

Terms and Conditions

Optimise Cloud Software (G-Cloud Lot 2B)

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1. Definitions and Interpretation

1.1 In these Terms and Conditions, the following definitions apply:

“Buyer” means any public sector body purchasing the Services under the G-Cloud Framework.

“Call-Off Contract” means the legally binding contract formed between the Buyer and the Supplier under the G-Cloud Framework.

“Framework Agreement” means the G-Cloud Framework Agreement between the Supplier and the Crown Commercial Service.

“Services” means access to and use of the Optimise cloud software provided under G-Cloud Lot 2B, as described in the applicable service definition.

“Software” means the Optimise cloud software platform.

“Supplier” means 1st Planner Ltd.

“Working Day” means a day other than a Saturday, Sunday or public holiday in England.

1.2 References to legislation include that legislation as amended or replaced from time to time.

2. Relationship to the G-Cloud Framework

2.1 These Terms and Conditions apply to all Services provided by the Supplier under G-Cloud Lot 2B.

2.2 In the event of any conflict between these Terms and Conditions and the Framework Agreement or the Call-Off Contract, the Framework Agreement and Call-Off Contract shall take precedence.

2.3 These Terms and Conditions are fixed for the duration of the Framework and shall not be amended.

3. Scope of Services

3.1 The Supplier shall provide the Buyer with access to the Software on a software-as-a-service basis.

3.2 The Services are limited to the provision and operation of the Software as described in the service definition.

3.3 The Services do not include bespoke software development, modification of the Software, consultancy services or advisory outputs unless expressly included within the G-Cloud service definition.

4. Access to the Services

4.1 Access to the Software shall be provided to authorised users nominated by the Buyer.

4.2 The Buyer is responsible for ensuring that user access credentials are kept secure and used only by authorised personnel.

4.3 The Supplier may suspend access where necessary to protect the security or integrity of the Software.

5. Buyer Obligations

5.1 The Buyer shall use the Services in accordance with applicable law and ensure all users comply with these Terms and Conditions.

5.2 The Buyer is responsible for the accuracy and legality of any data uploaded to the Software.

6. Supplier Obligations

6.1 The Supplier shall provide the Services with reasonable skill and care.

6.2 The Supplier shall take appropriate technical and organisational measures to protect the Software and Buyer data.

6.3 The Supplier does not warrant that the Services will be uninterrupted or error-free.

7. Fees and Payment

7.1 Fees for the Services are payable by the Buyer strictly in accordance with the applicable Call-Off Contract.

7.2 No fees are payable except as expressly agreed under a Call-Off Contract.

8. Intellectual Property Rights

8.1 All intellectual property rights in the Software remain vested in the Supplier or its licensors.

8.2 The Buyer is granted a non-exclusive, non-transferable right to access and use the Software for its internal business purposes during the term of the applicable Call-Off Contract.

8.3 Except as expressly permitted by law, the Buyer shall not attempt to reverse engineer, decompile, disassemble or otherwise derive the source code of the Software.

8.4 Except as expressly permitted under these Terms and Conditions or the Call-Off Contract, the Buyer shall not acquire any right, title or interest in or to the Software.

8.5 Nothing in these Terms and Conditions shall operate to transfer ownership of the Software or any intellectual property rights in the Software to the Buyer.

9. Data Protection and Information Security

9.1 Each party shall comply with its obligations under applicable data protection legislation.

9.2 The Supplier shall process personal data only for the purpose of providing the Services.

9.3 Appropriate security controls are maintained to protect Buyer data against unauthorised access or loss.

10. Confidentiality

10.1 Each party shall treat the other party's confidential information as confidential.

10.2 Confidential information shall not be disclosed except where required by law or permitted under the Framework Agreement.

11. Service Availability and Maintenance

11.1 The Supplier may carry out planned maintenance from time to time.

11.2 Where reasonably practicable, the Supplier shall provide advance notice of planned maintenance.

11.3 The Supplier is not responsible for service disruption caused by factors outside its reasonable control.

12. Support

12.1 Support for the Software is provided in accordance with the applicable G-Cloud service description.

12.2 Support does not include training, consultancy or bespoke configuration unless expressly stated.

13. Suspension and Termination

13.1 The Supplier may suspend access to the Services where required to comply with legal obligations or to protect the security of the Software.

13.2 Termination rights are governed by the Call-Off Contract.

14. Liability

14.1 Neither party excludes or limits liability for death or personal injury caused by negligence or for fraud.

14.2 Subject to clause 14.1, liability is limited in accordance with the Call-Off Contract and Framework Agreement.

15. Force Majeure

15.1 Neither party shall be liable for failure or delay in performance due to events beyond its reasonable control.

16. Compliance with Law

16.1 Each party shall comply with all applicable laws and regulations in connection with the Services.

17. Governing Law and Jurisdiction

17.1 These Terms and Conditions are governed by the laws of England and Wales and subject to the exclusive jurisdiction of the English courts.