G-Cloud 9

Terms

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IN CONSIDERATION of the mutual promises in this Call-Off Agreement, the Supplier and Customer agree that the following terms (**"Supplier Terms"**) shall apply to and form part of this Call-Off Agreement and govern the G-Cloud Services and G-Cloud Additional Services identified in the Order Form.

1. **Definitions.** The defined terms used and set out in the Framework Agreement shall apply to this Call-Off Agreement. The following additional defined terms shall also apply to this Call-Off Agreement:
   (a) **"Change Control Procedure"** means the procedure for agreeing changes to this Call-Off Agreement (including the Order Form and/or Supplier Terms) as set out in Appendix 3 of these Supplier Terms.
   (b) "**Deliverables"** means any deliverables produced by the Supplier as part of the G-Cloud Services and/or G-Cloud Additional Services, in either case whether provided in written material or on magnetic media or communicated by electronic means
   (c) "**Documentation"** means any and all information provided to Customer by Supplier (i) describing the G-Cloud Services and/or G-Cloud Additional Services, their operation or matters related to their use; and/or (ii) any deliverables produced by the Supplier as part of the G-Cloud Services and/or G-Cloud Additional Services, in either case whether provided in written material or on magnetic media or communicated by electronic means.
   (d) **"Force Majeure"** has the meaning given to it in the Framework Agreement, but shall additionally include an event caused, directly or indirectly, by earthquake, natural disaster, element of nature or acts of God; interruptions in power or electricity; electronic failure; or civil disorders or disobedience, acts of vandalism or other unlawful acts; and for this definition "acts, events, omissions, happenings or non-happenings beyond the reasonable control of the affected party" shall be interpreted *ejusdem generis*.
   (e) "**Platform"** mean the Supplier product(s) set out in the Order Form and in the Version made available to Customer, and provided to Customer as part of the G-Cloud Services.
   (f) "**Services**" means as the context requires, the G-Cloud Services and/or the G-Cloud Additional Services, including for the avoidance of doubt any configuration related G-Cloud Services and/or G-Cloud Additional Services.
   (g) **"Update**" means an iteration or release of a particular Version of the Platform that updates or corrects critical bugs, program or logic errors (if any) in that Version. The term "**Maintenance Release**" is synonymous with Update.
   (h) **"Version**" means a particular iteration or release of the Platform which has particular functionality. A "**New Version**" is a release of the Platform with operational and/or functional improvements, and is distinguished from an Update. As examples, a New Version may, but need not, include additional modules not in the prior Version, and a New Version may, but need not, comprise substantial changes to the core software of the Platform. The term "**New Release**" is synonymous with New Version. The determination of whether an iteration or release is an Update or a New Version shall rest solely with Supplier.
   (i) **"Rate Card"** means the Supplier's rate card as set out in the relevant Service Definition.
   (j) **"Supplier Material"** means as the context requires, the Documentation and/or the Deliverables.
   (k) **"Support Services"** means the maintenance and support Services to be provided by Supplier under Appendix 2 of these Supplier Terms.
2. **Use by Customer.**
   (a) Supplier hereby grants to Customer a non-exclusive and non-assignable, limited right for the Call-Off Agreement Period, to do any of the following:
      (i) access and use the Platform and Documentation for the purposes specified in this Call-Off Agreement (including as specified in the Order Form); and

(ii) copy the Supplier Material for distribution only to Customer's employees who are authorized users of Platform under this Call-Off Agreement, and to such other persons as Customer and Supplier may agree.

(b) Customer shall not, except in the circumstances required to be permitted by applicable law, copy, modify, alter, disassemble, decompile, translate or convert into human readable form, or reverse engineer, all or any part of the Platform and shall not use the Platform, or Supplier Material to develop any derivative works, modifications or any functionally compatible or competitive software or service. Customer shall not access, use or have any rights to the object or source code of Platform, nor shall Customer attempt to obtain such object or source code. Customer shall remove no copyright or other proprietary rights notices on any label of disks or other storage media containing any Supplier Material. Customer shall ensure that Supplier's copyright and proprietary rights notices (if any) are not disabled and remain conspicuously displayed on the screen of the user during the set-up and start-up routines of the Platform.

