Cielo
Costa

Standard Terms and Conditions – Support and Continuous Improvement

Section 4: Standard Terms and Conditions – Support and Continuous Improvement

Contents

Section 4: Standard Terms and Conditions – Support and Continuous Improvement 2
4.1. Definitions 3
4.2. Professional Standards and Service Delivery 4
4.3. Service Delivery Standards 5
4.4. Hours Management 7
4.5. Rate Changes for Multi-year Agreements 7
4.6. Payment Terms 8
4.7. Extensions and Renewals 8
4.8. Change Management 8
4.9. Intellectual Property 9
4.10. Confidentiality 9
4.11. Data Protection and Privacy 10
4.12. Limitation of Liability 10
4.13. Insurance 11
4.14. Collaboration and Marketing 11
4.15. Force Majeure 11
4.16. Termination 12
4.17. Dispute Resolution 12
4.18. General 13

4.1. Definitions

4.1.1. "**The Client**" means the entity identified in Section 1.1 of this Agreement.

4.1.2. "**The Supplier**" means Cielo Costa Limited, as identified in Section 1.1 of this Agreement.

4.1.3. "**The Parties**" means the Client and the Supplier collectively, and "Party" means either one of them.

4.1.4. "**Service Period**" means the duration specified in Section 1.2 of this Agreement.

4.1.5. "**Service Fees**" means the fees payable by the Client to the Supplier for the Services, as specified in this Agreement.

4.1.6. "**Quarterly Allowance**" means the number of professional services hours allocated per quarter as specified in Section 1.3, which may be used for support activities and continuous improvement work as prioritised by the Client in accordance with this Agreement.

4.1.7. "**VAT**" means Value Added Tax chargeable under UK law and any similar additional tax.

4.1.8. "**Working Days**" means Monday through Friday between 09:00 and 17:00 UK time (including daylight savings time adjustments), excluding UK Bank Holidays.

4.1.9. "**Continuous Improvement**" means development work, enhancements, and new functionality for existing solutions, or creation of new solutions, excluding standard support activities.

4.1.10. "**Service Owner**" means the named individual at each Party who is authorised to make decisions regarding the use of the Services, as specified in Section 1.5.

4.1.11. "**Service Model**" means the document that details the operational framework for delivery of the Services, including but not limited to service processes, roles and responsibilities, support procedures, SLAs, operational elements, and governance arrangements. The Service Model is a living document that will evolve throughout the engagement to reflect service improvements, changing requirements, and operational refinements. Updates to the Service Model are mutually agreed."

4.1.12. "**SLA**" means Service Level Agreement, with specifics defined in the Service Model.

4.1.13. "**Environment Costs**" means costs associated with maintaining development and test environments necessary for service delivery, including but not limited to cloud services, infrastructure, platform subscriptions, third-party tools and services, and associated licensing required to deliver the Services.

4.1.14. "**Service Breach**" means a failure by the Supplier to meet the Service Level Agreements (SLAs) specified in this Agreement or in the Service Model or as otherwise agreed between the Parties.

4.1.15. "**Professional Services**" means any skills or services that the Supplier is capable of and agrees to provide under this Agreement, including but not limited to:

i. Support desk activities
ii. Development work
iii. Advisory services
iv. Documentation
v. Design and architecture
vi. Quality assurance
vii. Business analysis
viii. User-experience design
ix. Configuration and customisation

4.1.16. "**Data Protection Legislation**" means all applicable data protection and privacy legislation including, without limitation, the UK GDPR, the Data Protection Act 2018, and any other applicable regulations relating to the processing of personal data.

4.1.17. "**Personal Data**", "**Data Subject**", "**Processing**", "**Controller**", "**Processor**" and "**Personal Data Breach**" shall have the meanings given to them in the Data Protection Legislation.

4.2. Professional Standards and Service Delivery

4.2.1. The Supplier shall use reasonable endeavours to:

a) Maintain high professional standards.
b) Follow industry good practices within agreed commercial constraints.
c) Ensure continuous improvement in service delivery.
d) Provide appropriate expertise for required services.
e) Maintain quality assurance processes.
f) Optimise resource utilisation.

