

tImNexus SUPPLIER TERMS – G-CLOUD 15 G-CLOUD SERVICES

These Supplier Terms form part of, and supplement, the G-Cloud 15 Framework Contract and Call-Off Contract (together with any Orders placed under a Call-Off Contract) between:

- (1) The Minister for the Cabinet Office represented by its executive agency the Crown Commercial Service with its offices are on 9th Floor, The Capital, Old Hall Street, Liverpool L3 9PP ("**CCS**");
- (2) the Buyer (as defined in the relevant Order Form); and
- (3) tImNexus Ltd (company registered number 04058701, whose registered office is at Suite 16 Citibase, 95 Ditchling Road, Brighton, East Sussex BN1 4ST) ("**the Supplier**").

These Supplier Terms apply to the Framework Contract and Call-Off Contract (together with any Orders placed under a Call-Off Contract), and the Services to be provided to the Buyer by the Supplier, as set out in the relevant Order Form.

IT IS THEREFORE AGREED THAT

The following terms set out in Sections 1 to 4 (inclusive) of these Supplier Terms supplement, and are not intended to, create obligations inconsistent with the Framework Contract or any Call-Off Contract:

1 WARRANTIES

1.1 CCS warrants, represents and undertakes that:

- 1.1.1 it has the full capacity, authority and all necessary authorisations, consents, licences and permissions, to enter into and perform its obligations under the Framework Contract and that the Framework Contract is executed by a duly authorised representative of CCS;
- 1.1.2 it has used and will continue to use all reasonable endeavours, software and the most up to date antivirus definitions available from an industry accepted antivirus software seller to minimize the impact of Malicious Software accessing systems owned by, under the control of, or used by CCS or the Supplier via its own access to these systems;
- 1.1.3 it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform its obligations under the Framework Contract;
- 1.1.4 it will perform all obligations under the Framework Contract in compliance with all Laws;
- 1.1.5 it will perform its obligations with all reasonable care, skill and diligence, according to Good Industry Practice; and
- 1.1.6 at the date of Framework Contract, all information, statements and representations it has made to the Supplier are not misleading.

1.2 Nothing in clauses 2.7 to 2.9 of the General Terms shall prevent the Supplier from relying on information expressly confirmed in writing by CCS as being accurate, complete, or suitable for the Framework. Where such reliance is reasonable, any Supplier Non-Performance arising directly from material inaccuracy in that confirmed information shall constitute an Authority Cause for the purposes of clause 5 of the General Terms.

1.3 If CCS becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Supplier.

2 DATA PROTECTION

2.1 CCS shall comply with the Data Protection Legislation, guidance and codes of practice from the Information Commissioner and Joint Schedule 10 (Processing Data) when processing Personal Data. In particular, as CCS is the Controller (whether an independent Controller or joint Controller with the Supplier), CCS shall ensure that it:

- 2.1.1 provides instructions to the Supplier and determines the purposes and general means of Supplier's processing of Personal Data on behalf of CCS under the Framework Contract; and
- 2.1.2 complies with its personal data protection, security and other obligations prescribed by Data Protection Legislation and the Information Commissioner for Controllers by, without limitation, meeting its obligations under Data Protection Legislation to:

- 2.1.2.1 establish and maintain a procedure for the exercise of the rights of the individuals whose Personal Data are processed on behalf of CCS;
 - 2.1.2.2 process only Personal Data that have been lawfully and validly collected and ensure that such Personal Data will be relevant and proportionate to the respective uses; and
 - 2.1.2.3 ensure compliance with the provisions of Data Protection Legislation, as well as guidance and codes of practice from the Information Commissioner, by its personnel and by any person accessing or using Personal Data on its behalf.
- 2.2 CCS indemnifies the Supplier against any and all Losses incurred if CCS breaches: (i) Section 2.1 of these Supplier Terms; (ii) Joint Schedule 10 (Processing Data) and/or (iii) any Data Protection Legislation as well as guidance and codes of practice from the Information Commissioner, to a maximum in each Contract Year of the Data Protection Liability Cap.
- 2.3 Where it is agreed by the parties in writing that the Supplier is a Processor for the purposes of Joint Schedule 10 (Processing Data):
 - 2.3.1 in relation to the rights that CCS has under Joint Schedule 10 (Processing Data), CCS shall, at all times, act reasonably and in good faith when exercising or enforcing its rights including (without limitation) in relation to the Protective Measures it requires the Supplier to put in place and the transfer of Personal Data outside the UK;
 - 2.3.2 CCS will ensure that its instructions for the Processing of Personal Data comply with Data Protection Legislation as well as guidance and codes of practice from the Information Commissioner. CCS acknowledges that the Supplier is neither responsible for determining which laws or regulations are applicable to CCS's business nor whether the Supplier's provision of the Services meets or will meet the requirements of such laws or regulations. CCS will ensure that the Supplier's Processing of Personal Data, when done in accordance with CCS's instructions, will not cause the Supplier to violate any applicable law or regulation, including applicable Data Protection Legislation;
 - 2.3.3 CCS shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which CCS acquired Personal Data; and
 - 2.3.4 CCS shall ensure that CCS is entitled to transfer the relevant Personal Data to the Supplier so that the Supplier and its sub-processors may lawfully use, process and transfer the Personal Data on CCS's behalf in accordance with Joint Schedule 10 (Processing Data), Data Protection Legislation and guidance and codes of practice from the Information Commissioner.
- 2.4 CCS retains its statutory rights to update paragraphs 3.13 to 3.14 of Joint Schedule 10 (Processing Data), but any other amendments CCS wishes to propose to Joint Schedule 10 (Processing Data) shall be subject to the prior written approval of the Supplier.
- 3 REMEDIATION PLAN**
- 3.1 In relation to the rights that CCS has under clause 11 and 13.6 of the General Terms, CCS shall, at all times, act reasonably and in good faith when exercising or enforcing its rights including allowing the Supplier extensions of time.
- 4 GENERAL**
- 4.1 The provisions in clauses 9.3 to 9.5 (Rights and Protections), 10 (Intellectual Property Rights), 31 (Equality, Diversity and Human Rights), 35 (Conflicts of Interest) and 36 (Reporting a breach of contract) of the General Terms shall apply mutatis mutandis to CCS.
- 4.2 CCS shall comply with the Official Secrets Act 1911 to 1989 and the provisions in clause 15.3 of the General Terms shall apply mutatis mutandis to CCS.
- 4.3 The Supplier shall not be required to provide any Deliverables which fall outside the agreed Specification or which materially differ in nature, scale or complexity from those originally agreed, unless such change is implemented in accordance with the Variation Procedure.
- 4.4 No instruction, request, cooperation obligation or acceptance of Deliverables shall constitute a Variation unless expressly agreed in writing in accordance with clause 27 of the General Terms.

