



G-Cloud 15 – Lot 2b Cloud Software (All other SaaS) Terms & Conditions

Homelessness, Housing Register, Housing
Management, Private Sector and Renters' Rights
Locata (Housing Services) Limited

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1. Application and Entire Agreement

- 1.1. These Terms and Conditions apply to the provision of the services detailed in our quotation (Services) by Locata (Housing Services) Limited a company registered in England and Wales under number 04419315 whose registered office is at 3 Bunhill Row, London, EC1Y 8YZ (we or us or Service Provider) to the person buying the services (you or Customer).
- 1.2. You are deemed to have accepted these Terms and Conditions when you accept our quotation or from the date of any performance of the Services (whichever happens earlier) and these Terms and Conditions and our quotation (the Contract) are the entire agreement between us.
- 1.3. You acknowledge that you have not relied on any statement, promise or representation made or given by or on our behalf. These Conditions apply to the Contract to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2. Interpretation

- 2.1. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
- 2.2. The headings in these Terms and Conditions are for convenience only and do not affect their interpretation.
- 2.3. Words imparting the singular number shall include the plural and vice-versa.

3. Services

- 3.1. We warrant that we will use reasonable care and skill in our performance of the Services which will comply with the quotation, including any specification in all material respects. We can make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary.

- 3.2. We will use our reasonable endeavours to complete the performance of the Services within the time agreed or as set out in the quotation; however, time shall not be of the essence in the performance of our obligations.
- 3.3. All of these Terms and Conditions apply to the supply of any goods as well as Services unless we specify otherwise.

4. Your Obligations

- 4.1. You must obtain any permissions, consents, licences or otherwise that we need and must give us access to any and all relevant information, materials, properties and any other matters which we need to provide the Services.
- 4.2. If you do not comply with clause 4.1, we may terminate the Services.
- 4.3. We are not liable for any delay or failure to provide the Services if this is caused by your failure to comply with the provisions of this section (Your obligations).

5. Fees

- 5.1. The fees (Fees) for the Services are set out in the quotation and are on a time and materials basis.
- 5.2. In addition to the Fees, we can recover from you:
 - a) reasonable incidental expenses including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses,
 - b) the cost of services provided by third parties and required by us for the performance of the Services, and
 - c) the cost of any materials required for the provision of the Services.
- 5.3. You must pay us for any additional services provided by us that are not specified in the quotation in accordance with our then current, applicable daily rate in effect at the time of performance or such other rate as may be agreed between us. The provisions of clause 5.2 also apply to these additional services.
- 5.4. The Fees are exclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.

6. Cancellation and Amendment

- 6.1. We can withdraw, cancel or amend a quotation if it has not been accepted by you, or if the Services have not started, within a period of 14 days from the date of the quotation, (unless the quotation has been withdrawn).
- 6.2. Either we or you can cancel an order for any reason prior to your acceptance (or rejection) of the quotation.
- 6.3. If you want to amend any details of the Services you must tell us in writing as soon as possible. We will use reasonable endeavours to make any required changes and additional costs will be included in the Fees and invoiced to you.
- 6.4. If, due to circumstances beyond our control, including those set out in the clause below (Circumstances beyond a party's control), we have to make any change in the Services or how they are provided, we will notify you as soon as practicable. We will use reasonable endeavours to keep any such changes to a minimum.

7. Payment

- 7.1. We will invoice you for payment of the Fees either:
 - a) when we have completed the Services; or
 - b) on the invoice dates set out in the quotation.
- 7.2. You must pay the Fees due within 30 days of the date of our invoice or otherwise in accordance with any credit terms agreed between us.
- 7.3. Time for payment shall be of the essence of the Contract.
- 7.4. Without limiting any other right or remedy we have for statutory interest, if you do not pay within the period set out above, we will charge you interest at the rate of 4% per annum above the base lending rate of the Bank of England from time to time on the amount outstanding until payment is received in full.
- 7.5. All payments due under these Terms and Conditions must be made in full without any deduction or withholding except as required by law and neither of us can assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

- 7.6. If you do not pay within the period set out above, we can suspend any further provision of the Services and cancel any future services which have been ordered by, or otherwise arranged with, you.
- 7.7. Receipts for payment will be issued by us only at your request.
- 7.8. All payments must be made in British Pounds unless otherwise agreed in writing between us.

