



SuperPenguin

Digital Speech, Language and Communication Needs Platform

Terms and Conditions

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1 | INTRODUCTION AND INTERPRETATION

1.1 About These Terms

- 1.1.1 These Terms and Conditions ("Terms") govern the provision of the SuperPenguin service ("Service") by BeneTalk Ltd ("Supplier", "we", "us", "our") to public sector organisations ("Buyer", "you", "your") through the G-Cloud 15 Framework (RM1557.15).
- 1.1.2 These Terms are fixed for the duration of the G-Cloud 15 Framework and cannot be amended except where required to comply with changes in applicable law or regulation.
- 1.1.3 By placing a Call-Off Order for the Service, the Buyer agrees to be bound by these Terms.
- 1.1.4 These Terms have been prepared in accordance with Crown Commercial Service requirements for the G-Cloud 15 Framework and shall remain in force throughout the Framework period.

1.2 Relationship with G-Cloud Call-Off Contract

- 1.2.1 These Terms supplement the G-Cloud Call-Off Contract issued by the Crown Commercial Service ("CCS"). The G-Cloud Call-Off Contract is the primary legal agreement governing the supply of the Service.
- 1.2.2 These Terms provide additional service-specific provisions that apply alongside the G-Cloud Call-Off Contract. Where the G-Cloud Call-Off Contract addresses matters not covered in these Terms, the Call-Off Contract provisions shall apply in full.
- 1.2.3 Nothing in these Terms shall be construed as limiting or excluding any rights or protections afforded to the Buyer under the G-Cloud Call-Off Contract.
- 1.2.4 The Buyer acknowledges that the G-Cloud Framework Agreement between the Supplier and CCS establishes overarching obligations that inform these Terms.

1.3 Definitions

In these Terms, unless the context otherwise requires:

- **"Authorised Users"** means those employees, agents, and independent contractors of the Buyer who are authorised by the Buyer to use the Service, including but not limited to clinicians, administrators, service users, and family members where applicable.



- **"Buyer Data"** means all data, information, and materials uploaded to, stored within, or processed by the Service by or on behalf of the Buyer or its Authorised Users, including Personal Data and clinical records.
- **"Call-Off Contract"** means the contract formed between the Supplier and the Buyer under the G-Cloud 15 Framework for the provision of the Service, incorporating the CCS standard terms.
- **"Call-Off Order"** means the order placed by the Buyer through the Digital Marketplace to procure the Service.
- **"CCS"** means the Crown Commercial Service.
- **"Charges"** means the fees payable by the Buyer for the Service as set out in the Pricing Document and the Call-Off Order.
- **"Confidential Information"** means all information disclosed by one party to the other that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and circumstances of disclosure.
- **"Content Modules"** means the clinically-validated therapeutic and educational content programmes available within the Service, as described in the Service Definition .
- **"Data Protection Legislation"** means the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018, and all applicable laws relating to the processing of personal data, as amended or replaced from time to time.
- **"Digital Marketplace"** means the Crown Commercial Service's online portal for purchasing cloud services under the G-Cloud Framework.
- **"Documentation"** means the user guides, online help, instructions for use (IFU), clinical guidance, and other documentation made available by the Supplier in connection with the Service.
- **"Framework"** means the G-Cloud 15 Framework Agreement (RM1557.15) between the Supplier and the Crown Commercial Service.
- **"Intellectual Property Rights"** means patents, rights to inventions, copyright and related rights, trade marks, business names, domain names, rights in get-up and trade dress, goodwill, rights to sue for passing off, rights in designs, database rights, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered.
- **"Minimum Annual Service Fee"** means the minimum annual fee of twenty-five thousand pounds (GBP 25,000) payable for access to the Service, as detailed in the Pricing Document .
- **"Personal Data"** has the meaning given in the Data Protection Legislation.
- **"Processor"** has the meaning given in the Data Protection Legislation.
- **"Service"** means the SuperPenguin cloud software service as described in the Service Definition .
- **"Service Definition"** means Document 2 of the G-Cloud 15 submission, setting out the detailed description of the Service.
- **"SLCN"** means Speech, Language, and Communication Needs.



- **"SLT"** means Speech and Language Therapist or Speech and Language Therapy, as the context requires.
- **"Term"** means the period during which the Buyer is entitled to access and use the Service, as specified in the Call-Off Order.
- **"UK MDR 2002"** means the Medical Devices Regulations 2002 (SI 2002/618) as amended, and any successor regulations.

1.4 Interpretation

1.4.1 References to clauses and schedules are to the clauses of and schedules to these Terms.

1.4.2 References to statutes or statutory provisions include any subordinate legislation made under them and any modifications, re-enactments, or replacements in force from time to time.

