



G-Cloud Managed IT Support Services - Terms and Conditions

Pink Elephant EMEA Limited

G-Cloud Framework Compliance

These Terms and Conditions are supplementary to and subject to the G-Cloud 15 Framework Agreement. When Services are procured through the G-Cloud framework:

1. These terms apply only to the extent they do not conflict with the G-Cloud 15 Framework Agreement or any Call-Off Contract
2. In the event of any conflict or inconsistency, the following order of precedence shall apply:
 - G-Cloud 15 Framework Agreement
 - Call-Off Contract
 - Statement of Work or Order Form
 - These Terms and Conditions
3. Where these terms refer to rights of suspension, termination, limitation of liability, term duration, or pricing, such provisions are subject to and shall not override the corresponding provisions in the G-Cloud Framework Agreement and Call-Off Contract

1. Definitions

Agreement means the G-Cloud 15 Framework Agreement, the Call-Off Contract, the applicable Statement of Work or Order Form, and these Terms and Conditions, read together.

Business Day means any day which is not (i) a Saturday or Sunday or (ii) a day observed as a holiday under the law of the United Kingdom.

Confidential Information means all confidential or proprietary information and documentation of a party (whether or not designated as such), including but not limited to information concerning the business and affairs of a party, knowledge and information relating to trade, business, activities, operations, organisations, finances, processes, methods, designs, software and technology, and data.

Personnel means Pink Elephant's employees, agents, contractors and other representatives assigned to provide the Services.



Services means the IT Support, Technology, Consulting, and other professional services described in the applicable Statement of Work or Order Form.

2. Applicable Law

These Terms and Conditions are governed by and construed in accordance with English law. Each party agrees that the courts of England will have exclusive jurisdiction in relation to any claim, dispute or difference, subject to any dispute resolution procedures set out in the G-Cloud Framework Agreement.

3. Scope of Services

3.1 Service Provision

Pink Elephant agrees to provide IT Support and related professional services as described in the applicable Statement of Work or Order Form, which shall include as a minimum:

- A description of the service or resource provided
- The role or deliverable to be fulfilled
- The duration of the engagement
- Service levels and performance metrics (where applicable)

3.2 Change Requests

The Customer may request changes to the scope of Services described in any Statement of Work ("Change Request"). Upon receipt of a Change Request, Pink Elephant shall determine whether such changes are feasible. If Pink Elephant agrees to consider the Change Request, it shall provide an estimate of the impact on scope, timing, and fees. Pink Elephant shall not be obliged to proceed with any change unless and until the parties have executed a formal change order or revised Statement of Work.

4. Service Delivery and Personnel

4.1 Service Management

Pink Elephant provides a Service Delivery Manager or Account Manager to interface with customer management and Pink Elephant personnel.

4.2 Personnel Qualifications

Pink Elephant agrees to ensure that its Personnel have the necessary technical skills, qualifications, experience and training to complete the Services in accordance with the Statement of Work.

4.3 Employment Status

The parties agree that Personnel are not, nor are they deemed to be, for any purpose, the employees or agents of the Customer.



4.4 Customer Policies

Pink Elephant agrees to ensure that Personnel shall abide by all security regulations at the Customer's facility and comply with the Customer's policies and procedures, including but not limited to IT and HR policies, where such policies have been communicated to Pink Elephant in writing.

4.5 Personnel Changes

The Customer accepts that planned and unplanned absence may occur during service delivery. If continued absenteeism occurs as a result of incapacity due to medical reasons, disability, or misconduct, Pink Elephant will provide alternate Personnel following resolution of appropriate processes.

The Customer may request termination of the assignment of any member of Pink Elephant's Personnel who the Customer reasonably believes to be inadequately qualified or whose performance is unsatisfactory, provided the Customer has previously given Pink Elephant written notice of the problem and a reasonable timeframe (typically 10 business days) to remedy the situation.

5. Fees and Payment Terms

5.1 Fee Structure

The fees, charges and applicable rates for the Services shall be as specified in the applicable Statement of Work or Order Form.