8. Sub-Contracting and Assignment

- 8.1. We can at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under these Terms and Conditions and can subcontract or delegate in any manner any or all of our obligations to any third party.
- 8.2. You must not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under these Terms and Conditions.

9. Termination

- 9.1. We can terminate the provision of the Services immediately if you:
 - a) commit a material breach of your obligations under these Terms and Conditions; or
 - b) fail to make pay any amount due under the Contract on the due date for payment; or
 - c) are or become or, in our reasonable opinion, are about to become, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor; or
 - d) enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with its creditors; or

- e) convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part of them, any documents are filed with the court for the appointment of an administrator in respect of you, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for your winding up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency.
- 9.2. You can terminate the provision of the services upon giving us at least three months' notice in writing provided that no such notice will take effect until the expiry of the minimum term for any services provided, and the notice expires on the first or any subsequent anniversary of the service provision after the expiry of the minimum term for services provided.

10. Intellectual Property

- 10.1. We reserve all copyright and any other intellectual property rights which may subsist in any goods supplied in connection with the provision of the Services. We reserve the right to take any appropriate action to restrain or prevent the infringement of such intellectual property rights.
- 10.2. You are deemed to have accepted and be bound by the Non-Disclosure Agreement included as an appendix to these terms and conditions when you accept our quotation or from the date of any performance of the Services (whichever happens earlier).

11. Liability and Indemnity

- 11.1. Our liability under these Terms and Conditions, and in breach of statutory duty, and in tort or misrepresentation or otherwise, shall be limited as set out in this section.
- 11.2. The total amount of our liability is limited to the total amount of Fees payable by you under the Contract.

- 11.3. We are not liable (whether caused by our employees, agents or otherwise) in connection with our provision of the Services or the performance of any of our other obligations under these Terms and Conditions or the quotation for:
- a) any indirect, special or consequential loss, damage, costs, or expenses or;
 - b) any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; or
 - c) any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; or
 - d) any losses caused directly or indirectly by any failure or your breach in relation to your obligations; or
 - e) any losses arising directly or indirectly from the choice of Services and how they will meet your requirements or your use of the Services or any goods supplied in connection with the Services.
- 11.4. You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) caused by you or your agents or employees.
- 11.5. Nothing in these Terms and Conditions shall limit or exclude our liability for death or personal injury caused by our negligence, or for any fraudulent misrepresentation, or for any other matters for which it would be unlawful to exclude or limit liability.

12. Data Protection

- 12.1. When supplying the Services to the Customer, the Service Provider may gain access to and/or acquire the ability to transfer, store or process personal data of employees of the Customer.
- 12.2. The parties agree that where such processing of personal data takes place, the Customer shall be the 'data controller' and the Service Provider shall be the 'data processor' as defined in the General Data Protection Regulation (GDPR) as may be amended, extended and/or re-enacted from time to time.

- 12.3. For the avoidance of doubt, 'Personal Data', 'Processing', 'Data Controller', 'Data Processor' and 'Data Subject' shall have the same meaning as in the GDPR.
- 12.4. The Service Provider shall only Process Personal Data to the extent reasonably required to enable it to supply the Services as mentioned in these terms and conditions or as requested by and agreed with the Customer, shall not retain any Personal Data longer than necessary for the Processing and refrain from Processing any Personal Data for its own or for any third party's purposes.
- 12.5. The Service Provider shall not disclose Personal Data to any third parties other than employees, directors, agents, sub-contractors or advisors on a strict 'need-to-know' basis and only under the same (or more extensive) conditions as set out in these terms and conditions or to the extent required by applicable legislation and/or regulations.
- 12.6. The Service Provider shall implement and maintain technical and organisational security measures as are required to protect Personal Data Processed by the Service Provider on behalf of the Customer.
- 12.7. Further information about the Service Provider's approach to data protection are specified in its Data Protection Policy, which can be found . For any enquiries or complaints regarding data privacy, you can email: priley@locata.org.uk

13. Circumstances Beyond a Party's Control

- 13.1. Neither of us is liable for any failure or delay in performing our obligations 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: 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. If the delay continues for a period of 90 days, either of us may terminate or cancel the Services to be carried out under these Terms and Conditions.

