

THE INFORMATION AND COMMUNICATION TECHNOLOGY AGENCY OF SRI LANKA

TERMS AND CONDITIONS

**UTILIZING INFRASTRUCTURE SERVICES OF
LANKA GOVERNMENT CLOUD**

V.2.3

.....(**“ORGANIZATION”**)
SHALL AGREE TO THE TERMS AND CONDITIONS BELOW UPON CAREFUL READING OF THE SAME.

THE FOLLOWING TERMS AND CONDITIONS ARE RELATED TO THE UTILIZING OF INFRASTRUCTURE SERVICES (“TERMS”) OF THE INFORMATION AND COMMUNICATION TECHNOLOGY AGENCY OF SRI LANKA’S “LANKA GOVERNMENT CLOUD” AND ARE BINDING AND NON-NEGOTIABLE ON THE ORGANIZATION, IF THEY CHOOSE TO AGREE TO THE SAME.

PREAMBLE.

WHEREAS:

- A. THE INFORMATION AND COMMUNICATION TECHNOLOGY AGENCY OF SRI LANKA, established and registered under the Companies Act of Sri Lanka (bearing Business Registration No. PV 4055) and vested with authority under the Information Communication Technology Act of No 27 of 2003 (as amended by Act No. 33 of 2008), is the Government Agency responsible for and mandated with formulating information and communication technology policy and tasked with implementing ICT Strategies and programs approved by the Cabinet of Ministers of Sri Lanka, having it’s registered business address at 490, R A de Mel Mawatha, Colombo 03, Sri Lanka, (hereinafter referred to as “ICTA” which term and expression shall unless mean and include the said INFORMATION AND COMMUNICATION TECHNOLOGY AGENCY, its successors and permitted assigns); and
- B. ICTA is the Government agency responsible for formulating information and communication technology policy and tasked with implementing ICT Strategies and programs approved by the Cabinet of Ministers of Sri Lanka. ICTA has been statutorily empowered with powers and functions in terms of the Information and Communication Technology Act No. 27 of 2003 (as amended by Act 33 of 2008) to implement strategies and programmes in the Government, civil society and private sector on Information and Communication Technology in order to take the dividends of Information Communication Technology (**ICT**) to every village, every citizen, every business, and to transform the functions of Government; and
- C. Pursuant thereto, as a measure of facilitating the GOSL’s requirement of deploying digital applications of Government Organizations, ICTA implemented the Lanka Government Cloud (**LGC**) platform in 2012, a cloud based platform to host all Sri Lankan Government applications and the upgraded version of the said LGC has been launched as Lanka Government Cloud 2.0 since August 2018; and

- D. The Organization has requested hosting facility from ICTA to host a developed application (hereinafter referred to as “**the System**”) within the LGC platform by completing the online template provided on the LGC website and submitting it along with the deployment architecture details of the software solution of the System, in order to obtain the LGC platform related to Infrastructure as a Service (**IaaS**) from said LGC; and
- E. For the purposes of these Terms, both **ICTA** and **the Organization** shall be collectively referred to as “the Parties” and individually as a “Party”; and
- F. In the said context, the Organization has decided to agree to these Terms and Conditions with regard to utilization of services of Lanka Government Cloud and hosting the System in LGC 2.0 by the Organization for the purposes described hereunder.

NOW THEREFORE THE ORGANIZATION ACKNOWLEDGES AND AGREES THAT THE TERMS AND CONDITIONS HEREINAFTER PROVIDED SHALL BE BINDING AND ENFORCEABLE ON THE PARTIES:

1. RESPONSIBILITIES OF THE ORGANIZATION

a) Ownership of a Tenant

The Organization shall be the owner of the System within the dedicated resource pool allocated to the Organization on LGC 2.0 (the said dedicated resource pool shall hereinafter be referred to as “**Tenant**”) assigned to the Organization, and all administration activities pertaining to the Tenant (including, but not limited to Deployments, Upgrades, Updates, Maintenance) shall be the responsibility of the Organization.