- 4.5 Any assessment under clause 8.5 of the General Terms shall be conducted on a like-for-like basis, taking into account volume, risk allocation, service levels, performance obligations, assumptions and contractual terms. No adjustment to Charges shall be required unless the alternative terms are genuinely comparable in all material respects.
- 4.6 Where a Contract is suspended under clause 13.6 of the General Terms other than as a result of Supplier Default, the Buyer shall reimburse the Supplier for reasonable, unavoidable and evidenced costs incurred as a direct result of the suspension. Such costs shall exclude loss of profit but may include committed third-party costs and unavoidable standby costs.
- 4.7 For the purposes of clause 13.5.3(b) of the General Terms, “committed and unavoidable Losses” shall include, to the extent reasonably incurred in reliance on the Contract: (i) non-cancellable third-party commitments; (ii) contractual wind-down costs; and (iii) costs of complying with Exit Management obligations.
- 4.8 The indemnity under clause 17.6.4 of the General Terms shall apply only to the extent that the relevant Losses arise directly from the Supplier’s breach of clause 17 of the General Terms and/or applicable Data Protection Legislation.
- 4.9 When determining whether information constitutes Commercially Sensitive Information, CCS and the Buyer shall act reasonably and shall have regard to any representations made by the Supplier, although the final decision shall remain with the Buyer in accordance with Law.
- 4.10 Where reasonably practicable, and without prejudice to any statutory obligations, the Relevant Authority shall allow the Supplier a reasonable opportunity to propose mitigation measures before exercising termination rights relating to financial distress or Change of Control.
- 4.11 CCS and the Buyer shall exercise their rights and discretions under the Contract in good faith and in a proportionate manner, having regard to the nature of the relevant obligation and the public interest.
- 4.12 The Supplier’s obligations under clause 30.1 of the General Terms apply only where the Supplier has actual knowledge, or ought reasonably to have knowledge following reasonable internal enquiries, of the relevant exclusion ground or change.
- 4.13 Where information provided under clauses 30.1 to 30.3 (inclusive) of the General Terms is incomplete or inaccurate without intent to mislead, the Relevant Authority shall, where reasonably practicable, allow the Supplier a reasonable opportunity to correct or clarify such information before exercising termination rights under clause 30.4 of the General Terms.
- 4.14 Any requirements or instructions imposed under clause 31.1.2 of the General Terms shall be reasonable, proportionate, and consistent with Law and the scope of the Deliverables.
- 4.15 The Supplier shall not be liable for non-compliance with any amendment to the Buyer’s Environmental Policy unless notified in writing and given a reasonable period to implement such amendment.
- 4.16 Any information requested under clause 34.3 of the General Terms shall be limited to what is reasonably necessary for the stated compliance purpose and shall not require the disclosure of legally privileged or Commercially Sensitive Information where a reasonable alternative exists.
- 4.17 In relation to Framework Schedule 4 (Framework Management), Framework Schedule 5 (Management Charges and Information), Joint Schedule 5 (Sustainability), Joint Schedule 6 (Key Subcontractors), Call-Off Schedule 3 (Continuous Improvement), Call-Off Schedule 8 (Business Continuity and Disaster Recovery), Call-Off Schedule 10 (Exit Management), Call-Off Schedule 12 (Clustering), Call-Off Schedule 13 (Implementation Plan and Testing), Call-Off Schedule 15 (Call-Off Contract Management) and Call-Off Schedule 16 (Benchmarking):
 - 4.17.1 **Consistency and Scope:** All obligations under these Schedules including Supplier Action Plans, Supplier Review Meetings, Framework Performance Measures (FPMs), efficiency tracking, Management Information (MI) Reports, Rectification Plans, Admin Fees, Default Management Charges, modern slavery obligations, sustainability obligations, environmental

commitments, Carbon Reduction Plans, Government Buying Standards, Supplier Code of Conduct requirements, and Key Subcontractor obligations shall:

