



G-Cloud 15 Terms & Conditions

GENERAL TERMS AND CONDITIONS OF SERVICES

Aaseya Software Services (UK) Ltd

1. INTRODUCTION

Under the General Terms and Conditions ("Terms") between the Supplier and Buyer, Supplier will provide services ("Services") as specified by the Buyer. These Terms and Conditions apply to the provision of the services supplied by Aaseya Software Services (UK) Limited incorporated and registered in England and Wales whose registered office is at The Courtyard Shoreham Road, Upper Beeding, Steyning, West Sussex, England, BN44 3TN (Supplier or we or us) to the person or legal entity buying the services (Buyer or you).

Where we reference these Terms and Conditions in our proposals and contracts, you are deemed to have accepted these Terms and Conditions when you accept our proposal or from the date of any performance of the Services (whichever happens earlier). These Terms and Conditions and our contract (the Contract) are the entire agreement between us.

2. DEFINITIONS

In this document the following words shall have the following meanings:

- 2.1. **AFFILIATE** means, with respect to any entity, any other entity directly or indirectly controlling or controlled by, or under common control with, such entity. For purposes of the Terms, "control" (including the terms "controlled by" and "under common control with") means the power, directly or indirectly, to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities, by contract or otherwise.
- 2.2. **BUYER** means any individual, partnership, limited company, charity or organisation that from time to time purchases Services from the Supplier.
- 2.3. **SUPPLIER** means Aaseya Software Services (UK) Limited, The Courtyard Shoreham Road, Upper Beeding, Steyning, West Sussex, England, BN44 3TN.
- 2.4. **BUSINESS DAY** means any day other than a Saturday, Sunday or bank holiday
- 2.5. **PROPOSAL** means a statement of work, quotation or other similar document describing the services to be provided by the Supplier.
- 2.6. **SERVICES** means any professional or other services to be provided by Service Provider, as described in the proposal.
- 2.7. **CONTRACT** means the contract for supply of the Services by Supplier to Buyer under these Terms and Conditions.
- 2.8. **COMMENCEMENT DATE** means the commencement date for the Contract as set out in the Contract.
- 2.9. **CONFIDENTIAL INFORMATION** means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with this Terms (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such).
- 2.10. **INTELLECTUAL PROPERTY RIGHTS** means all rights arising by virtue of, or in relation to, copyright, trademarks (registered or unregistered), patents, know-how, methodologies, Confidential Information, trade and business secrets, and any other similar rights howsoever arising in the execution of, or pursuant to, the Terms.
- 2.11. **Receiving Party** means a party that receives or acquires Confidential Information directly or indirectly under the Contract and related statement of work/Proposal.
- 2.12. **Disclosing Party** means a party that discloses Confidential Information under the Contract and related statement of work/Proposal.
- 2.13. **MATERIALS** means literary or other works of authorship (such as programs, program listings, programming tools, documentation, reports, drawings and similar works) created during the Service performance period or otherwise (such as those that preexist the Service) that Supplier may deliver to Buyer.

- 2.14. WORKS mean all ideas, know-how, processes, information, drawings, documents, designs, models, inventions, copyrightable material, and other tangible and intangible materials authored, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by Buyer in the course of using the Services, including without limitation computer programs, computer systems, data, and documentation.
- 2.15. PARTY's means Buyer and Supplier shall hereinafter, wherever the context so permits, be collectively referred to as "Parties" and individually as "Party".
- 2.16. SUBCONTRACTOR means a contractor, Supplier, agent, or consultant selected and retained by Supplier or Buyer, respectively.
- 2.17. The CONTRACT shall mean instructions, confirmed in writing or electronic format, issued and signed by the Buyer or an authorised person on behalf of the Buyer.
- 2.18. FEES shall mean all charges and expenses that will be invoiced by the Supplier to the Buyer for the services provided.
- 2.19. TERMS AND CONDITIONS means the terms and conditions of supply set out in this document and any special terms and conditions agreed in writing between Supplier and Buyer.

3. GENERAL

- 3.1. These Terms and Conditions shall apply to all contracts for the supply of Services by the Supplier to the Buyer and shall prevail over any other documentation or communication by the Buyer.
- 3.2. Any variation to these Terms and Conditions shall be inapplicable unless agreed in writing by the Supplier and Buyer.
- 3.3. Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which the Supplier may be entitled in relation to the Services, by virtue of any statute law or regulation.
- 3.4. Nothing in these Terms and conditions shall affect Parties statutory rights.