4.2.2. Quality Commitment:

a) Delivering services to high professional standards.
b) Maintaining appropriate technical expertise.
c) Following documented practices.
d) Regular service review and improvement.
e) Proactive quality management.

4.2.3. Service Scope:

a) Professional Services may include but are not limited to those listed in the definitions.
b) The Supplier and Client will agree on specific services to be provided.
c) The Supplier reserves the right to decline work that:
    i. Reasonably falls outside the scope of S&CI services.
    ii. Work that is more suitable for conventional standalone project engagements.
    iii. Cannot be accommodated within current resources or skillsets.

4.2.4. Time Recording:

a) Time will be recorded in 10-minute increments.
b) Minimum charges:
    i. Four (4) hours for on-site work.
    ii. Ten (10) minutes for remote work.

4.2.5. Unit Multipliers:

The following multipliers reflect the enhanced value, expertise, and strategic oversight provided by more senior resources:

a) Principal level: increased rate, at x1.5.
b) Director level and above: doubled rate, at x2.
c) Work outside Working Hours: doubled rate, at x2.

4.2.6. Client Responsibilities:

a) The Client shall provide the Supplier with:
    i. Access to environments with appropriate administrative rights.
    ii. Access to relevant systems, platforms and applications.
    iii. Timely access to appropriate personnel and resources.
    iv. Necessary information and documentation.

b) Failure to provide such access and resources may impact the Supplier's ability to deliver the Services and meet SLAs.
c) The Supplier shall not be held liable for Service Breaches arising from the Client's failure to meet these responsibilities.

4.2.7. Information Security:

a) The Parties shall maintain appropriate technical and organisational security measures to:
   i. Protect the confidentiality, integrity, and availability of Client data.
   ii. Prevent unauthorised access to Client systems.
   iii. Ensure secure development practices.
   iv. Protect against malware and other security threats.
b) The Supplier shall:
   i. Conduct regular security assessments of systems used to deliver Services.
   ii. Promptly notify the Client of any security incidents affecting Client data.
   iii. Implement a formal information security management approach.
   iv. Ensure all personnel receive appropriate security awareness training.
c) Upon request, the Supplier shall provide evidence of compliance with these security requirements, subject to reasonable confidentiality protections.

4.2.8. Business Continuity and Disaster Recovery:

a) The Parties shall maintain and regularly test business continuity and disaster recovery plans to ensure continued service delivery in the event of disruption.
b) These plans shall address:
   i. Loss of key personnel.
   ii. Loss of facilities or infrastructure.
   iii. System failures or data loss.
   iv. Cyber-attacks or security breaches.
c) The Parties shall:
   v. Notify each Party promptly of any incident requiring plan activation.
   vi. Prioritise restoration of the critical services.
   vii. Provide regular status updates during any disruption.
   viii. Conduct a post-incident review following any plan activation.

4.3. Service Delivery Standards

4.3.1. The following standard provisions govern service delivery but may be superseded by specific terms in the Service Model document, which shall take precedence in the event of any conflict.

4.3.2. Service Level Agreements (SLAs):

a) SLAs as specified in the Service Model (where applicable).
b) Unless otherwise specified in the Service Model:
   i. Response within two Working Days
   ii. Resolution or proposed resolution within four Working Days
c) The Client has the right to request service credits of 20% if SLAs are missed during the Service Period for:
   i. Two consecutive months, or
   ii. Four months in any rolling 6-month period

d) The Supplier will endeavour to meet the above Service Level Agreement for all tickets raised. However, formal Service Level Agreements, including breaches and service credits, will only apply if the Client raises more than ten tickets in a calendar month.
e) Service Level Agreements do not apply to tickets categorised as Continuous Improvement items.
f) Service credits apply only during the active Service Period and are not available after Agreement termination.