1.4.3 Words in the singular include the plural and vice versa.

1.4.4 A reference to "writing" or "written" includes email.

1.4.5 Headings are for convenience only and shall not affect interpretation.

1.5 Precedence

1.5.1 In the event of any conflict or inconsistency between documents, the following order of precedence shall apply (highest to lowest):

- (a) The G-Cloud 15 Framework Agreement;
- (b) The G-Cloud Call-Off Contract;
- (c) These Terms and Conditions ;
- (d) The Service Definition ;
- (e) The Pricing Document ;
- (f) The Documentation.

1.5.2 The Buyer acknowledges that this precedence hierarchy is required by the G-Cloud Framework and reflects standard Crown Commercial Service procurement arrangements.

2 | LICENCE AND USE

2.1 Grant of Licence

2.1.1 Subject to the Buyer's compliance with these Terms and payment of the applicable Charges, the Supplier grants to the Buyer a non-exclusive, non-transferable,



revocable licence to permit the Authorised Users to access and use the Service during the Term.

- 2.1.2 The licence extends to all Content Modules included in the Buyer's subscription tier, as specified in the Pricing Document and the Call-Off Order.
- 2.1.3 The Buyer acknowledges that the Service is provided on a software-as-a-service basis and that the Buyer has no right to access the underlying source code, algorithms, or proprietary methodologies.
- 2.1.4 The licence includes access to future Content Modules and platform enhancements released by the Supplier during the Term at no additional charge, in accordance with the Supplier's commitment to continuous improvement set out in the Pricing Document .

2.2 Authorised User Categories

- 2.2.1 The Service supports multiple categories of Authorised Users, including:
 - (a) Clinical Users:** Speech and Language Therapists, healthcare professionals, and clinical staff;
 - (b) Administrative Users:** service managers, administrators, and reporting personnel;
 - (c) Service Users:** individuals receiving therapy or support through the Service;
 - (d) Family and Carer Users:** family members, guardians, and carers supporting Service Users.
- 2.2.2 The Buyer is responsible for determining appropriate access levels for each category of Authorised User and ensuring that access permissions reflect clinical governance requirements.

2.3 Permitted Use

- 2.3.1 The Buyer may use the Service only for lawful purposes and in accordance with these Terms, the Documentation, and the Service's intended purpose as a support tool for individuals with Speech, Language, and Communication Needs.
- 2.3.2 The Buyer is responsible for ensuring that all Authorised Users comply with these Terms and use the Service appropriately within their role and competence.
- 2.3.3 The Buyer shall ensure that Service Users and Family Users are provided with appropriate information about the nature and limitations of the Service.

2.4 Restrictions

- 2.4.1 The Buyer shall not, and shall procure that Authorised Users do not:
 - (a)** copy, modify, adapt, or create derivative works based on the Service or any part thereof;
 - (b)** reverse engineer, disassemble, decompile, or otherwise attempt to derive the



source code of the Service;

(c) sublicense, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make available to any third party the Service;

(d) use the Service to provide services to third parties on a bureau or time-sharing basis without prior written consent;

(e) remove, obscure, or alter any proprietary notices, labels, or marks on the Service;

(f) use the Service in any manner that could damage, disable, overburden, or impair the Service or interfere with any other party's use of the Service;

(g) access the Service for the purpose of building a competitive product or service;

(h) upload or transmit any malicious code, viruses, or harmful components to the Service;

(i) use the Service in breach of any applicable law, regulation, or professional standard.

2.5 User Responsibilities

2.5.1 The Buyer is responsible for:

(a) obtaining and maintaining all necessary hardware, software, network connections, and internet connectivity required to access the Service;

(b) ensuring that Authorised Users have appropriate training to use the Service effectively and safely, utilising the training resources provided by the Supplier;

(c) maintaining the security and confidentiality of all user credentials, passwords, and authentication tokens used to access the Service;

(d) all activities that occur under the Buyer's account, regardless of whether such activities are undertaken by the Buyer, its Authorised Users, or third parties;

(e) promptly notifying the Supplier of any unauthorised access or security breach.

2.5.2 Training provision and implementation support are described in the Service Definition . The Buyer shall ensure that clinical staff complete mandatory training before using the Service in clinical settings.

2.6 Account Management

2.6.1 The Buyer shall designate at least one administrator responsible for managing Authorised User accounts and access permissions.

2.6.2 The Buyer shall promptly deactivate accounts for Authorised Users who no longer require access to the Service.

2.6.3 The Supplier reserves the right to suspend access for any Authorised User account that the Supplier reasonably believes is being used in breach of these Terms, subject to providing the Buyer with reasonable notice where practicable.



