



G-Cloud 13 Call-Off Contract

This Call-Off Contract for the G-Cloud 13 Framework Agreement (RM1557.13) includes:

G-Cloud 13 Call-Off Contract

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Part A: Order Form

Buyers must use this template order form as the basis for all Call-Off Contracts and must refrain from accepting a Supplier's prepopulated version unless it has been carefully checked against template drafting.

Platform service ID number	Arcus Planning Service ID: 141681363566331
Call-Off Contract reference	Active Travel England Planning
Call-Off Contract title	Active Travel England Arcus Planning Solution
Call-Off Contract description	Licences and implementation services to support the delivery of the Arcus Global Planning solution at Active Travel England.
Start date	17th February 2023
Expiry date	16th February 2027 Including the optional extension period detailed below.
Call-Off Contract value	£494,245 For the avoidance of doubt, the Call-Off Contract value may increase in accordance with and agreed changes in scope, and any additional services to be provided on a T&M basis or any extension to the term agreed between the parties pursuant to the extension period as further described below.
Charging method	BACS
Purchase order number	To be confirmed post signature

This Order Form is issued under the G-Cloud 13 Framework Agreement (RM1557.13).

Buyers can use this Order Form to specify their G-Cloud service requirements when placing an Order.

The Order Form cannot be used to alter existing terms or add any extra terms that materially change the Services offered by the Supplier and defined in the Application.

There are terms in the Call-Off Contract that may be defined in the Order Form. These are identified in the contract with square brackets.

From the Buyer	Department for Transport (DfT) 33 Horseferry Road Westminster London SW1P 4PD Referred to as Buyer or Customer in this contract
To the Supplier	Arcus Global Ltd. 01223 811941 Future Business Centre Kings Hedges Road Cambridge CB4 2HY Company number - 06946606 Referred to as Supplier or Arcus Global in this contract
Together the 'Parties'	

Principal contact details

For the Buyer:

Title: Procurement Business Partner

Name: [REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

For the Supplier:

Title: Business Development Director

Name: [REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

Call-Off Contract term

Start date	This Call-Off Contract Starts on 17th February 2023 and is valid for 36 months + 1 period of 12 months as detailed in the Extension Period.
Ending (termination)	<p>The notice period for the Supplier needed for Ending the Call-Off Contract is at least 90 Working Days from the date of written notice for undisputed sums (as per clause 18.6).</p> <p>The notice period for the Buyer is a maximum of 90 days from the date of written notice for Ending without cause (as per clause 18.1).</p>
Extension period	<p>This Call-Off Contract can be extended by the Buyer for one period of up to 12 months, by giving the Supplier 12 weeks written notice before its expiry. The extension period is subject to clauses 1.3 and 1.4 in Part B below.</p> <p>Extensions which extend the Term beyond 36 months are only permitted if the Supplier complies with the additional exit plan requirements at clauses 21.3 to 21.8.</p> <p>If a buyer is a central government department and the contract Term is intended to exceed 24 months, then under the Spend Controls process, prior approval must be obtained from the Government Digital Service (GDS). Further guidance:</p> <p>https://www.gov.uk/service-manual/agile-delivery/spend-controls-check-if-you-need-approval-to-spend-money-on-a-service</p>

Buyer contractual details

This Order is for the G-Cloud Services outlined below. It is acknowledged by the Parties that the volume of the G-Cloud Services used by the Buyer may vary during this Call-Off Contract.

