

Agilisys Supplier Terms

G-Cloud 15

All Lots, unless otherwise specified

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1 THIS FRAMEWORK AGREEMENT AND EACH CALL-OFF CONTRACT

- 1.1 The provision of Services under G-Cloud 15 is subject to and conditional upon acceptance of these Supplier Terms.

2 DEFINITIONS

- 2.1 The definitions in Joint Schedule 1 of the Framework Agreement are used in these Supplier Terms and have the same meaning.

- 2.2 In these Supplier Terms, the following additional definitions are used:

"Amazon Web Services" means Amazon products and services procured from Amazon group companies;

"Charges" includes but not limited to charges for Resold Services and Supplier Services

"Buyer Subscription(s)" means enrolment of the Buyer for Services which are for a fixed, defined term and are as set out in the Order;

"Managed Services" means the elements of the Supplier Services which are usually associated with the support of the Resold Services and/or other third-party applications, as further detailed in the Service Description;

"Microsoft Cloud Services" means Microsoft's cloud products and services within the scope of the Services which are procured from Microsoft group companies;

"Order" means an agreed written order or Statement of Works for Services under G Cloud 15;

"Professional Services" means the professional services to be provided by the Supplier agreed under an Order;

"Rate Card" means the rate card set out in or referred to in the Order and applicable to G Cloud 15;

"Resold Services" means Microsoft Cloud Services, Amazon Web Services, RPA Services and any other Third-Party Services procured under a Call-Off Contract;

"Resold Services Provider" means any of the providers of the Resold Services, including Microsoft and Amazon;

"RPA Services" means RPA products and services procured from an RPA service provider;

"Service Description" means (i) the description of the Supplier Services set out in a mutually agreed Order and (ii) in the case of the Resold Services, their respective descriptions set out in the Resold Service Provider's own documentation including in the case of Microsoft, their Customer Agreement;

"Services" means the Services provided under G-Cloud 15 including:

- a) the Resold Services
 - Amazon Web Services



- Microsoft Cloud Services
- RPA Services
- Third Party Services

b) the Supplier Services

- the Managed Services
- the Supplier Products
- the Professional Services

“Statement of Work” means any of the statement of work for Professional Services agreed between the Parties which shall be appended to a Call-Off Contract. Reference to a Call-Off Contract shall include all accompanying Statement(s) of Work;

“Supplier Products” means those elements of the Supplier Services comprising of any of the Supplier owned technical solution and associated wrap-around services;

“Supplier Services” means the Services provided by the Supplier including the Managed Services, the Supplier Products and the Professional Services but excluding Resold Services;

“Supplier SLA” means the applicable service level agreement (if any) for the Managed Services or Supplier Products (including the provision of technical support);

“Third Party Services” means third party products and services procured at the instruction of the Buyer under this Call-Off Contract with the exclusion of Microsoft Cloud Services, Amazon Web Services and RPA Services. Third Party Services may include off the shelf third party applications (including SaaS) and tools including opensource software used by the Supplier which may facilitate access to Buyer Data.

3 SUPPLIER SERVICES

3.1 The Supplier shall perform the Supplier Services in accordance with this Agreement with reasonable skill and care. The Supplier shall make available:

3.1.1 the Supplier Products in accordance with the Supplier SLA as set out in the Service Description. If the Supplier fails to meet the Supplier SLA, the service credit regime (if applicable) as specified in the Service Description shall apply.

3.1.2 the Managed Services in accordance with the Supplier SLA set out in the Service Description. If the Supplier persistently fails to meet the Supplier SLA, it shall implement a service improvement plan to address the underlying cause of such failure.

3.1.3 the Professional Services as set out in the relevant Statement of Work.

3.2 Unless expressly agreed in the Service Description, the Supplier:

3.2.1 is not providing consultancy, user familiarisation or training, or support for other systems and services used by the Buyer which interact with the Supplier Services;

3.2.2 will not provide back-up and restoration of Buyer Data, and nor will it provide business continuity and disaster recovery services, unless these form part of the specific



Services agreed with the Buyer, and then only to the extent described in the relevant Service Description;

