.

2 Definitions and Interpretation

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Agreement”	means any agreement, proposal, schedule or quotation provided by the Service Provider which is subject to these Terms and Conditions
“Business Day”	means a day (excluding Saturdays) on which banks generally are open for the transaction of normal banking business (other than solely for trading and settlement in Euros)
“Normal Working Hours”	means 7.5 hours worked between 0900 and 1730 UK time on a UK business day.
“Client”	means any individual, firm or corporate body (which expression shall, where the context so admits, include its successors and assigns) which purchases services from the Service Provider
“Fees”	means the fees payable by the Client under Clause 4 in accordance with the Terms of Payment in Clause 5
“Services”	means the (i) Professional Services, and/or (ii) licensing to be provided by the Service Provider to the Client as set out in the Agreement
“Service Provider”	means Corporate Project Solutions Ltd

“Licensor/Publisher/Supplier”	means (i) the manufacturer of the software provided, and/or (ii) the company to which the Service Provider reports License Use and (if applicable) pays license fees on behalf of the Client.
“License Use”	means Licensor/Publisher/Supplier use rights of licensed products.
“Third Party Product(s)/Product(s)”	means products or services provided by the Licensor/Publisher/Supplier under this Agreement.
“Cap”	means the total monthly volume of Azure services which the client is permitted to use.

2.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

2.2.1 “Writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

2.2.2 A statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

2.2.3 “These Terms and Conditions” is a reference to these Terms and Conditions and any agreements as amended or supplemented at the relevant time;

2.2.4 a Clause or paragraph is a reference to a Clause or a paragraph of these Terms and Conditions.

2.2.5 a “Party” or the “Parties” refer to the parties to these Terms and Conditions.

2.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.

2.4 Words imparting the singular number shall include the plural and vice versa.

2.5 References to any gender shall include the other gender.

3 The Services

- 3.1 The Service Provider shall, in consideration of the Fees being paid in accordance with the Terms of Payment, provide the Services to the Client.
- 3.2 The Service Provider will use reasonable care and skill to perform the Services.
- 3.3 The Service Provider shall use all reasonable endeavours to complete its obligations under these Terms and Conditions, but time will not be of the essence in the performance of these obligations.
- 3.4 The Client will be provided with five-working days to review all documents and communications. This time is to enable the Client to ask questions, agree and digitally sign any feedback or change requests that are presented by the Service Provider.
- 3.5 The Service Providers Cloud Solution Provider program is a remotely hosted shared infrastructure, under which the Client may order Cloud Services from Microsoft.
- 3.6 The start date of Microsoft Cloud Services is the date on which the Service Provider starts delivering the Cloud Services which have been agreed, or a part thereof.
- 3.7 The Service Provider does not warrant uninterrupted or error-free operation of the Microsoft Cloud Services.
- 3.8 The day on which the relevant Microsoft Cloud Service has been approved pursuant to this section ("Actual Approval Day") is the day upon which:
 - a) the Microsoft Cloud Service in question is approved by the Service Provider;
 - b) the acceptance inspection period terminates without any legitimate complaints being asserted by the Client in the acceptance inspection report;
 - c) the acceptance inspection period terminates, and the Order Form has not been fulfilled due to circumstances for which the Service Provider is not liable;
 - d) the Microsoft Cloud Service in question fulfils the Order Form following rectification by the Service Provider pursuant to legitimate complaints asserted by the Client in the acceptance inspection report;
 - e) the Client, following the termination of the acceptance inspection period and the Actual Approval Day has not occurred according to the above, uses the Services (or parts thereof) in the operations of the Client without the Service Providers written consent prior.
- 3.9 The Service Provider may withdraw a Microsoft Cloud Service on three months' notice, or as specified in the Order Form or the terms and conditions of the Third-Party Product, and the Service Provider will then either continue to provide the Cloud Service for the remainder of the Clients unexpired term or work with the Service Provider to migrate to another cloud service at the Client's cost.
- 3.10 The Service Provider will use a Third-Party Provider to provision/manage the Microsoft Cloud Services.

