

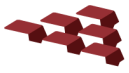
CERTUS TECHNOLOGY
A s s o c i a t e s L i m i t e d

Terms and Conditions

January 2026

Lot 2b G-Cloud 15 Framework (RM1557.15)

Version 1.0



1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in these Terms.

Agreement: these Terms, its schedules, the Order Form and any document referred to in those terms.

Authorised Users: (a) those employees, agents and independent contractors of the Customer; and (b) the employees of the clients of the Customer, who are authorised by the Customer to use the Services.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Company: Certus Technology Associates Limited, the party providing the Services under this Agreement.

Confidential Information: any information disclosed by one party to the other (whether in writing, orally or by any other means) that is identified as confidential or that ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure, including (without limitation) trade secrets, know-how, technical information, business information, financial information, customer information, and the terms of this Agreement, but excluding the information described in clause 10.1.

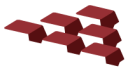
Customer: the entity identified as the buyer or customer in the Order Form.

Customer Data: the data inputted by the Customer, Authorised Users, or the Company on the Customer's behalf for the purpose of using the Services or facilitating the Customer's use of the Services.

Data Protection Legislation: the Data Protection Act 2018 and the UK GDPR (as defined in that Act).

Downtime: any period during which Authorised Users are unable to access the Services, excluding:

- (a) Scheduled Downtime;
- (b) emergency maintenance where the Company has provided reasonable advance notice;
- (c) any period where the Customer's network or systems prevent access to the Services;
- (d) Force Majeure events under clause 15.



Documentation: the user guides, online help, technical specifications and other documentation made available by the Company to the Customer describing the features and functionality of the Services, as updated by the Company from time to time.

Effective Date: the date of this Agreement.

G-Cloud Call-Off Contract: any call-off contract entered into pursuant to the Crown Commercial Service G-Cloud framework (RM1557.15 or any successor framework) under which this Agreement is incorporated.

Good Industry Practice: the degree of skill, prudence, care, diligence and foresight that would be reasonably and ordinarily expected from a skilled and experienced supplier providing services and/or units of the same (or materially similar) nature as those to be provided under this Agreement.

Initial Subscription Term: the minimum term of this Agreement as set out in the Order Form.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.

Materials: any documentation, drawings, pictures, photographs, video clips and flow diagrams supplied by the Customer and used in the customisation or configuration of the Services.

Normal Business Hours: 9.00 am to 5.30 pm local UK time, each Business Day.

Order Form: the order form completed by the Customer under the applicable G-Cloud Call-Off Contract, setting out the Services ordered, Subscription Fees, Initial Subscription Term and other commercial details.

Participating Organisations: NHS bodies or other public sector organisations on whose behalf the Customer enters into this Agreement pursuant to data sharing or collaborative working arrangements, as described in Schedule 2 Part 2.

Renewal Period: the period described in clause 14.1 and the Order Form.

Scheduled Downtime: planned maintenance carried out during the maintenance window with at least 5 Business Days' prior notice to the Customer.

Service Availability: the percentage of time the Services are available during a calendar month, calculated in accordance with Schedule 1.

Service Credit: a credit against future Subscription Fees payable to the Customer in accordance with Schedule 1.

Services: the software system functions provided by the Company for use by the Customer under this Agreement via the URLs (web addresses) detailed in the Order Form or any other URLs notified to the Customer by the Company from time to time.

Service Minutes: the total number of minutes in a calendar month, excluding minutes of Scheduled Downtime.

Standard Support Services: has the meaning given in Schedule 1.

Subscription Fees: the subscription fees payable by the Customer to the Company, as set out in the Order Form together with any other agreed charges.

Subscription Term: the duration of this Agreement.

Support Services: the Services set out in Schedule 1.

Terms: these General Terms.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Terms.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).

1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.5 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.7 A reference to writing or written excludes fax but not email.

1.8 References to clauses and schedules are to the clauses and schedules of these Terms; references to paragraphs are to paragraphs of the relevant schedule to these Terms.