- 4.17.1.1 be consistent with the Supplier's obligations under these Supplier Terms, the General Terms and any applicable Call-Off Contract;
 - 4.17.1.2 not extend beyond the obligations expressly set out in the relevant Schedules; and
 - 4.17.1.3 be reasonable and proportionate to the Supplier's level of activity, capacity and the volume or scope of transactions reported under the Framework, and allow the Supplier a reasonable period to implement any agreed changes.
- 4.17.2 **Reasonableness of Requests:** Any requests from CCS or the Buyer under these Schedules for information, evidence, approvals, or compliance, including changes to MI Reporting Templates, Supplier Action Plans, Rectification Plans, or Key Subcontractor approvals, shall be reasonable, proportionate, and relevant to the management of the Framework or Call-Off Contract.
- 4.17.3 **Framework Management and Performance Measures:**
- 4.17.3.1 Supplier Action Plans, updates, and FPMs shall be reasonable, achievable, and proportionate; apply prospectively only; and allow the Supplier a reasonable period to implement any agreed changes.
 - 4.17.3.2 Any new or amended FPMs shall take into account factors outside the Supplier's reasonable control, including Buyer demand, policy changes, market conditions, and external supply chain constraints.
- 4.17.4 **Complaints and Remedial Actions:** In addressing Complaints or breaches related to performance, sustainability, or supply chain matters, the Supplier shall not be required to accept responsibility for:
- 4.17.4.1 CCS or Buyer acts or omissions;
 - 4.17.4.2 inaccurate or incomplete Buyer requirements; or
 - 4.17.4.3 use of the Services outside the scope of the Framework Contract or Call-Off Contract.
- 4.17.5 **Exit Management:** The Supplier shall not be liable for any Loss or Delay arising from:
- 4.17.5.1 the Buyer's failure to request, review, or approve Exit Plan deliverables in a timely manner;
 - 4.17.5.2 inaccurate or incomplete information provided by the Buyer or Replacement Supplier;
 - 4.17.5.3 non-cooperation or failure of any Replacement Supplier;
 - 4.17.5.4 reliance on Buyer or Replacement Supplier personnel for handover or knowledge transfer; or
 - 4.17.5.5 compliance with Ethical Wall Agreements, provided the Supplier bears only its own costs.
- 4.17.6 **Clustering:**
- 4.17.6.1 The Supplier shall have no liability to Cluster Members beyond the terms agreed with the Buyer and shall not be required to coordinate, enforce, or manage any Cluster Member obligations independently.
 - 4.17.6.2 The Buyer shall remain responsible for compliance obligations that require its action but which may benefit Cluster Members. Compliance by a Cluster Member shall be deemed compliance by the Buyer for these purposes.
 - 4.17.6.3 The Supplier's liability to Cluster Members is limited to the same scope, exclusions, and financial limits as apply to the Buyer under the Call-Off Contract.
 - 4.17.6.4 The Supplier shall not be responsible for any act or omission of a Cluster Member that affects the provision of Deliverables.
 - 4.17.6.5 The Supplier's obligations in relation to Cluster Members are conditional on the Buyer coordinating instructions and approvals.
- 4.17.7 **Modern Slavery and Supply Chain:**
- 4.17.7.1 The Supplier shall only be required to take steps that are reasonable and proportionate in monitoring its supply chain, conducting due diligence, and reporting instances of modern slavery, forced labour, trafficking, or child labour.

- 4.17.7.2 The Supplier shall not be liable for acts or omissions of supply chain entities or subcontractors outside its reasonable control, provided reasonable policies and procedures are implemented.
- 4.17.7.3 Requests for supply chain maps, modern slavery assessment tools, reports, or remedial action plans shall be reasonable in scope and allow sufficient time for response.
- 4.17.8 **Environmental, Sustainability, and Net Zero Obligations:**
 - 4.17.8.1 The Supplier shall use reasonable endeavours to comply with environmental obligations, including Carbon Reduction Plans, Net Zero targets, Government Buying Standards, and sustainability requirements.
 - 4.17.8.2 Obligations shall take into account factors outside the Supplier's reasonable control, including regulatory changes, technological availability, or supply chain limitations.
 - 4.17.8.3 Minor deviations shall not attract penalties where reasonable measures are implemented in good faith.
- 4.17.9 **Key Subcontractors:**
 - 4.17.9.1 The Supplier retains control over the appointment, replacement, and removal of Key Subcontractors, and shall not be required to act beyond its reasonable control.
 - 4.17.9.2 CCS or the Buyer shall act reasonably when approving or objecting to a proposed Key Subcontractor, and approvals shall not be unreasonably withheld or delayed.
 - 4.17.9.3 The Supplier shall not be liable for the acts, omissions, or defaults of Key Subcontractors beyond its reasonable control, provided appropriate monitoring and enforcement measures are in place.
 - 4.17.9.4 Key Subcontracts shall include only obligations reasonably necessary for the Supplier to perform its obligations under the Framework Contract or Call-Off Contracts, and the Supplier shall have the right to terminate or amend Key Subcontracts on terms no more onerous than those imposed on CCS or the Buyer.
- 4.17.10 **Financial Monitoring:**
 - 4.17.10.1 The Supplier shall monitor Financial Indicators and report Financial Distress Events as required, but shall not be liable for events outside its reasonable control.
 - 4.17.10.2 Board Confirmations or alternative statements may be provided in good faith, based on reasonable enquiry.
 - 4.17.10.3 Where Rating Agencies confirm that credit ratings remain above thresholds, the Supplier is automatically relieved of obligations under paragraphs 4.3 to 4.6 (inclusive) of Joint Schedule 7.
- 4.17.11 **Continuous Improvement:** Without limiting the Supplier's obligations under Call-Off Schedule 3:
 - 4.17.11.1 any improvement proposed or implemented shall be limited to those which are technically feasible, commercially reasonable and capable of implementation without materially increasing risk to service delivery or compliance;
 - 4.17.11.2 improvements shall not require material changes to the fundamental architecture, standard operation or delivery model of the Deliverables;
 - 4.17.11.3 any obligation to implement a Variation at no additional cost shall apply only where the Variation reflects an improvement substantially as described in an Approved Continuous Improvement Plan and does not require material additional scope, assumptions or dependencies;
 - 4.17.11.4 any reduction in Charges arising from cost savings shall apply only once such savings are demonstrable, realised in practice and directly attributable to the implemented improvement; and
 - 4.17.11.5 no warranty is given that improvements will be identified or implemented in every Contract Year.
- 4.17.12 **CCS, Buyer and Cluster Member Dependencies:** The Supplier shall not be responsible for any failure, delay, increased cost, or adverse impact arising from:
 - 4.17.12.1 inaccurate, incomplete, or late CCS or Buyer information or instructions;