5.2 Invoicing

Invoices for amounts due shall be issued by Pink Elephant on a monthly basis (or as otherwise specified in the Statement of Work). All undisputed invoices shall be payable by the Customer within thirty (30) days of the date of invoice.

5.3 Late Payment

If the Customer fails to pay any undisputed amount by the due date, Pink Elephant shall be entitled to charge interest on the overdue amount as permitted under applicable law or the G-Cloud Framework Agreement, whichever is lower.

Any suspension of services for non-payment will be conducted in accordance with the provisions of the G-Cloud Framework Agreement and Call-Off Contract.

5.4 Expenses

Unless otherwise agreed, expenses and allowances will be charged as incurred, including but not limited to subsistence, travelling allowances, and shift allowances, provided such expenses are reasonable and agreed in advance or specified in the Statement of Work.

5.5 Taxes

All fees are exclusive of VAT and any other applicable taxes, levies or duties imposed by law, which shall be payable by the Customer in addition to the fees.

6. Confidentiality

6.1 Obligations

Each party shall keep confidential all Confidential Information and shall not divulge the same to any third party without the written consent of the other party, except:

- To its auditors, legal and other professional advisors
- To its employees or the employees of its subsidiaries and affiliates who have a need to know
- Where ordered to disclose by a court or tribunal of competent jurisdiction

The party receiving Confidential Information must ensure recipients are aware of and comply with these confidentiality obligations.

6.2 Exceptions

The confidentiality obligations shall not apply to information that:

- Is published or has otherwise entered the public domain without breach of this Agreement
- Is obtained by the receiving party from a third party with no obligation of confidentiality
- Is independently developed by the receiving party without breach of this Agreement
- Was already known by the receiving party without a duty of confidentiality at the time of receipt

6.3 Required Disclosure

It is not a breach of these terms to disclose Confidential Information required to be disclosed by law, judicial or arbitration process, provided that the disclosing party first gives the other party reasonable notice of such requirement.

6.4 Return of Information

Upon termination or expiration of the Agreement, each party will return all documents and information containing any Confidential Information of the other party within a reasonable time period and on written notice.

7. Data Protection

We confirm that we will comply with the provisions of the Data Protection Act 2018 and UK GDPR when processing personal data. In order to carry out the Services and for related purposes such as updating client records, analysis for management purposes, statutory returns, legal and regulatory compliance and crime prevention, we may obtain, process, use and disclose personal data.

Any additional data processing requirements shall be set out in a separate Data Processing Agreement or Schedule as required by the G-Cloud Framework Agreement.



8. Intellectual Property Rights

8.1 Pre-Existing IP

Each party retains all ownership rights in its pre-existing intellectual property.

8.2 Service Deliverables

Unless otherwise specified in the Statement of Work, Pink Elephant will retain all copyright in any document, software, or materials prepared during the provision of Services, save where the law specifically provides otherwise.

The Customer will receive a licence to use deliverables for their intended business purpose as specified in the Statement of Work.

8.3 Customer Data

The Customer retains all ownership rights in Customer data and information provided to Pink Elephant for the purposes of service delivery.

9. Representations and Warranties

9.1 Service Warranty

Pink Elephant represents and warrants that the Services will be performed in a diligent, professional and workmanlike manner, consistent with generally accepted industry standards for similar services, and in accordance with the Statement of Work.

In the event that any portion of the Services fails to conform to this warranty, Pink Elephant shall use reasonable endeavours to promptly re-perform or rectify the non-conforming Services.

9.2 Customer Obligations

The Customer represents and warrants that it shall:

- Cooperate reasonably and in good faith with Pink Elephant
- Provide timely, accurate and complete information, access and materials as reasonably required for delivery of the Services
- Comply with all applicable laws, regulations and contractual obligations in connection with its use of the Services

10. Limitation of Liability

The limitations of liability applicable to Services procured under G-Cloud are set out in the G-Cloud Framework Agreement and Call-Off Contract. These limitations include (but are not limited to):

- Caps on total aggregate liability
- Exclusions for indirect, consequential and certain other types of loss



- Exceptions for death or personal injury, fraud, and breaches of confidentiality

The specific terms of the G-Cloud Framework Agreement and Call-Off Contract shall prevail over any conflicting provisions.