2. Subscriptions

2.1 Subject to the Customer purchasing a Subscription in accordance with clause 8.1, the restrictions set out in this clause 2 and the other terms and conditions of this Agreement, the Company hereby grants to the Customer a non-exclusive, non-transferable right and licence, without the right to grant sublicences, to permit the Authorised Users to use the Services during the Subscription Term solely for the Customer's internal activities and the delivery of services to its clients.

2.2 In relation to the Authorised Users, the Customer undertakes that each Authorised User shall keep confidential a secure password for their use of the Services.

2.3 The Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;
- (g) the Company reserves the right, without liability or prejudice to its other rights to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

2.4 The Customer shall not:

(a) access all or any part of the Services in order to build (or assist a third party to build), a product or service which competes with the Services; or

(b) subject to clause 21.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users, or

(c) attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 2; or

(d) introduce or permit the introduction of any Virus into the Company's network and information systems.

2.5 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify the Company.

3. Services

3.1 The Company shall, during the Subscription Term, provide the Services to the Customer on and subject to the terms of this Agreement.

3.2 The Company commits to a Service Availability target of 99.5% during each calendar month, measured in accordance with Schedule 1. In the event that the Company fails to meet the Service Availability target, the Customer shall be entitled to Service Credits in accordance with Schedule 1.

3.3 The Company shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

(a) Scheduled Downtime carried out during the maintenance window of 8.00 pm to 2.00 am UK time, provided that the Company has given the Customer at least 5 Business Days' prior notice; and

(b) emergency maintenance performed outside Normal Business Hours, provided that the Company has used reasonable endeavours to give the Customer advance notice.

3.4 The Company will, as part of the Services and at no additional cost to the Customer, provide the Standard Support Services to the Customer during Normal Business Hours as set out in Schedule 1. The Company may update its support processes and procedures from time to time provided that such updates do not materially reduce the Standard Support Services during the then-current Subscription Term. The Company shall give the Customer reasonable prior notice of any material

change, except where required to address a security risk or comply with applicable law.

4. Changes and variation

No variation of this Agreement shall be effective unless it is in writing and signed by an authorised representative of each party.

5. Data Security and Protection

The Company complies with Schedule 2.

6. Company's obligations

6.1 The Company undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

6.2 The undertaking at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to the Company's instructions, or modification or alteration of the Services by any party other than the Company. If the Services do not conform with the foregoing undertaking, the Company will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Subject to clause 16.2, such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 6.1. Notwithstanding the foregoing, the Company:

(a) does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

(b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.3 This Agreement shall not prevent the Company from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

6.4 The Company warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

6.5 Insurance

The Company shall maintain, throughout the Subscription Term, insurance policies with reputable insurers covering, at the levels required by the applicable G-Cloud Call-Off Contract and (in any event) not less than:

- (a) public liability with a minimum limit of £5,000,000 per claim;
- (b) professional indemnity with a minimum limit of £2,000,000 per claim; and
- (c) employers' liability with a minimum limit of £5,000,000 per claim.

Upon reasonable request, the Company shall provide the Customer with evidence of such insurance cover.

6.6 Anti-bribery and corruption

Each party shall comply with all applicable anti-bribery and anti-corruption laws (including the Bribery Act 2010) and shall not offer, promise, give, request or accept any improper payment or advantage in connection with this Agreement.

6.7 Modern slavery

The Company shall comply with the Modern Slavery Act 2015 and shall, where required by law, maintain and publish a modern slavery statement.

7. Customer's obligations

7.1 The Customer shall:

- (a) provide the Company with all necessary co-operation in relation to this Agreement and all necessary access to such information as may be required by the Company in order to render the Services, including but not limited to Customer Data, security access information and configuration services;
- (b) comply with all applicable laws and regulations with respect to its activities under this Agreement;

(c) carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Company may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d) ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;

(e) obtain and shall maintain all necessary licences, consents, and permissions necessary for the Company, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;

(f) ensure that its network and systems comply with the relevant specifications provided by the Company from time to time; and

(g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Company's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet.