3 | SERVICE PROVISION

3.1 Service Description

- 3.1.1 The Service is described in the Service Definition published on the Digital Marketplace. The Supplier shall provide the Service substantially in accordance with the Service Definition.
- 3.1.2 The Service is a cloud-based software application designed to support individuals with Speech, Language, and Communication Needs (SLCN) through clinically-validated digital therapy and support tools. For comprehensive details of Service features, functionality, and specifications, refer to the Service Definition .
- 3.1.3 The Service is classified as a Class I medical device under the UK MDR 2002 and is registered with the Medicines and Healthcare products Regulatory Agency (MHRA). The MHRA registration number is 2025017024.

3.2 Updates and Modifications

- 3.2.1 The Supplier may update, modify, or enhance the Service from time to time to:
- (a)** improve functionality and user experience;
 - (b)** comply with applicable laws, regulations, or regulatory guidance;
 - (c)** address security vulnerabilities or technical issues;
 - (d)** respond to changes in technology or clinical best practice;
 - (e)** add new Content Modules or features.
- 3.2.2 The Supplier shall use reasonable endeavours to provide advance notice of material changes to the Service. Where changes may affect the Buyer's use of the Service, the Supplier shall provide at least fourteen (14) days' notice.
- 3.2.3 The Supplier shall not make changes that materially reduce the core functionality of the Service as described in the Service Definition without the Buyer's prior written consent, except where such changes are required by law or regulation.
- 3.2.4 Updates shall be deployed automatically by the Supplier during scheduled maintenance windows. Emergency security updates may be deployed outside scheduled windows where necessary to protect the Service or Buyer Data.
- 3.2.5 For the avoidance of doubt, the Supplier's right to update the Service under this clause 3.2 relates to functional, technical, and operational aspects of the Service only. These Terms and Conditions remain fixed for the duration of the G-Cloud 15 Framework in accordance with clause 10.1.1 and cannot be amended through service updates.



3.3 Future Development and Modules

- 3.3.1 The Supplier is committed to continuous development and enhancement of the Service. New Content Modules, features, and capabilities developed during the Term shall be made available to the Buyer at no additional charge, subject to the Buyer maintaining a valid subscription.
- 3.3.2 This commitment reflects the Supplier's all-inclusive pricing model as detailed in the Pricing Document . The Buyer shall benefit from the Supplier's ongoing investment in the platform without incurring additional licensing fees.
- 3.3.3 The Supplier shall notify the Buyer of significant new features or Content Modules as they become available.

3.4 Service Levels

- 3.4.1 The Supplier shall provide the Service in accordance with the service levels set out in the Service Definition , including:
- (a)** target service availability;
 - (b)** scheduled maintenance windows;
 - (c)** support response times;
 - (d)** incident management procedures.
- 3.4.2 Service credits and remedies for failure to meet service levels are set out in the Service Definition .

3.5 Support

- 3.5.1 The Supplier shall provide technical support for the Service in accordance with the support arrangements described in the Service Definition .
- 3.5.2 Support includes assistance with technical issues, user guidance, and escalation procedures for clinical concerns.
- 3.5.3 The Buyer shall designate appropriate personnel to liaise with the Supplier's support team and shall ensure that support requests contain sufficient information to enable the Supplier to investigate and resolve issues.

3.6 Hosting and Infrastructure

- 3.6.1 The Service is hosted on secure cloud infrastructure within the United Kingdom. Details of hosting arrangements, data centre locations, and infrastructure security are set out in the Service Definition .
- 3.6.2 The Supplier maintains appropriate certifications for the hosting infrastructure, as summarised in Schedule 2.



4 | DATA PROTECTION AND SECURITY

4.1 Data Processing Roles

4.1.1 For the purposes of the Data Protection Legislation:

- (a)** The Buyer is the Controller of the Personal Data processed through the Service;
- (b)** The Supplier is the Processor acting on behalf of the Buyer.

4.1.2 The Supplier shall process Personal Data only in accordance with the Buyer's documented instructions, which are deemed to include the instructions set out in these Terms and the Service Definition, except where the Supplier is required by applicable law to process Personal Data otherwise.

4.1.3 If the Supplier is required by applicable law to process Personal Data other than in accordance with the Buyer's instructions, the Supplier shall inform the Buyer of that legal requirement before processing, unless that law prohibits such notification on important grounds of public interest.