- 4.17.12.2 CCS or Buyer-controlled systems, premises, infrastructure, or personnel;
 - 4.17.12.3 failures of Related Suppliers or third parties outside the Supplier's reasonable control; or
 - 4.17.12.4 instructions from CCS, the Buyer and/or Cluster Members that are inconsistent, conflicting, or otherwise impracticable.
- 4.17.13 **Implementation Plan and Testing:** The Supplier shall perform its obligations under the Implementation Plan in good faith and using reasonable skill, care, and resources. The Supplier shall not be liable for Delays, Losses, or associated Delay Payments arising from:
- 4.17.13.1 inaccurate or incomplete information provided by the Buyer or incumbent supplier;
 - 4.17.13.2 dependencies on third parties or the Buyer in connection with Implementation, Testing, Milestones, or Termination Assistance;
 - 4.17.13.3 changes requested by the Buyer that conflict with the Implementation Plan unless agreed under the Variation Procedure;
 - 4.17.13.4 security clearance delays caused by the Buyer or by requirements outside the Supplier's control; or
 - 4.17.13.5 any failure by the Buyer to respond to communications, provide approvals, or coordinate dependencies.
- 4.17.14 **Call-Off Contract Management:** The Supplier shall not be liable for Loss, Delay, or other consequences caused by:
- 4.17.14.1 non-attendance, absence, or inadequate participation by Buyer Operational Board members;
 - 4.17.14.2 instructions or decisions from the Buyer or Operational Board that conflict with the Contract, Laws, or Good Industry Practice; or
 - 4.17.14.3 inspection of accounts and records requested by the Buyer, except to the extent of Supplier negligence or breach of Contract.
- 4.17.15 **Benchmarking:** The Supplier shall use reasonable endeavours to cooperate with Benchmark Reviews and provide information within its control. The Supplier may identify factors materially affecting benchmarking outcomes (including contractual terms, scale, geographic considerations, and market conditions) which the benchmarker shall reasonably consider. The costs for Benchmark Reviews, including benchmarker fees, shall be borne by the Buyer unless the report demonstrates that Deliverables are not Good Value, in which case cost-sharing shall be governed by the terms of Call-Off Schedule 16. The Supplier shall not be responsible for:
- 4.17.15.1 the benchmarker's methodology, professional judgment, or conclusions;
 - 4.17.15.2 errors, omissions, or interpretations in the Benchmarking Report; or
 - 4.17.15.3 implementing changes required by the Buyer that are outside the scope of the Contract or Variation Procedure.
- 4.17.16 **Interpretation of Loss and Delay:** In assessing the Supplier's compliance with the Framework Agreement and any Call-Off Contract, the Supplier shall be responsible for Loss, Delay, or other adverse consequences only to the extent that they arise directly from the Supplier's breach of Contract and are within the Supplier's reasonable control, and due regard shall be given to dependencies on CCS, the Buyer, Cluster Members, incumbent suppliers, governance decisions, third-party inputs, and other matters outside the Supplier's reasonable control, with any remedies, performance measures, or consequences applied proportionately and in good faith in accordance with the Contract.
- 4.17.17 **No Unlawful or Unrecoverable Obligations:** Nothing in these Schedules shall require the Supplier to act unlawfully, incur unrecoverable costs, or assume liabilities or obligations beyond those expressly provided for in the General Terms or any Call-Off Contract.

In addition to the terms set out in Sections 4.17 to 4.17 of these Supplier Terms, the following terms in Sections 5 to 16 (and Appendix 1) of these Supplier Terms supplement each Call-Off Contract:

5 DEFINITIONS

- 5.1 Capitalised terms used in these Supplier Terms shall have the meanings given to them in the Framework Contract and Call-Off Contract. Where such capitalised terms are not defined in the Framework Contract or Call-Off Contract, they shall have the following meanings:

"Access Policy"	means the policy of the Supplier relating to the terms of access to the Services, as set out in Appendix 1 to these Supplier Terms, as may be amended and issued by the Supplier to the Buyer in writing from time to time during the Term;
"Authorised Users"	means the number of authorised users (as identified in the Supplier Service Description) being those employees, agents and/or independent contractors of the Buyer, who are authorised by the Buyer to use the Services in accordance with the terms of these Supplier Terms (including the Access Policy) and the Call-Off Contract, together with any additional number of Authorised Users who are added through the use of a further Order Form containing details of the number of additional Authorised Users to be allowed access to use the Services in accordance with these Supplier Terms and the Call-Off Contract;
"Documentation"	means the documentation made available to the Buyer by the Supplier either via the Supplier's web address or other electronic form (including email or instructions contained within the relevant part of the tImNexus Solution), or in hard copy, as may be notified to the Buyer by the Supplier from time to time and which sets out the user instructions for the Services;
"Go Live"	means the date on which the Onboarding process has been completed in accordance with, and as defined in, Section 6.4 of these Supplier Terms and the Services are available to the Buyer for access and use in accordance with these Supplier Terms and the Call-Off Contract;
"Maintenance"	means the standard maintenance of the tImNexus Solution, being any error standard corrections, maintenance or updates that the Supplier may provide or perform as standard with respect to the tImNexus Solution, as well as any other standard support or training services provided to the Buyer under these Supplier Terms, all as described in the Supplier Service Description, but not including Upgrades;
"Normal Business Hours"	8.30 am to 5.00 pm local UK time on Working Days;
"Onboarding"	means the process of completing the configuration and related work referred to in Section 6 of these Supplier Terms and as described in the Supplier Service Description, to be performed by the Supplier to set up the tImNexus Solution for access and use of the Services in accordance with these Supplier Terms and the Call-Off Contract;
"Service Level Agreement"	the service level arrangements for the tImNexus Solution as set out in the Supplier Service Description;
"Subscription Fee"	means the subscription fee payable by the Buyer to the Supplier for the access and use of the Service, as set out in the Order Form (or otherwise agreed in accordance with the Call-Off Contract) and payable in accordance with the Call-Off Contract;
"tImNexus Solution"	means the tImNexus Solution including any part thereof, or multiple solutions, offered as part of the Services, as more particularly described in the Order Form;

