



Cadmidium Services Limited G-Cloud Terms and Conditions for the Supply of Services

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Cadmidium Services Ltd
Tel 01242 861459
services@cadmidium.co.uk
www.cadmidium.com

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1 Introduction

Cadmidium Services Ltd ("**Cadmidium**") - G-Cloud Services Terms and Conditions ("**Cadmidium Terms**" or "**Supplier Terms**") form part of an agreement for the provision of services by Cadmidium under a call-off agreement ("**Call-Off Agreement**") as defined in the UK Government Procurement Services G-Cloud Services Framework Agreement between **Cadmidium** and the **Government Procurement Service** ("**Framework Agreement**"). They apply between **Cadmidium** and each party ("**the Customer**") entering into a Call-Off Agreement.

1.1 Services Covered

These Terms and Conditions apply to the following G-Cloud Services being provided by Cadmidium Services Limited:

Cloud Support Service ("CSS")

Section 1 General Terms applies to all Services. Subsequent sections set out terms which are specific to particular G-Cloud Services ("Services" or "Service").

2 General Terms

2.1 Services

- 2.1.1 Upon subscription to the relevant Cadmidium G-Cloud Service Cadmidium grants the Customer a non-exclusive, non-transferable right during the term specified in the Customer's Call-Off Agreement, to receive and use the specific Service described in the Service Description relating to that Service.
- 2.1.2 Unless specified in the Service-Specific Terms below the Customer may only use a Service for their internal business purposes, and services may not be re-sold.
- 2.1.3 Whilst using the Services the Customer may access software which is located on Cadmidium's servers ("Software"). Except in relation to CSS and in accordance with the relevant Call-Off Agreement, the customer does not have any right to receive a copy of such Software either in source or object code form; and does not receive any title rights or ownership in or to the software.
- 2.1.4 The Customer is responsible for ensuring that:
 - 2.1.4.1 the infrastructure it uses to access the Services is compatible with the interfaces provided within the specific Service;
 - 2.1.4.2 for taking adequate precautions within the Customer's own infrastructure to prevent the spread of viruses or malicious software;
 - 2.1.4.3 for ensuring that those to whom it grants access rights comply with the provisions of any UK legislation including the 2018 Data Protection Act;
 - 2.1.4.4 they comply with the Licence terms of any 3rd party Software provided by Cadmidium in the delivery of this service they comply with any further Service Specific usage restrictions set out in the Service-specific section below.
 - 2.1.4.5 The Customer will comply with all statutory and other legal requirements applicable to its conduct and operations.
 - 2.1.4.6 Cadmidium shall have no liability or obligation with respect to the fitness for purpose, functionality or the performance of 3rd party Software Licences supplied.
 - 2.1.4.7 All ownership, licence, intellectual property and Cadmidium rights and interests in the Software, services and any associated documentation remains solely with Cadmidium and or Licensors on whose behalf Cadmidium may be providing components of the Services.
 - 2.1.4.8 Cadmidium reserves the right to change or update the Services or Software at any time so long as this does not materially affect the overall service. Cadmidium will provide the Customer 15 days' notice of any update which it regards as material, unless such an update is necessitated by security

considerations, in which case the update and any associated notice will be immediate.

2.2 Service Restrictions

2.2.1 The Customer must not:

- 2.2.1.1 Exceed any set usage limits or restrictions set out in the Service Description and / or Call-Off Agreement.
- 2.2.1.2 Save as set out in any Service-specific section, sell, rent or lease the Services in any way, or transfer to any other person any of its rights hereunder.
- 2.2.1.3 Create any derivative works based upon the Software or Services, save as otherwise permitted in accordance within a Service Description.
- 2.2.1.4 Adapt, translate, reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Software, nor take any other steps to discover confidential information or trade secrets in the Software of Services, save as permitted under European Law for the purposes of Interoperability.

2.3 Additional Services

2.3.1 Additional Services may be ordered by the Customer:

- 2.3.1.1 By extension or issue of a Call-Off Agreement.
- 2.3.1.2 By electronic request via the Customer Administration Portal, if this is available for the Service.
- 2.3.1.3 By a request from a Customer representative who Cadmidium reasonably believe to have authority to place such a request.

