

DEFINITIONS AND INTERPRETATION

Last Updated: August 1, 2024

1. This Cyferd Definitions document (this “**Document**”) applies to, forms part of and is supplemental to the Cyferd Professional Services Terms as ‘*Cyferd – Professional Services Terms and Conditions – 1 August 2024*’ (the “**Terms**”), each Order Form (as defined herein) and each Cyferd Policy (as defined herein).
2. The Terms shall apply to this Document and are incorporated herein, *mutatis mutandis*, to this Document. Cyferd may change this Document by posting an updated version of this Document at <https://cyferd.com/cyferdcomm/us> and such updates will be effective upon posting.
3. References in this Document to Sections are to Sections of the Terms.
4. In the Terms, each Order Form and each applicable Cyferd Policy (which applies to the PSA), the following words and expressions shall have the following meaning unless the context otherwise requires:

“ Access ”	means Cyferd setting up an online account for Customer and creating the applicable Tenancy in question for Customer to enable Customer to access and use the Cyferd Product from/with that Tenancy pursuant to and in accordance with the applicable Cyferd Product Contract having strict regard to any Access/Usage Parameters and “ Access to the Cyferd Product ”, “ Accessed ”, “ Accesses ” and “ Accessing ” shall be construed accordingly
“ Access/Usage Parameters ”	means the scope of and any restrictions (designated as ‘ <i>Access/Usage Parameters</i> ’) to the Access to and use of the Cyferd Product as provided for in the applicable Cyferd Product Contract (or any of the document(s) that comprise the same) and/or otherwise in writing by Cyferd and Customer, from time to time that apply to the applicable Tenancy. For the avoidance of doubt different Tenancies could have different Access/Usage Parameters
“ Administrator ”	means the person or persons designated by Customer who administers the Tenancy(ies) and the Cyferd Product to Customer and/or Authorized Users on Customer’s behalf and who has the oversight administrative function in respect of the Tenancy(ies)
“ Affiliate ”	means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with, another entity
“ API ”	means an application program interface that allows two or more different software programs to talk to each other and leverage and share information
“ App ”	means an application built on and using the Cyferd Product and “ Apps ” shall be construed accordingly. In this regard an “ application ” is made up of a collection of data entities associated together with additional meta data to automate process flows and control views. For this purpose, an App does not include a Mobile App or the Cyferd Web Client or any API or any Integration or any Feature
“ App Usage ”	means Customer’s (including all of its Authorized User’s) use of an App for/with Customer’s ‘live’ data and in a ‘live’ environment (and not in a development and/or test only environment) pursuant to and in accordance with the applicable Cyferd Product Contract
“ Applicable Currency ”	£ (pounds Sterling), \$ (Dollars) or € (euro)
“ Authorized User ”	means an employee or independent contractor of Customer or such other person or entity for whom an Authorized User Account (as defined in the applicable MSA) set up for him/her/it by the Administrator and as a result is authorized by Customer to have Access to use of the Cyferd Product within the applicable Tenancy and at all times pursuant to and in accordance with the applicable Cyferd Product Contract
“ Business Day ”	means a day other than a Saturday, Sunday or public holiday when banks in New York City, New York, USA are open for business
“ Change ”	means any change to the PSA (including a change to the Professional Services (or any of them), the Order Form, the Professional Services Scope, the Terms and/or any of the other documents that form part of the PSA from time to time) in whole or in part
“ Change Order ”	means a written document to become supplemental to the PSA to effect a Change pursuant to and in accordance with Section 2.4 of the Terms, where, for that Change to become effective, such document shall be in a form agreed by and entered into by the parties
“ Claim ”	as defined in Section 8.1 of the Terms
“ Commencement Date ”	means the date specified or deemed to be specified in the Order Form

“Confidential Information”		means: (i) (where the Disclosing Party is Cyferd) Cyferd’s Confidential Information; or (ii) (where the Disclosing Party is Customer) the Disclosed Customer Data, the Administrative Data (as defined in the MSA) and any other information of Customer which Customer and Cyferd agree in writing should be ‘ <i>Confidential Information</i> ’ for the purposes of the Terms and which is of a confidential or proprietary nature or commercially sensitive