"Upgrades" means any upgrades to the tImNexus Solution and/or the Services which are not standard Maintenance (in accordance with the Supplier Service Description) and which are not included as part of the Services and are subject to separate terms and conditions and charges; and

"Virus" anything 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; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

6 ONBOARDING SERVICES

- 6.1 The Supplier shall perform the Onboarding services for the tImNexus Solution in accordance with the Supplier Service Description. Unless stated otherwise in the Call-Off Contract, the Supplier shall use reasonable endeavours to meet the performance dates set out in the Supplier Service Description (if any), but any such dates shall be estimates only, and time shall not be of the essence in these Supplier Terms or the Call-Off Contract.
- 6.2 When the Supplier considers that the Onboarding services in connection with the tImNexus Solution have been completed and the Services are ready for activation it shall so notify the Buyer. Within five (5) days of such notification the Buyer shall review the Onboarding of the tImNexus Solution to confirm that the Services functions materially conforms with the Supplier Service Description. If the tImNexus Solution fails in any material respect to conform with the Supplier Service Description, the Buyer shall give the Supplier a detailed description of any such non-conformance ("**Error**") in writing, within the five (5) day review period.
- 6.3 The Supplier shall use reasonable endeavours to correct any Error within a reasonable time and, on completion, notify the Buyer that the Services are available to the Buyer for checking conformance with the Supplier Service Description. The provisions of Section 6.2 and this Section 6.3 of these Supplier Terms shall then apply again, until any Errors have been corrected. If the Supplier is unable to correct the Error, either party may terminate these Supplier Terms and the Call-Off Contract without further liability to the other.
- 6.4 If the Buyer does not provide any written comments in the five (5) day period described above, or if the Services are found to conform with the Supplier Service Description in accordance with Section 6 of these Supplier Terms, then the Services shall be deemed accepted as from the date of the notification ("**Go Live**") and the Buyer shall be entitled to access and use the tImNexus Solution through the Services from the Go Live date in accordance with these Supplier Terms.

7 SUBSCRIPTION

- 7.1 Subject to the Buyer paying the Subscription Fees in accordance with the Call-Off Contract, the terms of use set out in Section 6 of these Supplier Terms and the other terms and conditions set out, or referred to, in these Supplier Terms and the Call-Off Contract, the Supplier hereby grants to the Buyer a non-exclusive, non-transferable right to permit the Authorised Users to use the Service and the Documentation during the Call-Off Contract Period solely for the Buyer's business operations.
- 7.2 In relation to the Authorised Users, the Buyer undertakes that:
- 7.2.1 the maximum number of Authorised Users that it authorises to access and use the Services shall not exceed the number set out in the Order Form;

- 7.2.2 the Authorised Users (based on the Buyer's infrastructure detailed in the Supplier Service Description and the level of Subscription Fee as set out in the Order Form) that it authorises to access and use the Services and the Documentation, shall only access and use the Services in accordance with the Supplier Service Description;
 - 7.2.3 it will not allow or suffer any Authorised User access to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services;
 - 7.2.4 comply with any Supplier Licence Terms; and
 - 7.2.5 each Authorised User shall keep a secure password for his use of the Services and Documentation and that each Authorised User shall keep his password confidential.
- 7.3 The Buyer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:
- 7.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 7.3.2 facilitates illegal activity;
 - 7.3.3 depicts sexually explicit images;
 - 7.3.4 promotes unlawful violence;
 - 7.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity;
 - 7.3.6 in a manner that is otherwise illegal or causes damage or injury to any person or property;
 - 7.3.7 is in breach of any Supplier Licence Terms; or
 - 7.3.8 causes damage or injury to any person or property,
- and the Supplier reserves the right, without liability to the Buyer, to disable the Buyer's access to any material that breaches the provisions of Section 7.3 of these Supplier Terms.
- 7.4 The Buyer shall not:
- 7.4.1 except as may be allowed by any Law which is incapable of exclusion by agreement between the parties:
 - 7.4.1.1 and except to the extent expressly permitted under these Supplier Terms and/or the Call-Off Contract, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the tImNexus Solution and/or Documentation (as applicable) in any form or media or by any means; or
 - 7.4.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the tImNexus Solution; or
 - 7.4.2 access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or
 - 7.4.3 use the Services and/or Documentation to provide services to third parties; or
 - 7.4.4 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users, or
 - 7.4.5 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under Section 7 of these Supplier Terms.
- 7.5 The Buyer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify the Supplier.
- 7.6 The rights provided under Section 7 of these Supplier Terms are granted to the Buyer only, and shall not be considered granted to any subsidiary or holding company of the Buyer. The right to access the Services shall not grant to or entitle the Buyer to obtain any rights in or to the tImNexus Solutions and/or any other Intellectual Property Rights of the Supplier.

8 SERVICE PROVISION

- 8.1 The Supplier will provide the Services in accordance with the Supplier Service Description as from the Go Live date, for the Term, subject to the terms and conditions of these Supplier Terms and the Call-Off Contract.