4.2 UK GDPR Compliance

4.2.1 The Supplier shall:

- (a)** comply with all applicable Data Protection Legislation in relation to its processing of Personal Data;
- (b)** ensure that persons authorised to process Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- (c)** implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, taking into account the state of the art, the costs of implementation, and the nature, scope, context, and purposes of processing as well as the risk to data subjects;
- (d)** taking into account the nature of the processing, assist the Buyer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Buyer's obligation to respond to requests for exercising data subject rights;
- (e)** assist the Buyer in ensuring compliance with its obligations under Articles 32 to 36 of the UK GDPR, taking into account the nature of processing and the information available to the Supplier;
- (f)** at the choice of the Buyer, delete or return all Personal Data to the Buyer after the end of the provision of the Service, and delete existing copies unless storage is required by applicable law;
- (g)** make available to the Buyer all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the UK GDPR and allow for and contribute to audits, including inspections, conducted by the Buyer or another auditor mandated by the Buyer.



4.3 Sub-processors

- 4.3.1 The Buyer provides general authorisation for the Supplier to engage sub-processors for the processing of Personal Data.
- 4.3.2 The Supplier shall maintain a list of current sub-processors, which shall be made available to the Buyer upon request.
- 4.3.3 The Supplier shall inform the Buyer of any intended changes concerning the addition or replacement of sub-processors, giving the Buyer an opportunity to object to such changes. Such notification shall be provided at least thirty (30) days in advance of the engagement of any new sub-processor.
- 4.3.4 The Buyer may object to a new sub-processor on reasonable grounds relating to data protection. If the Buyer objects and the parties cannot resolve the objection, the Buyer may terminate the affected part of the Service without penalty.
- 4.3.5 The Supplier shall ensure that sub-processor arrangements impose data protection obligations equivalent to those set out in these Terms.

4.4 Personal Data Breach

- 4.4.1 The Supplier shall notify the Buyer without undue delay, and in any event within seventy-two (72) hours, upon becoming aware of a Personal Data breach affecting Buyer Data.
- 4.4.2 Such notification shall include, to the extent known:
- (a)** a description of the nature of the Personal Data breach including, where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of Personal Data records concerned;
 - (b)** the name and contact details of the Supplier's data protection officer or other contact point where more information can be obtained;
 - (c)** a description of the likely consequences of the Personal Data breach;
 - (d)** a description of the measures taken or proposed to be taken by the Supplier to address the Personal Data breach, including, where appropriate, measures to mitigate its possible adverse effects.
- 4.4.3 The Supplier shall cooperate with the Buyer in investigating and remediating any Personal Data breach.

4.5 Data Location

- 4.5.1 All Buyer Data shall be processed and stored within the United Kingdom. The Supplier's hosting infrastructure is located in UK data centres, as detailed in the Service Definition .
- 4.5.2 The Supplier shall not process Personal Data outside the United Kingdom or the European Economic Area unless:



- (a) the Buyer has given prior written consent;
- (b) appropriate safeguards under the Data Protection Legislation are in place; and
- (c) the transfer is otherwise compliant with applicable law.

4.5.3 This commitment to UK data residency supports the Buyer's compliance with NHS and public sector data governance requirements.

4.6 Security Measures

4.6.1 The Supplier shall implement and maintain appropriate technical and organisational security measures, including:

- (a) encryption of Personal Data in transit using TLS 1.2 or higher;
- (b) encryption of Personal Data at rest using AES-256 or equivalent;
- (c) access controls and authentication mechanisms, including role-based access control and multi-factor authentication;
- (d) regular security testing, including vulnerability assessments and penetration testing;
- (e) incident detection, logging, and response capabilities;
- (f) business continuity and disaster recovery arrangements, as described in the Service Definition ;
- (g) regular staff training on data protection and information security;
- (h) physical security measures at data centre facilities.

4.6.2 The Supplier shall maintain relevant security certifications, as summarised in Schedule 2.

4.7 Data Protection Impact Assessment

4.7.1 The Supplier shall provide reasonable assistance to the Buyer in conducting Data Protection Impact Assessments where required by Data Protection Legislation.

4.7.2 Such assistance may include providing information about the Service's data processing activities, security measures, and sub-processor arrangements.

5 | CLINICAL AND SAFETY DISCLAIMERS

5.1 Medical Device Classification

5.1.1 The Service is classified as a Class I medical device under the UK MDR 2002. The Supplier maintains appropriate registration with the MHRA (registration number 2025017024) and holds a valid UKCA marking.

5.1.2 The Buyer agrees to use the Service only in accordance with its intended purpose as described in the Documentation and Instructions for Use (IFU), available within the Service and upon request.