14. Communications

14.1. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

14.2. Notices shall be deemed to have been duly given:

- a) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
- b) when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
- c) on the fifth business day following mailing, if mailed by national ordinary mail; or
- d) on the tenth business day following mailing, if mailed by airmail.

14.3. All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

15. No Waiver

15.1. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy nor stop further exercise of any other right, or remedy.

16. Severance

16.1. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions will be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

17. Law and Jurisdiction

- 17.1. This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.

Appendix A – Non-Disclosure Agreement

You are deemed to have accepted and be bound by the Non-Disclosure Agreement from the date of last signature below or when you accept our quotation or from the date of any performance of the Services (whichever happens earlier).

BETWEEN

1. Locata (Housing Services) Limited a company incorporated in England and Wales with registered number 04419315 whose registered office is at 3 Bunhill Row, London, EC1Y 8YZ (we or us or Service Provider); and
2. the person buying the services (you or Customer).

MEANINGS

3. These words and phrases have defined meanings;

Agreement

This confidentiality agreement and any amendments from time to time;

Confidential Information

any information disclosed by or on behalf of a Disclosing Party (as defined below) to a Receiving Party (as defined below) during the Term that at the time of disclosure (whether in writing, electronic or digital form, verbally or by inspection of documents, computer systems or sites or pursuant to discussions or by any other means or other forms and whether directly or indirectly) is confidential in nature or may reasonably be considered to be commercially sensitive, and which relates to the business and affairs of the Disclosing Party including but not limited to: (a) all Intellectual Property Rights of the Disclosing Party and (b) all analyses, compilations, studies and other documents prepared by the Receiving Party which contain or otherwise reflect or are generated from the information referred to above;

Disclosing Party

either Party to this Agreement when disclosing Confidential Information to the other Party;

Effective Date	the date of this Agreement;
Intellectual Property Rights	all trade and service marks, registered and unregistered design rights, all design right applications, patents, copyrights, database rights and rights in know-how, confidential information and inventions and other intellectual property rights of a similar or corresponding character whenever and however arising and all renewals and extensions of such rights which may now or in the future subsist;
Permitted Purpose	for the purposes of providing Housing Software and services to the client;
Receiving Party	either Party to this Agreement when receiving Confidential Information from the other Party;
Term	the term of this Agreement;
Working Day	any day other than a Saturday, Sunday or bank holiday in England and Wales.

4. In this Agreement, unless the context requires a different interpretation
- the singular includes the plural and vice versa;
 - references to sub-clauses, clauses, schedules or appendices are to sub-clauses, clauses, schedules or appendices of this Agreement;
 - a reference to a person includes firms, companies, government entities, trusts and partnerships;
 - "including" is understood to mean 'including without limitation';
 - reference to any statutory provision includes any modification or amendment of it;
 - the headings and sub-headings do not form part of this Agreement.

OBLIGATIONS IN RELATION TO CONFIDENTIAL INFORMATION

5. In consideration of the disclosure to it of Confidential Information by the Disclosing Party the Receiving Party agrees and undertakes that it will, subject to the provisions of Clause 4:

- a. keep all Confidential Information strictly confidential and will not disclose any part of it to any other person without the Disclosing Party's prior written consent;
- b. not use any part or the whole of the Confidential Information directly or indirectly for any purposes other than the Permitted Purpose without the express written consent of the Disclosing Party;
- c. use the same degree of care to protect the Confidential Information as it uses to protect its own confidential information, being at least a reasonable degree of care.

PERMITTED DISCLOSURES

6. A Receiving Party may disclose Confidential Information to its employees, professional advisers, agents and sub-contractors (each a "Permitted Disclosee") provided that the Permitted Disclosee (i) has a need to have access to the Confidential Information for the performance of its work in relation to the Permitted Purpose and (ii) is bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information which it receives from the Receiving Party.