(c) Customer may not:

(i) offer, for a fee or free of charge, services to any third party consisting of the processing of data through the Platform unless the same is expressly permitted in the Order Form;

(ii) sell, lease, rent, license, sub-license, transfer, market, distribute, redistribute, or otherwise part with the access to the Platform or Supplier Material or any copies of the forgoing, in any manner or in any form not permitted by this Call-Off Agreement; and/or

(iii) use the Platform for commercial time sharing, rental or service bureau use.

3. **Delivery / Performance.**

(a) Supplier will provide Customer with access to the Platform and to the Support Services associated with the Platform, in the manner provided in this Call-Off Agreement (including the Order Form).

(b) Supplier will provide Customer with such other Services referenced in the Order Form, as the same may be further described in the applicable Service Definition, including any Supplier Material, in the manner provided in this Call-Off Agreement (including the Order Form).

(c) Except as provided in this Call-Off Agreement, Customer will be solely responsible for the security and confidentiality of the access codes and passwords through which it accesses the Platform.

(d) If the performance of this Call-Off Agreement by the Supplier is delayed and/or prevented (whether in whole or in part) by a failure by Customer to comply with either Customer Responsibilities set out in paragraph 5 of the Order Form and/or the Service Definition, and/or any other obligations of Customer under this Call-Off Agreement (each a "**Customer Default**"), the Supplier shall:

(i) be entitled to a reasonable extension of time for performance and to recover any reasonable additional costs (calculated in accordance with the Rate Card) which were incurred as a result of Customer Default, provided always that it advises appropriate Customer personnel of Customer Default as soon as reasonably practicable after becoming aware of Customer Default; and

(ii) not be deemed to be in breach of this Call-Off Agreement (including in relation to any service levels) to the extent such potential breach arises directly or indirectly as a result of a Customer Default.

(e) In providing the Platform, the Supplier will use reasonable endeavours to achieve the service levels set out in the Service Definition.

(f) The following data hosted by Supplier on behalf of Customer within the Platform or otherwise in connection with the Services, is "**Harmful Data**":

(i) data that is harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, facilitates illegal activity or is otherwise illegal or causes damage or injury to any person or property; or

(ii) data in relation to which Customer does not have the necessary rights and permissions to provide such data to the Supplier.

(g) Customer shall be responsible for and shall fully reimburse and hold harmless the Supplier and its Affiliates and sub-contractors, and their officers, directors and employees ("**Supplier Parties**") against, any losses, damages, costs (including legal fees) and expenses suffered or reasonably incurred by the Supplier Parties regarding any claims (whether alleged or by formal proceedings) that relate to the Harmful Data. This Supplier shall: (i) give Customer prompt notice of such claim; (ii) provide reasonable co-operation to Customer in the defence and settlement of such claim at Customer's expense; and (iii) give Customer sole authority to defend or settle the claim. Clause CO-11.4 of the Call-Off Terms and Section 8 of the Order Form shall not apply to this paragraph.

(h) If a claim arises which is subject to the provision of paragraph (f) of this Section 5, and in the reasonable opinion of the Supplier there is a likelihood of further and/or similar claims being brought against the Supplier, the Supplier will submit its proposals under the Change Control Procedure, to alter the arrangements provided under this Call-Off Agreement to minimise the risk of such claims arising and Customer shall not unreasonably withhold its consent to such request to change the hosting arrangements.

(i) Customer agrees that the Supplier will not provide and the Charges does not cover the out-of-scope services detailed at paragraph 4 of Appendix 2 of these Supplier Terms.

4. **Charges.**

(a) The Charges for the Services are set out in the Order Form. If the Charges are based on transactional, per user, or per unit pricing, the Order Form and/or Service Definition will specify any minimum payment, number of users, units or transactions and any associated true-up provisions or other similar price adjustment mechanisms that could lead to an adjustment to any minimum Charges paid.

(b) The Charges do not include taxes. If Supplier must pay sales or similar taxes based on or because of the license granted or anything provided under this Call-Off Agreement, or Customer's use of the Services, then such sales or similar taxes shall be billed to and paid by Customer. This provision shall not apply to taxes based on Supplier's net income.

(c) No additional Charges are required for Updates provided pursuant to Appendix 2 (Support Terms) of these Supplier Terms. Additional Charges may be required for New Versions of the Platform.