4.3.3. Third-party Support:

a) The Supplier may interact with platform providers when their services are integral to the Client's solutions.
b) These providers usually act as fourth-line support for their respective platforms and services.
c) The Supplier will:
   i. Manage third-party relationships on behalf of and where needed in collaboration with the Client
   ii. Raise support tickets using Client's entitlements
   iii. Coordinate resolution of third-party issues
   iv. Keep Client informed of progress

4.3.4. Hypercare:

a) When a new solution or major version is released and accepted into service by the Supplier, it will enter a Hypercare Period.
b) The default Hypercare Period is thirty (30) days unless otherwise agreed in writing between the Parties for specific projects.
c) During the Hypercare Period:
   i. Issues normally handled through Continuous Improvement may be treated as Support.
   ii. The Supplier may manage issues directly rather than through normal support channels.
   iii. Special monitoring and support arrangements may apply.

4.3.5. Acceptance Testing:

a) For Continuous Improvement deliverables, the following acceptance process shall apply:
   i. The Supplier shall notify the Client when deliverables are ready for testing.
   ii. The Client shall have ten (10) Working Days to test and accept or reject deliverables.
   iii. Acceptance criteria shall be agreed prior to delivery.
   iv. Rejection must include specific details of defects or non-conformance.
b) If the Client:
   i. Fails to accept or reject within ten (10) Working Days, deliverables shall be deemed accepted.
   ii. Puts deliverables into production use, they shall be deemed accepted.
   iii. Requires changes beyond the agreed acceptance criteria, these shall be treated as new work.
c) For rejected deliverables:
   i. The Supplier shall rectify defects within a reasonable timeframe.
   ii. The Client shall promptly retest following rectification.
   iii. The process shall repeat until acceptance is achieved.

4.4. Hours Management

4.4.1. Hours utilisation and planning:

a) Hours are allocated on a quarterly basis to maintain consistent service delivery capacity and provide ongoing support and continuous improvement services.

b) The available balance of hours will be confirmed at the start of each quarter.

c) Both Parties shall collaborate to optimise the utilisation of hours within each quarter, maintaining a suitable backlog of continuous improvement work to ensure efficient resource allocation.

d) Should the Parties identify work that requires greater effort than the remaining budget in any given quarter, the Client may either bring forward hours from future quarters (in exceptional circumstances and subject to Supplier approval) or purchase additional hours.

e) Upon expiration or termination of this Agreement, any unused hours from the Quarterly Allowance shall expire with no further obligations between the Parties regarding such unused hours.

4.4.2. Movement of Hours:

a) Up to 50% of unused hours may be carried over to the one next quarter only.

b) The Client may, subject to the Supplier's approval and capacity, bring forward up to 50% of the next period's allowance into the current quarter, provided that:

i. A formal written agreement is in place for the quarter that the hours are brought forward from.

ii. Appropriate purchase orders have been raised covering the quarter that the hours are brought forward from.

iii. The Supplier reserves the right to refuse such requests if they may impact service delivery or resource planning.

iv. This is not a regular pattern of consumption.

4.4.3. Addition of Hours:

a) Additional rates and volume bands are as specified in Section 3: Rate Cards.

b) Current Quarter: The Client may purchase additional hours at the current quarter’s rate.

c) Future Quarter: Hours purchased before the start of a quarter may be combined with the next quarter’s existing quarterly allowance to determine the applicable rate band for that quarter only.

4.5. Rate Changes for Multi-year Agreements

4.5.1. For 12-month or less Agreements:

a) Rates are locked in for the initial term.

b) New rates may apply upon renewal as specified in Section 4.7.

4.5.2. For Agreements with terms longer than 12 months:

a) Rates are locked in for the initial 12-month term.

b) The Supplier may implement rate changes to apply after the initial 12 months.

c) The Supplier shall provide the Client with 90 days' written notice of any rate changes.

d) The Client shall have 90 days from receipt of such notice to accept or reject the new rates, regardless of when notice was provided.

e) This 90-day decision period operates independently of any renewal notice periods specified in this Agreement.

f) If the Client rejects the new rates, they may terminate the Agreement with 90 days' notice, with such notice period commencing on the date the Client provides written notification of termination in accordance with Section 4.16.
g) During this notice period, the Client will continue to pay the original rates for any remaining prepaid Quarterly Allowance.