- 8.2 The Service Level Agreement for the Services and use of the Services shall apply with effect from the Go Live date.
- 8.3 The Buyer shall remain responsible for the use of the Services under its control, including any use by third parties (whether fraudulent or invited by the Buyer).
- 8.4 The Buyer must take reasonable measures to ensure it does not jeopardise services supplied to third parties on the same shared access infrastructure. This includes informing the Supplier promptly in the case of a denial-of-service attack or distributed denial-of-service attack. In the event of any such incident, the Supplier will work with the Buyer to alleviate the situation as quickly as possible. The parties shall discuss and agree appropriate action.
- 8.5 The Buyer shall not make the Services available to third parties.
- 8.6 The Supplier reserves the right to:
- 8.6.1 modify the platform on which the Services are provided, its network, system configurations or routing configuration; or
 - 8.6.2 modify or replace the tImNexus Solution or other software or systems in its network or in equipment used to deliver the Services,
- provided that this has no adverse effect on the Supplier's obligations under these Supplier Terms or the Call-Off Contract and its provision of the Services and/or if the Supplier reasonably determines that changes must be made to the Services and/or the tImNexus Solution to react to changes in environmental infrastructure or security requirements, or to respond to changes in the laws or regulatory requirements. If such changes will have an adverse effect, the Supplier shall notify the Buyer and the parties will seek to agree any changes to these Supplier Terms and/or the Call-Off Contract which will be recorded in writing, including any adjustments in the Charges or Service Level Agreement.
- 8.7 Subject to the provisions of these Supplier Terms, the Supplier shall use reasonable endeavours to make the Services available in accordance with the Service Level Agreement, except for:
- 8.7.1 planned maintenance to be carried out; and
 - 8.7.2 unscheduled maintenance performed outside Normal Business Hours, provided that the Supplier has used reasonable endeavours to give the Buyer at least four (4) Normal Business Hours' notice in advance.
- 8.8 The Supplier will, as part of the Services and at no additional cost to the Buyer, provide the Buyer with the Supplier's standard Buyer support services during Normal Business Hours in accordance with the Service Level Agreement. The Buyer may purchase Additional Services separately at the Supplier's then current rates and as set out in the Supplier Service Description.
- 8.9 In accordance with the Call-Off Contract, the Buyer may, from time to time during the Call-Off Period, purchase Additional Services from the Supplier. If the Buyer wishes to purchase Additional Services, the Buyer shall request an Order Form for those Additional Services.

9 BUYER CONTENT AND GOVERNMENT DATA

- 9.1 The parties acknowledge that the Buyer will supply to the Supplier its Buyer Content and Government Data (collectively, "**Buyer Supplied Data**"), which includes contact addresses, names, email addresses and contact details of individuals. Such Buyer Supplied Data shall be processed by the Supplier on behalf of the Buyer in accordance with these Supplier Terms and the Call-Off Contract.
- 9.2 The Buyer shall own all rights, title and interest in and to all of the Buyer Supplied Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Buyer Supplied Data.
- 9.3 The Supplier shall upload and store the Buyer Supplied Data entered into the Services by the Buyer's Authorised Users and/or by the Supplier on the Buyer's behalf, as set out in these Supplier Terms and the Call-Off Contract, to be made available through accessing the Services.

- 9.4 The Buyer shall comply with the Data Protection Legislation, guidance and codes of practice from the Information Commissioner and Joint Schedule 10 (Processing Data) when using the Services under these Supplier Terms and the Call-Off Contract. In particular, as the Buyer is the Controller (whether an independent Controller or joint Controller with the Supplier), the Buyer shall ensure that it:
- 9.4.1 provides instructions to the Supplier and determines the purposes and general means of Supplier's processing of Personal Data on behalf of the Buyer under these Supplier Terms and the Call-Off Contract; and
 - 9.4.2 complies with its personal data protection, security and other obligations prescribed by Data Protection Legislation and the Information Commissioner for Controllers by, without limitation, meeting its obligations under Data Protection Legislation to:
 - 9.4.2.1 establish and maintain a procedure for the exercise of the rights of the individuals whose Personal Data are processed on behalf of the Buyer;
 - 9.4.2.2 process only Personal Data that have been lawfully and validly collected and ensure that such Personal Data will be relevant and proportionate to the respective uses; and
 - 9.4.2.3 ensure compliance with the provisions of Data Protection Legislation, as well as guidance and codes of practice from the Information Commissioner, by its personnel and by any person accessing or using Personal Data on its behalf.
- 9.5 The Buyer grants to the Supplier a licence to include the Buyer Supplied Data within the Services, for the purposes of these Supplier Terms and the Call-Off Contract.
- 9.6 Where it is agreed by the parties in writing that the Supplier is a Processor for the purposes of the Call-Off Contract:
- 9.6.1 in relation to the rights that the Buyer has under Joint Schedule 10 (Processing Data), the Buyer shall, at all times, act reasonably and in good faith when exercising or enforcing its rights including (without limitation) in relation to the Protective Measures it requires the Supplier to put in place and the transfer of Personal Data outside the UK;
 - 9.6.2 the Buyer will ensure that its instructions for the Processing of Personal Data comply with Data Protection Legislation and guidance and codes of practice from the Information Commissioner. The Buyer acknowledges that the Supplier is neither responsible for determining which laws or regulations are applicable to the Buyer's business nor whether the Supplier's provision of the Services meets or will meet the requirements of such laws or regulations. The Buyer will ensure that the Supplier's Processing of Personal Data, when done in accordance with the Buyer's instructions, will not cause the Supplier to violate any applicable law or regulation, including applicable Data Protection Legislation;
 - 9.6.3 the Buyer shall have sole responsibility for the accuracy, quality, and legality of Personal Data and the means by which the Buyer acquired Personal Data; and
 - 9.6.4 the Buyer shall ensure that the Buyer is entitled to transfer the relevant Personal Data to the Supplier on the Buyer's behalf so that the Supplier and its sub-processors may lawfully use, process and transfer the Personal Data in accordance with Joint Schedule 10 (Processing Data), Data Protection Legislation and guidance and codes of practice from the Information Commissioner.
- 9.7 CCS retains its statutory rights to update paragraphs 3.13 to 3.14 (inclusive) of Joint Schedule 10 (Processing Data), but any other amendments the Buyer wishes to propose to Joint Schedule 10 (Processing Data) shall be subject to the prior written approval of the Supplier.
- 9.8 The Buyer indemnifies the Supplier against any and all Losses incurred if the Buyer breaches: (i) Section 9.4 of these Supplier Terms; (ii) Joint Schedule 10 (Processing Data) and/or (iii) any Data Protection Legislation as well as guidance and codes of practice from the Information Commissioner, to a maximum in each Contract Year of the Data Protection Liability Cap.
- 10 SUPPLIER'S OBLIGATIONS**
- 10.1 The Supplier warrants that the Services will be provided substantially in accordance with the Supplier Service Description and these Supplier Terms.

- 10.2 If the Services do not conform with the warranty in Section 10.1 of these Supplier Terms, the Supplier will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Buyer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Buyer's sole and exclusive remedy for any breach of the warranty in Section 10.1 of these Supplier Terms.
- 10.3 The warranty in Section 10.1 of these Supplier Terms shall not apply to the extent of any non-conformance which is caused by the Buyer (or a third party's delay), or use of the Services contrary to the Supplier's instructions, or modification or alteration of the Services by any party other than the Supplier or the Supplier's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, the Supplier will, at its expense, use all reasonable endeavours to correct any such non-conformance promptly, or provide the Buyer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Buyer's sole and exclusive remedy for any breach of the undertaking set out in Section 10.1 of these Supplier Terms. Notwithstanding the foregoing and unless stated otherwise in the Framework Contract or the Call-Off Contract, the Supplier:
- 10.3.1 does not warrant that the Buyer's use of the Services will be uninterrupted or error-free; nor that the Services, Documentation and/or the information obtained by the Buyer through the Services will meet the Buyer's requirements; and
- 10.3.2 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 Buyer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 10.4 This Contract shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services that are similar to those provided under these Supplier Terms, the Framework Contract and/or any Call-Off Contract.

11 BUYER'S OBLIGATIONS

- 11.1 The Buyer shall:
- 11.1.1 provide the Supplier with:
- 11.1.1.1 all necessary co-operation in relation to these Supplier Terms and the Call-Off Contract; and
- 11.1.1.2 all necessary access to such information as may be required by the Supplier, in order to allow access to the Services, including Buyer Supplied Data, security access information and software interfaces, to the Buyer's other business applications, as appropriate;
- 11.1.2 provide such personnel assistance as may be reasonably requested by the Supplier from time to time;
- 11.1.3 comply with all Laws with respect to its activities under these Supplier Terms and the Call-Off Contract;
- 11.1.4 comply with the Official Secrets Act 1911 to 1989 and the provisions in clause 15.3 of the General Terms shall apply mutatis mutandis to CCS.
- 11.1.5 carry out all other Buyer responsibilities set out in these Supplier Terms and the Call-Off Contract in a timely and efficient manner, using all reasonable care, skill and diligence according to Good Industry Practice. In the event of any delays in the Buyer's provision of such assistance as agreed by the parties, the Supplier may adjust any timetable or delivery schedule set out in these Supplier Terms and the Call-Off Contract as reasonably necessary;
- 11.1.6 promptly inform the Supplier if it suspects or uncovers any breach of security, and shall use all commercially reasonable endeavours to promptly remedy such breach;
- 11.1.7 ensure that the Authorised Users use the Services and the Documentation in accordance with these Supplier Terms and the Call-Off Contract and shall be responsible for any Authorised User's breach of these Supplier Terms and/or the Call-Off Contract;
- 11.1.8 obtain and shall maintain all necessary licences, consents, and permissions necessary for the Supplier, its contractors and agents to perform their obligations under these Supplier Terms and the Call-Off Contract, including the Services;
- 11.1.9 ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and

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

12 WARRANTIES

12.1 The Buyer warrants, represents and undertakes that:

- 12.1.1 it has the full capacity and authority to enter into and perform its obligations under these Supplier Terms and the Call-Off Contract and that these Supplier Terms and the Call-Off Contract are executed by a duly authorised representative of the Buyer;
- 12.1.2 it has the authority to grant any rights to be granted to the Supplier under these Supplier Terms and the Call-Off Contract for the same to be used in the provision of the Services and otherwise in connection with these Supplier Terms and the Call-Off Contract;
- 12.1.3 it will comply with and use the Services in accordance with these Supplier Terms, any Supplier Licence Terms, the Call-Off Contract and all Laws, and shall not do any act that shall infringe the rights of any third party including the publishing or transmission of any materials contrary to relevant laws and/or the processing of Personal Data;
- 12.1.4 it owns or has obtained valid licences, consents, permissions and rights to use, and where necessary to licence to the Supplier, any materials reasonably necessary for the fulfilment of all its obligations under these Supplier Terms and the Call-Off Contract, including any third-party licences and consents;
- 12.1.5 the Supplier's use in the provision of the Services or otherwise in connection with these Supplier Terms and the Call-Off Contract of any third-party materials supplied by the Buyer to the Supplier for use in the provision of the Services or otherwise in connection with these Supplier Terms and the Call-Off Contract, shall not cause the Supplier to infringe the rights, including any Intellectual Property Rights, of any third party;
- 12.1.6 it has used and must continue to use all reasonable endeavours to prevent Viruses accessing systems owned by, under the control of, or used by the Supplier via its own access to these systems;
- 12.1.7 it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform each Call-Off Contract; and
- 12.1.8 at the Call-Off Start Date, all information, statements and representations it has made to the Supplier are not misleading.

12.2 Nothing in clauses 2.7 to 2.9 of the General Terms shall prevent the Supplier from relying on information expressly confirmed in writing by the Buyer as being accurate, complete, or suitable for the purposes of a specific Call-Off Contract. Where such reliance is reasonable, any Supplier Non-Performance arising directly from material inaccuracy in that confirmed information shall constitute an Authority Cause for the purposes of clause 5 of the General Terms.

12.3 If the Buyer becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Supplier and CCS.

13 INTELLECTUAL PROPERTY RIGHTS

13.1 In accordance with "IPR Option 3 of the Call-Off Schedule 1 (Intellectual Property Rights), The Buyer acknowledges and agrees that, as between the parties, the Supplier and/or its licensors own all Intellectual Property Rights in all materials connected with the Services (including any New IPR and Supplier Existing IPR) and in any material developed or produced in connection with these Supplier Terms and the Call-Off Contract by the Supplier, its officers, employees, subcontractors or agents, including the tImNexus Solution and the Services, but excluding the Buyer Supplied Data. Except as expressly stated herein, these Supplier Terms and the Call-Off Contract do not grant the Buyer any rights to such Intellectual Property Rights.