5. **Title.** Customer acknowledges that its rights pursuant to this Call-Off Agreement do not extend beyond the licence set out in Section 2 of these Supplier Terms and that it will not acquire any Intellectual Property Rights in the Platform, subsequent Versions, Updates, Supplier Material or any other aspect of the Services. Customer acknowledges and agrees that the Supplier (or its licensors) own all right, title and interest to (including but not limited to any Intellectual Property Rights arising in) the Platform, subsequent Versions, Updates, Supplier Material or any other aspect of the Services, developed prior to during or after any work performed for Customer pursuant to this Call-Off Agreement (together, the **"Supplier IPR"**). Customer agrees that it will not, during or after the termination of this Call-Off Agreement, contest or challenge ownership of, or interest in the Intellectual Property Rights in, any of the Supplier IPR. To avoid doubt and without limiting the foregoing, Customer acknowledges that, as between Customer and Supplier, Supplier has sole proprietary rights in the Supplier IPR and all derivatives, versions, releases, modifications, improvements or changes thereto, no matter who makes such things.

6. **Additional Confidentiality Obligations**

(a) This Section 6 shall apply in addition to the provisions set out in Clause CO-4 in the Call-Off Terms.

(b) Customer acknowledges that the Platform, the Supplier Material and information and know-how relating to such things (and any Platform source code and the financial terms of this Call-Off Agreement), shall constitute Supplier Confidential Information. Each party to whom Confidential Information of the other party has been disclosed (the "Disclosee") will therefore:

(i) will take all reasonable steps (including those steps that the Disclosee takes to protect its own information it regards as confidential) to keep the Confidential Information confidential; and

(ii) will not disclose or otherwise provide, except as otherwise provided by law, the Confidential Information of the other party to any third party except to such directors, officers, employees and agents of the Disclosee who need to have access to the Confidential Information of the other party to perform their obligations to the other party under this Call-Off Agreement.

(c) This Section will not apply to Confidential Information that:

(i) is in the public domain other than because of a breach of the obligations in this Call-Off Agreement to maintain the confidentiality of such Confidential Information;

(ii) is established by Disclosee's documents as known by the Disclosee prior to its disclosure to the Disclosee or is independently developed by the Disclosee without breach of the obligations in this Call-Off Agreement; or

(iii) has been received by the Disclosee from a third party not subject to obligations similar to the obligations in this Call-Off Agreement.

(d) In the event that either party or persons referred to in Section 6(a)(ii) to whom the Confidential Information is provided as permitted by this Call-Off Agreement receives notice indicating that it may or will be legally compelled to disclose any of the Confidential Information, it will provide the other party with prompt notice so that the other party may at its sole discretion seek a protective order or other appropriate remedy and/or waive compliance with this Call-Off Agreement. If such protective order or other remedy is not obtained or that other party waives compliance with this Call-Off Agreement, the compelled person will furnish only that portion of the Confidential Information he or she is legally required to disclose.

(e) Each of the parties acknowledges that its failure to comply with this Section 6 may cause irreparable harm to the other party which cannot be adequately compensated for in damages, and accordingly acknowledges that the other party will be entitled, besides any other remedies available to it, to interlocutory and permanent injunction relief to restrain any anticipated, present or continuing breach of Section 6 of this Call-Off Agreement.

(f) Pursuant to Clause CO-4.1 (Confidentiality) of the Call-Off Terms, Customer agrees that the Supplier may disclose Customer's Confidential Information to:

(i) Affiliates of the Supplier (an "**Affiliate**" meaning in relation to the Supplier, any Subsidiary or Holding Company of the Supplier and each and any Subsidiary of the Holding Company of the Supplier); and

(ii) the Supplier's third party contractors used in the performance of the Services,

in performing its obligations under this Call-Off Agreement.

(g) Customer agrees that for the purpose of Clause CO-6 (Freedom of Information) of the Call-Off Terms, the Supplier's Commercially Sensitive Information includes:

(i) the component elements of the Charges set out in Section 6 (payment) of the Order Form;

(ii) save in relation to the Supplier's tender materials that the Supplier has agreed to be displayed as part of the Catalogue, the Supplier's other tender materials and any additional proposal materials provided as part of the discussion of the Services;

(iii) any user guides and/or other technical documentation (including system architecture and information security documentation) relating to the Services

7. **Term and Termination.**

(a) Subject to this Section 7, the term of this Call-Off Agreement shall commence on the Commencement Date and will continue until the sooner of when it is validly terminated under this Section 7 or the end of the Call-Off Agreement Period.

