

# TestFyra Ltd

## Terms & Conditions for G-Cloud15 Services

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G-Cloud 15 Procurement Submission

# Important Notice

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These Terms & Conditions apply to all TestFyra services provided under the G-Cloud 15 framework

- Service 1: Telecommunications Testing & Quality Assurance Services (Lot 2b - SaaS)
- Service 2: Infrastructure Monitoring & Management Services (Lot 2a - SaaS)
- Service 3: Software & AI Engineering Development Services (Lot 2b - SaaS)
- Service 4: Technical Support & Managed Services (Lot 3 - Cloud Support)
- Service 5: Custom Framework Development & Automation Services (Lot 2b - SaaS)

These Terms & Conditions are subject to and must be read in conjunction with the G-Cloud 15 Framework Agreement and Call-Off Contract terms published by Crown Commercial Service (CCS).

In the event of any conflict between these Terms & Conditions and the G-Cloud 15 Framework Agreement or Call-Off Contract, the Framework Agreement and Call-Off Contract shall take precedence.

# 1. DEFINITIONS AND INTERPRETATION

## 1.1 Definitions

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"Acceptance" means the Customer's formal acceptance of Deliverables in accordance with the Acceptance Criteria.

"Acceptance Criteria" means the criteria set out in the Order Form or Statement of Work against which Deliverables will be tested and accepted.

"Authorised Users" means those employees, agents, and independent contractors of the Customer who are authorised by the Customer to use the Services.

"Background IPR" means any Intellectual Property Rights owned by or licensed to either Party before the Commencement Date or created independently of the Contract.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, England.

"Call-Off Contract" means the contract formed between TestFyra and the Customer under the G-Cloud 15 Framework Agreement.

"CCS" means Crown Commercial Service, the executive agency of the Cabinet Office responsible for the G-Cloud framework.

"Charges" means the fees payable by the Customer for the Services as set out in the Order Form and Pricing Document.

"Commencement Date" means the date specified in the Order Form on which the Services will commence.

"Confidential Information" means any information disclosed by one Party to the other Party that is marked as confidential or would reasonably be considered confidential given the nature of the information and circumstances of disclosure.

"Contract" means the contract for the provision of Services comprising these Terms & Conditions, the Order Form, Statement of Work (if applicable), Service Level Agreement, SFIA Rate Card, and Pricing Document.

"Customer" or "Client" means the public sector organisation purchasing Services under the G-Cloud 15 framework.

"Customer Data" means any data, information, or material provided by the Customer or Authorised Users to TestFyra in connection with the Services.

"Data Protection Legislation" means all applicable data protection and privacy legislation including the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018, and the Privacy and Electronic Communications Regulations 2003.

"Deliverables" means any reports, documentation, software, code, configurations, or other materials to be delivered by TestFyra under a Statement of Work.

"Force Majeure Event" means an event or circumstance beyond a Party's reasonable control including acts of God, war, terrorism, pandemic, epidemic, governmental action, or industrial action.

"Framework Agreement" means the G-Cloud 15 Framework Agreement reference RM1557.14 between CCS and TestFyra.

"Good Industry Practice" means the exercise of that degree of skill, diligence, prudence, and foresight that would reasonably and ordinarily be expected from a skilled and experienced provider of services similar to the Services.

"Intellectual Property Rights" means patents, trademarks, service marks, trade names, domain names, copyrights, design rights, database rights, rights in know-how, and all other intellectual property rights whether registered or unregistered.

"Order Form" means the document setting out the specific Services to be provided, pricing, duration, and other commercial terms.

"Party" means TestFyra or the Customer and "Parties" means both of them.

"Personal Data" has the meaning given in the Data Protection Legislation.

"Professional Services" means consulting, implementation, configuration, training, and other professional services provided on a time and materials basis.

"Services" means the cloud computing services, software services, professional services, support services, and any other services provided by TestFyra as described in the Service Definition Document and Order Form.

"Service Definition Document" means the document describing the features, functionality, and operation of the Services.

"Service Levels" means the service levels set out in the Service Level Agreement or Service Definition Document.

"Service Level Agreement" or "SLA" means the document setting out the Service Levels and any service credits.

"SFIA" means Skills Framework for the Information Age.

"SFIA Rate Card" means TestFyra's rate card setting out day rates for Professional Services resources at different SFIA levels.

"Statement of Work" or "SOW" means a document setting out the scope, deliverables, timescales, and acceptance criteria for a specific project or engagement.

"Subscription Services" means Services provided on a recurring subscription basis including software-as-a-service and infrastructure-as-a-service.

"Supplier" means TestFyra Ltd, a company incorporated in England and Wales with registered office at 11 Dormer Place, Royal Leamington Spa, CV32 5AA.

"Support Services" means technical support, help desk, and maintenance services as described in the Service Definition Document.

"Term" means the period from the Commencement Date until termination or expiry of the Contract.

"TestFyra" means TestFyra Ltd.

"Third Party Software" means software owned by third parties that is included in or used to provide the Services.

"Working Day" means Monday to Friday excluding bank holidays in England and Wales.

# 1. DEFINITIONS AND INTERPRETATION (continued)

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## 1.2 Interpretation

1.2.1 References to clauses are to clauses of these Terms & Conditions unless otherwise stated.

1.2.2 Headings are for convenience only and do not affect interpretation.

1.2.3 Words importing the singular include the plural and vice versa.

1.2.4 References to "including" or "includes" are not limiting.

1.2.5 References to legislation include any amendment, re-enactment, or consolidation.

1.2.6 References to "writing" or "written" include email.

## 2. SERVICE PROVISION

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### 2.1 Provision of Services

2.1.1 TestFyra shall provide the Services to the Customer in accordance with:

- These Terms & Conditions
- The Order Form
- The Service Definition Document
- Any applicable Statement of Work
- The Service Level Agreement (if applicable)
- The G-Cloud 15 Framework Agreement and Call-Off Contract terms

2.1.2 TestFyra shall use reasonable skill and care in providing the Services and shall perform the Services in accordance with Good Industry Practice.