G-Cloud Lot	<p>This Call-Off Contract is for the provision of Services Under:</p> <ul style="list-style-type: none">● Lot 2: Cloud software
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G-Cloud Services required	<p>The Services to be provided by the Supplier under the above Lot are listed in Schedule 1 and outlined below:</p> <ul style="list-style-type: none"> • Arcus Planning - Service ID: 141681363566331 • Consultancy and Implementation Services - as set out in the Service Definition and Skills Framework for the Information Age rate card associated with this Service ID. The delivery and charging method for the services proposed is based on time and materials (T&M) billed monthly in arrears. <p>If services additional to those in the Supplier's commercial response appended in Schedule 1 are required these will be managed through change control.</p>
Additional Services	None
Location	The Services will be delivered remotely and where necessary at the Buyers offices in London or York or other offices in the UK including the Supplier's office in Cambridge.
Quality Standards	The quality standards required for this Call-Off Contract are as set out in Schedule 1 and in Appendix B .
Technical Standards:	The technical standards used as a requirement for this Call-Off Contract are as set out in Schedule 1 and in Appendix B .
Service level agreement:	The service level and availability criteria required for this Call-Off Contract are set out in Schedule 1 and in Appendix B to this Order Form.
Onboarding	The onboarding plans for this Call-Off Contract is set out in Appendix D to this Order Form.

Offboarding	The offboarding plans for this Call-Off Contract are set out in Appendix C to this Order Form.
Collaboration agreement	Not Applicable
Limit on Parties' liability	The annual total liability for all Defaults will not exceed 125% of the Charges payable by the Buyer to the Supplier during the relevant year of the Call-Off Contract.

Insurance	<p>The insurance(s) required will be:</p> <p>A minimum insurance period of 3 years following the expiration or Ending of this Call-Off Contract.</p> <ul style="list-style-type: none"> Professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the G-Cloud Services. This professional indemnity insurance cover will have a minimum limit of indemnity of £5,000,000 for any one occurrence or series of occurrences arising out of any one event or any higher limit the Buyer requires (and as required by Law). Employers' liability insurance with a minimum limit of £5,000,000 for any one occurrence or series of occurrences arising out of any one event or any higher minimum limit required by Law. Public liability insurance with a minimum limit of £5,000,000 for any one occurrence or series of occurrences arising out of any one event.
Buyer's responsibilities	<p>The Buyer is responsible for the following Customer Responsibilities (as defined in AGL Supplier Terms below):</p> <p>The Customer shall comply with the Customer Responsibilities.</p> <ol style="list-style-type: none"> If there is a Customer Failure then without prejudice to any of Arcus Global's other rights and remedies it: <ul style="list-style-type: none"> shall be granted an extension of time in respect of any timeframes agreed by the parties based on the period of delay caused by the Customer Failure; shall not be deemed to be in breach of this Agreement where the Customer Failure causes Arcus Global to breach this Agreement; and may charge the Customer for any additional costs or expenses it incurs as a result of the Customer Failure. Arcus Global may, on reasonable notice, visit any premises in which the Customer is using or accessing the Products to determine whether the use of the Products by the Customer complies with this Agreement. The Customer shall grant Arcus Global such access to its premises and to its IT equipment (including Customer orgs or other environments) as is required to enable Arcus Global to verify that the Customer is complying with this Agreement. Unless specifically agreed in writing, Customer will not, and will ensure that its end users, agents or 3rd parties under its control: <ul style="list-style-type: none"> copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, export or move to

	<p>another org. or otherwise attempt to extract any or all of the source code, objects, apex classes, data schemas, fields or logic contained in the Products or Services, whether these are contained within managed or unmanaged packages or within customer org (except to the extent such restriction is expressly prohibited by applicable law);</p> <ul style="list-style-type: none"> • sub-licence, transfer or distribute any or all of the Products or Services; • sell, resell or otherwise make the Products or Services available as a commercial offering to a 3rd party or • access or use the Services: (i) for High Risk Activities; (ii) in a manner intended to avoid incurring Charges <p>4. Where the Customer is able to self-provision Arcus licences or has administrative control of their org where Arcus licences are deployed, the Customer must inform Arcus in writing within 30 days of any changes made to the number of users that have access to Arcus Products or Services. Arcus Global reserves the right to apply charges retrospectively for any such additional Customer users that have had access to Arcus Products or Services at any time during this Agreement.</p> <p>5. Buyer's usage of any Products is based on SFDC Platform shall be governed by applicable OEM and Reseller terms as expressed in https://www.salesforce.com/content/dam/web/en_us/www/documents/legal/Agreements/alliance-agreements-and-terms/OEM-Pass-Through-Terms.pdf. The Customer acknowledges that these terms are deemed to be incorporated into this agreement by reference.</p>
Buyer's equipment	Not applicable

