



G-CLOUD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

These ATTEST DIGITAL G-Cloud Services Terms and Conditions (“**ATTEST DIGITAL Terms**” or “**Supplier Terms**”) form part of an agreement for the provision of services by **ATTEST DIGITAL** Limited (“**ATTEST DIGITAL**”) under a call-off agreement (“**Call-Off Agreement**”) as defined in the UK Crown Commercial Services G-Cloud Services Framework Agreement between ATTEST DIGITAL and the Crown Commercial Service (“**Framework Agreement**”). They apply between ATTEST DIGITAL and each party (“**the Customer**”) entering into a Call-Off Agreement.

SERVICES COVERED

These Terms and Conditions apply to **Lot 3 Cloud Support Service** (“**Cloud Support**”) being provided by ATTEST DIGITAL.

1 GENERAL TERMS

1.1 Services

1.1.1 Upon subscription to the relevant ATTEST DIGITAL G-Cloud Service ATTEST DIGITAL 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 Definition relating to that Service.

1.1.2 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.

1.1.3 Whilst using the Services the Customer may access software which is located on ATTEST DIGITAL’s servers (“**Software**”). Except in relation to Cloud Support 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.

1.1.4 ATTEST DIGITAL shall have no liability or obligation with respect to the fitness for purpose, functionality or the performance of 3rd party Software Licences supplied.

1.1.5 Time shall not be of the essence as to the performance of ATTEST DIGITAL's obligations.

1.1.6 All ownership, licence, intellectual property and ATTEST DIGITAL rights and interests in the Services and any associated documentation remains solely with ATTEST DIGITAL and / or Licensors on whose behalf ATTEST DIGITAL may be providing components of the Services.

1.1.7 ATTEST DIGITAL hereby grants to the Customer, a licence to reproduce, modify, adapt and enhance the content of the documentation and the other deliverables (excluding Customer Data) produced on behalf of the Customer once the Call-Off Agreement is complete. Such licence shall be transferable, perpetual and irrevocable.

1.1.8 ATTEST DIGITAL 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 provision described in the Call-Off Agreement. ATTEST DIGITAL 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.

1.2 Service Restrictions

The Customer must not:

1.2.1 Exceed any set usage limits or restrictions set out in the Service Definition and / or Call-Off Agreement

1.2.2 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

1.2.3 Create any derivative works based upon the Software or Services, save as otherwise permitted in accordance within a Service Definition

1.3 Additional Services

Additional Services may be ordered by the Customer:

1.3.1 By extension or issue of a Call-Off Agreement

1.3.2 By electronic request via the Customer Administration Portal, if this is available for the Service

1.3.3 By a request from a Customer representative who ATTEST DIGITAL reasonably believe to have authority to place such a request

1.3.4 General exclusions. There are a number of general exclusions to the work covered by fixed price elements of any supply contract unless they have been specifically included in Call-Off-Agreement. These are:

1.3.4.1 Any work which is carried out on site due to remote access restrictions, over and above any site visit allowance set out in the Call- Off Agreement

1.3.4.2 Any test and assurance work on corrective development e.g. change controls, unless covered under a pre-defined 'call-off' allowance, as part of the contract take-on or as otherwise specifically agreed in writing

1.3.4.3 Remedial work arising as a result of changes made to the configuration of the system, data or software by the Customer that have not been assessed and agreed with ATTEST DIGITAL before hand

1.3.4.4 Restoration of systems and data after a failure caused by:

- malicious attack on the computer infrastructure
- modification or corruption of the system by the Customer
- any fatal applications error which corrupts the system or its data
- a major disaster, unless this is covered by other services being supplied by ATTEST DIGITAL
- invalid operator or user action (such as data deletion), to the extent that it exceeds any thresholds set in the Call-Off Agreement

1.3.4.5 Additional work requested by the Customer over and above ATTEST DIGITAL's standard processes and procedures required to conform with the Customer's internal procedures.

1.3.4.6 However, ATTEST DIGITAL will optionally perform excluded tasks on customer request, as Change Requests.

1.4 Invoicing VAT and Payment

1.4.1 Unless otherwise stated, invoices will be raised for Services on a weekly basis. Value Added Tax, will (where appropriate) be added to the amount of an invoice for any Service at the prevailing rate. Invoices will be based on time logs filled in by staff on the project. These are included with the invoice. ATTEST DIGITAL reserves the right to submit time sheets which have not been countersigned if the Customer unreasonably withholds authorisation.

