



CYFERD

UPTIME POLICY

1. Scope

- 1.1 This '*Cyferd – Uptime Policy*' (this "**Policy**") applies to the availability of the Cyferd Product (as defined below) to Customers. This Policy is made in connection with the provision by Cyferd Ltd ("**Cyferd**") of Access to and use of the Cyferd Product and the Services (each as defined below) to its customers (including those whose Access to and use of the Cyferd Product and the Services is/ was procured through a Cyferd Partner (as defined below)) who have an ongoing Professional Agreement or an ongoing Enterprise Agreement (each as defined below) for Access to and use of the Cyferd Product and the Services (in this Policy each a "**Customer**" and, in respect of each Customer, "**each Customer**", "**the Customer**", "**the Customer in question**" and "**that Customer**" shall be construed accordingly).
- 1.2 This Policy is supplemental to the MSA (as defined below) and, for each Customer, forms part of the Agreement (as defined below) with that Customer in respect of that Customer's Access to and use of the Cyferd Product and the Services.
- 1.3 This Policy is a Cyferd Policy (as defined below).
- 1.4 The Customer's acceptance of this Policy is as provided in the MSA (where '*acceptance*' is as defined in the definition of '*Cyferd Policies*' in the MSA).
- 1.5 In this Policy "**MSA**" means, in respect of the Customer in question, the master services agreement forming part of the Agreement with that Customer in respect of that Customer's Access to and use of the Cyferd Product and the Services (each version of the MSA (<https://cyferd.com/cyferdcomm/>)).
- 1.6 Terms defined in the MSA (including without limitation "**Access**", "**Additional Services**", "**Administrator**", "**Agreement**", "**App**", "**Authorised User**", "**Authorised User Accounts**", "**Business Day**", "**Cyferd Partner**", "**Customer App Customisation**", "**Cyferd App**", "**Cyferd Policy**", "**Cyferd Product**", "**Enterprise Agreement**", "**Feature**", "**Hosting Policy**", "**No Charge Products**", "**Non-Cyferd App**", "**Non-Cyferd Products/ Services**", "**POC Trial**", "**Professional Agreement**", "**Relief Event**", "**Services**", "**Storage of and Access to Customer Data Policy**", "**Update**", "**Update Notification**", "**Updates**") shall have the same meaning in this Policy unless the context otherwise requires or such term is defined separately in this Policy.
- 1.7 In addition, in this Policy the following words and expressions shall have the following meaning unless the context otherwise requires:

"Available"

means the Cyferd Product being available to Access and use by a

Customer who: (i) has been granted Access at that time; (ii) whose Access to and use of the Cyferd Product and the Services is **not** subject to any suspension under the MSA; and (iii) who is **not** in breach of the Agreement relating to that Customer at the time in question (and “**Availability**” shall be construed accordingly) **PROVIDED ALWAYS THAT** Availability does not include any downtime arising from or caused by or relating to the Exclusions or any Exclusion

“Customer’s Authentication Set Up” as defined in clause 4 of the MSA

“Customer Responsibilities” (in respect of a Customer) means all matters that are that Customer’s responsibility under the Agreement or otherwise (whether by itself, its Administrator and/or its Authorised Users or any of them) in respect of making its Access to and use of the Cyferd Product and the Services for its Tenancy(ies) available including: (i) giving, managing and maintaining its Authorised Users’ Access by setting up its Authorised User Accounts (as provided for in the applicable provisions of clause 4 of the MSA (*Access to and use of the Cyferd Product and the Services and any other Purchased Items*)); (ii) setting up, managing and maintaining the Customer’s Authentication Set Up; (iii) training for its Administrator and its Authorised Users; (iv) preventing unauthorised access to its Tenancy(ies); and (v) obtaining and maintaining the third-party services it (including its Administrator and Authorised Users) needs to Access and use the Cyferd Product and the Services and the suitability of the same (including access to the internet and adequate bandwidth)

“Cyferd Perimeter” the boundaries of the Cyferd Product (namely the ‘*Cyferd platform*’) within which Cyferd takes responsibility (on the terms and subject to the conditions of the Agreement with each Customer) to provide service to Customers (namely Access to and use of the Cyferd Product

and the Services via Tenancy(ies)) further details of which are set out in the **Hosting Policy** (<https://cyferd.com/cyferdcomm/>) (being a Cyferd Policy and as amended by Cyferd from time to time) and the **Storage of and Access to Customer Data Policy** (<https://cyferd.com/cyferdcomm/>) (being a Cyferd Policy and as amended by Cyferd from time to time)

“Excluded Items”

means: (i) use of the Cyferd Product (or any part of it including any Apps(s) and Feature(s) and the applicable Services for the purpose of a POC Trial; (ii) No Charge Products; (iii) Non-Cyferd Products/ Services; (iv) Non-Cyferd Apps; (v) Cyferd Apps; (vi) any other Apps; (vii) Additional Services or the subject matter of Additional Services; (viii) any Customer App Customisation relating to the Customer in question; (ix) anything else which is expressly not warranted by Cyferd under the MSA or any other document forming part of the Agreement relating to the Customer in question (each an **“Excluded Item”**)