5.1.3 The Buyer shall report any adverse incidents or safety concerns to the Supplier in accordance with clause 5.3.2.

5.2 Clinical Decision Support Limitations

5.2.1 The Service is designed to support, not replace, clinical decision-making by qualified healthcare professionals, including Speech and Language Therapists (SLTs) and other clinicians working with individuals with SLCN.

5.2.2 The Buyer acknowledges and agrees that:

- (a)** the Service is a supportive tool that provides resources, exercises, and progress tracking to complement clinical care, but does not provide medical diagnoses or treatment recommendations that should be relied upon without independent clinical assessment;
- (b)** all clinical decisions regarding assessment, diagnosis, treatment planning, and discharge remain the sole responsibility of qualified healthcare professionals exercising their professional judgement;
- (c)** the Service should be used as one of several inputs into clinical decision-making, alongside professional assessment, clinical observation, and other appropriate tools;
- (d)** outputs, progress reports, and recommendations generated by the Service should be verified and interpreted by qualified clinical personnel before being acted upon or communicated to service users;
- (e)** service users and their families should always seek the advice of a qualified Speech and Language Therapist or other appropriate healthcare professional with any questions regarding a medical or developmental condition.

5.2.3 Nothing in the Service should be construed as medical advice, diagnosis, or treatment. The Service does not establish a clinician-patient relationship between the Supplier and any service user.

5.3 Professional Responsibility

5.3.1 The Buyer is responsible for ensuring:

- (a)** the Service is used only by appropriately qualified and trained personnel in clinical settings;
- (b)** Authorised Users understand the limitations of the Service and use it appropriately within their scope of practice;
- (c)** appropriate clinical governance arrangements are in place within the Buyer's organisation for the use of digital health tools;
- (d)** use of the Service complies with all applicable professional standards, including those set by the Health and Care Professions Council (HCPC) and the Royal College of Speech and Language Therapists (RCSLT);
- (e)** adverse incidents, device defects, or safety concerns are reported in accordance with applicable regulations and the Supplier's reporting procedures.



5.3.2 The Buyer shall notify the Supplier promptly, and in any event within forty-eight (48) hours, of any:

- (a)** adverse incidents or near-misses involving the Service;
- (b)** reports of device malfunction or unexpected behaviour;
- (c)** complaints from service users relating to safety;
- (d)** regulatory enquiries or inspections relating to the Service.

5.4 Regulatory Compliance

5.4.1 The Buyer is responsible for ensuring that its use of the Service complies with:

- (a)** Care Quality Commission (CQC) requirements, where applicable;
- (b)** HCPC and RCSLT professional standards;
- (c)** NHS clinical governance requirements;
- (d)** local policies, procedures, and protocols;
- (e)** safeguarding requirements for children and vulnerable adults.

5.4.2 The Supplier shall maintain compliance with applicable medical device regulations and shall notify the Buyer of any regulatory changes that may affect the Buyer's use of the Service.

5.5 Content Clinical Validation

5.5.1 The Content Modules provided within the Service have been developed with clinical input and are designed to support evidence-based practice in speech and language therapy. Details of the Content Modules are set out in the Service Definition .

5.5.2 The Buyer acknowledges that clinical responsibility for the selection and application of Content Modules for individual service users rests with the Buyer's clinical staff.

6 | INTELLECTUAL PROPERTY

6.1 Ownership

6.1.1 All Intellectual Property Rights in the Service, including but not limited to the software, algorithms, user interface, Documentation, Content Modules, and clinical content, remain the exclusive property of the Supplier or its licensors.

6.1.2 Nothing in these Terms transfers any Intellectual Property Rights from the Supplier to the Buyer, except for the limited licence granted under clause 2.1.

6.1.3 The Supplier reserves all rights not expressly granted in these Terms.

6.2 Buyer Data

6.2.1 The Buyer retains all Intellectual Property Rights in the Buyer Data.



6.2.2 The Buyer grants the Supplier a non-exclusive, royalty-free, worldwide licence to use, copy, store, and process the Buyer Data solely as necessary to provide the Service and fulfil the Supplier's obligations under these Terms.

6.2.3 The Supplier may use anonymised and aggregated data derived from the Buyer Data for the purposes of improving the Service, conducting research, and developing new features, provided that such data cannot be used to identify individual data subjects or the Buyer.

6.3 Feedback and Improvements

6.3.1 If the Buyer provides suggestions, feedback, ideas, or recommendations regarding the Service ("Feedback"), the Buyer grants the Supplier a perpetual, irrevocable, royalty-free licence to use such Feedback for any purpose, including to improve the Service and develop new products.

6.3.2 The Buyer acknowledges that the Supplier may independently develop improvements similar to Feedback provided by the Buyer.