2.1.3 TestFyra shall perform the Services in a professional and workmanlike manner and in accordance with all applicable laws, regulations, and standards.

2.1.4 TestFyra shall provide the Services using appropriately qualified and experienced personnel with relevant SFIA levels as specified in the Order Form.

2.1.5 TestFyra reserves the right to sub-contract any part of the Services to third parties, provided that TestFyra remains fully responsible for the performance of such sub-contracted services.

2.1.6 TestFyra shall not be liable for any failure or delay in providing the Services to the extent caused by the Customer's failure to perform its obligations under these Terms & Conditions.

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### 2.2 Service Commencement

2.2.1 The Services shall commence on the Commencement Date specified in the Order Form.

2.2.2 TestFyra shall use reasonable endeavours to commence the Services on the Commencement Date, but any delay shall not give the Customer the right to terminate the Contract unless the delay exceeds 30 Business Days through no fault of the Customer.

## 2. SERVICE PROVISION (continued)

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### 2.3 Changes to Services

2.3.1 Either Party may request changes to the Services by submitting a written change request to the other Party.

2.3.2 TestFyra shall assess each change request and provide a written response within 10 Business Days setting out:

- Whether the change is feasible
- The impact on timescales, deliverables, and pricing
- Any other material effects
- A revised timetable (if applicable)

2.3.3 No change shall be effective unless agreed in writing by both Parties.

2.3.4 If the Parties cannot agree on the terms of a change request within 20 Business Days, either Party may escalate to senior management for resolution.

2.3.5 TestFyra may make minor technical changes to the Services without the Customer's prior consent, provided such changes do not materially affect the functionality or performance of the Services.

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### 2.4 Service Levels

2.4.1 Where Service Levels are specified in the Service Level Agreement or Service Definition Document, TestFyra shall use reasonable endeavours to meet those Service Levels.

2.4.2 Service Levels are targets and not guarantees unless explicitly stated as commitments.

2.4.3 Where service credits are specified in the Service Level Agreement, they shall be the Customer's sole and exclusive remedy for failure to meet Service Levels, except in cases of wilful default or gross negligence by TestFyra.

2.4.4 Service credits shall be calculated and applied in accordance with the Service Level Agreement.

2.4.5 TestFyra shall not be liable for any failure to meet Service Levels to the extent caused by:

- Force Majeure Events
- Customer's breach of these Terms & Conditions
- Failure of Customer's systems, networks, or infrastructure
- Scheduled maintenance (with reasonable advance notice)
- Emergency maintenance required for security or system integrity

## 3. CUSTOMER OBLIGATIONS

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### 3.1 General Obligations

#### 3.1.1 The Customer shall:

- Provide TestFyra with all information, documentation, and access reasonably required to provide the Services
- Respond promptly to any TestFyra requests for decisions, approvals, or information
- Ensure that all information provided to TestFyra is accurate, complete, and current
- Comply with all applicable laws and regulations in its use of the Services
- Use the Services only for lawful purposes
- Not use the Services in any way that could damage, disable, overburden, or impair TestFyra's systems or networks
- Maintain appropriate backup of Customer Data

3.1.2 The Customer shall appoint a single point of contact who shall have authority to act on behalf of the Customer and shall be responsible for liaison with TestFyra.

3.1.3 Where the Customer is required to provide equipment, facilities, or personnel, the Customer shall ensure these are provided in a timely manner and are fit for purpose.

3.1.4 The Customer shall provide TestFyra with remote and/or on-site access to its systems and facilities as reasonably required for TestFyra to provide the Services, subject to compliance with the Customer's security policies.

### 3.2 Authorised Users

3.2.1 The Customer shall ensure that only Authorised Users access and use the Services.

#### 3.2.2 The Customer is responsible for:

- Maintaining the confidentiality of passwords and other access credentials
- Ensuring each Authorised User has unique login credentials
- Promptly notifying TestFyra of any unauthorised access or security breach
- Immediately disabling access for any person who ceases to be an Authorised User

## 3. CUSTOMER OBLIGATIONS (continued)

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### 3.2 Authorised Users

3.2.3 The Customer shall ensure that all Authorised Users comply with these Terms & Conditions.

3.2.4 The Customer is responsible for all acts and omissions of Authorised Users as if they were acts and omissions of the Customer.

### 3.3 Acceptable Use

3.3.1 The Customer shall not, and shall ensure that Authorised Users do not:

- Use the Services to store, transmit, or process any unlawful, offensive, threatening, libellous, defamatory, pornographic, or obscene material
- Use the Services in any way that infringes third party Intellectual Property Rights
- Attempt to gain unauthorised access to TestFyra's systems, networks, or other customers' data
- Transmit any viruses, malware, trojans, worms, or other harmful code
- Use the Services to send unsolicited communications (spam)
- Use the Services for cryptocurrency mining or similar resource-intensive activities not related to the Services' intended purpose
- Reverse engineer, decompile, or disassemble any software provided as part of the Services (except where permitted by law)
- Remove or modify any proprietary notices or labels
- Use the Services in any way that violates applicable export control or sanctions laws

3.3.2 TestFyra reserves the right to suspend the Services immediately without liability if the Customer breaches clause 3.3.1, provided that TestFyra shall give the Customer written notice of the suspension and the reasons for it as soon as reasonably practicable.

3.3.3 TestFyra shall restore the Services once the breach has been remedied to TestFyra's reasonable satisfaction.

## 4. PRICING AND PAYMENT

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### 4.1 Pricing

4.1.1 The Customer shall pay the Charges specified in the Order Form and Pricing Document.

4.1.2 All Charges are stated exclusive of Value Added Tax (VAT), which shall be added at the prevailing rate where applicable.

4.1.3 TestFyra may increase Charges on renewal of the Contract by giving the Customer not less than 90 days' written notice, provided that any increase shall not exceed the percentage increase in the Consumer Price Index (CPI) over the preceding 12-month period.