- 3.2.3 does not warrant that the Buyer's use of the Supplier Services will be uninterrupted or error-free;
- 3.2.4 does not warrant that the Supplier Services will meet the Buyer's requirements. In particular, the Buyer acknowledges that it has been given an opportunity to evaluate the Supplier Products and to decide whether to use them and the results generated by the software / services in connection with its operations. The Buyer acknowledges that, given the nature of generative artificial intelligence, the use of AI related software / services in some cases may result in inaccurate output and that the Buyer should assess the accuracy of any output on an ongoing basis as appropriate; and
- 3.2.5 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, and the Buyer acknowledges that the Supplier Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 3.3 Unless explicitly agreed in an Order the Supplier will not provide an Exit Plan, Service Management Plan or Security Management Plan.
- 3.4 The Supplier shall have no liability for any failure of the Supplier Services to provide any facility or function if the failure results from use of the Supplier Services in a manner contrary to the terms of this Call-Off Contract and/or the instructions given to the Buyer.
- 3.5 The Supplier does not guarantee that the Supplier Services shall result in any savings for the Buyer during the Term or any time after.

4 RESOLD SERVICES

- 4.1 The Resold Services are provided subject to the service descriptions, characteristics, service levels, information security measures, terms of use and rights and remedies set out by the Resold Services Providers.
- 4.2 The Supplier shall pass through to the Buyer the benefit of any warranties, indemnities and other remedies provided by the Resold Service Provider under its contract with the Supplier. If the contract between the Supplier and Resold Service Provider contains limitations and exclusions of liability, those limitations and exclusions shall apply as between the Supplier and the Buyer in respect of the Resold Services, and the limitations on liability set out in the Call-Off Contract and terms and conditions shall be disappplied in respect of the Resold Services. The Supplier shall provide a copy or link to the Resold Service Provider's terms and conditions on request.
- 4.3 Subject to clause 4.2, if the Resold Service Provider is in breach of its contract with the Supplier, the Supplier shall pass to the Buyer any compensation or damages recovered from the Resold Service Provider to the extent that they relate to loss or damage suffered by the Buyer as a result of the Resold Service Provider's breach of contract.

The Supplier shall take such steps as it considers reasonable to enforce any rights and remedies available to it. If the Buyer considers that additional steps should be taken, the Supplier shall facilitate the Buyer itself taking such steps at its own cost (including acting



using the name of the Supplier as necessary provided that the Buyer agrees to indemnify the Supplier in respect of any liabilities that it may incur as a result.

4.4 The Buyer acknowledges that its rights to the Resold Services do not include any licence, right, power or authority to cause any part of the Resold Services to become subject to the terms of any licence, such as an open-source software licence, that requires as a condition of use, modification or distribution of software that it or other software combined or distributed with it be:

- (i) disclosed or distributed in source code form;
- (ii) licensed for the purpose of making derivative works; or,
- (iii) redistributable at no charge.

4.5 The Buyer acknowledges that with respect to the provision of Resold Services, the following matters are the responsibility of the provider of the Resold Services and are not the responsibility of the Supplier:

4.5.1 the definition of the Resold Services and the contract terms on which they are provided such as;

- the Microsoft Cloud Agreement – this can be found at the following link: <https://docs.microsoft.com/en-us/partner-center/agreements>
- the Online Services Terms – these can be found by following the link at the following URL and selecting the English version: <https://www.microsoft.com/licensing/docs>
- the Online Services SLA – this can be found by following the link at the following URL and selecting the English version: <https://www.microsoft.com/licensing/docs>

4.5.2 the technology solution which is used to provide the Resold Services;

4.5.3 the technical and organisational measures which apply to any data centres from which the Resold Services are provided;

4.5.4 the service levels (and service credits) which apply to the Resold Services;

4.5.5 the provision of tools and management information to support consumption-based billing, and the management of subscriptions, products and resources associated with the Resold Services

4.5.6 arrangements for business continuity and disaster recovery for the Resold Services;

4.5.7 the facilities which are made available to back-up and restore data;

4.5.8 the facilities available for the return of Buyer Data to the Buyer during and at the end of the Call-Off Contract.

4.6 With respect to Resold Services

4.6.1 the Buyer acknowledges that the Supplier is a reseller.

4.6.2 the Buyer is able to purchase Resold Services via its call-off contract with the Supplier through entering into an Order, which will enable the Supplier to place an order with the applicable Resold Services Provider.