4.6. Payment Terms

4.6.1. All invoices are payable within 30 days of invoice date, including any VAT or applicable taxes.
4.6.2. All fees are payable in advance based on the Payment Term in Section 1.
4.6.3. Environment Costs:
  a) Will be invoiced monthly in arrears
  b) Include applicable administration fee
4.6.4. Travel and Subsistence:
  a) All reasonable travel and subsistence expenses will be charged to the Client
  b) Include applicable administration fee
  c) Any single expense exceeding £250 requires prior Client approval

4.7. Extensions and Renewals

4.7.1. Renewal discussions shall commence 90 days before the start of the next term.
4.7.2. Agreement extensions or renewals require only the execution of a new Section 1.
4.7.3. All renewals and extensions will incorporate the then-current versions of all applicable sections.
4.7.4. Continuation of Service:
  a) The Supplier recognises that the systems under support are often critical to the Client's business operations and end users. Therefore, the Supplier shall continue to provide services in good faith if:
    i. The Client does not explicitly decline renewal AND,
    ii. Continues to submit service requests or engage with the Supplier through any authorised contact or department as specified in the Commercial Terms or the Service Model.
  b) In such circumstances:
    i. Services will continue on a month-to-month basis
    ii. The Supplier's standard professional services project rates (Section 3) will apply
    iii. The Client agrees that such charges are payable within 30 days of invoice date

4.8. Change Management

4.8.1. Service Changes:
  a) Either Party may decrease the Quarterly Allowance with 90 days' written notice.
  b) Decrease requests must include impact assessment covering:
    i. Effect on ongoing projects
    ii. Resource allocation implications
    iii. Service delivery impact
    iv. Transition requirements
  c) Impact assessment will consume hours from the Period Allowance.
  d) The scope of assessment should be proportional to the proposed decrease.

e) Any handover or decommissioning work required as a result of a decrease or termination will consume hours from the remaining Quarterly Allowance.

4.8.2. Business Changes:

a) Parties shall notify each other of any significant business changes that may affect service delivery, including:
   i. Mergers and acquisitions
   ii. Corporate restructuring
   iii. Major system changes
   iv. Changes in key personnel

b) Parties will review service requirements following such changes.

c) Each Party is responsible for communicating any changes to this Agreement within their own organisation.

4.9. Intellectual Property

4.9.1. Background IP:

a) Each Party retains ownership of its existing intellectual property.

b) The Client grants the Supplier licence to use Client's Background IP as needed to provide the services.

c) The Supplier grants the Client licence to use Supplier's Background IP as needed to receive the services.

4.9.2. New Intellectual Property:

a) All intellectual property created by the Supplier during the provision of services ("New IP") shall be owned by the Supplier.

b) The Supplier grants the Client a perpetual, worldwide, non-exclusive, royalty-free licence to use any New IP for its business purposes.

c) The Client shall not sub-license or transfer any rights without the Supplier's written consent.

4.9.3. Third-party IP:

a) Remains property of respective third parties.

b) Subject to third-party licence terms.

c) Each Party responsible for maintaining compliance with their third-party licences.

4.9.4. Protection of IP:

a) Each Party shall:
   i. Take reasonable measures to protect the other Party's IP.
   ii. Not use the other Party's IP for any purpose outside this Agreement.
   iii. Notify the other Party of any potential IP infringement.
   iv. Cooperate in protecting IP rights.