8. Charges and payment

8.1 The Customer shall pay the Subscription Fees to the Company in accordance with the terms set out in the Order Form.

8.2 The Company shall invoice the Customer for the Subscription Fees in accordance with the invoicing schedule set out in the Order Form and/or the applicable G-Cloud Call-Off Contract. The Customer shall pay all undisputed invoiced amounts within 30 days of the date of a valid invoice (or such other period as may be specified in the applicable G-Cloud Call-Off Contract) by BACS or such other method as may be agreed between the parties.

8.3 If the Company has not received payment of the Subscription Fees within 30 days after the due date, and without prejudice to any other rights and remedies of the Company:

(a) the Company may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services and the Company shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

(b) interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of the Company's bankers in the UK from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

8.4 All amounts and fees stated or referred to in this Agreement:

(a) shall be payable in pounds sterling;

(b) are, subject to clauses 13.3(b) and 14.5, non-cancellable and non-refundable;

(c) are exclusive of value added tax, which shall be added to the Company's invoice(s) at the appropriate rate.

8.5 Price Increases

(a) The Company will apply any permissible price increases allowable under the terms of the G Cloud 15 Framework and call off contracts. In that event:

(i) the Company gives the Customer not less than 90 days' prior written notice of any proposed increase; and

(ii) any increase shall not exceed the greater of:

- the percentage increase in the Consumer Prices Index (CPI) for the preceding 12-month period; or
- 5% of the then-current Subscription Fees.

(b) If the Customer does not agree to a proposed price increase, the Customer may terminate this Agreement by giving written notice to the Company within 30 days of receiving the price increase notice, such termination to take effect on the date immediately before the proposed price increase would have taken effect. No early termination fee shall apply to any such termination.

8.6 Invoice Disputes

(a) If the Customer disputes any invoiced fees in good faith, the Customer shall notify the Company in writing within 14 days of receipt of the invoice, specifying the nature of the dispute.

(b) The Customer shall pay any undisputed portion of the invoice by the due date.

(c) The parties shall use reasonable endeavours to resolve the dispute within 30 days of the dispute notice.

(d) Interest under clause 8.3(b) shall not accrue on any disputed amount that is subsequently determined to have been validly disputed.

9. Proprietary rights

9.1 The Customer acknowledges and agrees that the Company and/or its licensors own all Intellectual Property Rights in the Services and the Documentation. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services or the Documentation.

9.2 The Company confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

10. Confidentiality

10.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

(a) is or becomes publicly known other than through any act or omission of the receiving party;

(b) was in the other party's lawful possession before the disclosure;

(c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

(d) is independently developed by the receiving party, which independent development can be shown by written evidence; or

(e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

(f) is required to be disclosed by the Customer to comply with its obligations as a public authority and/or under the applicable G-Cloud Call-Off Contract (including any transparency, audit or reporting

obligations), provided that (to the extent legally permitted) the Customer gives the Company reasonable notice of such disclosure.

10.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

10.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

10.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

10.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Company's Confidential Information.

10.6 The Company acknowledges that the Customer Data is the Confidential Information of the Customer.

10.7 This clause 10 shall survive termination of this Agreement, however arising.

11. Customer Indemnity

11.1 The Customer shall indemnify the Company against all claims, losses, damages, costs and expenses (including reasonable legal fees) arising from:

- (a) the Customer's breach of this Agreement;
- (b) any allegation that the Customer Data or Materials infringe the Intellectual Property Rights, privacy or other rights of a third party; or
- (c) the Customer's use of the Services in a manner not permitted by this Agreement.

11.2 The Customer shall have no liability under this clause 11 to the extent that a claim arises from:

- (a) the Services themselves (excluding Customer Data and Materials);

(b) the Company's negligence, wilful default or breach of this Agreement;
or

(c) any settlement paid or incurred without the Customer's prior written consent.