2.4 Invoicing VAT and Payment

- 2.4.1 Unless otherwise stated, invoices will be raised for Services on a monthly basis. Value Added Tax, will (where appropriate) be added to the amount of an invoice for any Service at the prevailing rate.
- 2.4.2 Invoices must be paid in full within 30 days of the date of issue
- 2.4.3 If any payment is overdue Cadmidium may (without prejudice to any other right or remedy available to it) suspend the relevant Service until payment in full thereof has been made, at which point a re-connection charge equivalent to half a month's charges for the relevant Service will be applied. Invoices remaining unpaid after 60 days will attract a surcharge of 4% on the current Royal Bank of Scotland base rate for the full period the debt has been outstanding.

The Customer shall not be entitled to withhold payment in whole or in part on the ground that it has a claim, counterclaim or set off against Cadmidium.

2.5 Liability

- 2.5.1 Except as provided in these Terms and Conditions, and in the Service Description relating to the Service, no warranty condition, undertaking or term, expressed or implied, statutory or otherwise, as to the condition, quality, performance, merchantability, durability or fitness for purpose of the Services is given or assumed by Cadmidium and all such warranties, conditions, undertaking and terms are hereby excluded.
- 2.5.2 Cadmidium will provide the Services with reasonable skill and care, but (except as provided in these Terms and Conditions and the relevant Service Description shall not under any circumstances in relation to its providing the Services be liable (whether in Contract, tort or otherwise) for any loss or damage of whatsoever nature suffered by the Customer whether arising from any act, default or neglect on the part of
- 2.5.3 Cadmidium, its employees, agents or sub-contractors or from any defect in, failure in, or unsuitability for any purpose of, the Services, or otherwise howsoever, to the extent that the amount of such loss or damage exceeds (or would when aggregated with the amount of any previous loss or damage exceed) the greater of:
 - 2.5.3.1 For the provision of CSS: the value of services called off over the previous three months
 - 2.5.3.2 The amount (if any) which Cadmidium is entitled to claim under the terms of any insurance policy in force at the time is:
 - Up to a maximum of ten million pounds (£10,000,000) employers' liability,
 - Up to a maximum of five million pounds (£5,000,000) public liability,
 - Up to a maximum of five million pounds (£5,000,000) professional liability.
- 2.5.4 Cadmidium shall not in any event be liable for any indirect or consequential loss whatever or however caused.
- 2.5.5 The Customer agrees fully and promptly to indemnify Cadmidium against all costs, claims, demands, damages, losses and expenses to which Cadmidium may become liable or which Cadmidium may suffer or incur as a result directly or indirectly of Cadmidium acting in accordance with the Customer's instructions, or arising from any act, default or neglect on the part of the Customer, its employees, agents or subcontractors.
- 2.5.6 Notwithstanding anything to the contrary, however, nothing in these Terms and Conditions shall operate to exclude or restrict Cadmidium's liability for death or personal injury resulting from negligence within the meaning of the Unfair Contract Terms Act 1977.

2.6 Termination

- 2.6.1 The supply of Services may be terminated by either party by notice in writing to the other having immediate effect if the other shall commit any breach of these Terms and

Conditions which breach (if capable of remedy) is not remedied within 30 days of notification or if the other shall have a receiver or administrative receiver appointed of it or over any part of its undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business.

- 2.6.2 The termination (howsoever arising) shall be without prejudice to the rights and remedies of the parties accrued before such termination and nothing shall prejudice the right of either party to recover any amount of outstanding at the termination howsoever caused.

2.7 Entire Agreement

- 2.7.1 Save for additional documents created in the provision of Cyber Security Assurance in the Cloud (CSAC) and Technical Assurance in the Cloud (TAC) and Cloud-based Military Messaging and Communication services & solutions (CMMC) under CSS (see section 4.1 Additional Documentation below), these Terms and Conditions, the relevant Service Description, the Call-Off Agreement, and the Framework Agreement constitute the entire understanding between the Customer and Cadmidium relating to the subject matter, with the order of precedence as set out in Clause 1.2 of the Call-Off Terms at Framework Schedule 2). It supersedes all previous communications, representations, and Contracts either written or oral. The Customer acknowledges that it is not entering into the Contract in reliance upon any representation not set out in the documents referred to above.
- 2.7.2 No amendment to these Terms and Conditions shall be binding unless in writing, signed by the parties or their duly authorised representatives and expressed to be for the purpose of such amendment.