- 4.6.3 it is typically a requirement of the reseller agreement that the Buyer accepts a binding contract between the Resold Services Provider and the Buyer (the "**Customer Agreement**"). The terms of this Customer Agreement are not negotiable.
- 4.6.4 breach by the Buyer of the Customer Agreement may lead to the Resold Service Provider suspending or terminating the applicable Customer Agreement and/or taking legal action against the Buyer (and potentially, the Supplier). The Supplier is not liable to the Buyer for the lawful exercise by the applicable Resold Service Provider of its rights under the Customer Agreement.
- 4.7 The Supplier shall have no liability to the Buyer if the Resold Services Provider suspends or terminates the Resold Services as a result of the Buyer's breach of their obligations.
- 4.8 The Buyer is responsible for notifying the Supplier to terminate the Resold Services. Where the supply of products or services under the Resold Services are subject to an automatic renewal in compliance with a notice period specified by the Resold Services Provider, the Resold Services shall continue until terminated in compliance with the Resold Services Provider's own terms.

5 CHARGES AND PAYMENT TERMS

- 5.1 In consideration for the provision of the Services, the Buyer shall pay the Supplier the Charges. The Charges shall be calculated as such:
- 5.1.1 Subscription Charges shall be calculated on the basis of the fixed subscription charge for a fixed term in respect of such Service as stated in the Order;
- 5.1.2 Consumption Charges shall be calculated on the basis of the unit rate or, fixed percentage in the case of the Managed Services, multiplied by the volume of the resources consumed from that provider during the period of a calendar month unless otherwise stated in the Order;
- 5.1.3 Charges for Professional Services shall be calculated in accordance with the Rate Card. Unless otherwise agreed in the Order, the Charges for such Professional Services shall be invoiced monthly in arrears;
- 5.1.4 Charges for any other Services shall be as set out in in the relevant Order.
- 5.2 The Buyer shall pay the Supplier for all Charges in respect of the Resold Services and the Supplier Services.
- 5.3 Unless the Charges are otherwise expressed to be due and payable on a specified date, payment of invoices shall be made by the Buyer in pounds sterling within thirty (30) days of the date of each invoice to a bank account nominated in writing by the Supplier.
- 5.4 In respect of Resold Services, the Buyer shall raise any queries or disputes relating to invoices within sixty (60) Working Days of the invoice date. If by the end of this period, no question or dispute has been raised then the invoice is deemed accepted.
- 5.5 In the event of a bona fide dispute regarding Charges, any invoice or other request for payment for the Supplier Services, the Buyer shall immediately notify the Supplier in writing, and the Parties shall attempt promptly and in good faith to resolve any dispute



regarding the amounts owed. In each such case, the Buyer shall pay all undisputed amounts on or before the due date for payment of such invoice.

- 5.6 In the event of a bona fide dispute regarding Charges, any invoice or other request for payment for the Resold Services:
- 5.6.1 the Buyer shall raise a dispute with the Supplier, and the Supplier will open a case with the Resold Services Provider. The Supplier will work with the Resold Services Provider to review and resolve any disputes.
- 5.6.2 Where disputed Resold Service Charges are due for payment prior to the resolution of the case, the Buyer shall pay the charges in full and where a credit is issued by the Resold Services Provider, the Buyer shall receive the credit in full.
- 5.6.3 If the Charges for the Resold Services are not paid in accordance with Clause 5.3 of these Supplier Terms, the Supplier shall be entitled to terminate or suspend the provision of the Resold Services in accordance with the Resold Service Provider notice period.
- 5.7 All payments under an Order (excluding disputed Charges for the Supplier Services with bona fide dispute under Clause 5.5) shall be paid in full by the Buyer without any deduction or withholding other than as required by law and the Buyer shall not be entitled to assert any credit, set-off, deduction, counterclaim or abatement of any nature whatsoever against the Supplier in order to justify withholding payment of any such amount in whole or in part.
- 5.8 The Charges are exclusive of any applicable sales, use or service tax or any other applicable tax of any nature whatsoever, including any Value Added Tax; all such taxes will be added to the appropriate invoice and shall be payable by the Buyer in accordance with the law from time to time and the terms hereof.
- 5.9 Unless otherwise agreed in the Call Off Contract, the Supplier shall be entitled to pass on to the Buyer the cost of hotels, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals engaged by the Supplier in the provision of the Services, provided such costs are reasonable and supported by appropriate documentation.
- 5.10 Unless otherwise agreed in the Call Off Contract, in the case of the Supplier Services and the Rate Card, the Supplier shall be entitled, with effect from each anniversary of the Start Date, to adjust the Charges and/ or Rate Card (each an "Increase") by giving the Buyer not less than one (1) month's prior written notice before such Increase is applied provided that:
- 5.10.1 such Increase shall not exceed the greater of
- (i) 5% (five per cent); or,
 - (ii) a percentage equal to the percentage increase in the Retail Price Index provided by the Office for National Statistics, in each case during the period since the last such Increase or, if there has been no such Increase, during the period since the Start Date; and



5.10.2 no Increase shall be made until a period of not less than 12 (twelve) months has elapsed since the last Increase came into effect.