4 Fees

- 4.1 The Client agrees to pay the Fees in accordance with the Agreement.
- 4.2 If, at the order of the client, the Professional Service is performed outside the Service Provider's Normal Working Hours, the Service Provider shall be entitled to charge the additional charges
- 4.2.1 Evenings between 1800-23:59 and Saturdays – Double time
- 4.2.2 Sundays, Bank Holidays and 00:00-0800 – Treble time
- 4.2.3 Travel time for journeys in excess of 50 miles and all weekend travel Saturday and Sunday working will be charged in minimum whole day units. Evening working will be charged in minimum half day units.
- 4.3 In addition the Service Provider shall be entitled to recover from the Client his reasonable incidental expenses for travel, accommodation, subsistence, materials used and for third party goods and services supplied in connection with the provision of the Services. Expenses can include but are not limited to:
- Rail travel – standard class
 - Air travel – economy unless the scheduled flight time is over two hours in which case business class will be used.
 - Accommodation for overnight stays will be in a three star or equivalent hotel and will include the cost of breakfast and dinner
 - Mileage will be charged at the Service Provider's standard rates as amended from time to time.
 - Taxis and other public transport will be used as necessary.
- 4.4 The Client will pay the Service Provider for any additional services provided by the Service Provider that are not specified in the Agreement in accordance with the Service Provider's then current, applicable daily rate in effect at the time of the performance or such other rate as may be agreed. Any charge for additional services will be supplemental to the amounts that may be due for expenses.
- 4.5 Unless otherwise agreed, invoices will only include a total for expenses incurred and will copies of receipts will not routinely be provided.
- 4.6 All sums payable by either Party pursuant to these Terms and Conditions are exclusive of any value added or other tax (except corporation tax) or other taxes on profit, for which that Party shall be additionally liable.
- 4.7 Where a Microsoft Cloud service is deployed / utilised within the project (Azure or Office365) the Supplier will be assigned to the cloud subscription/s as the Claiming Partner of Record (CPOR) and/or Digital Partner of Record (DPOR) and/or Transacting Partner of Record (TPOR) and/or Partner Admin Link (PAL) and/or given Delegated Administration Privileges (DAP) and/or Granular Delegated Admin Privileges (GDAP) and Admin on Behalf of (AOBO) for a minimum of 12 months from project completion date. For the avoidance of doubt, in the event Microsoft adds to, updates and/or replaces any of the foregoing designations, this clause (4.7) will apply to any such added, updated and/or replaced designations from time to time.

5 Payment

- 5.1 All payments required to be made pursuant to these Terms and Conditions by shall be made within 30 days of the date of the relevant invoice in UK Pounds in cleared funds to such bank as the receiving Party may from time to time nominate, without any set-off, withholding or deduction. Where the Client is based in a jurisdiction which requires the deduction of any withholding taxes which cannot be reduced to nil by virtue of a Double Taxation Agreement between the UK and that jurisdiction, the Client shall bear the cost of that withholding tax as an additional charge and the gross sum payable under this agreement shall be increased to be the total of the amounts otherwise agreed to be payable and the amount of any such withholding taxes.
- 5.2 The time of payment shall be of the essence. If the Client fails to make any payment on the due date then the Service Provider shall, without prejudice to any right which the Service Provider may have pursuant to any statutory provision in force from time to time, have the right to charge the Client interest on a daily basis at an annual rate equal to the aggregate of 8% and the base rate of The Bank of England from time to time on any sum due and not paid on the due date. Such interest shall be calculated cumulatively on a daily basis and shall run from day to day and accrue after as well as before any judgement.
- 5.3 If any part of an invoice is overdue the Service Provider is entitled to revoke access the Microsoft Cloud Service and report Zero (0) license usage to the Licensor/Publisher/Supplier and/or reject any additional license usage until the Client settle his outstanding balance (including interest) in full.