6.4 Third-Party Components

6.4.1 The Service may include third-party software components subject to their own licence terms. The Supplier shall ensure that the use of such components in the Service does not impose obligations on the Buyer beyond those set out in these Terms.

6.4.2 Details of significant third-party components are available upon request.

6.5 Indemnification for Intellectual Property Claims

6.5.1 The Supplier shall defend, indemnify, and hold harmless the Buyer against claims that the Buyer's use of the Service in accordance with these Terms infringes any third party's Intellectual Property Rights, subject to the limitations set out in clause 8.

6.5.2 If the Service becomes or is likely to become the subject of an infringement claim, the Supplier may, at its option: (a) procure the right for the Buyer to continue using the Service; (b) modify the Service to be non-infringing; or (c) terminate the affected portion of the Service and refund prepaid fees for the unused period.

7 | CONFIDENTIALITY

7.1 Confidential Information

7.1.1 Each party agrees to keep confidential all Confidential Information disclosed by the other party and not to disclose such information to any third party without the prior written consent of the disclosing party.



7.1.2 The Receiving Party shall:

- (a)** use the Confidential Information only for the purposes of these Terms;
- (b)** limit access to those of its employees, agents, and contractors who need to know the Confidential Information for such purposes;
- (c)** ensure that such persons are bound by obligations of confidentiality no less protective than those set out in this clause 7.

7.2 Exceptions

7.2.1 The obligations of confidentiality in clause 7.1 shall not apply to information that:

- (a)** is or becomes publicly available through no fault of the Receiving Party;
- (b)** was already in the Receiving Party's possession without restriction prior to disclosure;
- (c)** is obtained from a third party who is lawfully entitled to disclose it;
- (d)** is independently developed by the Receiving Party without use of the Confidential Information;
- (e)** is required to be disclosed by law, regulation, or order of a court or regulatory authority, provided that the Receiving Party gives the Disclosing Party reasonable advance notice where permitted.

7.3 Freedom of Information

7.3.1 The Supplier acknowledges that the Buyer may be subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR).

7.3.2 The Supplier shall assist the Buyer in complying with its obligations under FOIA and EIR, including by providing information reasonably requested by the Buyer within the timescales required.

7.3.3 The Buyer shall be responsible for determining whether any information provided by the Supplier is exempt from disclosure under FOIA or EIR. The Buyer shall consult with the Supplier before disclosing any information that the Supplier has designated as confidential, but the final decision on disclosure shall rest with the Buyer.

7.4 Duration of Confidentiality

7.4.1 The obligations of confidentiality in this clause 7 shall survive termination or expiry of these Terms and shall continue for:

- (a)** five (5) years from the date of disclosure for general Confidential Information;
- (b)** indefinitely for trade secrets.



8 | LIABILITY AND DISCLAIMERS

8.1 Limitation of Liability

8.1.1 Subject to the terms of the applicable G-Cloud Call-Off Contract and clause 8.2, the total aggregate liability of the Supplier under or in connection with these Terms, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the greater of:

- (a)** ten thousand pounds (GBP 10,000); or
- (b)** one hundred per cent (100%) of the Charges paid or payable by the Buyer in the twelve (12) months preceding the event giving rise to the claim.

8.1.2 Subject to clause 8.2, the Supplier shall not be liable to the Buyer for:

- (a)** any loss of profits, revenue, business, or anticipated savings;
- (b)** any loss of goodwill or reputation;
- (c)** any loss of or damage to data (except as provided under the data protection provisions);
- (d)** any indirect, special, incidental, or consequential loss or damage, howsoever caused, even if the Supplier has been advised of the possibility of such loss.

8.1.3 These limitations reflect the allocation of risk between the parties and the Charges payable.

8.2 Exclusions from Limitation

8.2.1 Nothing in these Terms shall exclude or limit the Supplier's liability for:

- (a)** death or personal injury caused by the Supplier's negligence;
- (b)** fraud or fraudulent misrepresentation;
- (c)** any 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;
- (d)** any liability under the indemnity in clause 6.5;
- (e)** any other liability that cannot be excluded or limited by applicable law.

8.3 Disclaimers

8.3.1 Except as expressly stated in these Terms, the Service is provided "as is" and "as available" without any representations, warranties, or conditions of any kind, whether express or implied.

8.3.2 The Supplier expressly disclaims all implied warranties, including warranties of merchantability, fitness for a particular purpose, and non-infringement, to the maximum extent permitted by law.

8.3.3 The Supplier does not warrant that the Service will be uninterrupted, error-free, or free from viruses or other harmful components.



8.3.4 The Buyer acknowledges that it has not relied on any representation or warranty not expressly set out in these Terms.