4.1.4 TestFyra may offer temporary price reductions or discounts at its discretion. Permanent price reductions may be made at any time during the Framework period.

4.1.5 TestFyra shall not increase Charges during the initial Term except as permitted by clause 4.1.3 or in the case of changes to the Services agreed under clause 2.3.

4.1.6 Charges do not include expenses unless expressly stated in the Order Form. Reasonable expenses (travel, accommodation, subsistence) may be charged at cost subject to the Customer's prior approval and in accordance with the Customer's expense policies where applicable.

### 4.2 Payment Terms

4.2.1 TestFyra shall invoice the Customer:

- Monthly in arrears for Subscription Services and time and materials Professional Services
- In accordance with payment milestones for fixed-price projects as set out in the Statement of Work
- Monthly in advance for retainer-based services
- As otherwise specified in the Order Form

4.2.2 The Customer shall pay all invoices within 30 days of the invoice date unless otherwise agreed in writing.

4.2.3 Payment shall be made by BACS transfer to the bank account specified on the invoice or by such other method as agreed in writing.

## 4. PRICING AND PAYMENT (continued)

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### 4.2 Payment Terms

4.2.4 If the Customer fails to pay any amount due by the due date:

- TestFyra may charge interest on the overdue amount at the rate of 4% per annum above the Bank of England base rate from time to time in force, accruing daily from the due date until payment is received
- TestFyra may suspend the Services (without liability) upon giving 10 Business Days' written notice, until payment is received
- TestFyra may terminate the Contract in accordance with clause 12.2

4.2.5 All amounts due shall be paid in full without any set-off, counterclaim, deduction, or withholding (except as required by law).

4.2.6 If required by law, the Customer may withhold tax from payments and shall provide TestFyra with an official tax certificate or other evidence of tax payment.

### 4.3 Disputed Invoices

4.3.1 If the Customer disputes any invoice in good faith, the Customer must notify TestFyra in writing within 10 Business Days of the invoice date, providing reasonable detail of the dispute and supporting evidence.

4.3.2 The Parties shall use reasonable endeavours to resolve any disputed amounts within 20 Business Days.

4.3.3 The Customer shall pay any undisputed amounts in accordance with clause 4.2.

4.3.4 Upon resolution of a dispute, the Customer shall pay any amounts found to be due within 5 Business Days.

### 4.4 CCS Management Charge

4.4.1 The Customer acknowledges that CCS charges TestFyra a management charge of 0.75% of all charges (excluding VAT) invoiced under the Framework Agreement.

4.4.2 The Charges payable by the Customer do not include the CCS management charge, which is payable by TestFyra directly to CCS.

## 5. INTELLECTUAL PROPERTY RIGHTS

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### 5.1 Background IPR

5.1.1 Each Party retains all rights, title, and interest in its Background IPR.

5.1.2 Each Party grants the other Party a non-exclusive, royalty-free, non-transferable licence to use its Background IPR to the extent necessary to perform its obligations and exercise its rights under the Contract.

5.1.3 Except as expressly provided in these Terms & Conditions, neither Party acquires any right, title, or interest in the other Party's Background IPR.

### 5.2 Deliverables and Foreground IPR

5.2.1 Unless otherwise specified in a Statement of Work, all Intellectual Property Rights in Deliverables created specifically for the Customer ("Foreground IPR") shall vest in the Customer upon:

- Full payment of the applicable Charges, and
- Acceptance of the Deliverables (where applicable)

5.2.2 Until Foreground IPR vests in the Customer under clause 5.2.1, TestFyra grants the Customer a non-exclusive, royalty-free licence to use the Deliverables for the Customer's internal business purposes.

5.2.3 Notwithstanding clause 5.2.1, TestFyra retains ownership of:

- Any modifications, enhancements, or derivatives of TestFyra's Background IPR
- Any tools, methodologies, templates, frameworks, or utilities used to deliver the Services
- Any generic knowledge, techniques, concepts, or experience gained during the provision of the Services
- Any pre-existing materials incorporated into the Deliverables

5.2.4 Where Foreground IPR vests in the Customer, TestFyra retains a perpetual, irrevocable, royalty-free, non-exclusive licence to use such Foreground IPR for its own internal purposes including providing services to other customers.

## 5. INTELLECTUAL PROPERTY RIGHTS (continued)

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### 5.3 TestFyra Platforms and Software

5.3.1 TestFyra retains all Intellectual Property Rights in its platforms, software, tools, and methodologies including but not limited to:

- TestFyra Accelerator platform
- UEX (User Experience) framework
- Log management frameworks
- Test automation frameworks
- Any proprietary software, tools, or platforms

5.3.2 TestFyra grants the Customer a non-exclusive, non-transferable licence to use TestFyra's platforms and software during the Term solely for the Customer's internal business purposes in accordance with any applicable usage restrictions specified in the Service Definition Document or Order Form.

5.3.3 The Customer shall not:

- Sublicense, assign, or transfer the licence granted under clause 5.3.2
- Reverse engineer, decompile, or disassemble any TestFyra software (except where expressly permitted by law)
- Remove or modify any proprietary notices, labels, or trademarks
- Use TestFyra's platforms or software to provide services to third parties

5.3.4 Upon termination or expiry of the Contract, the licence granted under clause 5.3.2 shall immediately terminate and the Customer shall cease all use of TestFyra's platforms and software.

### 5.4 Third Party Software

5.4.1 Third Party Software is licensed directly by the third party owner to the Customer in accordance with the applicable third party licence terms.

5.4.2 TestFyra makes no representations or warranties regarding Third Party Software except as expressly provided by the third party licensor.

5.4.3 The Customer is responsible for compliance with all Third Party Software licence terms.

5.4.4 TestFyra shall identify any Third Party Software included in or used to provide the Services.

## 5. INTELLECTUAL PROPERTY RIGHTS (continued)

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### 5.5 Open Source Software

5.5.1 Where Open Source Software is used in the provision of Services or incorporated into Deliverables, TestFyra shall identify such Open Source Software and the applicable licence terms.