Supplier's information

Subcontractors or partners	Salesforce Amazon Web Service (AWS)
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Call-Off Contract charges and payment

The Call-Off Contract charges and payment details are in the table below. See Schedule 2 for a full breakdown.

Payment method	The payment method for this Call-Off Contract is BACS transfer on receipt of a valid invoice.
Payment profile	<p>The payment profile for this Call-Off Contract is set out below.</p> <p>1 Summary of Charges</p> <p>1.1 A breakdown of the total Charges is set out in Schedule 2.</p>
Invoice details	The Supplier will issue electronic invoices in line with the payment schedule. The Buyer will pay the Supplier within 14 days of receipt of a valid invoice.
Who and where to send invoices to	<p>Invoices will be sent to:</p> <p>Shared Services Arvato, 5 Sandringham Park, Swansea Vale, Swansea, SA7 0EA.</p> <p>Alternatively, Electronic Invoices can be issued to: ssa.invoice@sharedservicesarvato.co.uk .</p>
Invoice information required	All invoices must include the purchase order number.
Invoice frequency	Licences annually, in advance of the service provision. Consultancy and Implementation Services monthly in arrears.
Call-Off Contract value	The total value of this Call-Off Contract is up to £1,000,000, with an initial commitment of £111,163.75 excl VAT. For the avoidance of doubt, the Call-Off Contract value may increase in accordance with and agreed changes in scope, and any additional services to be provided on a T&M basis or any extension to the term agreed between the parties pursuant to the extension period as further described above.

Call-Off Contract charges	<p>The breakdown of the Charges is detailed in Schedule 2.</p> <p>Please note, expenses paid to the Supplier will be paid in accordance with DfT's T&S Policy.</p>
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Additional Buyer Terms

Supplemental requirements in addition to the Call-Off terms	<p>Intellectual Property Rights – additional terms</p> <ol style="list-style-type: none">1. Arcus Global owns, or is licensed to use, all copyright and other intellectual property rights in the Products and the Documentation.2. Arcus Global will own any Intellectual Property Rights it creates in the course of providing the Services (including any Intellectual Property Rights in Deliverables). Any modifications or customisations to Arcus Global Products made in the course of the Services may be licensed to the Customer as per clause 5 below (6.5 in Arcus Global Supplier Terms incorporated in Appendix E).3. Save as expressly set out in this Agreement, the Customer does not acquire any rights in the Products or Services.4. As part of the implementation of the Products or Services, Arcus may use other 3rd party software accepted best practice, and we do not expect to generate identifiable intellectual property or unique software code that is specific to each customer. However, in some cases, Arcus has pre-created a number of sub-modules, scripts, tools, software code (defined as Implementation IP) that may help to significantly improve the efficiency of delivery, data migration or integration tasks, as well as the quality of output for the Customer. Arcus may reuse software code (directly or in modified form) previously created by Arcus as part of our Products - such code will also be part of the Implementation IP. Arcus will retain all of the Intellectual Property Rights (IPR) for all Implementation IP in all cases.5. Where the Customer has ordered the creation of a specific tool or script on a time and materials basis for their unique use case, Arcus will provide a perpetual, non-exclusive licence to the Customer following full payment of all fees due to Arcus. The licence will be royalty-free, as is, on "no support" basis. Such licence will apply only for the purposes of the specific deployment. All such IPR will be considered "Pre-existing IPR" or "Background IPR" under the terms of the G-Cloud and other frameworks, and its inclusion in the deployment or implementation does not transfer any rights to the Customer, nor does it allow reproduction / copying / modification by the Customer or any third party without prior written consent from Arcus.6. Arcus Global warrants that the use of the Products and the Documentation in accordance with this Agreement will not infringe any third party's copyright. <p>With respect to the 'SFDC Pass Through Terms' that form part of the Supplier terms and are appended at Appendix A for ease of reference, the following clarifications apply:</p>
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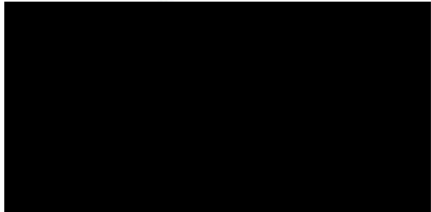