4.10. Confidentiality

4.10.1. Each Party ("Receiving Party") agrees in respect of any confidential information received from the other Party ("Disclosing Party") to:

a) Keep all confidential information secret

b) Use confidential information only for purposes of this Agreement

c) Not disclose confidential information except as permitted by this Agreement

d) Protect confidential information with reasonable security measures

4.10.2. Disclosure is permitted:

a) To employees, agents, and contractors who need to know for the Agreement

b) As required by law, regulation, or court order
c) With the other Party's written consent

4.10.3. These obligations survive termination of the Agreement.

4.11. Data Protection and Privacy

4.11.1. Both Parties shall comply with their respective obligations under the Data Protection Legislation.

4.11.2. To the extent the Supplier processes Personal Data on behalf of the Client:

a) The Client shall ensure it has all necessary consents and notices in place to enable lawful transfer of Personal Data to the Supplier.
b) The Supplier shall only process Personal Data on documented instructions from the Client.
c) The Supplier shall implement appropriate technical and organisational measures to protect against unauthorised or unlawful processing and accidental loss or destruction of Personal Data.
d) The Supplier shall ensure personnel who access Personal Data are subject to confidentiality obligations.
e) The Supplier shall assist the Client in responding to requests from Data Subjects exercising their rights.
f) The Supplier shall notify the Client without undue delay upon becoming aware of a Personal Data Breach.
g) Upon termination of the Agreement, the Supplier shall return or delete all Personal Data as requested by the Client.

4.11.3. The Client consents to the Supplier appointing third-party processors where necessary to deliver the Services, provided that:

a) The Supplier informs the Client of any intended changes concerning the addition or replacement of processors.
b) The Supplier ensures that any third-party processor is subject to equivalent data protection obligations.

4.12. Limitation of Liability

4.12.1. Nothing in this Agreement shall limit or exclude either Party's liability for:

a) Death or personal injury caused by negligence.
b) Fraud or fraudulent misrepresentation.
c) Any other liability which cannot be limited or excluded by applicable law.

4.12.2. Subject to Section 4.12.1:

a) Neither Party shall be liable to the other for any indirect, special, consequential or pure economic loss, costs, damages, charges or expenses including but not limited to loss of profits, business, contracts, revenue, goodwill, or anticipated savings.
b) The Supplier's total liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to 100% of the total fees paid by the Client during the 12-month period immediately preceding the date on which the claim arose.
c) The Client's total liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to 100% of the total fees paid or payable to the Supplier during the 12-month period immediately preceding the date on which the claim arose.

4.12.3. Each Party acknowledges that the limitations of liability in this Section 4.12 reflect the price and the allocation of risk between the Parties and that they are a material part of the basis of the bargain between them.

4.13. Insurance

4.13.1. The Supplier shall maintain throughout the Service Period:
- a) Professional indemnity insurance with coverage of at least £1,000,000 per claim.
- b) Public liability insurance with coverage of at least £1,000,000 per claim.
- c) Employer's liability insurance as required by law.

4.13.2. Upon request, the Supplier shall provide certificates of insurance evidencing the required coverage.

4.13.3. The Client shall maintain appropriate insurance coverage for its business operations.

4.14. Collaboration and Marketing

4.14.1. Either Party may reasonably request the removal of any published content that references them by providing the reason for such request, and the other Party shall comply with such request within 10 business days.

4.14.2. The Parties agree to:
- a) Inform the other Party before publishing anything in the public domain that references the other Party
- b) Protect and maintain both Parties' reputations
- c) Coordinate on any public communications about the relationship
- d) Respect each other's brand guidelines and privacy requirements
- e) Maintain professional standards in all public interactions

4.14.3. Each Party grants the other the right to:
- a) Use the other's name and logo in marketing materials
- b) Reference the relationship in promotional channels
- c) Publish case studies about work undertaken
- d) Issue press releases about the relationship

4.14.4. All marketing activities remain subject to the confidentiality obligations in section 4.10 of this Agreement.

4.15. Force Majeure

4.15.1. Neither Party shall be in breach or liable for delay where such delay results from events outside reasonable control, including but not limited to:
- a) Acts of God, natural disasters, or extreme weather events
- b) Pandemic, epidemic, or public health emergency
- c) War, terrorism, civil unrest, or political instability
- d) Governmental action or changes in law or regulation
- e) Cyberattack, system failure, or telecommunications breakdown
- f) Industrial action, strikes, or labour disputes
- g) This protection extends to events affecting either Party's operations globally, including impacts on staff, facilities, or infrastructure in any location where the Party conducts business or maintains operations.