5.5.2 The Customer's use of Open Source Software is subject to the applicable open source licence terms.

5.5.3 TestFyra shall not incorporate any Open Source Software into Deliverables that would require the Deliverables to be licensed under an open source licence, without the Customer's prior written consent.

### 5.6 Intellectual Property Indemnity

5.6.1 TestFyra shall indemnify and hold harmless the Customer against any losses, damages, costs, and expenses (including reasonable legal fees) incurred by the Customer arising from any claim that the Customer's use of the Services in accordance with these Terms & Conditions infringes the Intellectual Property Rights of a third party, provided that:

- The Customer promptly notifies TestFyra in writing of the claim
- The Customer gives TestFyra sole control of the defence and settlement of the claim
- The Customer provides reasonable assistance to TestFyra in the defence of the claim (at TestFyra's cost)
- The Customer does not make any admission or settlement without TestFyra's prior written consent

5.6.2 The indemnity in clause 5.6.1 shall not apply to the extent that the claim arises from:

- Modification of the Services by anyone other than TestFyra or its authorised agents
- Use of the Services in combination with equipment, software, or services not provided or approved by TestFyra
- Use of the Services in a manner not in accordance with these Terms & Conditions or the documentation
- Customer Data or materials provided by the Customer

## 5. INTELLECTUAL PROPERTY RIGHTS (continued)

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### 5.6 Intellectual Property Indemnity

5.6.3 If any claim is made or TestFyra reasonably believes a claim may be made, TestFyra may at its option and expense:

- Obtain the right for the Customer to continue using the Services
- Modify the Services to make them non-infringing
- Replace the Services with non-infringing alternatives
- If none of the above options are reasonably available, terminate the relevant Services and refund any Charges paid in advance for the terminated Services

5.6.4 This clause 5.6 states TestFyra's entire liability and the Customer's sole remedy for infringement of third party Intellectual Property Rights.

## 6. DATA PROTECTION AND CONFIDENTIALITY

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### 6.1 Data Protection

6.1.1 Both Parties shall comply with all applicable Data Protection Legislation.

6.1.2 The Parties acknowledge that for the purposes of Data Protection Legislation:

- The Customer is the data controller
- TestFyra is the data processor (where TestFyra processes Personal Data on the Customer's behalf)

6.1.3 TestFyra shall only process Personal Data:

- On documented instructions from the Customer
- As necessary to provide the Services
- As required by applicable law

6.1.4 TestFyra shall:

- Implement appropriate technical and organisational measures to protect Personal Data
- Ensure that personnel processing Personal Data are bound by confidentiality obligations
- Assist the Customer in responding to data subject requests
- Notify the Customer without undue delay upon becoming aware of a personal data breach
- Make available to the Customer information necessary to demonstrate compliance with Data Protection Legislation
- Delete or return all Personal Data to the Customer upon termination (unless required by law to retain it)

6.1.5 TestFyra shall not transfer Personal Data outside the United Kingdom without the Customer's prior written consent and appropriate safeguards in accordance with Data Protection Legislation.

6.1.6 TestFyra may appoint sub-processors to process Personal Data provided that:

- TestFyra obtains the Customer's general consent (which the Customer provides by entering into this Contract)
- TestFyra notifies the Customer of any intended changes to sub-processors, giving the Customer the opportunity to object
- TestFyra imposes data protection obligations on sub-processors that are equivalent to those in this clause 6.1

6.1.7 TestFyra shall maintain records of its processing activities as required by Data Protection Legislation.

## 6. DATA PROTECTION AND CONFIDENTIALITY (continued)

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### 6.2 Confidentiality

#### 6.2.1 Each Party shall:

- Keep confidential all Confidential Information received from the other Party
- Not disclose Confidential Information to any third party without the disclosing Party's prior written consent
- Only use Confidential Information for the purposes of performing its obligations or exercising its rights under the Contract
- Protect Confidential Information using the same degree of care as it uses to protect its own confidential information (but in no event less than a reasonable degree of care)

#### 6.2.2 A Party may disclose Confidential Information:

- To its employees, officers, directors, advisers, and sub-contractors who need to know it for the purposes of the Contract, provided they are bound by equivalent confidentiality obligations
- As required by law, regulation, or court order, provided the disclosing Party gives the other Party reasonable advance notice where legally permitted

#### 6.2.3 Confidential Information does not include information that:

- Is or becomes publicly available through no fault of the receiving Party
- Was in the receiving Party's possession before receipt from the disclosing Party
- Is independently developed by the receiving Party without reference to the Confidential Information
- Is lawfully obtained from a third party without confidentiality restrictions

#### 6.2.4 The obligations in this clause 6.2 shall survive termination or expiry of the Contract for a period of 5 years.

#### 6.2.5 The Customer acknowledges that TestFyra may publicise the existence of the Contract and use the Customer's name and logo for marketing purposes, unless the Customer notifies TestFyra in writing otherwise.

## 6. DATA PROTECTION AND CONFIDENTIALITY (continued)

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### 6.3 Security

6.3.1 TestFyra shall implement and maintain appropriate technical and organisational security measures to protect the Services and Customer Data against unauthorised access, loss, destruction, alteration, or disclosure.

6.3.2 TestFyra's security measures shall include as appropriate:

- Encryption of data in transit and at rest
- Access controls and authentication mechanisms
- Regular security testing and vulnerability assessments
- Security monitoring and incident detection
- Physical security controls for data centres and facilities
- Security awareness training for personnel
- Business continuity and disaster recovery procedures

6.3.3 TestFyra shall maintain security certifications as specified in the Service Definition Document.

6.3.4 TestFyra shall notify the Customer without undue delay upon becoming aware of any security incident that affects the Services or Customer Data.