	<p>a) The application to be provided is a “Non-SFDC Application”.</p> <p>b) Clause 13(2) provides a right for the Sub-contractor to terminate for breach by either the Supplier or the Customer’s non-payment by the Supplier, or on the grounds of the Customer’s insolvency. The provision of the SFDC licences are paid by the Supplier on a back to back basis i.e. the Supplier shall pay SFDC on receipt of payment from the Customer.</p> <p>Arcus Global Supplier Terms as specified in Appendix E to this Call-Off Agreement.</p>
Alternative clauses	Not Applicable
Buyer specific amendments to/refinements of the Call-Off Contract terms	Not Applicable
Personal Data and Data Subjects	Annex 1 of Schedule 7 shall apply.

1. Formation of contract

- 1.1 By signing and returning this Order Form (Part A), the Supplier agrees to enter into a CallOff Contract with the Buyer.
- 1.2 The Parties agree that they have read the Order Form (Part A) and the Call-Off Contract terms and by signing below agree to be bound by this Call-Off Contract.
- 1.3 This Call-Off Contract will be formed when the Buyer acknowledges receipt of the signed copy of the Order Form from the Supplier.
- 1.4 In cases of any ambiguity or conflict, the terms and conditions of the Call-Off Contract (Part B) and Order Form (Part A) will supersede those of the Supplier Terms and Conditions as per the order of precedence set out in clause 8.3 of the Framework Agreement.

2. Background to the agreement

2.1 The Supplier is a provider of G-Cloud Services and agreed to provide the Services under the terms of Framework Agreement number RM1557.13.

Signed	Arcus Global Limited	Department for Transport (DfT)
Name		
Title	Director	Procurement Business Partner
Signature		
Date	07/03/2023	07/03/2023

2.2 The Buyer provided an Order Form for Services to the Supplier.

Customer Benefits

For each Call-Off Contract please complete a customer benefits record, by following this link:

[G-Cloud 13 Customer Benefit Record](#)

Schedule 1: Services

Services and Deliverables are based on the Arcus Global commercial proposal dated 13th February 2023, attached below. The proposal is based on the standard Arcus Planning G-Cloud Service Definition and includes the following Apps and services:

- Salesforce licensing costs for up to 100 users;
- Arcus Planning solution; and
- Implementation services including solution implementation, configuration and training, based on the Skills Framework for the Information Age rate card attached below.



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ATE Planning Case
Management Propose

Schedule 2: Call-Off Contract charges

Further to the meeting on the 31st of January 2023, and subsequent responses provided by Active Travel England we have proposed the following commercial approach to delivering the MVP functionality and the subsequent Phase II & III requirements.

Initial MVP commencing 1st March 2023

Planning Team (DM, Policy, Admin, Senior) + Inspectorate 59 users including:

- Salesforce licence costs for up to 59 users;
- Arcus Global Planning solution; and
- 1Tb of Salesforce File storage

Phase II commencing 1st September 2023

Roll-out to the remaining teams Regional Engagement; Operations; Comms / PMO; and Data & Analysis total 41 users including:

- Salesforce licence costs for up to 41 users; and
- Arcus Global Planning solution.