For the avoidance of doubt, the ownership of data and accuracy of the information placed within the Tenant by the Organization shall be the sole responsibility of the Organization and ICTA shall bear no responsibility for the same.

b) Material Changes to the System

The Organization shall inform ICTA of any material, deployment, configuration, architectural, patching or maintenance changes to the System which would directly or indirectly affect/impede the larger LGC 2.0 infrastructure. For the avoidance of doubt, it shall be the responsibility of the Organization, as the owner of the Tenant, to ensure such updates are provided to ICTA;

c) Key Contact Person

- a. The Organization shall appoint a ‘Key Contact Person’ and an ‘Alternate Key Contact Person’ (collectively referred to as “**Key Contact Persons**”) both of whom shall be responsible to communicate with ICTA for both managerial and technical queries to ensure effective and timely communication;
- b. Any changes to the assigned Key Contact Persons should be duly informed to ICTA and ICTA should acknowledge receipt of such communication within three (03) working days of receiving the same;

d) Deployment and Maintenance of Software Solution

The Organization shall deploy and maintain the software solution, System software, Middleware and tools and maintain security patches/updates which installs on Virtual Machines (**VMs**) in the assigned Tenant and the Organization shall be responsible for the performance of the said System;

e) Providing Access to The System

- a. It shall be the sole responsibility of the Organization to decide on the method of providing access to the System to the end-users and Administrators [via the Lanka Government Network (**LGN**), public, or both], and it shall be the responsibility of the Organization to configure technical parameters of such applications accordingly;
- b. In the event the System/Tenant is managed/accessed by third party vendors or service providers, it is a sole responsibility of the Organization to manage/maintain necessary back to back agreements and confidentiality arrangements with such third parties as applicable where the Organization decides to share access credential;

f) Information Security Standards and Certifications

The Organization must obtain the services of the Sri Lanka Computer Emergency Readiness Team (SLCERT) or any other accredited organisation mutually acceptable to both Parties which shall be informed to ICTA in writing, to ensure that the System conforms to information security standards prior to deploying it in LGC 2.0. Any recommendation(s) provided by the Security Auditors must be promptly addressed by the Organization prior to launch of the System. Any changes/upgrades to the System should be audited by the said Security Auditors before deploying such changes. Immediately upon receipt, the Organisation shall submit the Security Audit Completion Certification to ICTA. Any changes/upgrades to software should also be audited by the said party before deploying such changes. ICTA advices all organizations to perform periodical security audits at least once every year (as provided at Chapter: Security of the LGC IaaS Operational Model – Found at <https://lgc.gov.lk/wp-content/uploads/2021/09/LGC-IaaS-Operational-Model-v4.pdf>);

g) Licenses for the System

It shall be the sole responsibility of the Organization to purchase any necessary or required licenses (as applicable or required) for the System hosted in LGC 2.0, and timely renewals shall also be carried out by the Organization;

h) LGC Guidelines and Instructions

The Organization shall ensure it conforms to guidelines and instructions issued from time to time by ICTA concerning the use of LGC. Such guidelines shall be updated and placed within the LGC Website from time to time and as formally intimated by electronic mail;

i) Reliability and Security of Hosted Solution

It shall be the sole responsibility of the Organization to ensure the high availability, reliability and security of the System and software solutions deployed within their Tenants;

j) Backups of Tenant

It shall be the sole responsibility of the Organization to ensure that timely backups of the System and data are taken, preferably in an automated way. For the avoidance of doubt, the ICTA shall not have access to the Tenant nor be required in any way or form to provide backups to the Organization; (For further information, please refer to the LGC IaaS Operational Model – Found at <https://lgc.gov.lk/wp-content/uploads/2021/09/LGC-IaaS-Operational-Model-v4.pdf>);