11.3 To benefit from indemnification under this clause, the Company must:

(a) notify the Customer promptly of any claim;

(b) allow the Customer to control the defence and settlement of the claim; and

(c) provide reasonable co-operation at the Customer's expense.

12. Company Indemnity

12.1 The Company shall indemnify the Customer, its officers, directors and employees against any third-party claim that the Customer's use of the Services in accordance with this Agreement infringes any United Kingdom patent, copyright, trade mark, database right or right of confidentiality, and shall pay any amounts awarded against the Customer in judgment or settlement.

12.2 The Company shall have no liability under clause 12.1 to the extent that the claim arises from:

(a) the Customer Data or Materials;

(b) modification of the Services by anyone other than the Company;

(c) use of the Services outside the scope permitted by this Agreement or contrary to the Company's instructions; or

(d) the Customer's continued use of the Services after notice of alleged infringement.

12.3 To benefit from indemnification under this clause, the Customer must:

(a) notify the Company promptly of any claim;

(b) allow the Company sole control of the defence and settlement; and

(c) provide reasonable co-operation at the Company's expense.

12.4 If a claim is made or anticipated, the Company may at its option and expense:

- (a) procure the right for the Customer to continue using the Services;
- (b) modify or replace the Services so they become non-infringing; or
- (c) if (a) and (b) are not reasonably available, terminate this Agreement on 5 Business Days' notice.

12.5 If the Company terminates under clause 12.4(c), the Company shall (subject to clause 16.2) refund to the Customer a pro-rata portion of any Subscription Fees paid in advance for the period after termination, and Schedule 2 Part 1 clause 3 (Termination and Exit) shall apply.

12.6 This clause 12 states the Customer's sole remedy for any claim that the Services infringe third-party Intellectual Property Rights.

13. Limitation of liability

13.1 Subject always to clause 16.2, and except as expressly and specifically provided in this Agreement:

(a) the Customer assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Customer, and for conclusions drawn from such use. The Company shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Company by the Customer in connection with the Services, or any actions taken by the Company at the Customer's direction;

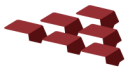
(b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

(c) the Services and the Documentation are provided to the Customer on an "as is" basis.

13.2 Nothing in this Agreement excludes or limits the liability of the Company:

- (a) for death or personal injury caused by the Company's negligence;
- (b) for fraud or fraudulent misrepresentation; or
- (c) under any indemnity given by it under this Agreement (including clause 12 and Schedule 2 Part 2 clause 1.5).

13.3 Subject to clause 13.1 and clause 13.2:



(a) the Company shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

(b) the Company's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Subscription Fees paid during the 12 months immediately preceding the date on which the claim arose.

13.4 Subject to clause 16.2, the limit in clause 13.3(b) shall not apply to liability arising from breach of clause 10 (Confidentiality) and/or Schedule 2 Part 2 (Data Protection), which shall instead be limited to two (2) times the total Subscription Fees paid during the 12 months immediately preceding the date on which the claim arose.

13.5 The financial limits set out in clauses 13.3(b) and 13.4 operate as separate, independent limits and any liability which falls within clause 13.4 shall not be taken into account in assessing whether the limit in clause 13.3(b) has been reached.

14. Term and termination

14.1 This Agreement shall, unless otherwise terminated as provided in this clause 14, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Agreement shall be automatically renewed for successive periods of 12 months (each a Renewal Period), unless either party notifies the other party of termination, in writing, at least 90 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period.

14.2 Where this Agreement is entered into pursuant to a G-Cloud Call-Off Contract, the Subscription Term (including any Renewal Periods and any extensions) shall not exceed the maximum duration permitted under the applicable G-Cloud Call-Off Contract and the relevant Crown Commercial Service framework.