5.11 The Charges for Resold Services may be increased in accordance with the Resold Service Providers Customer Agreement.

6 BUYER OBLIGATIONS

6.1 In addition to complying with any obligations set out elsewhere in this Agreement and/or any Order, the Buyer shall be responsible for ensuring:

6.1.1 the management including backing up data, accuracy, quality, and legality of the Buyer Data

6.1.2 it has such internet connectivity, bandwidth and mobile network coverage as may be necessary for the Buyer to receive the Services;

6.1.3 the Services are suitable and adequate for its purposes;

6.1.4 it has obtained any permissions, licences and consents required for use of the Services;

6.1.5 it complies with all applicable local and foreign laws and regulations which may govern its activities in relation to and the use of the Services;

6.1.6 it makes any adjustments or changes within its own technical environment or business operations as may be necessary for it to receive the Services;

6.1.7 it carries out its obligations in a timely and efficient manner and ensures that its staff, third party contractors and any other persons for whom it is responsible comply with the provisions of this Call-Off Contract and/or any Order;

6.1.8 it provides such timely co-operation, facilities, and access to its premises and any relevant information, software, systems and documentation that the Supplier may reasonably require to enable the Supplier to provide the Services; and

6.1.9 it complies with any reasonable instructions of the Supplier in connection with the Services.

6.2 The Buyer agrees that it shall also be responsible for:

6.2.1 complying with the Customer Agreement for the Resold Services – this obligation is owed to both the Resold Services Providers and to the Supplier;

6.2.2 monitoring applicable volume thresholds set out by the Resold Services Providers and managing any potential automatic renewals;

6.2.3 monitoring its subscription(s) throughout the term of any Order to ensure that it remains compliant, including in respect of any potential automatic renewals of the same under the Customer Agreement (the Buyer agreeing that it is solely liable for giving any notice required to avoid any such automatic renewals);

6.2.4 managing and controlling access by users to the applications and systems which use the Services, and setting appropriate security controls and limits relating to such access;



- 6.2.5 obtaining, maintaining, and compliance with the licensing terms, of all necessary licenses from third parties which are necessary to enable the relevant systems of the Buyer (or its sub-contractors) to use the Services. Use of the Services may require the Buyer to purchase additional licences from such third-parties, and the Supplier is not responsible for auditing the Buyer to ensure that it has the appropriate quantity and quality of licences, or for procuring such licences;
- 6.2.6 the compatibility, legality, accuracy, completeness, operation, maintenance, security, backup and use of applications, software, systems and network connectivity that it uses in connection with the Services unless they are expressly included in the applicable Services;
- 6.2.7 ensuring that users of the Services have received adequate training and that they undertake to carry out their role in relation to the operation of the Services, in line with good industry practice and any relevant documentation and reasonable advice given by the Supplier or its providers;
- 6.2.8 using all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and notify the Supplier promptly of any such unauthorised access or use;
- 6.2.9 any impact to the Services due to Buyer installed Software and/or Systems; and
- 6.2.10 ensuring that any third-party providers of services or systems (or other systems which the Services are to integrate with) provide all reasonable and necessary co-operation and assistance to deliver the necessary interfaces with the Services (such third-party services being procured by the Buyer at the Buyer's cost and expense).
- 6.3 The Buyer agrees that if it terminates the Services without agreeing exit services with the Supplier in accordance with Clause 10.7 of the Supplier Terms, then the Buyer will itself be solely responsible for ensuring that its systems and/or data (including all Buyer Data) have been migrated to an alternative platform before the termination date.
- 6.4 If the Supplier is delayed or impeded, or obliged to spend additional time or incur additional expenses, in the performance of any of its obligations relating to the Services by reason of any failure by the Buyer or its staff or its third-party contractors or any other persons for whom it is responsible to comply with the Buyer's obligations under this Call-Off Contract and/or any Order, then the Buyer agrees that:
 - 6.4.1 the Supplier shall not be liable for any delay or default in performance to the extent that the same occurs as a result of such failure, and
 - 6.4.2 the Supplier shall be entitled to an extension of time commensurate with the period of delay, and,
 - 6.4.3 the Supplier shall be entitled to recover from the Buyer the additional costs, wasted costs and/or additional expenses that it has reasonably incurred to the extent that the same occurs as a result of such failure.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Buyer shall own all rights, title and interest in and to all Buyer Data.