6.3.5 TestFyra shall provide the Customer with reasonable assistance in investigating and resolving security incidents.

## 7. WARRANTIES AND REPRESENTATIONS

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### 7.1 TestFyra Warranties

#### 7.1.1 TestFyra warrants that:

- It has the right, power, and authority to enter into and perform its obligations under the Contract
- The Services will be provided with reasonable skill and care
- The Services will conform in all material respects to the Service Definition Document
- The Services will comply with all applicable laws and regulations
- It shall not knowingly introduce any viruses, malware, or other harmful code into the Customer's systems
- It has obtained and will maintain all necessary licences, consents, and permissions to provide the Services

#### 7.1.2 TestFyra does not warrant that:

- The Services will be uninterrupted or error-free
- The Services will meet the Customer's specific requirements (unless agreed in a Statement of Work)
- All errors or defects will be corrected

7.1.3 The warranties in clause 7.1.1 are subject to the Customer's compliance with its obligations under these Terms & Conditions and use of the Services in accordance with the documentation.

### 7.2 Customer Warranties

#### 7.2.1 The Customer warrants that:

- It has the right, power, and authority to enter into and perform its obligations under the Contract
- Customer Data does not and will not infringe any third party Intellectual Property Rights
- Customer Data does not and will not contain any unlawful, offensive, or harmful content
- It shall comply with all applicable laws and regulations in its use of the Services
- All information provided to TestFyra is accurate, complete, and current

## 7. WARRANTIES AND REPRESENTATIONS (continued)

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### 7.3 Warranty Remedies

7.3.1 If the Customer notifies TestFyra in writing during the Term that the Services do not conform to the warranties in clause 7.1.1, TestFyra shall at its option and expense:

- Re-perform the non-conforming Services
- Refund the Charges paid for the non-conforming Services

7.3.2 The remedies in clause 7.3.1 are the Customer's sole remedies for breach of the warranties in clause 7.1.

### 7.4 Disclaimer

7.4.1 EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS & CONDITIONS, ALL WARRANTIES, CONDITIONS, AND TERMS (WHETHER EXPRESS OR IMPLIED BY STATUTE, COMMON LAW, OR OTHERWISE) ARE EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

7.4.2 TestFyra does not warrant that the Services will meet the Customer's requirements or expectations unless specifically agreed in writing.

## 8. LIMITATIONS OF LIABILITY

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### 8.1 Excluded Losses

8.1.1 Subject to clause 8.3, neither Party shall be liable under or in connection with the Contract for:

- Loss of profits, revenue, or business
- Loss of anticipated savings
- Loss of business opportunity, goodwill, or reputation
- Loss or corruption of data
- Any indirect, consequential, or special losses

8.1.2 The exclusions in clause 8.1.1 shall apply whether such losses are foreseeable, known, foreseen, or otherwise.

### 8.2 Liability Caps

8.2.1 Subject to clauses 8.3 and 8.4, TestFyra's total aggregate liability under or in connection with the Contract (whether in contract, tort including negligence, breach of statutory duty, or otherwise) shall not exceed:

- For Subscription Services: an amount equal to the Charges paid or payable in the 12-month period immediately preceding the event giving rise to the claim
- For Professional Services and fixed-price projects: an amount equal to 100% of the Charges paid or payable under the relevant Order Form or Statement of Work
- For all Services combined: £1,000,000

8.2.2 The liability cap in clause 8.2.1 shall apply in respect of all claims arising from the same series of related events or circumstances as a single claim.

## 8. LIMITATIONS OF LIABILITY (continued)

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### 8.3 Exceptions

8.3.1 Nothing in these Terms & Conditions shall limit or exclude either Party's liability for:

- Death or personal injury caused by its negligence
- Fraud or fraudulent misrepresentation
- Breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982
- Wilful default or gross negligence
- Breach of confidentiality under clause 6.2
- Breach of data protection obligations under clause 6.1
- Indemnity obligations under clause 5.6
- Any other liability that cannot be limited or excluded by law

### 8.4 Reasonable and Proportionate Allocation of Risk

8.4.1 The limitations and exclusions of liability in this clause 8:

- Are reasonable and proportionate given the nature of the Services and the Charges payable
- Represent an agreed allocation of risk between the Parties
- Were taken into account by both Parties in agreeing the Charges
- Shall apply to the fullest extent permitted by law

8.4.2 The Customer acknowledges that:

- The Charges reflect the limitations of liability in this clause 8
- TestFyra would not have entered into the Contract without these limitations
- The Customer has had the opportunity to purchase additional insurance to cover risks not covered by these limitations

## 8. LIMITATIONS OF LIABILITY (continued)

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### 8.5 Mitigation

8.5.1 Each Party shall take all reasonable steps to mitigate any loss or damage it may suffer as a result of the other Party's breach of the Contract.

## 9. INSURANCE

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### 9.1 Insurance Requirements

9.1.1 TestFyra shall maintain in force throughout the Term, with reputable insurance companies, the following insurance policies:

- Professional indemnity insurance: minimum £5,000,000 per claim
- Public liability insurance: minimum £5,000,000 per claim
- Employer's liability insurance: minimum £10,000,000 per claim (as required by law)

9.1.2 TestFyra shall provide certificates of insurance to the Customer upon request.

9.1.3 TestFyra shall notify the Customer immediately if any insurance policy is (or will be) cancelled, terminated, or materially altered.

9.1.4 The maintenance of insurance does not limit TestFyra's liability under the Contract.

## 10. BACKUP, DISASTER RECOVERY, AND BUSINESS CONTINUITY

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### 10.1 Backup and Disaster Recovery

10.1.1 TestFyra shall implement and maintain backup and disaster recovery procedures appropriate to the nature of the Services as described in the Service Definition Document.

10.1.2 The Customer is responsible for maintaining its own backups of Customer Data unless TestFyra has specifically agreed to provide backup services in the Service Definition Document or Statement of Work.

10.1.3 TestFyra shall use reasonable endeavours to maintain the availability of the Services in accordance with the Service Levels, but does not guarantee that the Services will be available at all times.

10.1.4 TestFyra shall perform regular backups of hosted data and systems as specified in the Service Definition Document.