“Contract”		a legally binding contract, agreement, licence, commitment or other arrangement (whether or not reduced to writing)
“Control”		means the power to direct or cause the direction of the management and policies of a Party, whether through the ownership of voting securities, by contract or otherwise, and “Controlled by” and “under common Control with” have correlative meanings
“Customer”		the person specified as the ‘ <i>Customer</i> ’ in the Order Form
“Customer Customization”	App	means the creation of and/or any modification, Customization, maintenance and/or update of or to an App by or on behalf of Customer that is not a Cyferd App Customization or to the extent that it is not or does not include any Cyferd App Customization(s) (and “Customer App Customizations” shall be construed accordingly)
“Customer Data”		means any electronic data and information (in any form including data, content, code, video, or other materials) that Customer or any of its Authorized Users or the Administrator Transmit to the Cyferd Product (including via any Tenancy, App or Feature) (but excluding Feedback)
“Customer Materials”		means all of the Materials provided or made available by or on behalf of Customer or its Affiliates relating to the Professional Services (and any modifications to that material)
“Customer Representative”		as defined in Section 2.1 of the Terms
“Cyferd Android App”		means the software packaged for Authorized Users to install onto their mobile device from the ‘ <i>Google Play store</i> ’ to access a Tenancy and the related Customer Data
“Cyferd App”		means an App created by or on behalf of Cyferd (whether as Professional Services, made available generally, and/or made available to purchase and/or otherwise) and whether or not for Customer and/or any other Cyferd customers (and “Cyferd Apps” shall be construed accordingly). Where there is a Contract in respect of the creation of/the making available or sale of the same (including any applicable PSA) and such Contract expressly provides that the Intellectual Property Rights in respect of the same belong to and shall remain vested in Cyferd or the relevant Licensor or such Contract is silent in respect of the ownership of Intellectual Property Rights in respect of the same then such App will be deemed to be a Cyferd App. Where there is no such separate Contract in respect of the creation of/the making available or sale of the same then such App will be deemed to be a Cyferd App
“Cyferd App Customization”		means: (i) a Cyferd App to that extent; (ii) any general modification, Customization, maintenance and/or update of or to a Cyferd App by or on behalf of Cyferd; (iii) any modification, Customization, maintenance and/or update of or to a Cyferd App or any other App (including any Non-Cyferd App) by or on behalf of Cyferd (as Professional Services or otherwise) for Customer and/or any other Cyferd customers; and (iv) (to the extent not provided for in (i) to (iii) (inclusive)) in respect of any App, the extent to which the Cyferd Product (including any Features) and its underlying technology and software (whether for or on behalf of Cyferd, Customer, any other Cyferd customer, any applicable Cyferd Partner or any other applicable person or entity): (a) creates that App; and/or (b) carries out, performs or executes any modification, Customization, maintenance and/or update to that App and/or the Cyferd Product (including any Features) and its underlying technology and software and the use of the same (and “Cyferd App Customizations” shall be construed accordingly). Where there is a Contract in respect of (ii), (iii) and/or (iv) (including any applicable PSA) and such Contract expressly provides that the Intellectual Property Rights in respect of the subject matter of (ii), (iii) and/or (iv) belong to and shall remain vested in Cyferd or the relevant Licensor or such Contract is silent in respect of the ownership of Intellectual Property Rights in respect of the same then the subject matter of (ii), (iii) and/or (iv) as applicable will be deemed to be a Cyferd App Customization. Where there is no such separate Contract in respect of (ii), (iii) or (iv) then the subject matter of the same will be deemed to be a Cyferd App Customization
“Cyferd Information”	Confidential	means all confidential information (however recorded or preserved) that is disclosed or made available (in any form or by any method) by or on behalf of Cyferd or any