OWNERSHIP OF CONFIDENTIAL INFORMATION

7. The Confidential Information and all Intellectual Property Rights contained in it will remain the property of the Disclosing Party and the disclosure of the Confidential Information will not give the Receiving Party any rights in any part of the Confidential Information.

EXCEPTIONS TO NON-DISCLOSURE AND CONFIDENTIALITY

8. The obligations of confidentiality set out in this Agreement will not apply to any information which:
 - a. is already known to, or in the possession of, the Receiving Party at the time of its disclosure by the Disclosing Party, and is not subject to any obligation of confidentiality;
 - b. is, or becomes through no wrongful act or default of the Receiving Party, public knowledge;
 - c. is received from a third party in circumstances where the Receiving Party has no reason to believe that there has been a breach of a duty of confidence;

- d. is required to be disclosed by law or the rules of any court or other body of competent jurisdiction; any governmental or regulatory body or any recognised investment exchange.

TERM AND RETURN OF CONFIDENTIAL INFORMATION

- 9. This Agreement will come into force on the Effective Date and will continue in force until the anniversary of this Agreement, unless terminated earlier at any time by either Party giving written notice of termination to the other.
- 10. On termination of this Agreement or on demand by the Disclosing Party, the Receiving Party will immediately stop using all Confidential Information, return all Confidential Information to the Disclosing Party and provide a certificate to the Disclosing Party certifying that no copies of the Confidential Information have been made or retained.

REMEDIES

- 11. Both Parties acknowledge that damages alone would not constitute an adequate remedy for any breach by the Receiving Party of this Agreement.
- 12. Each Party shall, without prejudice to any and all other rights and remedies which may be available, be entitled to the remedies of injunction, specific performance and other equitable relief for any breach of this Agreement by the other Party actual or threatened.

LIMITATION OF LIABILITY

- 13. Each Party warrants to the other that it has the legal right and authority to enter into and perform its obligations under this Agreement.
- 14. Subject to the above, neither Party, nor any of their respective employees, officers, agents, subsidiaries or any other associated third parties associated accepts any responsibility or liability for, or makes any representation or warranty, express or implied, that the Confidential Information disclosed by either Party is accurate or complete.

CIRCUMSTANCES BEYOND THE CONTROL OF THE PARTIES

- 15. A Party to this Agreement will not be liable for any failure or delay in performing its obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. In these circumstances, the affected party must notify the other party or parties as soon as reasonably practicable. The notified Party or Parties may suspend or terminate the Agreement on notice, taking effect immediately upon delivery of the notice.

ENTIRE AGREEMENT

16. This Agreement contains the whole agreement between the Parties relating to its subject matter and supersedes all prior discussions, arrangements or agreements that might have taken place in relation to the Agreement. Nothing in this clause limits or excludes any liability for fraud or fraudulent misrepresentation.

GENERAL

17. No Party may assign, transfer, sub-contract, or in any other manner make over to any third party the benefit and/or burden of this Agreement without the prior written consent of the other Party or parties, such consent not to be unreasonably withheld.
18. No variation to this Agreement will be valid or binding unless it is recorded in writing and signed by or on behalf of the Parties.
19. The Contracts (Rights of Third Parties) Act 1999 will not apply to this Agreement and no third Party will have any right to enforce or rely on any provision of this Agreement.
20. Unless otherwise agreed, no delay, act or omission by a Party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy.
21. Provisions which by their intent or terms are meant to survive the termination of this Agreement will do so.
22. If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision will, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement will not be affected.
23. Any notice to be delivered under this Agreement must be in writing and delivered by pre-paid first class post to or left by hand delivery at the registered address or place of business of the notified Party, or sent by email to the other Party's main business email address as notified to the sending Party. Notices:
 - a. sent by post will be deemed to have been received, where posted from and to addresses in the United Kingdom, on the second Working Day and where posted from or to addresses outside the United Kingdom, on the tenth Working Day following the date of posting;
 - b. delivered by hand will be deemed to have been received at the time the notice is left at the proper address;

- c. sent by email will be deemed to have been received on the next Working Day after sending.
24. This clause does not apply to the service of any proceedings or other documents in any legal action.

GOVERNING LAW AND JURISDICTION

25. This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts.