



Kings House Business Centre | Kings Langley | Hertfordshire | WD4 8LZ

G-CLOUD SUPPLIER TERMS AND CONDITIONS FOR REFERENCE DATA MANAGEMENT SERVICE

The customer's attention is specifically drawn to clause 2.1.12 and clause 7.0

Terms and Conditions

1.1 SCOPE OF AGREEMENT

1.1.1 The Supplier Terms and Conditions specified herein apply to the provision of all G-Cloud Services and any G-Cloud Additional Services by the Supplier

1.2 Definitions

1.2.1 In these supplier terms and conditions, the following expressions shall have the following meanings:

"Customer Data" means information, text, drawings, diagrams, images, or sounds, which are embodied in any electronic, magnetic, optical or tangible medium which are:

- (a) supplied to the Supplier by or on behalf of the Customer in connection with the Services; or
- (b) generated by the Supplier under the Call Off Agreement;

"Customer Materials" means the Customer Data together with any materials, documentation, information, programs and codes supplied by the Customer to the Supplier, the IPR in which:

- (a) are owned or used by or on behalf of the Customer; and
 - (b) are or may be used in connection with the provision or receipt of the Services,
- but excluding any Specially Written Material, Supplier Material and Third-Party Material;

"IPR Claim" means any claim, action or demand made (or litigation or other dispute resolution process commenced) due to any infringement or alleged infringement of any Intellectual Property Rights used to provide the Services or otherwise provided or made available by the Supplier under the Call Off Agreement (but not any Intellectual Property Rights originally owned or licensed by the Customer);

"Source Code" means software in eye readable form and in such form that it can be compiled or interpreted into equivalent object code together with all technical information and documentation necessary for the use, reproduction, modification, enhancement and support of such software without recourse to any other document or materials;

"Specially Written Material" means any Specially Written Software and / or any technical specifications, user manuals, operating manuals, process definitions and procedures, and other

documentation relating to the Services that are written by or on behalf of the Supplier to specifically meet the Customer service requirements;

"Specially Written Software" means programs and codes which are written for the Services by or on behalf of the Supplier to specifically meet the Customer service requirements;

"Supplier Material" means any product, processes, manuals, documents, equipment or other resource or item including Supplier Software that are owned by the Supplier and used by the Supplier in the provision of the Services but excluding any Specially Written Material or Third Party Material;

"Supplier Software" means programs in object code used by the Supplier to provide the Services the IPR in which are owned by the Supplier, but excluding any Specially Written Software;

"Term" means the period commencing on the Effective Date and continuing until the expiry date set out in the Order Form, or for such longer period as the Call Off Agreement may be extended in accordance with the Order Form;

"Third Party Material" means any product, processes, manuals, documents, equipment or other resource or item including Third Party Software that are owned by a third party and used by the Supplier in the provision of the Services but excluding any Specially Written Material;

"Third Party Software" means any computer programs, the IPR in which are owned by a third party. and used by the Supplier to provide the Services;

"Platform" means the software platform known as RDMAS ("Reference Data Management Application Service") that is owned and operated by Datalynx, and that will be made available to the Customer as a service.

2. Customer Responsibilities

2.0 In addition to the Buyer's responsibilities included in Section Buyer contractual details of the Order Form, the Customer shall be responsible for the following under each Call Off Agreement:

2.0.1 Ensuring that the Customer's computer, operating system and software used by the Supplier and the Supplier Staff to provide the Services are either the property of the Customer or are legally licensed to the Customer;

2.0.2 Providing accommodation and office facilities for the Supplier Staff on the Customer's premises as mutually agreed including secretarial and transportation services as are necessary for the provisions of the Services;

2.0.3 Ensuring that its employees, agents, contractors, subcontractors and consultants who are involved in or associated with the Services co-operate fully with the Supplier and the Supplier Staff in relation to the provision of the Services;

2.0.4 Providing such documentation, data and/or other information that the Supplier reasonably requests, provided that such documentation, data and/or information is available to the Customer including the provision of source reference data and associated information.

2.0.5 Providing the Supplier with access to appropriate members of the Customer's staff and ensuring such staff are competent to carry out their responsibilities under the Implementation Plan;

2.0.6 To the extent that the following are not expressly provided for elsewhere in the Call Off Agreement, using its reasonable endeavours to respond to requests for approval, authority to proceed, guidance or assistance from the Supplier in a prompt and timely manner;

2.0.7 Being responsible for any acts, omissions and errors of its agents, contractors, subcontractors and consultants who are involved in or associated with the Services, where they are acting on behalf of the Customer under this Call Off Agreement.

2.0.8 Procuring for the Supplier Staff such agreed access and use of the Customer's premises, facilities, including relevant IT systems as is reasonably required by the Supplier in relation to the provision of the Services;

2.1.10 Responding promptly to requests for approvals and/or information from the Supplier in order for the Supplier to discharge its obligations under the Call Off Agreement.

2.1.11 Acting promptly, reasonably and in good faith in reviewing and agreeing all Variations

2.1.12 To review the reference data mappings provided to them by this service prior to use. If the reference data mappings generated by this service are used, then the customer has asserted the reference data mappings to be correct. The customer shall not be entitled to indemnity against losses in relation to the use of reference data mappings and shall hold harmless Datalynx from and against any liabilities, losses, damages, claims, proceedings, costs (including all legal fees) and expenses of whatever nature incurred by or awarded against Datalynx as a result of or in connection with using the reference data mappings.

3. Ownership of Intellectual Property Rights

3.1 In addition to the clauses in section 11. Intellectual Property Rights of the Order Form the following clauses will apply:

3.1.1 Each party shall promptly notify the other in writing when it becomes aware of any IPR Claim.

3.1.2 All IPR Claims shall be managed by the Supplier at its own expense and with all due diligence using competent counsel and in such a way as not to bring the reputation of the Customer into disrepute and the Supplier shall keep the Customer fully informed and consult with the Customer with respect to any such IPR Claim.

3.1.3 The Customer shall at the request of the Supplier provide reasonable assistance to the Supplier in the management of any IPR Claim. In such circumstances:

3.1.3.1 The Supplier shall reimburse the Customer for any costs and expenses incurred in providing such assistance; and

3.1.3.2 The Customer shall not make any admissions which could be prejudicial to the defence or settlement of the IPR Claim without first consulting with the Supplier.

3.1.4 At the option of the Customer, the Customer shall be entitled to manage an IPR Claim including the conduct of any litigation and all discussions and negotiations regarding any proposed settlement. In doing so, it shall consult with and pay due regard to the interests and views of the Supplier and shall, where it is reasonable to do so, comply with such views. If the Customer agrees to settlement of any IPR Claim without having received either:

3.1.4.1 the prior written consent of the Supplier; or

3.1.4.2 if the Supplier refuses or withholds consent, an opinion in writing from a practising barrister of at least ten (10) years' call expressing the view that the settlement proposed is in all of the circumstances reasonable, it shall not be entitled to indemnity against Losses in relation to that IPR Claim.

3.1.5 Nothing in the Call Off Agreement shall prevent the Supplier from developing and using any techniques, ideas, concepts, methodologies or know-how learnt by the Supplier during the provision of the Services provided that the same are of general application and do not infringe the Intellectual Property Rights or Confidential Information of the Customer.

3.1.6 The provisions of this Clause 3 will survive the expiry or termination of the Call Off Agreement.

4. Termination

4.1 The service may only be terminated early for convenience after 12 months. Three Months' Notice is required to terminate the service after the initial 12 months period.

4.2 Within 30 days following the termination of the Agreement, Datalynx will irrevocably delete from the Platform all Customer Data

4.3 Any termination of this Agreement will be without prejudice to any other rights or remedies of either party under this Agreement or at law and will not affect any accrued rights or liabilities of either party prior to the date of termination.

5. Non-Solicitation

5.1 The Customer and the Supplier shall not, and the Supplier shall procure that any Sub-contractor shall not, during the Term and for twelve (12) months following the termination of the Call Off Agreement either directly or indirectly solicit or entice away (or seek to attempt to solicit or entice away otherwise than by general advertising) from the employment of the other party any person employed by such other party in the provision of the Services or (in the case of the Customer) in the receipt and/or administration of the Services

6. The Platform

6.1 Datalynx will make available the Platform to the Customer by setting up an account for the Customer on the Platform, and providing to the Customer, end user compute facilities and login details for that account as soon as practicable following the Effective Date.

6.2 Datalynx grants to the Customer a non-exclusive license to use the Platform for the Permitted Purpose via the provided end user compute facility in accordance with the Documentation during the Term.

6.3 The Platform may only be used by the named users identified in the Call Off Agreement, providing that the Customer may change, add or remove a designated named user.

6.4 The Platform must not be used at any point in time by more than the number of concurrent users specified in the Call Off Agreement or where not specified in the Call Off Agreement the maximum specified in the "Datalynx G13 Cloud Reference Data Management Application Service Definition."

6.5 For the avoidance of doubt, the Customer has no right to access the object code or source code of the Platform, either during or after the Term.

7. Data protection

7.1 The Customer warrants that it will not store Personal Data on the Platform and will indemnify and hold harmless Datalynx from and against any liabilities, losses, damages, claims, proceedings, costs (including all legal fees) and expenses of whatever nature incurred by or awarded against Datalynx as a result of or in connection with storing Personal Data on the Platform.

8. Uptime Commitment

8.1 The standard hours of service for the platform are Monday-Friday 08:00-18:00 excluding bank holidays.

8.2 The Platform will generally be available 24/7 but outside standard hours of service the service availability is not guaranteed.

8.3 Within the standard hours there is a 99.5% availability target over a rolling 6-month period.

8.4 Refunds will be issued pro-rata on the service price for the time the service is unavailable beyond the target specified in 8.3

8.5 Datalynx may suspend access to the Platform to carry out scheduled maintenance. Such maintenance to be outside standard service hours.

8.6 The online support service will generally be available 24/7 but the service availability is not guaranteed.