k) Whole of LGC Changes and LGC Infrastructure Upgrades

- a. ICTA shall reserve the right to make changes to the whole of LGC including the right to migrate the LGC to a new platform or new cloud if such a need arises or is required;
- b. The Organization shall be expected to cooperate with ICTA from time to time to perform essential infrastructure upgrades such as hardware, network infrastructure updates/upgrades and cloud platform upgrades/updates related to LGC;
- c. The Organization shall further be expected to cooperate with ICTA in the event the cloud resources currently being provided would need to be migrated to a new cloud or platform to ensure scalability and in adherence with new technology, security, and operational standards;
- d. In consideration of a., b., and c. above, and unless they are changes/upgrades made due to high-severity situations, ICTA shall provide the Organization with two (02) weeks' prior written notice before having to carry out the upgrades/updates herein mentioned. In the event

changes/upgrades made due to high-severity situations, ICTA shall inform the Organization as soon as practically and reasonably possible;

l) Connectivity to the Hosted System

Connectivity for the Organization's hosted System on LGC 2.0 via the internet shall be the sole responsibility of the Organisation. Performance hindrances may occur due to slowness of internet connection and the Organization will be responsible to ensure the reliability and efficiency of the connectivity speeds through the Organization's selected Internet Service Provider (**ISP**).

2. RESPONSIBILITIES OF THE ICTA

a) Reliability and Security of LGC

ICTA shall make best efforts to ensure the availability, reliability, security and redundancy of the LGC. [For the avoidance of doubt, this shall not include the responsibilities as required under Clause 1 i) above];

b) Administrator Access to Tenant

ICTA shall provide the Organization with Administrator access to the System for the Organization to manage their own Tenants, with the express understanding that all applicable Information Technology Governance policies are adhered to. Management access provided to the Organization is the sole responsibility of the Organization;

c) Technical Assistance and Guidance

ICTA shall provide necessary technical assistance and guidance to the Organization for accessing/using/maintaining the Tenant, except and excluding any matter arising out of the System in the Tenant, unless the System is an ICTA in-house developed application;

d) Updating of the Organization Key Contact Person

- a. ICTA shall provide 24/7 support services for Critical Downtime notifications via the dedicated hotline, and it is accessible from 5.30pm to 8.00 am daily in addition to the standard service hours. For more information, please refer <https://lgc.gov.lk/wp-content/uploads/2021/09/LGC-IaaS-Operational-Model-v4.pdf>.

- b. ICTA shall ensure that the Key Contact Person of the Organization (nominated in accordance with **Clause 1 c)** above), shall be provided with information and notices pertaining to timely upgrades, downtimes and other Tenant and LGC related communications;

e) Downtime for Maintenance

ICTA shall inform the Organization of any downtime which could occur due to any scheduled maintenance activities to be carried out on the LGC, at least two (02) weeks prior to any such maintenance activity, by notifying the Key Contact Person nominated by the Organization, via email. In the event changes/upgrades made due to high-severity situations, ICTA shall inform the Organization as soon as practically and reasonably possible;

3. AMENDMENT TO THE MOU

- a) No amendment or modification of these Terms shall be valid unless the same is made in writing by the parties as applicable and specified below;
- b) ICTA shall make any such amendments to these Terms as relevant and needed for the provision of the LGC services as described herewith and the amendment(s) shall be effective from the date on notice of such amendment be provided to the Organization;
- c) During the Term of these Terms and Conditions, the Organization shall only make changes related to the System referred to Section C of the Preamble and/or to Section 7 to these Terms (and only if such System has changed within the Term of these Terms and Conditions) and shall make a request from ICTA in writing that such an amendment be incorporated into these Terms and Conditions.

4. TERMINATION

- a) Either Party may terminate the Services considered under these Terms and Conditions for convenience with three (03) calendar months' notice in writing;
- b) Termination of the Services shall not in any event affect any rights or liabilities of the Parties accrued to them as at the date of termination;

c) Effects of Termination:

Upon termination of Services, the Organization will have the sole responsibility of extracting all information from the IaaS Platform, within one (01) calendar month from date of termination. In the event the Organization requires further time to extract the information within the IaaS Platform, the Organization shall request for such extension in writing.