14.3 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

(a) the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;

(b) the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

(c) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

(d) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

(e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;

(f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

(g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

(h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

(i) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

(j) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 14.3(c) to clause 14.3(i) (inclusive);

(k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

(l) Service Availability falls below 95% in any three months within a rolling 12-month period, entitling the Customer to terminate this Agreement by written notice without liability for future Subscription Fees.

14.4 On termination of this Agreement for any reason:

- (a) all licences granted under this Agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party;
- (c) the provisions of Schedule 2 Part 1 clause 3 (Termination and Exit) shall apply; and
- (d) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

14.5 Surviving Provisions

The following clauses shall survive termination or expiry of this Agreement for any reason:

- Clause 9 (Proprietary Rights)
- Clause 10 (Confidentiality)
- Clause 11 (Customer Indemnity)
- Clause 12 (Company Indemnity)
- Clause 13 (Limitation of Liability)
- Clause 25 (Governing Law)
- Clause 26 (Jurisdiction)
- Schedule 2 Part 1 Clause 3 (Termination and Exit)
- Schedule 2 Part 2 (Data Protection – insofar as personal data remains in the Company's possession)

15. Force majeure

Neither party shall be liable for any failure or delay in performing its obligations under this Agreement (other than payment obligations) where such failure or delay results from circumstances beyond that party's reasonable control. Where this Agreement is entered into pursuant to a G-Cloud Call-Off Contract, the force majeure provisions of that Call-Off Contract shall apply.

16. Conflict

16.1 If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement shall prevail.

16.2 Where this Agreement is entered into pursuant to a G-Cloud Call-Off Contract, in the event of any conflict between the terms of this Agreement and the terms of the applicable G-Cloud Call-Off Contract, the G-Cloud Call-Off Contract shall prevail.

17. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

18. Rights and remedies

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

19. Severance

19.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

20. Entire agreement

20.1 This Agreement, and any documents referred to in it, constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter they cover.

20.2 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not)

relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

21. Assignment

21.1 The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

21.2 Notwithstanding clause 21.1, where the Customer is a contracting authority or other public body, the Customer may assign or novate this Agreement (and/or any G-Cloud Call-Off Contract into which it is incorporated) to any successor body or other contracting authority in connection with any reorganisation, change in law, transfer of functions or services, or other "machinery of government" change, provided that the Customer gives written notice to the Company and the assignee/novatee agrees in writing to be bound by the obligations of the Customer under this Agreement.

21.3 The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

22. No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

23. Third party rights

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

24. Notices

24.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes, or sent by email to the address notified by that party for such purposes.

24.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at 9.00 am on the first Business Day following transmission, provided that no delivery failure notification is received by the sender.

25. Governing law

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

26. Jurisdiction

26.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

27. G-Cloud Framework

27.1 Where this Agreement is entered into pursuant to a G-Cloud Call-Off Contract, the following shall apply:

- (a) in the event of any conflict between the terms of this Agreement and the terms of the applicable G-Cloud Call-Off Contract, the G-Cloud Call-Off Contract shall prevail;
 - (b) the Company confirms that it meets or exceeds all mandatory supplier requirements under the applicable G-Cloud framework; and
 - (c) terms defined in the G-Cloud Call-Off Contract shall have the same meaning in this Agreement unless the context otherwise requires.
-

Schedule 1: Service Levels

Introduction

This Schedule forms part of the General Terms.

1. Definitions

In addition to the definitions in the General Terms, the following definitions apply:

Customer Support Portal: The web page at which the Customer may access or submit support requests.

Issue: an identifiable disruption or degradation of the Service, or Service non-conformity, reported by the Customer.

Issue Number: a reference number which uniquely identifies a Customer support request.

Response: a communication by the Company acknowledging an Issue and, where appropriate, specifying remedial action to be taken.

Response Time: the elapsed time between the Company receiving a valid support request from the Customer and making a Response.

Service Level: the response times that the Company shall use reasonable endeavours to achieve.