8.4 Mitigation

8.4.1 Each party shall take all reasonable steps to mitigate any loss or damage suffered as a result of any breach of these Terms by the other party.

8.5 Insurance

8.5.1 The Supplier shall maintain appropriate insurance coverage throughout the Term, including:

- (a)** professional indemnity insurance of at least two million pounds (GBP 2,000,000) per claim;
- (b)** public liability insurance of at least five million pounds (GBP 5,000,000) per claim;
- (c)** employer's liability insurance as required by law.

8.5.2 The Supplier shall provide evidence of insurance coverage upon reasonable request. Current insurance certificates are available upon request.

9 | TERM AND TERMINATION

9.1 Duration

9.1.1 The Term shall commence on the date specified in the Call-Off Order and shall continue for the period specified therein.

9.1.2 Unless otherwise specified in the Call-Off Order or prohibited by the applicable G-Cloud Call-Off Contract, the Contract shall automatically renew for successive periods of twelve (12) months unless either party gives written notice of non-renewal at least sixty (60) days before the end of the then-current period.

9.1.3 The Minimum Annual Service Fee shall apply for each year or part-year of the Term, as set out in the Pricing Document .

9.2 Termination Rights

9.2.1 Either party may terminate the Contract:

- (a)** by giving at least sixty (60) days' written notice to the other party;
- (b)** immediately by written notice if the other party commits a material breach of these Terms and (if such breach is remediable) fails to remedy that breach within thirty (30) days after being notified in writing to do so;
- (c)** immediately by written notice if the other party becomes insolvent, enters administration, liquidation, or receivership, makes an arrangement with creditors, or ceases to carry on business.



9.2.2 The Buyer may terminate the Contract in accordance with the termination provisions of the G-Cloud Call-Off Contract.

9.2.3 The Supplier may suspend the Service immediately upon written notice if the Buyer fails to pay any undisputed Charges when due and such failure continues for thirty (30) days after written notice.

9.3 Effects of Termination

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

- (a)** the Buyer's right to access and use the Service shall cease immediately;
- (b)** each party shall return or destroy all Confidential Information belonging to the other party;
- (c)** the Supplier shall provide reasonable assistance to facilitate the Buyer's migration to an alternative provider, subject to payment of the Supplier's reasonable charges;
- (d)** the Buyer shall pay all outstanding Charges for the Service provided up to the date of termination;
- (e)** termination shall not affect any rights, remedies, or obligations that have accrued prior to termination.

9.3.2 Migration assistance is available as described in the Service Definition . The Buyer should allow adequate time for data export and transition.

9.4 Data Return and Deletion

9.4.1 Upon termination or expiry of the Contract, the Supplier shall, at the Buyer's election:

- (a)** return all Buyer Data to the Buyer in a commonly-used, machine-readable format within thirty (30) days of receiving written instructions; or
- (b)** securely delete all Buyer Data in accordance with the Supplier's data sanitisation procedures and provide written confirmation of deletion.

9.4.2 The Buyer shall notify the Supplier of its election within thirty (30) days of termination. If the Buyer does not provide instructions within this period, the Supplier shall securely delete the Buyer Data.

9.4.3 The Supplier may retain Buyer Data in backup systems for a reasonable period following deletion from production systems, but such data shall be securely deleted when backups are rotated in the ordinary course of business.

9.4.4 Data sanitisation procedures are described in the Service Definition .

9.5 Survival

9.5.1 The following clauses shall survive termination or expiry of these Terms: clause 1 (Interpretation and Definitions), clause 4 (Data Protection) to the extent the



Supplier holds Personal Data, clause 6 (Intellectual Property), clause 7 (Confidentiality), clause 8 (Liability), clause 9.3 (Effects of Termination), clause 9.4 (Data Return and Deletion), and clause 10 (General Provisions).

10 | GENERAL PROVISIONS

10.1 Amendments to Terms

10.1.1 These Terms are fixed for the duration of the G-Cloud 15 Framework and cannot be amended by the Supplier except where required to comply with changes in applicable law, regulation, or regulatory guidance.

10.1.2 Where amendment is required by law, the Supplier shall provide at least thirty (30) days' advance notice to the Buyer, describing the change and the legal requirement necessitating it. If the change materially adversely affects the Buyer, the Buyer may terminate the Contract without penalty by giving written notice within thirty (30) days of receiving the Supplier's notice.

10.1.3 For the avoidance of doubt, this clause 10.1 applies only to these Terms and Conditions. The Supplier retains the right to update the Service itself in accordance with clause 3.2.

10.2 Assignment and Subcontracting

10.2.1 The Buyer shall not assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights or obligations under these Terms without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed.