5. CONFIDENTIALITY

- a) Each party agrees not to use, disclose, sell, license, publish, reproduce or otherwise make available confidential information of the other party which has been disclosed or received as a result of these Terms, except and only to the extent necessary to perform its obligations under these Terms. The receiving party of confidential information shared under these Terms shall maintain in confidence and not disclose, reproduce or copy any materials, documentation or specifications which are provided to the disclosing party hereunder, or which are found at the premises of the disclosing party. Either Party shall ensure that its employees, sub-contractors and any third party lawfully retained by a Party are bound by the same obligation, failing which the disclosing party will be liable to be sued for damages;
- b) This Clause 5 shall survive the termination of the Services.

6. INDEMNIFICATION

- a. The Parties shall, to the fullest extent permitted by law, indemnify and hold harmless the other Party, its officers, directors and employees (the "Indemnifying Party") against all damages, liabilities or costs (including reasonable attorney's fees and defence costs), caused by the Indemnifying Party's negligent performance of professional services under this MOU;
- b. Neither Party shall indemnify the other Party in any manner whatsoever for damages, liabilities or costs arising from the other Party's gross negligence;
- c. The Organization shall defend, indemnify, and hold harmless ICTA, its affiliates and licensors, and each of their respective employees, officers, directors, and representatives from and against any losses arising out of or relating to any third-party claim concerning: (a) the Organization's or any End Users' use of the Tenant (including any activities under the Tenant and use by the Organization's employees and personnel); (b) breach of this MoU or violation of applicable law by the Organization, End Users or the Organization's content; or (c) a dispute

between you and any End User. The Organization shall reimburse ICTA for reasonable attorneys' fees, as well as our employees' and contractors' time and materials spent responding to any third-party legal orders or processes associated with third party claims described in (a) through (c) above;

- d. Subject to the limitations in this Clause 6, the Organization shall defend ICTA, its affiliates, and their respective employees, officers, and directors against any third-party claim alleging that any of the content maintained in the Tenant infringes or misappropriates that third party's intellectual property rights, and will pay the amount of any adverse final judgment or settlement.

7. PAYMENTS

- a. The Organization currently makes no payment for the Services provided by ICTA pursuant to the request made by the Organization for hosting facilities within LGC in accordance with this MoU;
- b. With the intention of continuously enhancing the existing LGC services to meet rapidly evolving industry standards in ensuring reliability, availability and scalability, ICTA may in the future request the Organization to make payments for the said LGC hosting facilities provided and/or enabled by ICTA, with reasonable and appropriate written notification to the Organization regarding the applicable payment terms. The said written notification on the applicable payment terms shall be the basis for the ICTA to provide LGC hosting facilities to the Organization.

8. NOTICES

A notice or other communication including, but not limited to, a request, demand, consent or approval to the ICTA shall be made in legible writing and in the English language, and addressed to the following:

For The ICTA

Designation : Director, Digital Services

Address : No. 490, R.A. De Mel Mawatha, Colombo 03

Telephone No.: +94 – 112369099

Email : lgc-mou@icta.lk

9. ASSIGNMENT

No Party shall be entitled to assign or transfer its rights and/or obligations under these Terms without the prior written consent of the other Party.

10. GOVERNING LAW AND DISPUTE RESOLUTION

- a) These Terms and Conditions and any dispute arising from it shall be governed by and construed in accordance with the laws of the Democratic Socialist Republic of Sri Lanka;
- b) In the event a dispute arises between the Parties concerning matters relating to these Terms and Conditions or any provision thereof, the Parties shall use their best endeavours to solve such dispute amicably;
- c) In the event such a dispute cannot be resolved amicably, the said dispute or difference shall be referred to the Cabinet of Ministers by either party in accordance with the Cabinet decision dated 22nd May 2018 vide 18/ “Legal action between public institutions”.

Read and Accept the Terms & Conditions

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Signature (With official Rubber Stamp)