3 Specific Terms relating to the Supply of CCS

3.1 General Terms relating to CSS

- 3.1.1 The CSS being provided will be as set out in the Call-Off Agreement Order Form, then as subsequently modified by a request for any additional Services as set out below
- 3.1.2 Delivery of all services is to the extent, and to the standards set out in the Service Description

3.2 Cadmidium's Obligations

- 3.2.1 Cadmidium's general obligations are to:
 - 3.2.1.1 Provide and keep available the equipment, resources and infrastructure and provide the services to the extent set out in Service Description.
 - 3.2.1.2 Perform all tasks related to the individual service being offered
 - 3.2.1.3 When maintaining the infrastructure on which the Customer is likely to be processing data covered by UK government legislations such as the UK Data Protection Act 2018, and either when notified of this by the Customer, or when reasonably able to deduce this directly to use reasonable care and skill to ensure that the provisions of any such legislation are adhered to with respect to in the performance of all Services Provide any reports Specified in the specific CSS Service Descriptions

3.3 Customer's Obligations

- 3.3.1 In addition to those in the Framework Agreement the Customer's obligations are as follows:
 - 3.3.1.1 When handling data covered by UK government legislations such as the UK Data Protection Act 2018, to use reasonable care and skill to ensure that the provisions of any such legislation are adhered to.
 - 3.3.1.2 To comply with the terms and conditions of usage mandated by the sub-Contract Hosting Centre, for instance regarding Site Content.

3.4 Charges

- 3.4.1 The Customer is charged on a daily basis at the rates quoted in the Service
- 3.4.2 Description and / or Call-Off Agreement. Fractions of a day are charged on an hourly pro rata basis.
- 3.4.3 These rates do not include Value Added Tax which will (where appropriate) be added to the amount of an invoice at the prevailing rate.
- 3.4.4 Cadmidium's charges exclude travel or hotel expenses and the costs of materials and services not provided directly by Cadmidium, unless these have been explicitly included in the Service Description or Call-Off Agreement. Any additional expenses

- 3.4.5 necessarily incurred with relation to the provision of CSS will be charged at cost. Clause 3.9 outlines how expenses are calculated for site work.
- 3.4.6 The charges quoted will be fixed for the period of service provision or 6 months, whichever is the shorter. Revised charges will be included in any published updates to the Service Description.

3.5 The Working Day and Overtime

- 3.5.1 The normal working day is seven and a half hours. This may be subject to alteration by mutual agreement for work carried out on the Customer's premises. Overtime is charged at time and a third and work necessarily carried out during weekends, or public holidays is charged at double time. Where the required working period is substantially outside the normal working day the charge rate premium will be subject to negotiation.

3.6 Invoicing

- 3.6.1 Unless specified otherwise in the Call-Off Agreement, invoices are submitted at the end of each calendar month. These are based on time logs filled in by staff on the project. These are included with the invoice. Cadmidium reserves the right to submit time sheets which have not been countersigned if the Customer unreasonably withholds authorisation.

3.7 Cadmidium Duties

- 3.7.1 Cadmidium shall assign personnel of appropriate qualification and experience to perform the CSS.
- 3.7.2 Cadmidium shall use all reasonable efforts to avoid changes to the personnel named in the Call-Off Agreement to perform the CSS. In the event of any such named personnel being unavailable to perform the CSS, Cadmidium shall make all reasonable efforts to promptly replace such individual with another person of equivalent competence and experience.
- 3.7.3 Cadmidium will exercise reasonable skill and care in performing the CSS and shall comply with the reasonable requests and directions of the Customer including complying with reasonable health, safety and security policies advised to Cadmidium by the Customer while working on the Customer's premises.

3.8 Customer Duties

- 3.8.1 The Customer shall, at its own expense, supply Cadmidium with all documents, software, inventions, data or other materials and instructions necessary to perform the CSS in accordance with the Contract and shall retain copies of any such documents, software, data or other materials so supplied.
- 3.8.2 The Customer shall provide Cadmidium with access to all personnel of the Customer and to its systems and software and, where Cadmidium is required to work on the

Customer's premises, accommodation and other assistance as may be necessary for performing the CSS.

- 3.8.3 The Customer shall arrange all interviews and meetings with its own personnel that may have been agreed in any project plan forming part of the CSS.