Severity Level: means one of the following:

- **Priority 1 – Service Down:** An Issue that has caused a complete outage to the Service such that all users are unable to access the Service. (Response Time: 1 Business Hour)
- **Priority 2 – Critical:** An Issue that has caused a partial outage or severely degraded the Service such that no work-around is available and a significant number of users are unable to access the Service. (Response Time: 4 Business Hours)
- **Priority 3 – Major:** An Issue that has affected the Service such that a work-around is available and one or more Users are affected. (Response Time: 8 Business Hours)
- **Priority 4 – Minor:** A minor defect or "how to" request. (Response Time: Response provided within 5 Business Days)

Support Period: the period for which Support is purchased. Unless otherwise stated, the Support Period shall be the same as the Subscription Term.

2. Support Services

2.1 As part of the subscription service, the Company will provide Standard Support Services.

2.2 Standard Support Services shall comprise:

- Telephone and email support during Normal Business Hours.
- Resolution of software faults.

3. Customer Support

3.1 The Customer can submit support requests 24 hours a day, 365 days per year, by one of the following methods:

- Via the Customer Support Portal
- By telephone
- By email

3.2 When submitting a support request, the Customer must provide the following information:

- Customer contact name and contact details.
- A brief description of the Issue.

3.3 The Company shall issue an Issue Number for each support request.

3.4 Once an Issue Number has been issued, the Customer must quote this number in all communications with the Company.

3.5 Only Authorised Users may contact the Company for support.

4. External Incidents

If the Company determines that an Issue is the result of circumstances outside of its reasonable control, such as the Customer's network, third party software, the Customer's hardware, the Customer's other suppliers, or other similar circumstances, the Issue shall be deemed to be an "External Incident", and the Response Times shall not apply. The Company shall use reasonable endeavours to assist the Customer in identifying the source of External Incidents.

5. Service Upgrades

The Company may require the Customer to use supported versions of the Service in order to receive Support Services.

6. Updates and Improvements

6.1 The Company may, from time to time, release updates to the Services including:

- (a) maintenance releases (bug fixes and patches);
- (b) minor improvements and enhancements; and
- (c) new features and functionality.

6.2 Updates under clauses 6.1(a) and 6.1(b) shall be included as part of the Services at no additional charge. The Company may offer updates under clause 6.1(c) as part of the standard subscription or as separately chargeable options.

6.3 The Company shall give the Customer reasonable prior notice of updates, except where an urgent update is required for security or stability purposes.

7. Customer Responsibilities

7.1 The Company is only able to provide the services as detailed herein with the cooperation and assistance of the Customer. The Customer therefore is obliged to:

- (a) provide full and accurate information when raising support requests and respond promptly to reasonable requests for further information;
- (b) ensure that its Authorised Users are appropriately trained and comply with reasonable usage and security guidelines; and
- (c) provide reasonable cooperation and access as required for the Company to provide Support Services.

8. Service Availability and Service Credits

8.1 The Company commits to a minimum Service Availability of 99.5% during each calendar month, calculated as:

Service Availability % = ((Service Minutes - Downtime) / Service Minutes) × 100

Where "Service Minutes" and "Downtime" have the meanings given in clause 1.1 of the General Terms.

8.2 In the event the Company fails to meet the Service Availability target in any calendar month, the Customer shall be entitled to Service Credits as follows:

Availability Achieved	Service Credit
99.0% - 99.49%	5% of monthly Subscription Fee
98.0% - 98.99%	10% of monthly Subscription Fee
95.0% - 97.99%	15% of monthly Subscription Fee
Below 95.0%	20% of monthly Subscription Fee

8.3 To claim a Service Credit, the Customer must submit a written claim to the Company within 30 days of the end of the affected month, including:

- (a) a description of the Issue(s);
- (b) information regarding the duration of the Downtime;
- (c) the number of affected Authorised Users (where known); and
- (d) any attempts made by the Customer to resolve the Issue.

