

Cyber Media Solutions Ltd.

Terms and Conditions

A Few Definitions

"Us" or "Our" or "We" or "Company" refers to Cyber Media Solutions Ltd., "You" or "Your" or "Customer" refers to your organisation. "Staff" refers to employees of Cyber Media. "Software" and "the Service" refers to the following provided by us:

- Software solutions
- Training
- Implementation and onboarding support
- Data migration support
- Consultancy
- Ongoing support

"Your Content" and "Your Data" refers to information owned by You.

Please Note: Our terms and conditions document applies to Cyber Media's Theseus specialist cloud support and consultancy services and our Theseus Software as a Service offers. For more detail regarding Theseus products and services, please refer to our Service Definitions Documents under Lot 2b: Software as a Service (SaaS) and Lot 3: Cloud Support Services.

Agreement

The parties agree that these terms and conditions represent the entire agreement between the parties relating to the provision of the Service.

Assignment

The rights to this agreement are granted exclusively to You. You may not assign

Registered Office: The Old Dairy, Melcombe Road, Bath, BA2 3LR.

Telephone: 044-1785-222350.

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Your rights of the Service to any other person or organisation.

Service Provision

Cyber Media Solutions Ltd. offers a range of digital solutions for health and care including Software, Cloud Support, and consultancy.

The Services are provided by, set up by and managed and maintained by Us.

We will be responsible for the production and management of the Software, including features, specifications, design, development, deployment, secure hosting, maintenance and upgrades.

We shall provide customer support and perform such services related to technical assistance. We shall provide and perform other such services (e.g. training, imports) as shall be requested by You and agreed upon between You and Us, from time to time, at such price and on such terms agreed as set out on G Cloud 15. Additional information on the support provided can be found in Our Service Level Agreement.

To access the Software solutions, You must have an internet connection. If You have problems with Your own local internet connection this will affect Your access to the Service.

Periodically, We make changes, add functionality and introduce new features to the Service. These changes are made expressly at Our discretion and where appropriate We will document these changes if they are material in nature.

Payment Terms

This agreement grants You the Right to Use the Service (in accordance with the terms of this Agreement) while You continue to pay the appropriate annual fee. Prices are as published in our Pricing Documents on G Cloud 15. You then agree to pay the sum set out in Our invoice(s) for the services specified therein. Payment for ongoing services shall be invoiced on an annual basis at the beginning of the annual period which is being billed for. Payment shall fall due within thirty (30) days of the date of the invoice. We reserve the right to suspend any or all of the service to You on Your failure to meet payment terms. You must notify Us of any disputed items

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on the invoice within 14 days of the date on the invoice. All charges are subject to Value Added Tax (VAT).

Liability

In no event shall We be liable to You or any third party for any loss or damage arising out of or in connection with this agreement.

Representations, Warranties and Indemnifications

We represent and warrant to You that We have the experience and ability to perform the services required by this Agreement; that We will perform the services in a professional, competent and timely manner; that We have the power to enter into and perform this Agreement; and that Our performance of this Agreement shall not infringe upon or violate the rights of any third party or violate any federal or state laws. However, You will not determine or exercise control as to general procedures or formats necessary to have these services meet your satisfaction.

DISCLAIMER: Other than the express warranties stated above, We make no other representations or warranties hereunder of any kind, either express or implied, in relation to the Service, including but not limited to any warranty of merchantability and/or fitness for any particular purpose. In no event shall Cyber Media be liable, directly or indirectly, for any special or consequential or incidental damages including but not limited to loss of anticipated profits, loss of revenue or loss of data, or as a result of any interruption of service.

You represent and warrant to Us that:

- You have the right and capacity to enter into this Agreement and fully perform all of its obligations hereunder,
- You shall not, nor shall it, authorise or assist any third party to use the software solution for any illegal purpose whatsoever.

Each of the Parties hereto agree to indemnify and save harmless the other, and any of its respective successors, licensees and assigns from any and all losses, costs, liabilities, damages and expenses (including reasonable lawyer's fees) resulting any breach of any representation, warranty and/or covenant under this Agreement.

Intellectual Property

We claim no intellectual property rights over Your Content, data or other material You provide to the Service.

You acknowledge that We own all rights, title and interest in and to the Service, including without limitation intellectual property rights, trademarks and such rights are protected by English Law.

Except to the extent that applicable laws prevent Us from restraining You from doing so, You agree that You will not copy, reproduce, alter, modify, or create derivative works from the Service.

Publicity and Publication

You agree not to publicise your relationship with Us or disclose the terms of this Agreement or use Our client's name or other trademarks or service marks in any advertisement or publication without Our prior consent and without adhering to Our guidelines for doing so.

Confidentiality

Both parties agree to use the other's confidential information only in relation to the services, and not to disclose it, except where required by law or regulation or by a professional body of which We are a member. You agree that Our confidential information will be treated as if it was Your own confidential information for the purposes of this clause.

We acknowledge that You may be subject to the Freedom of Information Act (FOIA) and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under section 45 and 46 of the FOIA respectively) and the Environmental Information Regulations Act 2004 as may be amended, updated or replaced from time to time. We will act in accordance with the FOIA, these Codes of Practice and these regulations (and any other applicable codes of practice or guidance notified to Us from time to time) to the extent that they apply to Our performance under the Agreement.