of its Affiliates whether before, on or after the Effective Date and the Commencement Date relating to or in connection with Cyferd and its Affiliates (of any of them) including: (i) its/their business or affairs, financial or trading position, funding/proposed funding, assets, rights, interests, Intellectual Property Rights, customers, clients, suppliers, employees, plans, operations, methods, systems, processes, past, present or future products and/or services, past, present or future contracts, intentions or business/market opportunities; (ii) the Terms and the Order Form (and all pricing and (if any) special terms therein) and each and every Cyferd Product Contract (and all pricing and (if any) special terms therein); (iii) the Cyferd Product (including any Tenancy(ies), App(s) and Feature(s)) and/or any other products or services of Cyferd which relate to the Cyferd Product; (iv) the Documentation and any other technical or operational specifications or data relating to the Cyferd Product (including any Tenancy(ies), App(s) and Feature(s)) and/or any other products or services of Cyferd which relate to the Cyferd Product; (v) Cyferd's Intellectual Property Rights; (vi) any Professional Services provided to Customer from time to time by or on behalf of Cyferd (including any scoping documents, plans and pricing and/or special terms in relation to the same) including those which relate to the PSA; (vii) any information in respect of which Cyferd or any of its Affiliates owes an obligation of confidentiality to any third-party; and (viii) any other information that is identified as being of a confidential or proprietary nature or commercially sensitive

"Cyferd customer"	means any customer of Cyferd for the Cyferd Product from time to time (including Customer)
"Cyferd Group"	means Cyferd and its Affiliates (from time to time) and "Cyferd Group Member" and "member of the Cyferd Group" shall be construed accordingly
"Cyferd iOS App"	means the client software packaged for Authorized Users to install onto their mobile device from the 'App Store' to access a Tenancy and the related Customer Data
"Cyferd's Intellectual Property Rights"	means all Intellectual Property Rights owned and/or used by Cyferd (whether or not in connection with the Cyferd Product) from time to time including, without limitation, as set forth in Sections 3.1 and 3.2 of the Terms
"Cyferd Marketplace"	means Cyferd's online marketplace of Apps, APIs and Integrations (as further described in the 'Cyferd – Marketplace Terms of Use' (https://cyferd.com/cyferdcomm/us) as the same may be amended by Cyferd from time to time)
"Cyferd Materials"	means all of the Materials provided or made available by or on behalf of Cyferd, but excluding all Customer Data and all Non-Cyferd Materials
"Cyferd Partners"	means the formally appointed (by Cyferd) partners of Cyferd in connection with the Cyferd Product from time to time (each such partner being a 'Referral Partner', a 'Sales Partner', a 'Services Partner', a 'Solutions Partner' or such other type of partner that Cyferd expressly designates as a 'Cyferd Partner' from time to time) and "Cyferd Partner" shall be construed accordingly
"Cyferd Personnel"	means all employees, officers, staff, other workers, agents, and consultants of Cyferd who are engaged in the provision of the Professional Services and includes any of Cyferd's permitted subcontractors
"Cyferd Policies"	means the applicable policies, ancillary terms and conditions, charters and documents of Cyferd which are set out at https://cyferd.com/cyferdcomm/us which apply to Enterprise and which are designated by or on behalf of Cyferd as a 'Cyferd Policy' (each a "Cyferd Policy")
"Cyferd Product"	means the cloud-native 'Platform as a Service' (PaaS) known as 'Cyferd' providing agile 'Digital Transformation' solutions
"Cyferd Product Contract"	(in respect of Customer) the Contracts, policies and the other document(s)/supplemental document(s) (including the MSA) governing Customer's Access to and use of the Cyferd Product and related matters in respect of an applicable 'order form' (being together defined in the MSA as ' <i>this Agreement</i> ' for Customer). Customer could have more than 1 (one) Cyferd Product Contract. Reference in the Terms or elsewhere to "the Cyferd Product Contract" shall be deemed to be a reference to each Cyferd Product Contract where there is more than 1 (one) unless the context otherwise require
"Cyferd Rate Card"	the 'Cyferd Rate Card' (https://cyferd.com/cyferdcomm/us) as the same may be modified and/or updated from time to time by Cyferd