3.9 Site Work

- 3.9.1 Unless stated in the Call-Off Agreement, for work on the Customer's site, travelling time in excess of the employee's normal travel to work time will be charged at cost. On such journeys the cost of air travel, rail travel or a car mileage allowance at the prevailing company rate will be charged (as appropriate). For site work involving overnight stays the cost of bed, breakfast and evening meal and the cost of Cadmidium's standard employee disturbance allowance, and (only for site work outside the UK), any incidental expenses such as travel and medical insurance will be charged.

3.10 Staff Transfer

- 3.10.1 In this Clause 3.10, the "Relevant Period" is the period starting on the Commencement Date and ending 12 months after the Contract has ended.
- 3.10.2 Neither the Customer nor Cadmidium during the Relevant Period will employ directly or indirectly, make, or seeks to make any offer of employment to any of the other's staff directly involved in executing or receiving Services.
- 3.10.3 The Customer and Cadmidium shall each procure their own employees and that during and after the Relevant Period, no related party (such as their own customers or suppliers involved with the execution or provision of the Services), shall employ directly or indirectly, or make or seek to make any offer of employment or inducement to any of Cadmidium's or the Customer's staff (as the case may be) involved in executing or receiving the services.

3.11 Cancellation

- 3.11.1 Where an end date has not been specified in the case of the supply of staff on a time and materials basis, should either the Customer or Cadmidium wish to terminate such provision prematurely, the terminating party shall give thirty (30) days written notice to the other. Written notice can be provided electronically via e-mail.

3.12 Insurance

- 3.12.1 The Customer confirms that it has appropriate insurance to protect Cadmidium employees against loss or injury whilst performing the CSS at the Customer's premises or elsewhere (other than Cadmidium premises) on its behalf.

3.13 Force Majeure

- 3.13.1 Neither party shall be liable for any breach of its obligations under this contract resulting from causes beyond their reasonable control including but not limited to Acts

of God, Act of Parliament, a public enemy, fires, floods, explosions, or other catastrophes, epidemics, quarantines, restrictions or delays due to such cause or causes ("Force Majeure").

Cadmidium Services

4 Specific Terms relating to Fixed Price Services under CCS

4.1 Additional Documentation

- 4.1.1 During the course of supply, Cadmidium's obligations in respect of service provision may be further detailed in documents such as a Proposal, Project Brief, Project Initiation Document, Project Plan or Specification ("Additional Documents"), which when referenced in the Call-Off Agreement will form part of the agreement between Cadmidium and the Customer.

4.2 Invoicing

- 4.2.1 Invoicing will be according to the payment schedule within the Call-Off Agreement, or Additional Documents. If no payment schedule is provided, invoices will be issued monthly in arrears based on work undertaken or in progress as agreed with the customer.

4.3 System and Software Acceptance

- 4.3.1 In this Clause 4.3, "System or Software" means a system design or software authored by Supplier.
- 4.3.2 After any system and or Software has been delivered, Cadmidium shall, if so, specified in the Project Plan, submit it to tests to ensure that the system and or Software created is in accordance with the Specification. If required by Cadmidium, such tests shall be carried out in the presence of the Customer's representative and for this purpose the Customer shall provide its representative when required so to do by Cadmidium.
- 4.3.3 Once the System and or software has successfully passed the tests, they shall be accepted by the Customer ("Acceptance") and the Customer shall, if requested to do so, provide an Acceptance Certificate. Where no acceptance tests have been specified then Acceptance will be on delivery. Should the Customer fail to carry out the Acceptance tests specified set out in the Additional Documentation, then Acceptance will take place 14 days after the scheduled date of the tests, or on live usage of the system, whichever is the sooner.

4.4 Changes

- 4.4.1 If additional work or expense is incurred by Cadmidium as a result of a change in the Specification or Project Plan being made by the Customer, or by a failure or delay by the Customer in meeting his obligations in connection with the delivery of the Services,
- 4.4.2 then such additional work or expense will be reasonably charged to the Customer over and above the price set in the Call-Off Agreement.
- 4.4.3 Any change proposed by either Cadmidium or the Customer will be negotiated and agreed before the change is implemented. Changes involving additional consultancy,

design and software programming will be priced using the standard or overtime consultancy rates as set out in the Call-Off-Agreement or Service Description.

- 4.4.4 Cadmidium will be entitled to charge for the work involved in preparing and responding to Customer change requests, whether or not the Customer agrees to go ahead with them.

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