In the event that the Receiving Party receives a request to disclose all or any part of

the Confidential or Information under an order or inquiry issued by a court of competent jurisdiction or by a judicial or administrative agency or legislative body, the Receiving Party shall immediately notify the other Party of the existence, terms and circumstances surrounding such request and if disclosure of the Confidential Information is required or deemed advisable, exercise its best efforts to obtain from such court, agency or body an order, stipulation or other reliable assurance acceptable to the other Party that confidential treatment will be accorded to such portion of the Confidential Information to be disclosed. The other Party shall indemnify and keep indemnified the Receiving Party in full on demand from and against any and all legal fees, costs and expenses incurred in the Receiving Party's effort to comply with this provision.

Data Protection Legislation

Both Parties agree to comply with Data Protection Legislation, which includes The Data Protection Act 2018 and any successor UK legislation, and the retained EU law version of General Data Protection Regulation ((EU) 2016/679) (UK GDPR). In particular the Parties agree to comply with the obligations placed on both parties by the UK GDPR, specifically Article 5 - Principles relating to processing of personal data.

You shall own all rights, title and interest in and to all of Your Content and Data held within the Software solutions and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of Your Content and Data.

Where We process any personal data on Your behalf when performing Our obligations under this Agreement, You shall be the data controller and We shall be a data processor.

You shall ensure that You are entitled to transfer the relevant personal data to Us so that We may lawfully use, process and transfer such personal data in accordance with this Agreement on Your behalf.

You shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing and transfer as required by all applicable data protection legislation.

We shall process the personal data only in accordance with the terms of this

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Agreement, the Data Protection Legislation, any superseding regulations, and any lawful instructions reasonably given by You from time to time.

Each party shall take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data or its accidental loss, destruction or damage.

We may collect, store and use Your personal data for the following purposes:

- to provide You with Services that You request and to fulfil our contractual obligations to You; and
- to provide information about Our Services.

You have the following rights:

- the right to ask Us to provide You with copies of personal data that We may hold about You at any time;
- the right to ask Us to update and correct any out-of-date or incorrect personal data that We hold about You free of charge;
- the right to object to processing Your personal data in certain circumstances;
- the right to have personal data erased. This is also known as the 'right to be forgotten'. The right is not absolute and only applies in certain circumstances;
- the right to ask Us about any of Your personal data that We hold about you; and
- the right to opt out of any marketing communications that We may send You.

Subject to the Representations, Warranties and Indemnifications, We agree to indemnify and keep indemnified You against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith by You as a result of any claim made or brought by any individual or other legal person in respect of any loss, damage or distress caused to that individual or other legal person as a result of Our unauthorised processing, unlawful processing, destruction of and/or damage to any Personal Data processed by Us, Our employees or agents in Our performance of

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the Agreement or as otherwise agreed between the parties.

Subject to the Representations, Warranties and Indemnifications, You agree to indemnify and keep indemnified Us against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith by Us as a result of any claim made or brought by any individual or other legal person in respect of any loss, damage or distress caused to that individual or other legal person as a result of Your unauthorised processing, unlawful processing, destruction of and/or damage to any Personal Data processed by You, Your employees or agents in Your performance of the Agreement or as otherwise agreed between the parties.

Force Majeure

We will not be liable for any delay or failure to perform any of Our obligations in respect of the Service if such delay or failure is due to an event which is beyond Our control.

For the purposes of this Agreement, the expression “Force Majeure” shall mean any cause affecting the performance by a party of its obligations arising from acts, events, omissions beyond its reasonable control including fire, flood, civil riot, terrorism or war, delays in transportation, failure of public power supplies, failure of communication facilities, or failure or interruption of services supplied by a third party or any disaster or industrial dispute affecting a third party, for which a substitute is not reasonably available.

If either of the parties shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any failure or delay on its part, it shall forthwith notify the other party and shall inform the other of the period in which it is estimated that such failure or delay shall continue.

Should a circumstance of Force Majeure persist for a period of greater than thirty (30) days, either party may by written notice to the other terminate this agreement forthwith.

Neither party shall be liable to the other for failure to perform its obligations under this Agreement, which is due to Force Majeure.

Insurances

We shall maintain professional indemnity insurance in accordance with G Cloud 15 to cover all liability under the Agreement and provide evidence of such professional indemnity insurance as You may reasonably request from time to time.

We shall hold employer's liability insurance in respect of Our staff in accordance with any legal requirement for the time being in force.

Relationship between the Parties

Nothing in this agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

Dispute Resolution

If any dispute arises, the Parties will attempt to settle it by negotiation. This applies to any dispute in relation to incidents logged and requests for change. Further details on Our Dispute Resolution Policy can be found in Our Service Level Agreement.

Termination

Either party shall have the right to terminate this Agreement if the other party is in material breach of these terms and does not rectify the breach within 30 days of written notification.

Termination shall not affect any other rights of the injured party.

Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of England and Wales; and the courts of England shall have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement. This Agreement contains the whole agreement between the parties in relation to all Our

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Services and supersedes any prior written or oral agreements relating to the same. If any provisions of this Agreement are held to be invalid under any applicable statute or rule of law, they are to that extent omitted from the Agreement without affecting the validity or enforceability of the remainder.