8.4 The Company will evaluate the claim in good faith and notify the Customer of its determination within 30 days of receipt.

8.5 Service Credits shall be:

- (a) subject to clause 16.2, the Customer's sole and exclusive remedy for failure to meet Service Availability targets (without prejudice to the Customer's termination rights under clause 14.3(l));
- (b) capped at 20% of the monthly Subscription Fee in any single month;
- (c) applied as a credit against future invoices (not as a cash refund); and
- (d) only available to Customers whose accounts are in compliance with this Agreement.

Schedule 2: Data Security and Protection

Introduction

This Schedule forms part of the General Terms and Part 2 complies with Article 28 of UK GDPR.

Part 1: Data Security

This Part applies to all Customer Data, whether or not personal data.

1. Company Responsibilities

1.1 The Company has implemented and shall maintain an Information Security Management System (ISMS) in accordance with Good Industry Practice, including technical and organisational measures to ensure an appropriate level of security for Customer Data. The details of these measures are available upon request. The Customer acknowledges that the security measures are subject to technical progress and development and that the Company may update or modify the security measures from time to time provided that such updates and modifications do not result in a material degradation of the overall security of the Services.

1.2 As part of the ISMS, the Company maintains policies and procedures to investigate and respond to security incidents. If the Company suspects or has reason to believe that Customer Data has or may become compromised the Company shall notify the Customer without undue delay, and within 72 hours, and inform the Customer of the remedial action to be undertaken at its cost.

1.3 The Company will comply with its Information Security Policy.

2. Data Backup

2.1 The Company shall implement and maintain robust backup mechanisms and redundancy measures to facilitate the prompt recovery of data and services in the event of a disaster. These measures shall cover

all code, configuration data and Customer Data necessary to recovery and the regular testing of the recovery procedures.

2.2 The Company commits to a Recovery Time Objective of less than 24 hours.

2.3 The Company shall back-up Customer Data at least once in each 24 hour period and hold this data at a separate independent data storage facility. In the event of any loss or damage to Customer Data, the Company shall use its reasonable endeavours to restore the lost or damaged Customer Data using the latest back-up of such Customer Data.

3. Termination and Exit

3.1 On termination of this Agreement for any reason:

(a) the Company shall, at the Customer's request, provide the Customer with a copy of the Customer Data in an industry-standard machine-readable format;

(b) the Company shall make the Services accessible to the Customer for up to 30 days following termination to enable data retrieval, if requested in writing within 14 days of termination;

(c) following the period in clause 3.1(b), or earlier at the Customer's request, the Company shall securely delete all Customer Data and provide written confirmation of deletion; and

(d) the Company shall provide reasonable transition assistance at its then-current professional services rates, with up to 4 hours provided at no additional charge.

3.2 The Company has no obligation to retain Customer Data after the period in clause 3.1(b).

4. Security Certifications

4.1 The Company warrants that it holds, and shall maintain throughout the Subscription Term, valid Cyber Essentials certification (or Cyber Essentials Plus where required under any applicable G-Cloud Call-Off Contract).

4.2 The Company shall, upon reasonable request (and no more than once per calendar year), provide the Customer with:

(a) evidence of current Cyber Essentials or Cyber Essentials Plus certification;

(b) evidence of NHS Data Security and Protection Toolkit (DSPT) submission status; and

(c) a summary of any other relevant security certifications held.

4.3 The Company shall notify the Customer within 30 days if any security certification referenced in this clause 4 lapses, is suspended, or is withdrawn, and shall provide a remediation plan.

Part 2: Data Protection

This part only applies to Customer Data that is personal data.

1. Data Processing

Network Processing Arrangements

(a) The Customer may be acting on its own behalf and/or on behalf of other NHS bodies or public sector organisations with which it has data sharing or collaborative working arrangements ("Participating Organisations").