(b) Subject to Section 7(d), Supplier may terminate this Call-Off Agreement, or any part, by notice in writing to Customer if any of the following occur:

(i) Customer's use of the Platform exceeds or violates the rights conferred by Section 2;

(ii) Customer breaches any material term of this Call-Off Agreement;
(iii) Customer tries to assign, sub-license, or otherwise transfer any of its rights under this Call-Off Agreement; or
(iv) Supplier is otherwise permitted to terminate this Call-Off Agreement.

(c) Prior to terminating this Call-Off Agreement under Section 7(b), Supplier shall provide Customer with written notice of the occurrence of any of the events set out in Section 7(b) giving rise to its right to terminate. Customer shall have 30 days to cure such event to Supplier's satisfaction acting reasonably, failing which Supplier may terminate this Call-Off Agreement upon written notice to Customer.

(d) Where Customer is in material breach of the provisions of this Call-Off Agreement, the Supplier may elect to suspend the provision of the Services (including access to the Platform) until such time that the material breach has been remedied by Customer, and such period of suspension shall not place the Supplier in breach of its obligations under this Call-Off Agreement for failing to deliver the Services. The Supplier may also suspend provision of the Services in the circumstances described in Clause CO-13.7 of the Call-Off Terms. The rights described in this Section is without prejudice to the Supplier's termination rights, including those rights pursuant to Section 7(b) and (c) of these Supplier Terms.

(e) Upon the termination of this Call-Off Agreement:
(i) Customer's and Supplier's obligations under Section 6, and any accrued payment obligations of Customer, shall survive the termination;
(ii) Customer's rights under Section 2 shall immediately cease; and
(iii) Termination of this Call-Off Agreement shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall termination relieve Customer from its obligation to pay fees accrued prior to the termination.

(f) Customer will pay the termination charges set out in the Order Form and reimburse the Supplier for, and hold the Supplier harmless from, any losses, costs or expenses the Supplier incurs where Customer chooses or is required to terminate, void or end this Call-Off Agreement under the provisions of: (i) the Public Contracts Regulations 2015; (ii) the Public Contracts Regulations 2006; (iii) any UK legislation implementing Directive 2014/24/EU; or (iv) any other relevant or analogous procurement legislation regulating contracting authorities (together the "**Procurement Rules**").

8. **Supplier Warranty.**

(a) Supplier warrants that for the term of this Call-Off Agreement (i) the Services will perform, and the Supplier Material will comply, substantially in accordance with any specifications about them set out in the Service Definition and Order Form; and (ii) the Services comprising Specialist Cloud Services (SCS – Lot 4), will be provided with reasonable care and skill. In the event of a warranty claim made under these Call-Off Terms, the Supplier's sole responsibility shall be to repair or replace the allegedly defective aspect of the Services and/or Supplier Material, or if such defective aspect relates to the Platform, resolve the same as part of the Support Services.

(b) Except as otherwise provided in this Call-Off Agreement, the Services (including but not limited to the Platform and Supplier Material) are provided to Customer "as is and as available" and Supplier makes no warranties whatsoever, express or implied. Except as otherwise provided in this Call-Off Agreement, Supplier disclaims all warranties, terms and conditions of merchantability, satisfactory quality, accuracy, non-infringement, title or fitness for a particular purpose regarding the Services (including but not limited to the Platform and Supplier Material), all software has glitches or unforeseen errors, and Supplier makes no warranties and disclaims all warranties, terms and conditions that the Services will function without interruption.

(c) In addition to Clause CO-11.7 of the Call-Off Terms: (i) neither party shall be liable to the other for any loss or damage to reputation; (ii) where the Customer is responsible pursuant to the terms of the Call-Off Agreement for performing backups of Customer Data, the Supplier will

not be liable to Customer for any loss of data where Customer has failed to perform reasonably frequent and full data back-ups; and (iii) where the Supplier is responsible pursuant to the terms of the Call-Off Agreement for performing backups of Customer Data, upon the loss, damage or corruption of Customer Data, the Supplier will restore the Customer Data from the latest backup as the Customer's sole remedy for such loss, damage or corruption.