11. Insurance

Throughout the term of service provision, Pink Elephant shall maintain in full force and effect insurance coverage appropriate to the nature and scope of the Services, including but not limited to professional indemnity insurance, public liability insurance, and any other insurance required by applicable law or good industry practice.

Pink Elephant shall ensure compliance with all applicable health and safety legislation in the jurisdiction(s) where Services are performed.

12. Non-Solicitation

Unless otherwise agreed in writing, each party agrees that during the period of service provision and for a period of 12 months thereafter, it shall not directly or indirectly solicit or offer employment to any of the other party's staff who have been associated with the Services, without the other party's prior written agreement.

This shall not prevent either party from making a general solicitation or advertisement. If a member of staff initiates contact in response to such solicitation, both parties undertake to inform the other and seek written agreement before proceeding with any appointment.

This provision shall not apply to staff who have been made redundant or dismissed by the other party.

13. Force Majeure

Neither party shall be liable for any delay or failure to perform its obligations if and to the extent such delay or failure is caused by circumstances beyond its reasonable control, including but not limited to: acts of God, war, terrorism, civil unrest, pandemics, fire, flood, earthquake, extreme weather, industrial disputes, acts of government, or unavailability of power or telecommunications services.

The affected party shall notify the other party promptly of any Force Majeure event and use reasonable efforts to mitigate its effects and resume performance.

14. Term and Termination

The term and termination provisions applicable to Services procured under G-Cloud are set out in the G-Cloud Framework Agreement and Call-Off Contract, which provide for:

- Initial term and any extension periods
- Rights to terminate for convenience
- Rights to terminate for breach



- Consequences of termination

These provisions in the G-Cloud Framework Agreement and Call-Off Contract shall prevail.

15. Disputes

In the event of any dispute, the parties shall first attempt to settle the matter through good faith negotiations. If settlement cannot be reached within 14 days, the dispute resolution procedures set out in the G-Cloud Framework Agreement shall apply.

16. Electronic Communication

Unless instructed otherwise, we may communicate via email or other electronic means. The recipient is responsible for virus checking emails and attachments.

Electronic communication carries risks of non-receipt, delayed receipt, inadvertent misdirection or interception. We use virus-scanning software but cannot be held responsible for damage or loss caused by viruses or communications corrupted after despatch. These are risks accepted in return for efficiency and lower costs.

Communications sent by post are deemed to arrive two working days after the day of posting.

17. Assignment

Neither party may assign this Agreement or its rights and obligations without the prior written consent of the other party, except as permitted under the G-Cloud Framework Agreement.

18. General Provisions

18.1 Severability

If any provision of these Terms and Conditions is held to be void or unenforceable, that provision shall be deemed not to form part of these terms and the remainder shall continue in full force and effect.

18.2 Waiver

No failure or delay by either party to exercise any right shall constitute a waiver of that right. Any waiver must be in writing and signed by the party giving it.

18.3 No Partnership

Nothing in these terms shall constitute or be deemed to create a partnership, joint venture or principal and agent relationship between Pink Elephant and the Customer.

18.4 Third Party Rights

Except as specifically set forth herein, nothing in these terms is intended to confer any rights or remedies on any person other than the parties and their successors and permitted assigns.



18.5 Entire Agreement

For Services procured under G-Cloud, the entire agreement between the parties comprises the G-Cloud Framework Agreement, Call-Off Contract, Statement of Work, and these Terms and Conditions, read together in the order of precedence set out above.

18.6 Notices

Notices should be given in accordance with the notice provisions set out in the Call-Off Contract or, if not specified there, sent to:

Pink Elephant EMEA Limited
6th Floor, Reading Bridge House
George Street, Reading RG1 8LS
United Kingdom
Email: g.huisman@pinklelephant.co.uk
Attention: Gijs-Jan Huisman, Managing Director