10.2.2 The Supplier may assign or transfer these Terms to an affiliate or in connection with a merger, acquisition, reorganisation, or sale of all or substantially all of its assets, provided that the assignee agrees to be bound by these Terms.

10.2.3 The Supplier may subcontract any of its obligations under these Terms to third parties, provided that the Supplier remains responsible for the performance of such obligations and the acts and omissions of its subcontractors.

10.2.4 Named subcontractors are identified in the Service Definition .

10.3 Notices

10.3.1 Any notice required or permitted to be given under these Terms shall be in writing and shall be delivered:

- (a)** by hand;
- (b)** by first-class post or recorded delivery; or
- (c)** by email.



10.3.2 Notices shall be sent to the addresses set out in Schedule 1 (for the Supplier) or the Call-Off Order (for the Buyer), or such other address as may be notified in writing from time to time.

10.3.3 A notice shall be deemed to have been received: if delivered by hand, at the time of delivery; if sent by post, two business days after posting; if sent by email, on the next business day after sending.

10.4 Waiver

10.4.1 No failure or delay by either party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy.

10.4.2 No single or partial exercise of any right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

10.5 Severability

10.5.1 If any provision or part-provision of these Terms is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal, and enforceable.

10.5.2 If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification or deletion under this clause shall not affect the validity and enforceability of the rest of these Terms.

10.6 Entire Agreement

10.6.1 These Terms, together with the G-Cloud Call-Off Contract, the Service Definition, the Pricing Document, and the Documentation, constitute the entire agreement between the parties relating to the Service and supersede all previous agreements, understandings, and negotiations between the parties.

10.6.2 Each party acknowledges that it has not entered into these Terms in reliance on any statement, representation, warranty, or understanding other than those expressly set out in the documents comprising the agreement.

10.7 Third-Party Rights

10.7.1 A person who is not a party to these Terms shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms.

10.7.2 This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.



10.8 Force Majeure

10.8.1 Neither party shall be in breach of these Terms nor liable for delay in performing, or failure to perform, any of its obligations under these Terms if such delay or failure results from events, circumstances, or causes beyond its reasonable control ("Force Majeure Event").

10.8.2 Force Majeure Events include acts of God, flood, earthquake, windstorm, fire, epidemic, pandemic, war, terrorism, strikes, lock-outs, government actions, cyber-attacks by hostile state or non-state actors, and failures of third-party telecommunications or power supply.

10.8.3 The affected party shall promptly notify the other party of the Force Majeure Event and its expected duration, and shall use reasonable endeavours to mitigate the effect of the Force Majeure Event.

10.8.4 If a Force Majeure Event continues for a period of ninety (90) consecutive days, either party may terminate these Terms by giving thirty (30) days' written notice to the other party.

10.9 Governing Law and Jurisdiction

10.9.1 These Terms and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them or their subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

10.9.2 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 these Terms.

10.10 Anti-Bribery and Corruption

10.10.1 Each party shall comply with all applicable laws, regulations, codes, and sanctions relating to anti-bribery and anti-corruption, including the Bribery Act 2010.

10.10.2 Neither party shall engage in any activity, practice, or conduct which would constitute an offence under sections 1, 2, 6, or 7 of the Bribery Act 2010.

10.10.3 Each party shall have and maintain throughout the term of these Terms its own policies and procedures to ensure compliance with the Bribery Act 2010.

10.11 Modern Slavery

10.11.1 The Supplier shall comply with the Modern Slavery Act 2015 and shall ensure that slavery and human trafficking are not taking place in any part of its business or supply chains.



10.11.2 The Supplier shall maintain a modern slavery statement where required by law and shall provide a copy to the Buyer upon request.

10.12 Equality and Accessibility

10.12.1 The Supplier shall comply with the Equality Act 2010 and shall not unlawfully discriminate within the meaning of that Act.

10.12.2 The Supplier shall use reasonable endeavours to ensure that the Service is accessible in accordance with the Web Content Accessibility Guidelines (WCAG) 2.1 at Level AA, supporting the Buyer's obligations under the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018.

10.12.3 The Supplier shall provide accessibility documentation upon request.

10.13 Dispute Resolution

10.13.1 If a dispute arises out of or in connection with these Terms, the parties shall first attempt to resolve it through good faith negotiation between senior representatives of each party.

10.13.2 If the dispute is not resolved within thirty (30) days, either party may refer the dispute to the courts in accordance with clause 10.9.

10.13.3 Nothing in this clause prevents either party from seeking urgent interim relief from the courts.

11 | CONTACT INFORMATION

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