### 10.2 Business Continuity

10.2.1 TestFyra shall maintain business continuity and disaster recovery plans appropriate to the Services.

10.2.2 TestFyra shall test its business continuity and disaster recovery plans at least annually.

10.2.3 TestFyra shall provide the Customer with a summary of its business continuity arrangements upon request.

## 11. TERM AND RENEWAL

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### 11.1 Term

11.1.1 The Contract shall commence on the Commencement Date and continue for the initial period specified in the Order Form ("Initial Term"), unless terminated earlier in accordance with these Terms & Conditions.

11.1.2 The maximum Initial Term for any Call-Off Contract is 36 months (3 years).

### 11.2 Renewal

11.2.1 Upon expiry of the Initial Term, the Contract shall automatically renew for successive renewal periods of 12 months unless:

- Either Party gives the other Party at least 90 days' written notice before the end of the then-current term
- The Contract is terminated in accordance with clause 12

11.2.2 The maximum total duration of any Call-Off Contract (including the Initial Term and any renewal periods) is 48 months (4 years).

11.2.3 TestFyra may increase Charges on renewal in accordance with clause 4.1.3.

## 12. TERMINATION

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### 12.1 Termination for Convenience

12.1.1 The Customer may terminate the Contract for convenience by giving TestFyra not less than 90 days' written notice.

12.1.2 Upon termination under clause 12.1.1:

- The Customer shall pay all Charges for Services provided up to the termination date
- The Customer shall pay any cancellation charges specified in the Order Form (if applicable)
- TestFyra shall refund any Charges paid in advance for Services not yet provided (on a pro-rata basis)

### 12.2 Termination for Material Breach

12.2.1 Either Party may terminate the Contract immediately by written notice if:

- The other Party commits a material breach of the Contract and fails to remedy such breach within 30 days of receiving written notice specifying the breach
- The other Party commits a material breach that cannot be remedied

12.2.2 The following shall constitute material breaches:

- Failure to pay Charges when due (provided TestFyra has given the Customer 10 Business Days' notice)
- Breach of confidentiality obligations
- Breach of data protection obligations
- Breach of Intellectual Property Rights
- Breach of acceptable use provisions
- Material breach of security obligations

12.2.3 Upon termination under clause 12.2.1:

- The terminating Party may claim damages for losses caused by the breach
- The non-breaching Party's rights and remedies are preserved

## 12. TERMINATION (continued)

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### 12.3 Termination for Insolvency

12.3.1 Either Party may terminate the Contract immediately by written notice if the other Party:

Suspends or threatens to suspend payment of its debts

Is unable to pay its debts as they fall due

Admits inability to pay its debts

Commences negotiations with creditors for a debt rescheduling or restructuring

Has a petition filed, notice given, resolution passed, or order made for its winding up, administration, receivership, or dissolution

Has an administrator, receiver, manager, or similar officer appointed

Has any event analogous to those listed above occurring in any jurisdiction

12.3.2 Upon termination under clause 12.3.1, all Charges shall become immediately due and payable.

### 12.4 Termination Rights Reserved

12.4.1 Termination of the Contract shall not affect:

- Any accrued rights or liabilities of either Party
- The coming into force or continuance in force of any provision of these Terms & Conditions that is expressly or by implication intended to come into or continue in force on or after termination.

## 13. CONSEQUENCES OF TERMINATION

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### 13.1 Return of Materials

13.1.1 Upon termination or expiry of the Contract for any reason:

- Each Party shall promptly return or destroy (at the disclosing Party's option) all Confidential Information of the other Party in its possession or control
- Each Party shall certify in writing that it has complied with this obligation

13.1.2 Either Party may retain Confidential Information:

- To the extent required by law or regulation
- As necessary to defend potential legal claims
- In backup systems for a period not exceeding 90 days (provided such information is subject to continued confidentiality obligations)

### 13.2 Data Extraction

13.2.1 TestFyra shall provide the Customer with reasonable assistance in extracting Customer Data from the Services during a period of 30 days following termination or expiry ("Extraction Period").

13.2.2 TestFyra may charge for data extraction assistance at the rates specified in the SFIA Rate Card or as otherwise agreed.

13.2.3 The Customer shall export and download all Customer Data before the end of the Extraction Period.

13.2.4 After the end of the Extraction Period, TestFyra may delete or destroy all Customer Data in accordance with its standard data retention policies, unless required by law to retain it.

13.2.5 TestFyra shall provide Customer Data in a commonly used, machine-readable format.

### 13.3 Off-boarding

13.3.1 Upon termination or expiry, TestFyra shall provide reasonable off-boarding assistance as specified in the Service Definition Document.

13.3.2 TestFyra may charge for off-boarding assistance beyond that specified in the Service Definition Document at the rates specified in the SFIA Rate Card.

13.3.3 The Customer shall cooperate with TestFyra's off-boarding procedures.

## 13. CONSEQUENCES OF TERMINATION (continued)

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### 13.4 Final Payment

#### 13.4.1 Upon termination or expiry:

- TestFyra shall submit a final invoice for all Services provided up to the termination or expiry date
- The Customer shall pay all outstanding Charges within 30 days
- TestFyra shall refund any Charges paid in advance for Services not provided (on a pro-rata basis)

### 13.5 Survival

13.2.1 TestFyra shall provide the Customer with reasonable assistance in extracting Customer Data from the Services during a period of 30 days following termination or expiry ("Extraction Period").

13.2.2 TestFyra may charge for data extraction assistance at the rates specified in the SFIA Rate Card or as otherwise agreed.

13.5.1 The following clauses shall survive termination or expiry of the Contract:

- Clause 1 (Definitions and Interpretation)
- Clause 4 (Pricing and Payment) – to the extent of any outstanding payments
- Clause 5 (Intellectual Property Rights)
- Clause 6 (Data Protection and Confidentiality)
- Clause 8 (Limitations of Liability)
- Clause 13 (Consequences of Termination)
- Clause 15 (Dispute Resolution)
- Clause 16 (General Provisions)

13.2.3 The Customer shall export and download all Customer Data before the end of the Extraction Period.

13.2.4 After the end of the Extraction Period, TestFyra may delete or destroy all Customer Data in accordance with its standard data retention policies, unless required by law to retain it.