4. SERVICES

- 4.1. The service proposal agreed that links to these Terms and Conditions shall remain valid for a period of 90 (Ninety) days.
- 4.2. The Buyer shall be deemed to have accepted the service proposal by placing an order with the supplier within the period specified in Clause 4.1.
- 4.3. Supplier will not commence work until the Buyer has accepted these Terms and Conditions as well as the instructions including, but not limited to, a proposed timeline and an estimate of fees which will be set out in an accompanying proposal.
- 4.4. The service proposal will be the best estimation of time required to meet Buyer needs. If further time is required Buyer will be consulted before any further activity takes place.
- 4.5. The Supplier shall not be liable for failure to complete the work within the proposed timeline for any reason other than solely attributable to Supplier.

5. FEES

- 5.1. Fees for the Services shall be specified in the Supplier's Proposal current at the date of acceptance of the Buyer or such other fees as may be mutually agreed in writing by the Supplier and the Buyer.

- 5.2. Where the Supplier has quoted fees for the Services under the respective proposal it will be valid for 90 (Ninety) days only or such lesser time as the Supplier may specify.
- 5.3. The Supplier reserves the right, by giving written notice to the Buyer at any time before delivery or provision, to increase the price of the Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods and services which are requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Supplier adequate information or instructions.
- 5.4. Except as otherwise stated under the terms of any quotation or specified schedule or in any price list of the Supplier, and unless otherwise agreed in writing between the Buyer and the Supplier, all prices are inclusive of the Supplier's charges for packaging and transport.
- 5.5. The fees are exclusive of any applicable value added tax, excise, withholding, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Services and Licenses, which the Buyer shall be additionally liable to pay to the Supplier.

6. PAYMENT

- 6.1. Subject to any special terms agreed in writing between the Parties, the Supplier shall invoice the Buyer for the price of the Services or at any time after the Provision of the Services (as applicable).
- 6.2. The Buyer shall pay the fees of the Services (less any discount or credit allowed by the Supplier, but without any other deduction, credit or set off) within 90 (Ninety) Calendar Days of the date of the Supplier's invoice or otherwise in accordance with such credit terms as may have been agreed in writing between the Buyer and the Supplier under the Proposal or in Contract.
- 6.3. Payment shall be made on the due date. The time for the payment of the fees shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 6.4. All payments shall be made to the Supplier as indicated on the form of acceptance or invoice issued by the Supplier.

7. DELIVERY AND PERFORMANCE

- 7.1. Services shall be delivered by the Supplier to the place specified in the Contract or work order or as directed by Buyer.
- 7.2. Supplier shall use reasonable endeavours to ensure that the Deliverables are delivered to the Buyer in accordance with the timelines/milestones set out in the respective Service Proposal.
- 7.3. Supplier warrants to the Buyer that the Deliverables will conform to the requirements as set out under the Service Proposal submitted by Supplier to Buyer.
- 7.4. Supplier shall ensure that the Deliverables will be free from material defects; and the Deliverables will not infringe the third party Intellectual Property Rights (or other legal rights) of any person and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

8. BUYER OBLIGATIONS

- 8.1. To enable Supplier to perform its obligations the Buyer shall:
 - 8.1.1. Provide the supplier with any information reasonably required by the Supplier.
 - 8.1.2. Obtain all necessary permissions, consents, licenses which will be required before the commencement of the services, the cost of which is the sole responsibility of the Buyer.
 - 8.1.3. Comply with such other requirements as may be set out in the Proposal or otherwise agreed between the parties.

8.1.4. If Buyer does not comply with this section, Supplier can terminate the Services.

- 8.2. Supplier are not liable for any delay or failure to provide the Services if this is caused due to Buyer's failure to comply with the provisions of this section.
- 8.3. Buyer agrees to approve the use of its official logo on Supplier's marketing materials subject to compliance with Buyer's corporate branding guidelines.

