Call-Off Schedule 14 (Service Levels)

**Definitions**

In this Part Call-Off Schedule 14, the following words shall have the following meanings and they shall supplement Joint Schedule 1 (Definitions):

|  |  |
| --- | --- |
| “**Critical Service Failure”** | Means a failure to meet a Service Level Threshold in respect of a Service Level |
| **Performance Monitoring Report** | Means a Performance Monitoring Report as specified by Section 3 of this Call-Off Schedule 14 |
| **["Service Credits"** | any service credits specified in the Annex to Section 2 of this Call-Off Schedule 14 being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;] |
| **["Service Credit Cap"** | has the meaning given to it in the Annex to Section 2 of this Call-Off Schedule 14] |
| **"Service Level Failure"** | means a failure to meet the Service Level Performance Measure in respect of a Service Level; |
| **"Service Level Performance Measure"** | shall be as set out against the relevant Service Level in the Annex to Section 2 of this Call-Off Schedule 14; and |
| **"Service Level Threshold"** | shall be as set out against the relevant Service Level in the Annex to Section 2 to this Call-Off Schedule 14 |

1. **What happens if you don’t meet the Service Levels**
   1. The Supplier shall at all times provide the Deliverables to meet the Service Level Performance Measure for each Service Level.
   2. The Supplier acknowledges that any Service Level Failure shall entitle the Buyer to the rights set out in Section 2 to this Schedule 14 [including the right to any Service Credits, which are a price adjustment and not an estimate of the Loss that may be suffered by the Buyer as a result of the Supplier’s failure to meet any Service Level Performance Measure].
   3. The Supplier shall send Performance Monitoring Reports to the Buyer in accordance with the provisions of Section 3 (Performance Monitoring) of this Call-Off Schedule 14.
   4. [A Service Credit shall be the Buyer’s exclusive financial remedy for a Service Level Failure exceptwhere**:**
      1. the Supplier has over the previous (twelve) 12 Month period exceeded the Service Credit Cap; and/or
      2. the Service Level Failure:
         1. exceeds the relevant Service Level Threshold;
         2. has arisen due to a Prohibited Act or wilful Default by the Supplier;
         3. results in the corruption or loss of any Government Data; and/or
         4. results in the Buyer being required to make a compensation payment to one or more third parties; and/or
      3. the Buyer is otherwise entitled to or does terminate this Contract pursuant to Clause 10.4 (CCS and Buyer Termination Rights).]
2. **Critical Service Level Failure**

On the occurrence of a Critical Service Level Failure:

* 1. [any Service Credits that would otherwise have accrued during the relevant Service Period shall not accrue; and]
  2. the Buyer shall [(subject to the Service Credit Cap)] be entitled to withhold and retain as compensation a sum equal to any Charges which would otherwise have been due to the Supplier in respect of that Service Period ("Compensation for Critical Service Level Failure"),

provided that the operation of this paragraph 2 shall be without prejudice to the right of the Buyer to terminate this Contract and/or to claim damages from the Supplier for material Default.

**Section 2: Service Levels [and Service Credits]**

**1. Service Levels**

* 1. If the level of performance of the Supplier is likely to or fails to meet any Service Level Performance Measure the Supplier shall immediately notify the Buyer in writing and the Buyer, in its absolute discretion and without limiting any other of its rights, may:

1.1.1 require the Supplier to immediately take all remedial action that is reasonable to mitigate the impact on the Buyer;

1.1.2 instruct the Supplier to comply with the Rectification Plan Process;

1.1.3 [if a Service Level Failure has occurred, deduct the applicable Service Level Credits payable by the Supplier to the Buyer;] and/or

1.1.4 if a Critical Service Level Failure has occurred, exercise its right to Compensation for Critical Service Level Failure (including the right to terminate for material Default).

**[2. Service Credits**

* 1. The Buyer shall use the Performance Monitoring Reports supplied by the Supplier to verify the calculation and accuracy of the Service Credits, if any, applicable to each Service Period.
  2. Service Credits are a reduction of the amounts payable in respect of the Deliverables and do not include VAT. The Supplier shall set-off the value of any Service Credits against the appropriate invoice in accordance with calculation formula in the Annex to Section 2 of this Call-Off Schedule 14. ]

**Annex 1 to Section 2: Services Levels [and Service Credits] Table**

[**Guidance Note:** The following are included by way of example only. Procurement-specific Service Levels should be incorporated]

| Service Levels | | | | [Service Credit for each Service Period] |
| --- | --- | --- | --- | --- |
| Service Level Performance Criterion | Key Indicator | Service Level Performance Measure | Service Level Threshold |
| **[**Accurate and timely billing of Buyer | Accuracy /Timelines | at least 98% at all times | [ ] | [0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure] |
| Access to Buyer support | Availability | at least 98% at all times | [ ] | [0.5% Service Credit gained for each percentage under the specified Service Level Performance Measure] |

[The Service Credits shall be calculated on the basis of the following formula:

|  |  |  |
| --- | --- | --- |
| Formula: x% (Service Level Performance Measure) - x% (actual Service Level performance) | = | x% of the Charges payable to the Buyer as Service Credits to be deducted from the next Invoice payable by the Buyer |
| Worked example: 98% (e.g. Service Level Performance Measure requirement for accurate and timely billing Service Level) - 75% (e.g. actual performance achieved against this Service Level in a Service Period) | = | 23% of the Charges payable to the Buyer as Service Credits to be deducted from the next Invoice payable by the Buyer] |
| "Service Credit Cap" |  | means:  (a) in the period from the Call-Off Commencement Date to the end of the first Call-Off Contract Year XXX pounds (£XXX); and  (b) during the remainder of the Call-Off Contract Period, thirty five per cent (35%) of the Call-Off Contract Charges payable to the Supplier under this Call-Off Contract in the period of twelve (12) Months immediately preceding the Month in respect of which Service Credits are accrued;] |

**Section 3: Performance Monitoring**

1. **Performance Monitoring and Performance Review**
   1. Within twenty (20) Working Days of the Start Date the Supplier shall provide the Buyer with details of the proposed process for monitoring and reporting of Service Levels, and the Parties will try to agree the process as soon as reasonably possible.
   2. The Supplier shall provide the Buyer with performance monitoring reports ("Performance Monitoring Reports") as agreed pursuant to paragraph 1.1 above which shall contain, as a minimum, the following information in respect of the relevant Service Period just ended:
      1. for each Service Level, the actual performance achieved over the relevant Service Period;
      2. a summary of all failures to achieve Service Levels;
      3. details of any Critical Service Level Failures;
      4. for any repeat failures, actions taken to resolve the underlying cause and prevent recurrence;
      5. [the Service Credits to be applied in respect of the relevant period indicating the failures and Service Levels to which the Service Credits relate]; and
      6. such other details as the Buyer may reasonably require .
   3. The Parties shall attend meetings to discuss Performance Monitoring Reports ("Performance Review Meetings") on a Monthly basis to review by Performance Monitoring Reports. The Performance Review Meetings shall :
      1. take place within one (1) week of the Performance Monitoring Reports being issued at such location and time (within normal business hours) as the Parties may agree;
      2. be attended by the Supplier's Representative and the Buyer’s Representative; and
      3. be fully minuted by the Supplier, with the minutes circulated by to all attendees at the relevant meeting and also any other recipients agreed at the relevant meeting.
   4. The Supplier shall provide to the Buyer such documentation as the Buyer may reasonably require in order to verify the level of the performance by the Supplier [and the calculations of the amount of Service Credits] for any specified Service Period.