6 Cancellation

- 6.1 The Service Provider needs to schedule its resources and as a result, late changes to agreed schedules for work will result in resources which cannot be utilised. Therefore, as agreed amounts of compensation, if the Client cancels any planned work within five Business Days of the agreed scheduled dates the Client will incur the full charge for the work; whether the work is conducted or not at any date in the future. Cancellation of any planned work with advance notice of greater than 5 Business Days, and less than ten Business Days of any agreed scheduled dates, will incur a charge of 50% of the days affected. There is no charge for work cancelled with 10 days' notice before the scheduled date of the work.
- 6.2 Where it is agreed that the Client shall be invoiced and pay for work in advance of work being scheduled by the Client or an amount is paid by the Client for as yet undefined Services, such a sum shall remain available for credit against future Services ordered from the Service Provider during the following 12 months at the Service Provider's then current rates and will then lapse. Clause 6.1 shall apply to create a charge for work scheduled but cancelled at short notice.

7 Confidentiality

- 7.1 Both the Service Provider and the Client shall undertake that, except as provided by sub-Clause 7.2 or as authorised in writing by the other Party, it shall at all times during the continuance of the Agreement and after its termination:
- 7.1.1 keep confidential all Confidential Information;
 - 7.1.2 not disclose any Confidential Information to any other party;
 - 7.1.3 not use any Confidential Information for any purpose other than as contemplated by these Terms and Conditions or the Agreement;
 - 7.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
 - 7.1.5 ensure that (as applicable) none of its directors, officers, employees, agents or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 6.1.1 to 6.1.4.
- 7.2 Subject to sub-Clause 7.3, either Party may disclose any Confidential Information to:
- 7.2.1 any of their sub-contractors or suppliers;
 - 7.2.2 any governmental or other authority or regulatory body; or
 - 7.2.3 any of their employees or officers or those of any party described in sub-Clauses 7.2.1 or 7.2.2;
- 7.3 Disclosure under sub-Clause 7.2 may be made only to the extent that is necessary for the purposes contemplated by these Terms and Conditions and the Agreement, or as required by law. In each case the disclosing Party must first inform the recipient that the Confidential Information is confidential. Unless the recipient is a body described in sub-Clause 7.2.2 or is an authorised employee or officer of such a body, the disclosing Party must obtain and submit to the other Party a written undertaking from the recipient to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made.
- 7.4 Either Party may use any Confidential Information for any purpose, or disclose it to any other party, where that Confidential Information is or becomes public knowledge through no fault of that Party.
- 7.5 When using or disclosing Confidential Information under sub-Clause 6.4, the disclosing Party must ensure that it does not disclose any part of that Confidential Information which is not public knowledge.
- 7.6 The provisions of this Clause 6 shall continue in force in accordance with their terms, notwithstanding the termination of the Agreement for any reason.

8 Variation and Amendments

- 8.1 If the Client wishes to vary any details of the Agreement he must notify the Service Provider in writing as soon as possible. The Service Provider shall endeavour to make any required changes and any additional costs thereby incurred shall be invoiced to the Client.
- 8.2 If, due to circumstances beyond the Service Provider's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Client immediately. The Service Provider shall endeavour to keep such changes to a minimum and shall seek to offer the Client arrangements as close to the original as is reasonably possible in the circumstances.

9 Termination

- 9.1 Either Party may terminate the Agreement by giving written notice to the other Party if:
 - 9.1.1 any sum owing to that Party by the other Party under any of the provisions of the Agreement is not paid within 30 days of the due date for payment;
 - 9.1.2 the other Party commits any other breach of any of the provisions of the Agreement and, if the breach is capable of remedy, fails to remedy it within 30 days after being given written notice giving full particulars of the breach and requiring it to be remedied;
 - 9.1.3 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;
 - 9.1.4 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
 - 9.1.5 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under this Agreement);
 - 9.1.6 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;
 - 9.1.7 the other Party ceases, or threatens to cease, to carry on business; or
 - 9.1.8 control of the other Party is acquired by any person or connected persons not having control of that other Party on the date of the Agreement. For the purposes of this Clause 8, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.
- 9.2 For the purposes of sub-Clause 9.1.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 9.3 In the event of termination under sub-Clause 9.1 the Service Provider shall retain any sums already paid to it by the Client without prejudice to any other rights the Service Provider may have whether at law or otherwise.