9. SUPPLIER OBLIGATIONS

- 9.1. The Supplier shall perform the Services with reasonable skills and care and to a reasonable standard in accordance with recognized standards and codes of practice.
- 9.2. The Supplier shall fulfil the service that is reasonably within its' control, by the agreed timescales and to a satisfactory standard.
- 9.3. All information supplied by the supplier to the Buyer will be impartial.
- 9.4. The supplier will provide understandable information that will empower an individual to choose the right care choice for them.
- 9.5. All Employees/Associates working with the supplier will have relevant qualifications, skills and experience and will have completed the suppliers learning and development Programme.
- 9.6. The information supplied by the Buyer will be confidential. No information will be supplied to a third party without the Buyer's expressed permission.

10. CONFIDENTIALITY & DATA PROTECTION

- 10.1. Receiving Party acknowledges and agrees that Receiving Party shall have access to proprietary, confidential business and financial information and plans of Disclosing Party. Receiving Party agrees that:
 - 1) All such information, plans and intellectual property shall be held in the strictest confidence,
 - 2) Receiving Party shall not reveal the same to any third parties,
 - 3) Receiving Party shall not make or retain any copies thereof upon termination of these Terms and/or Contract, nor except for the performance of services hereunder make any use of such information, plans and intellectual property.
- 10.2. The obligations of the receiving party specified in this section shall not apply, and the Party shall have no further obligations, with respect to any Proprietary Information in the extent Receiving Party can demonstrate, by clear and convincing evidence, that such confidential proprietary information:
 - 1) is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the Receiving Party.
 - 2) is in the Receiving Party's possession at the time of disclosure otherwise than as result of Receiving Party's breach of any legal obligation.
 - 3) Becomes known to the Receiving Party through disclosure by sources other than the Disclosing Party having the legal right to disclose such Proprietary information.
 - 4) is independently developed by the Receiving Party without reference to or reliance upon the Proprietary information; or
 - 5) is required to be disclosed by the Receiving Party to comply with applicable laws or governmental or regulatory regulations, provided that the Receiving Party provides prior written notice of such disclosure to the Disclosing Party and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.
- 10.3. All information retained by the Supplier will be processed strictly in accordance with the provisions of the Data Protection Act and its successors. Such information shall be held solely for the purposes of fulfilling the contract.

- 10.4. The Supplier will not transmit any personal data held on behalf of Buyer except where a) The transfer is a necessary part of the work undertaken to fulfil the contract or b) There is a requirement to do so by operation of the law.

11. COMPLAINTS & DISPUTES

- 11.1. The supplier will always aim to deliver the quality services, however if the Buyer is not happy with the service provided, Buyer shall inform the same to the Supplier immediately after receipt of Services, accordingly the process can be defined mutually by the Parties for improving the quality of Services.
- 11.2. If there is a dispute about the interpretation or operation of these Terms, then the supplier will make every effort to resolve the dispute when and where it arises and shall negotiate in good faith.

12. INDEMNITY

Each Party shall indemnify ("Indemnifying Party") defend and hold other Party and its present and future Affiliates, agents, employees, officers, directors and representatives ("Indemnified Party") harmless from and against any and all liabilities, damages, losses claims, suits, actions, demands, penalties, costs or expense arising out or in relation to (a) Indemnifying Party's performance of, or failure to perform, its obligations under these Terms and/or Contract; or (b) breach of any of the representations and warranties given by the Indemnifying Party's under this Terms and/or Contract; provided, that the Indemnifying Party shall not be liable to indemnify the Indemnified Party with respect to any and all liabilities, damages, losses claims, suits, actions, demands, penalties, costs or expense (including reasonable attorneys' fees) arising out of any negligence or breach of the terms of these Terms and/or Contract, including the representations and warranties given under this Terms and/or Contract, by the Indemnified Party. Neither Party will be liable to the other, in any event for any special, consequential, special delay, incidental, or indirect damages arising out of or in connection with these Terms irrespective of the cause or form of action. Notwithstanding anything contained under this Terms and/or Contract, Supplier's total liability shall not exceed the professional fees received in pursuant to the award of Contract by Buyer to Supplier. This Limitation of Liability obligation shall survive any termination or expiration of this Terms and/or Contract. In case of breach of Confidentiality, third-party IPR, fraud or gross negligence on part of Supplier, compensation for damages shall be awarded by Court.