(d) To the extent permitted by law and except for any express warranty obligation(s) set forth in this Call-Off Agreement, the Supplier will not be liable for any indirect, direct, consequential or special damages of any third party claimed against Customer, that arises in part or in whole from any of: any third party's use (proper, improper or other) of or activities concerning the Platform, Customer's use of Platform, user or operator errors associated with Platform, user or operator use (erroneous or not) of the Platform, alleged or actual disclosure of information through the Platform, or the Supplier Material. Customer further acknowledges that Supplier has no control over the precise information or data sent or electronically transmitted by users or operators of the Platform, and also that all software and systems, and particularly those having a public access component, are subject to intentional or unintentional destruction, invasion or malfeasance by hackers and others, system downtime, technical difficulties or slowness due to data flow issues caused by circumstances outside the control of Supplier, as well as user or operator error or unintended consequences resulting from the actions of users, operators, Customer or its employees, and Customer agrees that, to the maximum extent permitted by law, the Supplier shall have no liability to Customer in respect of the same.

9. **Proprietary Right Infringement.**

(a) Supplier, at its expense, shall defend, indemnify, and hold Customer harmless against any claims against Customer that the Platform supplied, or Customer's use of the Platform in accordance with the terms of this Call-Off Agreement, infringes any Intellectual Property Rights of a third party in the UK. Supplier shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by Customer provided that Customer:

(i) Promptly notifies Supplier in writing of the claim, but Customer's failure to provide timely notice shall only relieve Supplier from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Supplier; and

(ii) Cooperates with Supplier and provides Supplier sole control of the defense and all related settlement negotiations.

(b) If such claim has occurred, or in Supplier's opinion is likely to occur, Customer agrees to permit Supplier, at its option and expense, either to procure for Customer the right to continue using the Platform or to replace or modify the same so it becomes non-infringing and functionally equivalent. If Supplier determines that no such options are reasonably available, Supplier will cease Customer's access to the Platform and provide Customer a refund for any fees paid in advance for periods where the Platform has not been used and may terminate this Call-Off Agreement without further liability to Customer.

(c) Supplier has no liability for any claim of infringement to the extent arising from:

(i) Customer Data;

(ii) Supplier's compliance with any designs, specifications or instructions of Customer;

(iii) Modification of the Platform by Customer or a third party; or

(iv) Use of the Platform in a way not specified by Supplier and/or in breach of this Call-Off Agreement.

10. **Support and New Versions.** Supplier shall have no obligation under this Call-Off Agreement to provide any Support Services or access to any Updates, or New Version save where expressly stated in Appendix 2 (Support Terms) of these Supplier Terms.
11. **Changes.** Any proposed changes to this Call-Off Agreement (including these Supplier Terms) must be approved in accordance with the Change Control Procedures before being effective.
12. **Acceptance.** Each Platform, including each Version, Update, and New Version, and including Supplier Material, design documentation and specification, and other materials, shall be deemed accepted by Customer once access is made available to Customer.
13. **Headings.** The inclusion of headings in this Call-Off Agreement is for convenience of reference only and shall not affect its construction or interpretation.
14. **Entire Agreement.** This Call-Off Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof. There are no warranties, conditions, or representations (including any that may be implied by statute) and there are no agreements in connection with such subject except as specifically set forth or referred to in this Call-Off Agreement. Neither party limits or excludes its liability for fraudulent misrepresentation.
15. **Waiver, Amendment.** Except as provided in this Call-Off Agreement, no waiver of this Call-Off Agreement shall bind unless executed in writing by Customer and Supplier. No waiver of any provision of this Call-Off Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Call-Off Agreement constitute a continuing waiver unless otherwise provided. No modification, variation or amendment to this Call-Off Agreement shall be effective unless such modification, variation or amendment is agreed by both Parties using the Change Control Procedure. The parties agree that if there is any remedy of ineffectiveness or termination imposed by the Procurement Rules, the parties agree that this Call-Off Agreement will automatically revert to the state prior to the impermissible change and the parties shall negotiate in good faith to re-amend this Call-Off Agreement so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original amendment.
16. **Severability.** If any provisions of this Call-Off Agreement shall for any reason be held illegal or unenforceable, such provision shall be deemed separable from the remaining provisions of this Call-Off Agreement and shall in no way affect or impair the validity or the enforceability of the remaining provisions of this Call-Off Agreement.
17. **Governance**

    The Parties agree to manage this Call-Off Agreement through the governance structure as agreed between the parties in writing from time to time ("**Governance Procedures**"). Both Parties agree to procure the attendance of the personnel identified in the Governance Procedures and at the frequencies identified in such Governance Procedures.
18. **Approved Subcontractors.** In accordance with Clause CO16.1 of the Call-Off Terms, Customer provides its consent to use the following Sub-Contractors in the performance of the Services:

Sub-Contractor	Area
SKYSCAPE	IAAS
MDS LTD	Managed Services
Zaizi Ltd	Alfresco EDRM

19. **Employment Arrangements.**

    The Customer and the Supplier do not consider the Transfer Regulations are applicable to this Call-Off Agreement. If in the performance of or related to all or any part of the Services, the employment of any personnel of the Customer or the Customer's third party suppliers and/or any

employment-related losses, costs, liabilities, and/or expenses of whatever nature of any personnel of the Customer or the Customer's third party suppliers ("Employment Liabilities") transfer to the Supplier (or it is alleged on reasonable grounds that they have so transferred) whether in accordance with the Transfer Regulations or otherwise, the Customer shall be responsible for and shall fully reimburse and hold harmless the Supplier Parties against any Employment Liabilities arising from or in connection with (i) the termination of the employment of any transferring employees including any Employment Liabilities in relation to the period up to and including the date on which the employment terminates; and (ii) any other Employment Liabilities which may transfer Supplier in accordance with the foregoing. Reference to Transfer Regulations in this Section means the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended from time to time.

Appendix 1 – Service Levels

In respect of the service levels set out in the Service Definition and/or the Order Form ("**Service Levels**"), the Supplier will use reasonable endeavours to achieve such Service Levels, however Customer acknowledges and agrees that the Supplier shall not be responsible for any failure to meet the Service Levels caused (whether in whole or in part) by:

1. planned downtime of the Platform;
2. circumstances beyond Supplier's reasonable control, including but not limited to Force Majeure events, internet connectivity failures, denial of service attacks and similar;
3. power, network or other IT infrastructure fault or failure which is under the control of Customer and/or its third party suppliers, including but not limited to such IT systems with which the Platform is to interface;
4. failure and/or delay by Customer in performing any of its responsibilities set out in paragraph 5 of the Order Form, its obligations set out in this Call-Off Agreement and/or as agreed pursuant to the Governance Procedures (as defined at Section 17 of these Supplier Terms);
5. use of the Platform by or on behalf of Customer in breach of this Call-Off Agreement;
6. deliberate misuse of the Platform by or on behalf of Customer;
8. unauthorised modification, repair and/or alteration of the Platform by or on behalf of Customer without the consent of the Supplier; and/or
9. the use of the Platform for a purpose for which it was not designed with reference to the description set out in the Service Definition.

Appendix 2 – Support Services

1. **Support Services**
   (a) Support Services shall be provided by Supplier during the Call-off Agreement Period and on the basis set out in this Appendix 2.
   (b) Support Services shall be provided only for the Version that is being used by Customer**.**
   (c) Customer acknowledges that Supplier is not obligated to provide Support Services for issues caused by Customer's hardware and/or software environments which may not meet minimum system requirements as Supplier notifies the Customer of from time to time.
   (d) In order for Customer to be eligible to receive access to Updates or New Versions, Supplier may require Customer to update Customer's hardware and/or software environment ("**Installation Environment**"). If required, Customer will be given a reasonable opportunity to update the Installation Environment. If, after such opportunity, Customer fails to update the Installation Environment, Supplier shall be relieved of its obligations, if any, to provide access to Updates, New Versions or Support Services.

2. **Releases.**

(a) **Updates**. For so long as Customer fulfills its payment and other obligations under the Order Form and this Call-Off Agreement, Supplier will provide Customer with access to all generally available Updates for the Version of the Platform being used by Customer.

(b) **New Versions.** The terms of this Call-Off Agreement do not obligate Supplier to provide access to any New Versions.

(c) For the avoidance of doubt, if Customer fails to pay the Charges due pursuant to this Call-Off Agreement (i) Customer will not be licensed to access any Updates or New Versions, and (ii) Supplier will have no obligation to provide any Support Services for any Versions, Updates or New Versions.

3. **Exclusions.** Unless stated otherwise in this Call-Off Agreement, the Support Services do not include any of the following: (a) 1st or 2nd line support for users (b) New Versions, or Support Services for New Versions, (c) configuration, customization, modification or enhancement to the base level of functionality of the Platform other than under the terms of this Appendix 2, (d) user education and training or associated documentation, (e) implementation or installation assistance, (f) consultation for new programs or equipment, (g) correction of problems, and assistance regarding problems caused by operator errors (such as entering of incorrect data, not following recommended procedures and keeping inadequate backup copies), (h) hardware problems, (i) correction of errors attributable to software other than the Platform, (j) data migration services or (k) any matter required to go through Change Control Procedure.