1.4.2 Invoices must be paid in full within 30 days of the date of issue

1.4.3 If any payment is overdue (not paid within 30 days of the invoice date of issue) ATTEST DIGITAL 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 Bank of England base rate for the full period the debt has been outstanding.

1.4.4 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 ATTEST DIGITAL.

1.5 Liability

1.5.1 Except as provided in these Terms and Conditions, and in the Service Definition 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 ATTEST DIGITAL and all such warranties, conditions, undertaking and terms are hereby excluded.

1.5.2 ATTEST DIGITAL will provide the Services with reasonable skill and care, but (except as provided in these Terms and Conditions and the relevant Service Definition) 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 ATTEST DIGITAL, 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:

1.5.2.1 For the provision of Cloud Support: the value of services called off over the previous three months

1.5.2.2 The amount (if any) which ATTEST DIGITAL is entitled to claim under the terms of any insurance policy in force at the time, up to a maximum of one million pounds (£1,000,000).

1.5.3 ATTEST DIGITAL shall not in any event be liable for any indirect or consequential loss whatever or however caused.

1.5.4 The Customer agrees fully and promptly to indemnify ATTEST DIGITAL against all costs, claims, demands, damages, losses and expenses to which ATTEST DIGITAL may become liable or which ATTEST DIGITAL may suffer or incur as a result directly or indirectly of ATTEST DIGITAL 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.

1.5.5 Notwithstanding anything to the contrary, however, nothing in these Terms and Conditions shall operate to exclude or restrict ATTEST DIGITAL's liability for death or personal injury resulting from negligence within the meaning of the Unfair Contract Terms Act 1977.

1.6 Termination

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.

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 SPECIFIC TERMS RELATING TO THE SUPPLY OF Cloud Support

2.1 Charges

2.1.1 The Customer is charged on a daily basis at the rates quoted in the Pricing Document. Fractions of a day are charged on an hourly pro rata basis.

2.1.2 These rates do not include Value Added Tax which will (where appropriate) be added to the amount of an invoice at the prevailing rate.

2.1.3 ATTEST DIGITAL's charges exclude travel or hotel expenses and the costs of materials and services not provided directly by ATTEST DIGITAL, unless these have been explicitly included in the Service Definition or Call-Off Agreement. Any additional expenses necessarily incurred with relation to the provision of Cloud Support will be charged at cost. Clause 2.5 outlines how expenses are calculated for site work. See Pricing document for further details.

2.1.4 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 Definition and / or Pricing document.

2.2 The Working Day and Overtime

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 week-ends, or public holidays is charged at time and two thirds, unless specified otherwise in the Call-Off Agreement. Where the required working period is substantially outside the normal working day the charge rate premium will be subject to negotiation.

2.3 Duties of ATTEST DIGITAL

2.3.1 ATTEST DIGITAL shall assign personnel of appropriate qualification and experience to perform Cloud Support as described in the Service Definition.

2.3.2 ATTEST DIGITAL shall use all reasonable efforts to avoid changes to the personnel named in the Call-Off Agreement to perform the Cloud Support. In the event of any such named personnel being unavailable to perform the Cloud Support, ATTEST DIGITAL shall make all reasonable efforts to promptly replace such individual with another person of equivalent competence and experience.

2.3.3 ATTEST DIGITAL will exercise reasonable skill and care in performing the Cloud Support and shall comply with the reasonable requests and directions of the Customer including complying with reasonable health, safety and security policies advised to ATTEST DIGITAL by the Customer while working on the Customer's premises.

2.4 Duties of the Customer

2.4.1 The Customer shall, at its own expense, supply ATTEST DIGITAL with all documents, software, inventions, data or other materials and instructions necessary to perform the Cloud Support in accordance with the Contract and shall retain copies of any such documents, software, data or other materials so supplied.

2.4.2 The Customer shall provide ATTEST DIGITAL with access to all personnel of the Customer and to its systems and software and, where ATTEST DIGITAL is required to work on the Customer's premises, accommodation and other assistance as may be necessary for performing the Cloud Support.

2.4.3 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 Cloud Support.

2.5 Site Work

Where possible, ATTEST DIGITAL will work remotely. Unless stated in the Call-Off Agreement, for work on a site that is not the Customer's main site, travelling time in excess of the employee's normal travel time to the main site 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 (only for site work outside the UK), any incidental expenses such as travel and medical insurance will be charged.