13. WARRANTIES

- 13.1. The warranties related to the Licenses supplied by the Supplier shall be the warranties provided by Original Equipment Manufacturer (OEM). The OEM shall be responsible for any warranties associated with the License. Supplier shall not be responsible for any warranty or guarantee with respect to Licenses.
- 13.2. Any warranty claims made by the Buyer or end user must first go to the OEM who must verify that the warranty period is still valid.
- 13.3. The supplier if required to provide proof of purchase will provide this directly to the OEM.

14. INTELLECTUAL PROPERTY RIGHTS

- 14.1. Each party shall continue to own the pre-existing Intellectual Property Rights in all documents, goods and services owned by that party prior to the date of the Contract.
- 14.2. So far as is required for the completion of the Contract the party owning such Intellectual Property Rights shall grant to the other a royalty free, non-exclusive, non-assignable licence that will terminate on the termination of the Contract.
- 14.3. The Supplier shall own the Intellectual Property Rights in all documents, Goods and Services created by it during the course of the Contract.
- 14.4. The Buyer acknowledges and agrees that where Services comprise or include software and programming, copyright and any other intellectual property rights in the information, software and material therein and in their arrangement and programming, is owned by the Supplier or used under licence from third party copyright owners.

- 14.5. The Supplier grants the Buyer a royalty free, non-exclusive, non- assignable licence to use any software for the explicit purposes of operating Goods supplied under the Contract.
- 14.6. The Buyer shall not unless otherwise agreed in writing
- 1) copy, adapt or reverse compile the whole or any part of the software;
 - 2) assign, transfer, sell, lease, rent, charge or otherwise deal in the software or use the software on behalf of any third party or make available the same to any third party;
 - 3) remove or alter any copyright or other proprietary notice in the software;
 - 4) receive or be entitled to the programming source code or compiled code.

15. ASSIGNMENT & SUBCONTRACTING

- 15.1. Neither Party shall have any right or ability to assign, transfer, or sublicense any obligations or benefit hereunder without the written consent of the other party. Any purported assignment in violation of this section shall be null and void.
- 15.2. The Terms shall be binding upon and inure to the benefit of the Parties hereto and their heirs, executors, administrators, successors, legal representatives, and permitted assigns.

16. TERMINATION

- 16.1. Either Party may terminate the Services by notifying the Other Party in writing at the address above giving 30 days' written notice.
- 16.2. All work undertaken up to receiving cancellation or termination must be paid for till the effective date of such cancellation or termination.
- 16.3. The supplier may, at the Buyer's expense charge any costs relating to the winding up of any work being carried out as part of the contract including, but not limited to, fees, court or tribunal costs or any other reasonable third party liabilities.
- 16.4. Notwithstanding the forgoing, either party shall be entitled to terminate the Services under the respective Contract or any specific Proposal/SOW/PO, immediately and forthwith by written notice to the other Party if:
- 1) the other Party commits any breach of this Terms and in the case of a breach capable of remedy, fails to remedy the same within thirty (30) days after receipt of written notice from the Terminating Party identifying the breach and requiring it to be remedied; or
 - 2) the other Party goes into liquidation except for the purpose of amalgamation, reconstruction, merger or other reorganization, unless the entity resulting from the reorganization agrees to be bound by or assume the obligations imposed on that other Party under this Terms; or
 - 3) the other Party faces bankruptcy or the other Party receives a notice for winding up from any of its creditors and is unable to pay the amounts demanded or reply to the same.
- 16.5. Provided, that both the parties to the Contract shall have the right to terminate the Contract with an immediate effect in case of any material breach committed under these Terms by either of the parties.
- 16.6. Notwithstanding anything contained in the Contract, no right or obligation of the Parties shall be affected during the notice period mentioned hereinabove under the Contract, and no termination of the Contract will affect any rights and obligations of Parties incurred prior to such termination until a respective Proposal/SOW/PO expires or is otherwise terminated by the Parties in writing. Any Proposal/SOW/PO shall continue to be active and be governed by the terms and conditions of the Contract till its expiry or till the date in case of its early termination in writing pursuant to the provisions of the Contract. Termination of any specific Proposal/SOW/PO shall not affect the services under the other Proposal/SOW/PO under the Contract.