"Cyferd Representative"	as defined in Section 2.1 of the Terms

“Cyferd Remote Agent”	means the software in the form of an application, in object code form, initially provided or made available in connection with a Cyferd Product Contract to Customer as well as updates thereto that Cyferd elects to make available at no additional charge that can be set up on Customer's private network to enable/facilitate certain secure communication between Customer's private network and Customer's Tenancy(ies). This allows Customer to connect its on-premise systems and databases to its Tenancy(ies) without needing to open up its firewall to the internet. The Cyferd Remote Agent creates a continuous web socket connection to Customer's Tenancy(ies) to allow for two-way communication (i.e. requesting/delivering data from/to on-premise integrations)
“Cyferd Web Client”	means the client front end that an Authorized User can access through a web browser. There is no install required to use the web client as it loads directly from the Cyferd Product (via the Tenancy(ies) in question) to the browser to allow Authorized Users access to all the eligible features of the Cyferd Product for the Tenancy(ies) in question. The Cyferd Web Client runs on any standard modern browsers (such as Google Chrome, Mozilla Firefox, Microsoft Edge, Apple Safari)
“Data Protection Policy”	the ‘ Cyferd – Data Protection Policy ’ (https://cyferd.com/cyferdcomm/us) (being a Cyferd Policy) as the same is amended from time to time by Cyferd
“Deliverables”	means deliverables under the Professional Services Scope or the Order Form and “Deliverable” shall be construed accordingly
“Disclosed Customer Data”	as defined in Section 5.1 of the Terms
“Disclosing Party”	as defined in Section 5.1 of the Terms
“Documentation”	means the then current user and support documentation and guides (in whatever form) for (as applicable) the Cyferd Product (or any part including any Tenancy(ies), App(s) or Feature(s)) and/or any other Purchased Item(s) as the same is amended from time to time by Cyferd and which is provided/made available by Cyferd (and includes any PSA Documentation for this purpose)
“Dollars” and “\$”	the lawful currency of the United States of America
“euro”, “€” and “EUR”	the lawful single currency of the applicable participating member states of the European Union
“Feature”	means a particular/specific feature of the Cyferd Product that is not an App, but which is embedded into the Cyferd Product (and “Features” shall be construed accordingly)
“Feedback”	means any feedback and suggestions for improvement relating to or in connection with the Cyferd Product (or any part) any Cyferd Apps, any Cyferd App Customizations, any Features and/or any other Purchased Item(s) (or any part) provided (directly or indirectly) by Customer, the Administrator and/or any Authorized User to Cyferd
“Fees”	as defined in Section 1.1 of the Terms being the fees payable by Customer to Cyferd for the provision of the Professional Services and any other related specified fees, costs and/or expenses, in each case as set out in the Order Form and/or the Professional Services Scope and as provided for in the Terms
“Force Majeure”	means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Terms (provided that an inability to pay is not Force Majeure), including any matters relating to the transfer of data over public communications networks and any delays or problems associated with any such networks or with the internet
“Integration”	means the record that is created and securely managed in a Tenancy that provides the access details for a connection to an external source system
“Intellectual Property Rights”	means copyright, rights relating to copyright such as moral rights and performers rights, patents, rights in inventions, rights in confidential information, know-how, trade secrets, trademarks, trade names, geographical indications, service marks, design right, rights in get-up, database rights, databases, data exclusivity rights, utility models, chip topography rights, mask works, utility models, domain names, rights in computer software, mask works, the right to sue for infringement, unfair competition and passing off and all similar rights of whatever nature, any other intellectual property rights, and all similar rights of whatever nature and, in each case: (a) whether registered or not; (b) including any applications to protect or register such rights; (c) including all renewals and extensions of such rights or applications; (d) whether vested, contingent or future; and (e) wherever existing.