2.6 Staff Transfer

2.6.1 In this Clause 2.6, the "Relevant Period" is the period starting on the Commencement Date and ending 12 months after the Contract has ended

2.6.2 Neither the Customer nor ATTEST DIGITAL 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

2.6.3 The Customer and ATTEST DIGITAL shall each procure that during the Relevant Period, no related party (such as their own customers or suppliers involved with the execution or provision of the Services), will employ directly or indirectly, or make or seek to make any offer of employment to any of ATTEST DIGITAL's or Customer's staff as the case may be involved in executing or receiving the services.

2.7 Applications Support

2.7.1 The provisions of this Clause 2.7 apply where the Supplier is providing Lot 3 Cloud Support.

2.7.2 Customer Obligations. For applications / software under test, the Customer will:

2.7.2.1 Provide a first line support helpdesk via which requests will be received and responses given, and to filter queries and provide desktop support when this is needed.

2.7.2.2 Provide helpdesk and other authorisation contacts prior to the start of the contract.

2.7.2.3 (Where the application is not hosted by the Supplier) provide a suitable hosting environment, operational support and remote access for diagnostic and software update purposes.

2.7.2.4 (Where the application is not hosted by the Supplier) provide a user contact and a deputy, who will be available to provide 'hands on' assistance to the Supplier's support staff on site by running Supplier directed tests, reporting results, etc.

2.7.3 The Customer is responsible for:

2.7.3.1 ensuring that the infrastructure it uses to access the Services is compatible with the interfaces provided within the specific Service;

2.7.3.2 taking adequate precautions within the Customer's own infrastructure to prevent the spread of viruses or malicious software;

2.7.3.3 ensuring that those to whom it grants access rights comply with the provisions of any UK legislation including the 1998 Data Protection Act

2.7.3.4 ensuring that they comply with the Licence terms of any 3rd party Software provided by ATTEST DIGITAL in the delivery of this service

2.7.3.5 ensuring that they comply with any further Service-Specific usage restrictions set out in the Service-specific section

2.8 Insurance

The Customer confirms that it has or shall obtain appropriate insurance to cover ATTEST DIGITAL employees against loss or injury whilst performing Cloud Support at the Customer's premises or elsewhere (other than ATTEST DIGITAL premises) on its behalf.

2.9 Cancellation

When an end date has not been specified in the case of Lot 3 Cloud Support involving the supply of staff on a time and materials basis, should either the Customer or ATTEST DIGITAL wish to terminate such provision prematurely, the terminating party shall give thirty (30) days written notice to the other.

3 SPECIFIC TERMS RELATING TO FIXED PRICE SERVICE DELIVERY UNDER CLOUD SUPPORT

3.1 Supplementary Documentation

During the course of supply, ATTEST DIGITAL's obligations in respect of service provision may be further detailed in documents such as a Proposal, Project Plan, Test Approach or Specification ("**Additional Documents**"), which when referenced

in the Call-Off Agreement will form part of the agreement between ATTEST DIGITAL and the Customer.

3.2 Invoicing

Invoicing will be according to the payment schedule in the Call-Off Agreement, or Additional Documents. If no payment schedule is given, invoices will be issued weekly in arrears based on work in progress.

3.3 Change Control

3.3.1 If additional work or expense is incurred by ATTEST DIGITAL 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/her obligations in connection with the delivery of the Services, then such additional work or expense will be reasonably charged to the Customer over and above the price set in the Call-Off Agreement.

3.3.2 Any change proposed by either ATTEST DIGITAL 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 Definition. ATTEST DIGITAL 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.

3.4 Acceptance and Sign Off

3.4.1 Once the test and assurance activities described in the Call-Off Agreement are complete, or are close to completion, ATTEST DIGITAL will provide the Customer with a Closing Statement. The content headings of the Closing Statement will be agreed in the Call-Off Agreement and will enable the Customer to decide whether the application, software, infrastructure, or similar, under test should go into Acceptance and be promoted onto the Live estate. If required, the contents of the draft Closing Statement shall be made known to the Customer at any point during the development process.

3.4.2 ATTEST DIGITAL shall have no liability or obligation in respect of defects or errors found post Acceptance, where risks of those defects or errors being observed on the Live estate were highlighted in the Closing Statement or otherwise.