13.2.5 TestFyra shall provide Customer Data in a commonly used, machine-readable format.

## 14. FORCE MAJEURE

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### 14.1 Force Majeure Relief

14.1.1 Neither Party shall be liable for any failure or delay in performing its obligations under the Contract (other than payment obligations) to the extent that such failure or delay is caused by a Force Majeure Event.

14.1.2 A Party claiming relief under this clause 14 shall:

- Promptly notify the other Party in writing of the Force Majeure Event and its expected duration
- Use reasonable endeavours to mitigate the effects of the Force Majeure Event
- Resume performance as soon as reasonably practicable after the Force Majeure Event ceases

14.1.3 If a Force Majeure Event continues for more than 60 days, either Party may terminate the Contract by giving 10 days' written notice to the other Party.

14.1.4 Termination under clause 14.1.3 shall be without liability to either Party (except for any Charges owing for Services provided before the Force Majeure Event).

## 15. DISPUTE RESOLUTION

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### 15.1 Escalation

15.1.1 If a dispute arises under or in connection with the Contract, the Parties shall first attempt to resolve it through good faith negotiations between their operational managers.

15.1.2 If the dispute is not resolved within 10 Business Days, either Party may escalate the dispute to senior management level.

15.1.3 Senior representatives of both Parties shall meet (in person or virtually) within 10 Business Days of escalation to attempt to resolve the dispute.

### 15.2 Mediation

15.2.1 If the dispute is not resolved through escalation within 20 Business Days, either Party may refer the dispute to mediation under the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.

15.2.2 Unless otherwise agreed, the mediator shall be nominated by CEDR.

15.2.3 The costs of mediation shall be shared equally between the Parties.

15.2.4 Neither Party shall commence court proceedings until it has attempted to settle the dispute through mediation and either:

- The mediation has terminated, or
- The other Party has failed to participate in the mediation

15.2.5 The obligations in clause 15.2.4 shall not prevent either Party from seeking urgent injunctive relief or enforcing a judgment.

### 15.3 Continued Performance

15.3.1 The Parties shall continue to perform their obligations under the Contract during any dispute resolution process, except to the extent that such obligations are the subject of the dispute.

## 16. GENERAL PROVISIONS

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### 16.1 Entire Agreement

16.1.1 The Contract constitutes the entire agreement between the Parties and supersedes all prior agreements, understandings, negotiations, and discussions (whether written or oral) relating to its subject matter.

16.1.2 Each Party acknowledges that it has not relied on any statement, representation, assurance, or warranty not expressly set out in the Contract.

16.1.3 Nothing in this clause 16.1 shall limit or exclude liability for fraud or fraudulent misrepresentation.

### 16.2 Variation

16.2.1 No variation of the Contract shall be valid unless it is in writing and signed by or on behalf of both Parties.

16.2.2 TestFyra may update or amend these Terms & Conditions from time to time by giving the Customer not less than 90 days' written notice. The updated Terms & Conditions shall apply to any renewal of the Contract.

16.2.3 If the Customer does not agree to the updated Terms & Conditions, the Customer may terminate the Contract by giving written notice to TestFyra before the updated Terms & Conditions take effect.

### 16.3 Waiver

16.3.1 A waiver of any right under the Contract is only effective if it is in writing and applies only to the circumstances for which it is given.

16.3.2 A failure or delay by a Party to exercise any right or remedy shall not constitute a waiver of that right or remedy or prevent its future exercise.

16.3.3 No single or partial exercise of a right or remedy shall prevent its further exercise or the exercise of any other right or remedy.

## 16. GENERAL PROVISIONS (continued)

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### 16.4 Severance

16.4.1 If any provision of the Contract is held to be invalid, illegal, or unenforceable, that provision shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable.

16.4.2 If such modification is not possible, the provision shall be deemed deleted.

16.4.3 Any modification or deletion shall not affect the validity, legality, and enforceability of the rest of the Contract.

### 16.5 Assignment and Sub-contracting

16.5.1 The Customer may not assign, transfer, charge, or deal in any other manner with any of its rights or obligations under the Contract without TestFyra's prior written consent.

16.5.2 TestFyra may assign or transfer its rights and obligations under the Contract:

- To any member of its group of companies
- In connection with a merger, acquisition, or sale of all or substantially all of its business or assets
- With the Customer's prior written consent (not to be unreasonably withheld or delayed)

16.5.3 TestFyra may sub-contract any of its obligations under the Contract, provided that TestFyra remains fully responsible for the performance of such sub-contracted obligations.

16.5.4 Any purported assignment or transfer in breach of this clause 16.5 shall be void.

### 16.6 Third Party Rights

16.6.1 The Contract does not confer any rights on any third party under the Contracts (Rights of Third Parties) Act 1999.

16.6.2 The rights of the Parties to terminate, rescind, or agree any variation, waiver, or settlement under the Contract are not subject to the consent of any third party.

## 16. GENERAL PROVISIONS (continued)

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### 16.7 Notices

16.7.1 Any notice required to be given under the Contract shall be in writing and sent to the address specified in the Order Form or as otherwise notified by the receiving Party.

16.7.2 Notices may be given by:

- Personal delivery
- Pre-paid first-class post or recorded delivery
- Email (to the email address specified for notices)

16.7.3 A notice shall be deemed to have been received:

- If delivered personally: on delivery
- If sent by post: 2 Business Days after posting
- If sent by email: when sent (provided no delivery failure notification is received)

16.7.4 For the purposes of clause 16.7.3, if deemed receipt occurs outside business hours (9am to 5pm Monday to Friday), the notice shall be deemed to have been received at 9am on the next Business Day.

16.7.5 A Party may notify the other Party of a change of address for notices, which shall take effect 5 Business Days after the notice is given.