(b) Where the Customer enters into this Agreement on behalf of Participating Organisations:

(i) the Customer warrants that it has the authority to do so and to bind the Participating Organisations to the data processing terms of this Agreement;

(ii) the Customer warrants that appropriate data sharing agreements or joint controller arrangements are in place between the Customer and the Participating Organisations;

(iii) the Customer warrants that each Participating Organisation has established a lawful basis under the Data Protection Legislation for the processing of personal data by the Company;

(iv) references to "Customer Data" in this Agreement include personal data provided by or relating to data subjects of any Participating Organisation;

(v) the Customer shall act as the single point of contact for all matters relating to data protection under this Agreement, including the giving of instructions, receipt of breach notifications, and co-ordination of data subject requests; and

(vi) the Company's obligations under this Part 2 shall extend to personal data of all Participating Organisations, and the Customer shall ensure that Participating Organisations are informed of, and comply with, any relevant obligations.

(c) The Company shall not be required to enter into separate data processing agreements with individual Participating Organisations, this Agreement being sufficient for the purposes of Article 28 of UK GDPR.

1.1 The Company warrants that to the extent it processes any personal data on behalf of the Customer (including personal data of Participating Organisations):

(a) it shall act only on instructions from the Customer;

(b) it has in place appropriate technical and organisational security measures (which may be subject to approval by the Customer) against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data. Such measures shall be appropriate to the harm that might result from the unauthorised or unlawful processing;

(c) ensure all personnel who have access to the personal data are obliged to keep it confidential;

(d) assist the Customer to respond to a data subject's request to enforce their rights of subject access, rectification, erasure and any other rights conferred by the Data Protection Legislation;

(e) assist the Customer if requested with respect to security, breach notifications, impact assessments and any investigations by a supervisory authority or regulator;

(f) notify the Customer without undue delay and within 72 hours in the event of a data security breach and assist the Customer with any investigations;

(g) at the direction of the Customer delete or return to the Customer all personal data and copies on termination unless required by law to retain the same; and

(h) maintain complete and accurate records to demonstrate its compliance with this Schedule and, on not less than 30 days' prior written notice, permit the Customer (or its designated auditor) to audit compliance with this Schedule and the Company's relevant security controls and service level compliance, provided that any audit:

- is conducted during Normal Business Hours;
- does not unreasonably interfere with the Company's operations;
- does not exceed one audit per calendar year (unless a material breach has been identified); and
- is at the Customer's cost (unless the audit reveals a material breach by the Company).

1.2 Sub-processors

(a) The Customer provides general authorisation for the Company to engage sub-processors to process personal data under this Agreement.

(b) The Company shall maintain a current list of sub-processors on its website or provide it to the Customer upon request.

(c) The Company shall give the Customer at least 30 days' prior written notice of any new sub-processor. If the Customer has reasonable grounds to object, the parties shall discuss in good faith. If the objection cannot be resolved, the Customer may terminate this Agreement on 30 days' written notice.

(d) The Company shall ensure that any sub-processor enters into a written agreement containing data protection obligations no less protective than those in this Schedule.

1.3 The Company shall at all times comply with its obligations under the Data Protection Legislation including maintaining any valid and up-to-date registration or notification required.

1.4 The Company will not transfer any personal data outside the UK unless the prior consent of the Customer has been obtained and, if required by applicable law, the Company and the recipient or processor of the personal data will enter into a data transfer agreement that is consistent with the requirements of applicable law. The Company shall also ensure that:

(a) appropriate safeguards have been provided;

(b) the data subjects have enforceable rights and effective legal remedies in relation to any transferred personal data; and

(c) adequate levels of protection in relation to any personal data that is transferred.

1.5 The Company agrees to indemnify, keep indemnified and defend at its own expense the Customer against all costs, claims, damages or expenses incurred by the Customer or for which the Customer may become liable due to any failure by the Company or its employees or agents to comply with any of its obligations under Part 2 of this Schedule and/or the provisions of the Data Protection Legislation.

1.6 The obligations in relation to data protection set out in this clause shall not be affected by the expiry or termination of this Agreement.