14 INDEMNITY

14.1 The Buyer shall defend, indemnify and hold harmless the Supplier against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Buyer's use of the Services, tImNexus Solution and/or Documentation, provided that the Supplier complies with clause 29 of the General Terms.

- 14.2 If the Buyer is required under the Framework Contract and/or the Call-Off Contract to indemnify the Supplier (including under clauses 7.4, 7.5, 9.3, 10.5 and 15.3 of the General Terms) such indemnities are subject to the Supplier complying with clause 29 of the General Terms.

14.2.1

15 **CONSEQUENCES OF SUSPENSION, ENDING AND EXPIRY**

- 15.1 In addition to the obligations set out in the General Terms, at the end of a Call-Off Contract:

- 15.1.1 the Supplier shall cease to allow access to the Services and all licences and rights of access to the Services granted under these Supplier Terms and the Call-Off Contract shall immediately terminate, save that the Supplier shall provide the Services for a period agreed between the parties for the proper transfer of the Buyer out from the Services records ("**Off-boarding**"), using the process set out in the Supplier Service Description and subject to Section 15.1.3 of these Supplier Terms;
- 15.1.2 the Buyer shall return and make no further use of any Supplier Assets, equipment, property, materials and other items (and all copies of them) belonging to the Supplier; and
- 15.1.3 the requirement to return Buyer Supplied Data under the General Terms and/or a Call-Off Contract must be exercised by the Buyer no later than thirty (30) days after the effective date of expiry of the Call-Off Contract Period and the Buyer must pay to the Supplier such charges as the Supplier notifies the Buyer to pay for the extraction and delivery of such Buyer Supplied Data. Once such thirty (30) day period has expired or the Supplier has delivered to the Buyer the most recent backup of the Buyer Supplied Data (as applicable) in accordance with Section 15.1 of these Supplier Terms (whichever is the earlier), the Supplier shall destroy or otherwise dispose of all of the Buyer Supplied Data in accordance with the Call-Off Contract.

16 **GENERAL**

- 16.1 The provisions in clauses 9.3-9.5 (Rights and Protections), 10 (Intellectual Property Rights), , 31 (Equality, Diversity and Human Rights), 35 (Conflicts of Interest) and 36 (Reporting a breach of contract) of the General Terms shall apply mutatis mutandis to the Buyer.

Appendix 1

Access Policy

This policy is subject to change from time to time. A Buyer's or Authorised User's use of the Services are subject to this Access Policy, which may be changed by the Supplier, by the Supplier posting such changes on its website or otherwise notified to the Buyer.

Authorised Users' postings to the internet or internal networks may affect other users and may harm the Supplier's goodwill, business reputation, and operations. For these reasons, Authorised Users' violate this Access Policy when they engage in the following prohibited activities:

- a) Sending unsolicited bulk and/or commercial messages over the internet or internal networks (known as "spamming"). It is not only harmful because of its negative impact on consumer attitudes toward the Supplier, but also because it can overload the Supplier's network and disrupt service to other the Supplier's customers.
- b) Also, maintaining an open SMTP relay is prohibited.
- c) Intellectual Property Violations: Engaging in any activity that infringes or misappropriates the intellectual property rights of others, including copyrights, trademarks, service marks, trade secrets, software piracy, and patents held by individuals, corporations, or other entities.
- d) Obscene Speech or Materials: Using the Supplier's network to advertise, transmit, store, post, display, or otherwise make available child pornography or obscene speech or material.
- e) Defamatory or Abusive Language: Using the Supplier's network as a means to transmit or post defamatory, harassing, abusive, or threatening language.
- f) Forging of Headers: Forging or misrepresenting message headers, whether in whole or in part, to mask the originator of the message.
- g) Illegal or Unauthorised Access to Other Computers or Networks: Accessing illegally or without authorisation computers, accounts, or networks belonging to another party, or attempting to penetrate security measures of another individual's system. Also, any activity that might be used as a precursor to an attempted system penetration (i.e. port scan, stealth scan, or other information gathering activity).
- h) Distribution of Internet Viruses, Worms, Trojans, or Other Destructive Activities: Distributing information regarding the creation of and sending internet viruses, worms, Trojan Horses, pinging, flooding, mail bombing, or denial of service attacks. Also, activities that disrupt the use of or interfere with the ability of others to effectively use the network or any connected network, system, service, or equipment.
- i) Facilitating a violation of this Access Policy: Advertising, transmitting, or otherwise making available any software, program, product, or service that is designed to violate this Access Policy, which includes the facilitation of the means to spam, initiation of pinging, flooding, mail bombing, denial of service attacks, and piracy of software.
- j) Export Control Violations: Exporting encryption software over the internet or otherwise, to points outside the Authorised User's country which is contrary to that respective country's rules and regulations.
- k) Usenet Groups: The Supplier reserves the right not to accept postings from newsgroups where we have actual knowledge that the content of the newsgroup violates the Access Policy.
- l) Other Illegal Activities: Engaging in activities that are determined to be illegal, including advertising, transmitting, or otherwise making available ponzi schemes, pyramid schemes, fraudulently charging credit cards, and pirating software.
- m) Other Activities: Engaging in activities, whether lawful or unlawful, that the Supplier determines to be harmful to its customers, operations, reputation, goodwill, or customer relations.

If the Supplier becomes aware of harmful activities it may take any action to stop the harmful activity, including removing information, shutting down a web site, implementing screening software designed to block offending transmissions, denying access to the internet, or take any other action it deems appropriate (provided such other action does not conflict with the Framework Contract or the Call-Off Contract).