### 16.8 Governing Law

16.8.1 The Contract and any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

### 16.9 Jurisdiction

16.9.1 Subject to clause 15 (Dispute Resolution), the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter (including non-contractual disputes or claims).

## 16. GENERAL PROVISIONS (continued)

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### 16.10 Counterparts

16.10.1 The Contract may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

16.10.2 Electronic signatures (including scanned signatures) shall be as valid and binding as original signatures.

### 16.11 Relationship of Parties

16.11.1 Nothing in the Contract shall create, or be deemed to create, a partnership, joint venture, agency, or employment relationship between the Parties.

16.11.2 Neither Party has authority to bind the other Party or to contract in the name of or create a liability against the other Party.

16.11.3 Each Party shall be responsible for its own employees, agents, and contractors and for their compliance with these Terms & Conditions.

### 16.12 Compliance with Laws

16.12.1 Each Party shall comply with all applicable laws and regulations in the performance of its obligations under the Contract.

16.12.2 Each Party shall comply with all applicable anti-bribery and anti-corruption laws and regulations including the Bribery Act 2010.

16.12.3 Each Party represents and warrants that neither it nor any of its officers, employees, or agents have:

- Offered, promised, given, authorised, or accepted any undue financial or other advantage in connection with the Contract
- Committed any offence under the Bribery Act 2010

16.12.4 Breach of clause 16.12.2 or 16.12.3 shall be deemed a material breach entitling the innocent Party to terminate the Contract immediately.

## 16. GENERAL PROVISIONS (continued)

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### 16.13 Modern Slavery

16.13.1 TestFyra represents and warrants that:

- It complies with the Modern Slavery Act 2015 and all applicable anti-slavery and human trafficking laws and regulations
- It has not been convicted of any offence involving slavery or human trafficking
- It conducts appropriate due diligence on its supply chain to ensure compliance with anti-slavery laws

16.13.2 TestFyra shall notify the Customer immediately if it becomes aware of any actual or suspected slavery or human trafficking in its supply chain.

### 16.14 Environmental and Social Value

16.14.1 TestFyra shall deliver the Services in a manner that:

- Minimises environmental impact where reasonably practicable
- Supports social value objectives where reasonably practicable
- Complies with the Customer's environmental and social value policies (where notified to TestFyra)

16.14.2 TestFyra shall provide information on its environmental and sustainability practices upon the Customer's reasonable request.

### 16.15 Publicity and Marketing

16.15.1 TestFyra may:

- Publicly announce the existence of the Contract
- Include the Customer's name and logo in its marketing materials and customer lists
- Publish a case study describing the Services provided (subject to Customer approval of the content)

16.15.2 The Customer may object to any of the activities in clause 16.15.1 by notifying TestFyra in writing, and TestFyra shall comply with such objection.

16.15.3 Neither Party shall issue any press release or public statement about the Contract without the other Party's prior written approval (not to be unreasonably withheld or delayed).

## 17. CONTACT INFORMATION

### Registered Office:

11 Dormer Place  
Royal Leamington Spa  
CV32 5AA  
United Kingdom

### General Enquiries:

Email: [contact@testfyra.com](mailto:contact@testfyra.com)  
Phone: +44 7814 154655  
Website: [www.testfyra.com](http://www.testfyra.com)

### Sales & Commercial:

Email: [customer@testfyra.com](mailto:customer@testfyra.com),  
[gurjit.badesha@testfyra.com](mailto:gurjit.badesha@testfyra.com)

### Company Details:

Company Registration number – 08586825  
VAT number - 165527005

## 18. INTERPRETATION NOTE

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These Terms & Conditions are designed to apply to all five TestFyra G-Cloud 15 services while recognising that each service has unique characteristics. Where specific service-level terms are required, these shall be set out in the Service Definition Document or Statement of Work for that service.

The headings in these Terms & Conditions are included for convenience only and shall not affect their interpretation or construction.

# SCHEDULE: SERVICE-SPECIFIC PROVISIONS

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While these Terms & Conditions apply to all services, the following service-specific considerations should be noted:

## Service 1: Telecommunications Testing & QA Services

- Test environments and access requirements specified in Statement of Work
- Acceptance criteria for test deliverables defined per project
- TestFyra Accelerator and UEX platform licensing terms in Service Definition

## Service 2: Infrastructure Monitoring & Management Services

- Network access and SNMP requirements specified in Order Form
- Monitoring tool configurations and alert thresholds in Service Definition
- Service Level Agreements with specific availability targets

## Service 3: Software & AI Engineering Development Services

- Development environment and tool requirements in Statement of Work
- Acceptance criteria for software deliverables clearly defined
- Source code and documentation delivery formats specified

## Service 4: Technical Support & Managed Services

- Support hours and response time SLAs in Service Definition
- Escalation procedures and contact details in Service Level Agreement
- Ticket management and reporting procedures defined

## Service 5: Custom Framework Development & Automation Services

- Development milestones and acceptance gates in Statement of Work
- Framework deployment and handover procedures specified
- Post-deployment support terms in Order Form

## END OF TERMS & CONDITIONS

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**IMPORTANT:** These Terms & Conditions cannot be changed while the G-Cloud 15 framework is live. Any amendments will only apply to new contracts entered into after the amendment date.

**CUSTOMER ACKNOWLEDGEMENT:** By entering into a Call-Off Contract for any TestFyra service under the G-Cloud 15 framework, the Customer acknowledges that it has read, understood, and agrees to be bound by these Terms & Conditions.

**COMPLIANCE STATEMENT:**

These Terms & Conditions have been prepared to comply with:

- G-Cloud 15 Framework Agreement
- CCS Call-Off Contract requirements
- UK GDPR and Data Protection Act 2018
- Modern Slavery Act 2015
- Bribery Act 2010
- Contracts (Rights of Third Parties) Act 1999
- All applicable UK laws and regulations

Legal Review Recommended: TestFyra strongly recommends that these Terms & Conditions be reviewed by qualified legal counsel before submission to the G-Cloud 15 framework, as they cannot be modified once the framework is live.