“know-how”	means inventions, discoveries, improvements, processes, formulae, techniques, specifications, technical information, methods, the results and procedures for

	experiments and tests, reports, component lists, manuals, instructions, designs, sketches, drawings, information relating to customers and suppliers (whether written or in any other form and whether confidential or not)
“Licensor”	means a third-party who owns any Intellectual Property Rights in any Relevant Item (or part of it) the use of which by Cyferd has been or is deemed to have been licensed to Cyferd for such purpose or for which Cyferd has the right to use the same for such purpose (whether under any Contract or otherwise)
“Materials”	means all data, information, content, Intellectual Property Rights, websites, software, personnel and other tangible and intangible materials provided by or on behalf of a Party in connection with the Professional Services but specifically excluding all Customer Data
“Mobile App”	means the Cyferd Android App or the Cyferd iOS App and “Mobile Apps” shall be construed accordingly
“MSA”	(in respect of Customer) means the applicable ‘ <i>Master Professional Services Agreement</i> ’/‘ <i>MSA</i> ’ relating to the Cyferd Product Contract
“No Liability Matter”	as defined in Section 8.2 of the Terms
“Non-Cyferd App”	means an App which is not a Cyferd App, and “Non-Cyferd Apps” shall be construed accordingly
“Non-Cyferd Materials”	means Materials provided, controlled or owned by or on behalf of a third-party the use of which is subject to a separate Contract between Customer and the relevant third-party (including such Non-Cyferd Materials which may be linked to, interact with or used by the Cyferd Product (including any Tenancy(ies), App(s) and Feature(s)) and any other Purchased Item(s)) and all other Materials expressly identified as ‘ <i>Non-Cyferd Materials</i> ’ in the Terms, the Order Form, the Professional Services Scope and/or the Documentation
“Non-Cyferd Products/Professional Services”	means products or Professional Services not provided by or on behalf of Cyferd but by or on behalf of a third-party (including via the Cyferd Marketplace) and could include Non-Cyferd Apps and/or Non-Cyferd Materials
“Open Source Software”	means any software subject to a version of the General Public Licence, together with any other ‘open source’ software falling within the Open Source Definition issued by the Open Source Initiative (www.opensource.org/docs/osd) at the Effective Date or the Commencement Date and any ‘free software’ as defined by the Free Software Foundation (www.gnu.org/philosophy/free-sw.html) at the Effective Date or the Commencement Date
“Order Form”	means an order form (in a form to Cyferd’s satisfaction) entered into between Cyferd and Customer for the provision by Cyferd of the Professional Services. Such order form (only to the extent it relates to the provision of the Professional Services and any related Deliverables) shall create and form part of the PSA. Annexed to or, incorporated in such order form shall be the Preliminary Professional Services Scope
“Permitted Purpose”	(in respect of a Cyferd Product Contract) means use solely for Customer’s internal business operations in accordance with the applicable Documentation and that Cyferd Product Contract. Permitted Purpose expressly excludes anything that would cause Customer to be in breach of an Access/Usage Parameter or otherwise be in breach of that Cyferd Product Contract
“Preliminary Professional Services Scope”	the initial scoping document (in a form to Cyferd’s satisfaction) outlining the Professional Services and any Deliverables and Fees to be paid by Customer for such Professional Services, such document to be included in or annexed to the Order Form.