10 Sub-Contracting

- 10.1 Neither Party may sub-contract the performance of any of its obligations under these Terms and Conditions without the prior written consent of the other Party. Where either Party sub-contracts the performance of any of its obligations under these Terms and Conditions to any person with the prior consent of the other Party, the subcontracting Party shall be responsible for every act or omission of the sub-contractor as if it were an act or omission of the sub-contracting Party itself.

11 Recruitment Restriction

- 11.1 Unless otherwise agreed in writing, neither party may engage a person who is or has been in the service of the other party and performs or has performed important tasks relating to the Services in question, or enter into any other agreement or other arrangement, whose purpose is to obtain the work contribution of the person in question, until six (6) months have passed from the termination or expiration of the Professional Service or employment in question, whichever first occurs.
- 11.2 11.2 In case of a breach of the recruitment restriction specified in section 11.1 above, the party in breach shall be liable to pay to the other party in liquidated damages an amount corresponding to the gross salary of the person in question for the previous six (6) months period.
- 11.3 11.3 The recruitment restriction shall, however, not be applied if the employment of the person in question has been terminated due to a reason attributable to the employer.

12 Liability and Indemnity

- 12.1 Except in respect of death or personal injury caused by the Service Provider's negligence, the Service Provider will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Service Provider's servants or agents or otherwise) in connection with the performance of its obligations under these Terms and Conditions or with the use by the Client of the Services supplied.
- 12.2 The Client shall indemnify the Service Provider against all damages, costs, claims and expenses suffered by the Service Provider arising from loss or damage to any equipment (including that of third parties) caused by the Client, or his agents or employees.
- 12.3 The Service Provider shall not be liable to the Client or be deemed to be in breach of these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of the Service Provider's obligations if the delay or failure was due to any cause beyond the Service Provider's reasonable control.

13 Force Majeure

- 13.1 Neither the Client nor the Service Provider shall be liable for any failure or delay in performing their obligations under these Terms and Conditions where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

14 Waiver

- 14.1 No waiver by the Service Provider of any breach of these Terms and Conditions by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of these Terms and Conditions shall be effective only if given in writing and signed by the waiving Party and then only in the instance and for the purpose for which the waiver is given.
- 14.2 No failure or delay on the part of any Party in exercising any right, power or privilege under these Terms and Conditions shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude, any other or further exercise of any other right, power or privilege.

15 Severance

- 15.1 The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions. The remainder of these Terms and Conditions shall be valid and enforceable.

16 Copyright

- 16.1 The Service Provider reserves all copyright and any other rights (if any) which may subsist in the products of, or in connection with, the provision of the Services or facilities. The Service Provider reserves the right to take such actions as may be appropriate to restrain or prevent infringement of such copyright.

17 Notices

- 17.1 All notices under these Terms and Conditions shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 17.2 Notices shall be deemed to have been duly given:
- 17.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
 - 17.2.2 when sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or
 - 17.2.3 on the fifth Business Day following mailing, if mailed by national ordinary mail, postage prepaid; or
 - 17.2.4 on the tenth Business Day following mailing, if mailed by airmail, postage prepaid. in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.
- 17.3 Service of any document for the purposes of any legal proceedings concerning or arising out of these Terms and Conditions shall be effected by either Party by causing such document to be delivered to the other Party at its registered or principal office, or to such other address as may be notified to one Party by the other Party in writing from time to time.

18 Law and Jurisdiction

- 18.1 These Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 18.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

19 Schedule 1 – Third parties

The service provided may use third-party services to support delivery of services. In these cases, the third-party (non-negotiable) terms and conditions, or service level agreements, will need to be reviewed, understood and agreed to by the Client.

1. Microsoft Online Services [Licensing Documents \(microsoft.com\)](#)
2. Azure [Service Level Agreements – Home | Microsoft Azure](#)
3. Adobe Sign [SLA-AdobeOn-demand-ManagedServices17DEC2021.pdf](#)
4. Gamma (Telecommunications) <https://www.gamma.co.uk/legal/>
5. edison365 <https://support.edison365.com/terms-and-conditions>
6. others to be added as required per service contract

20 Schedule 2 – CPS Managed Services SLA

Please refer to the Managed Services proposal document provided.