- 16.7. Supplier may terminate the Services and the Contract/SOW/Proposal, if a payment is not received within seven (7) days after receipt of notice by Buyer. Termination under this section shall not apply if lack of payment or partial payment is due to a good faith disputes over amounts owed, provided that and subject to all uncontested amounts being timely paid and Supplier having been provided with written notice of such good faith dispute, including the exact details of such dispute and such notice made within a reasonable time from when the dispute arose. Such good faith dispute must be resolved within fifteen (15) days from the date of the notice to the Buyer or payment shall immediately become due and payable pursuant to the terms of this Section.
- 16.8. Upon termination of the Services, Supplier agrees to deliver to Buyer all writings, designs, documents, records, data, memoranda, computer sources code and object code, file layouts, record layouts, system design information, models, manual, documentation, notes and other material of any nature which are in their possession or control and which contain Confidential Information of the Buyer.

17. FORCE MAJEURE

- 17.1. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Terms, for any failure or delay in fulfilling or performing any term of this Terms (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the affected party's reasonable control, including, without limitation:

- 1) acts of God;
- 2) flood, fire or explosion;
- 3) war, invasion, riot or other civil unrest; and/or
- 4) national or regional emergency;
- 5) existing or future viral or other infectious outbreak, contagion, epidemic or pandemic (including, without limitation, COVID-19 and any mutation thereof or subsequent virus related thereto)
- 6) lockouts or other concerted acts of workmen

each of which constitutes a "Force Majeure Event". A party whose performance is affected by a Force Majeure Event shall give notice to the other party, stating the expected duration of the Force Majeure Event, and shall use diligent efforts to end the failure or delay and minimise the effects of such Force Majeure Event.

- 17.2. During the Force Majeure Event, the non-affected party may similarly suspend its performance obligations until such time as the affected party resumes performance.
- 17.3. The non-affected party may terminate the Services and the Contract and any affected Statement of Work/Proposal if such failure or delay continues for a period of 30 days or more and, if the non-affected party is Buyer, receive a refund of any amounts paid to the Supplier in advance for the affected Services. Unless the Contract is terminated in accordance with this Section, the Term of the Contract and any affected Statement of Work/Proposal shall be automatically extended by a period equal to the period of suspension.

18. Notices

- 18.1. All notices under these Terms and Conditions and under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 18.2. Notices shall be deemed to have been duly given:
- 1) when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or
 - 2) when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or
 - 3) on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
 - 4) on the tenth business day following mailing, if mailed by airmail, postage prepaid.
- 18.3. All notices under these Terms and Conditions and/or the Contract shall be addressed to the most recent physical address, e-mail address, or facsimile number notified in writing by one Party to the other Party

19. SEVERANCE

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

20. ENTIRE AGREEMENT

The Terms constitutes the complete and exclusive statement and record of the Contract between Buyer and Supplier. No prior statement, representation, warranty, inducement or the like, shall be binding on either party, unless contained herein or reduced to writing in a separate formal document and signed by the parties. Furthermore, no variation of, or addition to the Terms shall be of any force or effect unless reduced to writing and signed by the duly authorized representative of both parties.

21. NON-EXCLUSIVITY

Both parties agree to collaborate on a non-exclusive basis as detailed in this Agreement, to enable the provision of Authorized Services by either party. Each Party is free to conduct business with other third-parties at its sole discretion.

22. NON-SOLICITATION

Each Party agrees that, during the term of this General Terms and Conditions and/or Contract and for a period of Twenty-Four (24) Months following the termination of the Terms and/or Contract, it will not directly or indirectly, solicit or offer, or attempt to solicit or offer employment to any employee of the other Party who has been assigned or introduced to each other through the terms of the Contract unless other Party provides its acceptance in writing thereto. This provision is independent of any other provision herein and shall survive termination of the Terms and/or Contract.

23. PUBLICITY

Neither party shall use the name, marks and/or logos of the other in publicity, advertising, or similar activity, without the prior written consent of the other party.

24. THIRD PARTY RIGHTS

A person who is not a party to these terms and conditions and to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. GOVERNING LAW

Any disputes or claims arising out of or in connection with these Terms and conditions of Business or the contract shall be governed by and construed in accordance with the law of England and Wales.