4.15.2. The affected Party shall:
- a) Promptly notify the other Party
- b) Take reasonable steps to mitigate impact

c) Continue performance of unaffected obligations
d) Resume full performance as soon as reasonably possible

4.15.3. Either Party may terminate if delay exceeds 60 days.

4.16. Termination

4.16.1. The Agreement continues for the Service Period specified in Section 1.
4.16.2. Either party may terminate with 90 days' written notice.
4.16.3. If the notice period extends into a new quarter:
- a) The Client shall pay at the current rate, the greater of:
  - i. Pro-rata value of the next quarter, or
  - ii. Value of hours utilised in the next quarter.

4.16.4. Early Termination:
- a) No refunds for prepaid quarters.
- b) Client remains liable for:
  - i. Any hours brought forward from future quarter.
  - ii. Environment Costs through notice period.
  - iii. Travel and subsistence expenses incurred.

4.16.5. Service Transition:
- a) Upon termination or expiration of this Agreement, the Supplier shall:
  - i. Provide reasonable assistance to transition Services to the Client or a replacement supplier
  - ii. Return or securely destroy all Client materials and data as directed
  - iii. Provide documentation of solutions, configurations, and processes
  - iv. Transfer any required knowledge to Client staff or replacement suppliers
- b) Transition assistance shall:
  - i. Be provided for up to 60 days following termination
  - ii. Consume hours from any remaining Quarterly Allowance
  - iii. Be charged at standard rates once the Quarterly Allowance is exhausted
  - iv. Include handover of all relevant documentation
- c) The Supplier shall develop a formal transition plan upon receiving notice of termination, detailing:
  - i. Timeline and milestones for transition activities
  - ii. Resource requirements and responsibilities
  - iii. Knowledge transfer approach
  - iv. Risk mitigation strategies

4.17. Dispute Resolution

4.17.1. Parties shall attempt to resolve disputes through:
- a) Good faith negotiations for 60 days
- b) Mediation if negotiations fail
- c) Legal proceedings as last resort

4.17.2. During disputes:
- a) Both Parties shall continue performing obligations
- b) Payment obligations remain in force
- c) Service delivery continues

4.17.3. Each Party bears its own mediation costs.

4.18. General

4.18.1. This Agreement:
- a) Shall be governed by English law.
- b) Represents the entire agreement between Parties.
- c) Supersedes all previous agreements and understandings between the Parties relating to its subject matter, unless specifically referenced herein as remaining in effect.
- d) May only be varied in writing.

4.18.2. The Parties submit to the exclusive jurisdiction of the English courts.

4.18.3. Notices:
- a) Must be in writing.
- b) May be delivered by email to addresses specified in Section 1.
- c) Are effective upon receipt.

4.18.4. Severability: If any provision is found to be invalid, illegal or unenforceable:
- a) It shall be deemed modified to minimum extent necessary.
- b) Remaining provisions remain in full force.

4.18.5. No Partnership: Nothing in this Agreement creates any:
- a) Partnership or joint venture.
- b) Employment relationship.
- c) Agency relationship.

4.18.6. Assignment:
- a) Neither Party may assign rights or obligations without other Party's written consent.
- b) Consent shall not be unreasonably withheld.

4.18.7. Non-Disclosure:
- a) Any Non-Disclosure Agreement (NDA) previously executed between the Parties shall remain in full force and effect notwithstanding this Agreement.
- b) The confidentiality obligations in this Agreement shall be in addition to, and not in substitution for, any obligations under such NDA.

4.18.8. Updates to Standard Terms:
- a) The Supplier reserves the right to update the Standard Terms and Conditions from time to time.
- b) Any changes will be communicated to the Client with 90 days' notice.
- c) Changes will not affect any prepaid periods.
- d) If the Client does not agree with the changes, they may terminate the Agreement with 90 days' notice, with such notice period commencing on the date the Client provides written notification of termination.
- e) If the Client:
  - i. Does not explicitly reject the changes, AND,
  - ii. Continues to use the services after the notice period.
- f) Then the Client shall be deemed to have accepted the updated Standard Terms and Conditions.

End of Agreement.