- 7.2 The Supplier's Background IPRs shall (as between the Buyer and the Supplier) be owned by the Supplier.

8 SUBCONTRACTORS AND OTHER PERMISSIONS

- 8.1 The Buyer hereby gives its written approval for the Supplier to use the Sub-contractors identified in the Call-Off Contract (including the Resold Services Providers) to perform the Services.
- 8.2 The Buyer hereby gives its written approval for the Supplier to transfer Buyer Data to the relevant Resold Services Providers identified in the Call-Off Contract to provide the Resold Services.
- 8.3 The Buyer undertakes (on a continuing basis for the duration of the Term and thereafter) that it has all the consents necessary to allow the transfer and processing of the Buyer Data (including Personal Data) by the Supplier and Sub-contractors as part of the Services, and, in the case of the Resold Services, by the Resold Services Providers and their subcontractors.
- 8.4 The Buyer hereby gives its written approval for the Supplier to combine service data (including Personal Data) with data collected by other customers to create cross-customer analyses, and to supply the results of its analyses to third parties, provided that in doing so it maintains both the anonymity of personal data and the anonymity of the customers contributing the data

9 Warranties

- 9.1 Except for the obligations implied by Section 2 of the Supply of Goods and Services Act 1982, all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality and fitness for purpose are, to the fullest extent permitted by applicable law, excluded from this Call- Off Contract.

10 TERMINATION OF CALL-OFF CONTRACT BY EITHER PARTY

- 10.1 Resold Services may only be terminated for convenience in accordance with the applicable Resold Service Provider's relevant Customer Agreement.
- 10.2 Where the Buyer has obtained the benefit of lower Charges through the use of reserved instances or other similar means which involve a commitment by the Buyer to purchase Resold Services over a period beyond the date on which the Call-Off Contract is terminated, the providers of the Resold Services will be entitled to compensation from the Supplier, and the Supplier is entitled to recover such compensation from the Buyer.
- 10.3 The Buyer agrees that the Supplier shall at any time be entitled to terminate in full or in part, this Call-Off Contract without incurring liability to the Buyer in circumstances where:
- 10.3.1 the Resold Services Provider rejects the Buyer as one of their customers; or



- 10.3.2 the Resold Services Provider withdraws an applicable Resold Service from the market so that it is no longer available to the Buyer; or
- 10.3.3 the Supplier does not agree to the renewal of the Resold Services beyond the original term of the Call- Off Contract; or
- 10.3.4 the Buyer refuses to enter into the Customer Agreement or any new or revised Customer Agreement then issued by the Resold Services Provider.
- 10.4 If the Supplier elects to exercise any of its rights under Clause 10.4, then (other than in circumstances of breach by the Buyer of this Call-off Contract or the Customer Agreement and in which case the Supplier reserves all of its rights and remedies in respect of any such breach), the Supplier will as and when it receives the same from the Resold Services Provider in question, refund to the Buyer any sums paid in advance to the Supplier for Services which will no longer be delivered and the Buyer agrees that this shall be its sole remedy in respect of any such termination.
- 10.5 On expiry, and on termination of this Call-Off Contract, all licenses granted under this Call-Off Contract shall immediately terminate and the Buyer shall:
- 10.5.1 no longer be entitled to and immediately cease to use the Services;
- 10.5.2 pay to the Supplier any sums due to the Supplier under this Call-Off Contract ;
- 10.5.3 return to the Supplier all equipment, property, Confidential Information and other items (and all copies of them) belonging to the Supplier;
- 10.6 On expiry, and on termination of this Call-Off Contract the Supplier shall, subject to agreeing an appropriate Statement of Work, provide the following exit and service transfer services (referred to as 'Offboarding') based on the Rate Card:
- 10.6.1 the services required to provide a smooth handover of the Services, Buyer Data and the Buyer's Confidential Information to the Buyer or as nominated by the Buyer, and
- 10.6.2 the return of Buyer Data and Confidential Information to the Buyer in its then current format or in a format agreed by the parties (in which event the Buyer will reimburse the Supplier's reasonable data conversion expenses).