4. **Personal Attendance.** Supplier shall determine, in its sole discretion, whether it is necessary for its staff to attend personally at Customer's premises to perform any of the Support Services. If Customer requests that Supplier staff attend personally at Customer's premises and Supplier does so attend, Customer shall pay Supplier's hourly rates set out in the Rate Card for this service. Customer shall provide Supplier with reasonable access to (i) Customer's premises; and (ii) remote access to the Customer's IT infrastructure (including access to IT infrastructure provided to the Customer by a third party infrastructure provider, where applicable), in either case to enable the Supplier to perform Support Services.

Appendix 3 – Change Control Procedure

The Parties have agreed to expand upon the Variation Procedure detailed at CO-21 of this Call-Off Agreement by instigating the Change Control Procedure detailed below.

No modification, variation or amendment to this Call-Off Agreement(including for the avoidance of doubt the Order Form and/or the Supplier Terms) shall be effective unless such modification, variation or amendment is agreed by both Parties using the following change control procedure:

1. PRINCIPLES

1.1 Where Customer or the Supplier sees a need to change Call-Off Agreement, Customer may at any time request, and the Supplier may at any time recommend, such change only in accordance with the Change Control Procedure set out in paragraph 2 below or, where applicable for operational changes, the Change Control Procedure set out in paragraph 3 below.

1.2 Until such time as a change is made in accordance with the Change Control Procedure, Customer and the Supplier shall, unless otherwise agreed in writing, continue to perform this Call-Off Agreement in compliance with their terms prior to such change.

1.3 Any discussions which may take place between Customer and the Supplier in connection with a request or recommendation before the authorisation of a resultant change shall be without prejudice to the rights of either Party.

2. FORMAL CHANGE CONTROL PROCEDURE

2.1 Any changes requested by either Party which:

(a) require a change to the terms of this Call-Off Agreement (including for the avoidance of doubt the Order Form and/or the Supplier Terms); or

(b) involve Customer in paying any additional Charges or other costs;

will be agreed by the parties by the Formal Change Control Procedure set out in this paragraph 2.

2.2 Discussion between Customer and the Supplier concerning a requested change under this paragraph shall result in any one of the following:

(a) no further action being taken; or

(b) an agreement to vary this Call-Off Agreement.

2.3 Changes agreed pursuant to this paragraph 2 shall be set out in a written document which, when agreed, are signed by both Parties to effect the change (each a "**Change Note**").

2.4 Where either Party requests a change to this Call-Off Agreement which is subject to this paragraph 2, as soon as reasonably practicable following such request, the Supplier will prepare a draft Change Note which the Supplier reasonably believes is necessary to effect such change.

2.5 Each Change Note shall contain:

(a) the title of the change and a sequential number for the Change Note;

(b) the originator and date of the request or recommendation for the change;

(c) the reason for the change;

(d) full details of the change, including any specifications;

(e) the price, if any, of the change;

(f) a timetable for implementation, together with any proposals for acceptance of the change;

(g) a schedule of payments if appropriate;

(h) details of the likely impact, if any, of the change on other aspects of this Call-Off Agreement, including:

(i) the timetable for the provision of the change;

(ii) the personnel to be provided;

(iii) any change to the Charges; and

(j) provision for signature by Customer and the Supplier.

2.6 For each Change Note submitted by the Supplier Customer shall, evaluate the Change Note and, as appropriate:

(a) request further information; or

(b) arrange for two copies of Customer signed Change Note to be signed by or on behalf of Customer and return one of the copies to the Supplier; or

(c) notify the Supplier of the rejection of the Change Note.

2.7 A Change Note signed by Customer and by the Supplier shall constitute an amendment to this Call-Off Agreement.

3. OPERATIONAL CHANGE CONTROL PROCEDURE

3.1 Any changes requested by either Party which:

(a) do not require a change to the terms of this Call-Off Agreement; or

(b) do not involve Customer in paying any additional Charges or other costs

will be agreed by the parties by the Operational Change Control Procedure set out in this paragraph 3.

3.2 Either Party may request an operational change by submitting a written request for operational change to the other Party.

3.3 As soon as reasonably practicable thereafter the Parties shall discuss in good faith the request for operational change.

3.4 Where the Parties agree upon an operational change, this shall be set out in writing and signed both Parties, after which point the change will be effective.