“Exclusions”

means: (i) Scheduled Maintenance; (ii) a Relief Event or other emergency maintenance to the Cyferd Product (including any Tenancy(ies) and Feature(s)); (iii) any fact matter or circumstance which is a Customer Responsibility; (iv) a Local Issue; and/or (v) any Excluded Items (each an **“Exclusion”**)

“Local Issue”

means anything outside the Cyferd Perimeter including: (i) any hardware or third-party software or third-party services used by a Customer (including its Administrator and Authorised Users for this purpose); (ii) a Customer’s Administrator and its Authorised Users and their actions or lack of action (as the case may be); (iii) problems resulting from use of the internet including inadequate bandwidth; (iv) problems resulting from use of public electronic communications networks used by Cyferd, the Customer (including its

Administrator and Authorised Users for this purpose); (v) the Customer's (including its Administrator and Authorised Users for this purpose) failure to prevent unauthorised access to its Tenancy(ies); (vi) problems with or resulting from (including outages) the Customer's chosen authentication provider (in connection with the Customer's Authentication Set Up)

"Scheduled Maintenance"

scheduled maintenance to the Cyferd Product (including any Tenancy(ies) and Feature(s)) and/or the Cyferd Perimeter (or any part of it)

1.8 In this Policy:

- 1.8.1 references to paragraphs are to paragraphs of this Policy;
- 1.8.2 a reference to this Policy or to any other agreement or document referred to in this Policy is a reference to this Policy or such other agreement or document as amended in accordance with its terms and/or the MSA from time to time;
- 1.8.3 a reference to an **"amendment"** includes a novation, re-enactment, restatement, supplement, extension, variation or an amendment (and **"amend"** and **"amended"** shall be construed accordingly);
- 1.8.4 a reference to a **"person"** includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
- 1.8.5 any words that follow **"include"**, **"includes"**, **"including"**, **"in particular"**, **"for example"** or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.8.6 a reference to **"writing"** or **"written"** includes any method of reproducing words in a legible and non-transitory form including email but excluding fax;
- 1.8.7 where the context permits, **"other"** and **"otherwise"** are illustrative and shall not limit the sense of the words preceding them; and
- 1.8.8 any obligation on a Customer not to do something includes an obligation not to allow that thing to be done.

2. Last Updated

This Policy was last updated on 1 March 2023. For previous versions of this Policy see <https://cyferd.com/cyferdcomm/>.

3. Changes to this Policy

- 3.1 ***For any person who is not a Customer at the time of such posting*** - Cyferd shall, at its absolute discretion, be entitled to amend this Policy or any part of it by posting an updated version of this Policy at <https://cyferd.com/cyferdcomm/> and such updates will be effective upon such posting or, if later, the 'Last Updated' date specified in such updated version of this Policy.
- 3.2 ***For any person who is a Customer at the time such Update Notification is made*** – Cyferd may at its absolute discretion make, and notify the Customer of, updated versions of this Policy by notifying the Customer of any such Update(s) by way of Update Notification. Such Update(s) will be effective in respect of the Customer in question in accordance with the applicable provisions of the MSA which relate to Updates. The provisions of the MSA which relate to Updates shall apply in respect of any such Update(s).
- 3.3 If Cyferd makes any amendments to this Policy, it will change the 'Last Updated' date in **paragraph 2** above in such updated version of this Policy.
- 3.4 An Update Notification could be sent/ made by Cyferd in respect of this Policy by e-mail (together with a copy of the Update(s) or a link to a copy of the Update(s)) in accordance with the notices provision in the MSA or by adding a statement to Cyferd's main website page referencing such Update(s) (together with a copy of the Update(s) or a link to a copy of the Update(s)) or by any other reasonable means which Cyferd elects.

4. Uptime for Professional Agreements

- 4.1 Subject to **paragraphs 4.2** and **4.3**, Cyferd agrees with a Professional Customer to use its reasonable efforts to make the Cyferd Product Available for (on an annualised basis) 99.75% of the time.
- 4.2 Availability does not include any downtime arising from or caused by or relating to the Exclusions or any Exclusion.
- 4.3 Notwithstanding **paragraph 4.2**, Cyferd's obligations under **paragraph 4.1** shall not apply in respect of the Exclusions or any Exclusion.

5. Uptime for Enterprise Agreements

- 5.1 Subject to **paragraphs 5.2** and **5.3**, Cyferd agrees with an Enterprise Customer to use its reasonable efforts to make the Cyferd Product Available for (on an annualised basis) 99.75% of the time.
- 5.2 Availability does not include any downtime arising from or caused by or relating to the Exclusions or any Exclusion.
- 5.3 Notwithstanding **paragraph 5.2**, Cyferd's obligations under **paragraph 5.1** shall not apply in respect of the Exclusions or any Exclusion.

6. Law

The provisions of this Policy shall be governed by the laws of England and Wales.

[End of Policy]