“Professional Services”	means those ‘professional services’ (of the type referred to in <u>Schedule 1</u> of the Terms in relation to or in connection with the Cyferd Product and/or any other ‘professional services’ that Cyferd (in its sole discretion) designates in writing as being ‘ <i>Professional Services</i> ’) specified in the Order Form, the Preliminary Professional Services Scope and/or the Professional Services Scope
“Professional Services Scope”	a full detailed and in-depth scoping document that provides a clear statement of work with regard to the Professional Services and any Deliverables and Fees to be paid by Customer for the Professional Services, as agreed between Cyferd and Customer prior to the commencement of Professional Services pursuant to and in accordance with Section 2.2 of the Terms
“PSA”	(in respect of Customer and the Professional Services) means together the Terms, the Order Form, (unless and until the same is replaced by or becomes the Professional Services Scope) the Preliminary Professional Services Scope, the

	Professional Services Scope, (if and to the extent applicable) the Cyferd Rate Card, those Cyferd Policies that apply to or in respect of the PSA and any other document(s)/supplemental document(s): (i) issued by Cyferd to Customer; or (ii) entered into or deemed to have been entered into between Cyferd and Customer; or (iii) issued by Cyferd, and in each case which has/have been approved by Cyferd in writing and which is in respect of, which relates to and/or which is in connection with the provision by Cyferd of the Professional Services. For the avoidance of doubt the PSA does not include any Cyferd Product Contract
“PSA Documentation”	means any user and support documentation and guides (in whatever form) for (as applicable) any of the PSA Property as at the date of delivery of the same to Customer. PSA Documentation is available upon the request of Customer following completion of the applicable works/ provision of the Professional Services
“PSA Property”	as defined in Section 3.1 of the Terms
“Purchased Item”	means a product and/or service being the subject matter of an ‘order form’ in respect of a Cyferd Product Contract but not including any Professional Services or any other products and/or services not forming part of or being governed by any Cyferd Product Contract (and “Purchased Items” shall be construed accordingly). Purchased Items will include: Access of the Cyferd Product (including all Tenancies), App Usage and (the following all as defined in the MSA) any Premium Features, any Premium Subscriptions and a Developer Licence
“Receiving Party”	as defined in Section 5.1 of the Terms
“Relevant Items”	as defined in Section 3.2 of the Terms
“Service Day”	a Business Day, being 09.30 to 17.30 (with 30 (thirty) minutes for lunch) and “Service Days” shall be construed accordingly
“Residual Information”	means any information (including, without limitation, ideas, concepts, know-how or techniques) that is retained in intangible form in the unaided human memories of the Cyferd Representatives
“Sterling” and “£”	the lawful currency of the United Kingdom
“Storage of and Access to Customer Data Policy”	the ‘ Cyferd – Storage of and Access to Customer Data Policy ’ (https://cyferd.com/cyferdcomm/us) (being a Cyferd Policy) as the same is amended from time to time by Cyferd
“Taxes”	as defined in Section 4.3 of the Terms
“tenancy”	means a unique account of the Cyferd Product created by Cyferd for a Cyferd customer/Cyferd with its own URL enabling that Customer/Cyferd to, inter alia, Access and use the Cyferd Product (including any App(s) and Feature(s)) and “tenancies” and “tenancy(ies)” shall be construed accordingly. Each tenancy is segregated from all other tenancy(ies). For the avoidance of doubt a tenancy is not a separate stand-alone instance but still part of a multi tenancy cloud environment. A Tenancy is also a tenancy
“Tenancy”	means a tenancy enabling the applicable Customer to Access and use the Cyferd Product (including any App(s) and Feature(s)) and any other applicable Purchased Item(s), in accordance with and subject to the terms of the applicable Cyferd Product Contract and the applicable Order Form having strict regard to any Access/Usage Parameters and “Tenancies” and “Tenancy(ies)” shall be construed accordingly
“Thirty Party Technology”	means any Non-Cyferd App, Non-Cyferd Materials, Non-Cyferd Products/Services, and/or other third-party integrations associated with the Cyferd Product
“Transmit”, “Transmitted”, “Transmitting”	(in respect of Customer Data) submitted, uploaded, posted, transferred, provided, processed, and/or otherwise transmitted
“User Notice”	the ‘ Cyferd – User Notice ’ (https://cyferd.com/cyferdcomm/us) (being a Cyferd Policy) as the same is amended from time to time by Cyferd
“VAT”	means any value added tax or sales tax or other tax of a similar nature