The average cost of the Phase II licences equates to £67.20 Per user per month (PUPM)

Therefore based on the proposed phasing of the initial MVP and Phase II deliverables the licencing costs would be as follows:

	Total Annual Licence Fees		
Product	Year 1	Year 2	Year 3
Arcus Global Planning Solution Licencing & supporting technologies			

* The breakdown of Year 1 costs are as follows:

- 59 Licences and Salesforce File storage for 12 months £71,002.50
- 41 Licences for the remaining Service Team for 6 months £16,530

Total £87,532.50

Implementation Services

The delivery and charging method for the services proposed is based on time and materials (T&M). All services are based on our G-Cloud 13 Skills Framework for the Information Age rate card, and a blended day rate of £950 / day.

	Professional Services Fees		
Services	Year 1	Year 2	Year 3
MVP / Phase II Implementation services including solution implementation, configuration and training			

**Any unused days will be rolled forward and can then be subsequently used for delivery of subsequent project phases or deliverables.

Notes to the Pricing:

The above pricing is based on the Arcus Global G-Cloud 13 entry at: <https://www.applytosupply.digitalmarketplace.service.gov.uk/g-cloud/services/141681363566331> which includes supporting Pricing Document, SFIA rate card & Service Definition Document.

100% of Year 1 Software and 25% of the initial MVP services payable on order.

Remaining services billed monthly in arrears, as used.

Please note all prices are exclusive of VAT at the current rate. All purchase orders must be made out to Arcus Global Limited for the full contract value. All licence fees are payable annually in advance.

Further information and a breakdown of charges/rates can be found in the Suppliers proposal embedded in Schedule 1 – Services.

Part B: Terms and conditions

1. Call-Off Contract Start date and length

- 1.1 The Supplier must start providing the Services on the date specified in the Order Form.
- 1.2 This Call-Off Contract will expire on the Expiry Date in the Order Form. It will be for up to 36 months from the Start date unless Ended earlier under clause 18 or extended by the Buyer under clause 1.3.
- 1.3 The Buyer can extend this Call-Off Contract, with written notice to the Supplier, by the period in the Order Form, provided that this is within the maximum permitted under the Framework Agreement of 1 period of up to 12 months.
- 1.4 The Parties must comply with the requirements under clauses 21.3 to 21.8 if the Buyer reserves the right in the Order Form to set the Term at more than 24 months.

2. Incorporation of terms

- 2.1 The following Framework Agreement clauses (including clauses and defined terms referenced by them) as modified under clause 2.2 are incorporated as separate Call-Off Contract obligations and apply between the Supplier and the Buyer:

- 2.3 (Warranties and representations)
- 4.1 to 4.6 (Liability)
- 4.10 to 4.11 (IR35)
- 10 (Force majeure)
- 5.3 (Continuing rights)
- 5.4 to 5.6 (Change of control)
- 5.7 (Fraud)
- 5.8 (Notice of fraud)
- 7 (Transparency and Audit)
- 8.3 (Order of precedence)
- 11 (Relationship)
- 14 (Entire agreement)
- 15 (Law and jurisdiction)
- 16 (Legislative change)
- 17 (Bribery and corruption)
- 18 (Freedom of Information Act)
- 19 (Promoting tax compliance)
- 20 (Official Secrets Act)
- 21 (Transfer and subcontracting)
- 23 (Complaints handling and resolution)
- 24 (Conflicts of interest and ethical walls)

- 25 (Publicity and branding)
- 26 (Equality and diversity)
- 28 (Data protection)
- 31 (Severability)
- 32 and 33 (Managing disputes and Mediation)
- 34 (Confidentiality)
- 35 (Waiver and cumulative remedies)
- 36 (Corporate Social Responsibility)
- paragraphs 1 to 10 of the Framework Agreement Schedule 3

2.2 The Framework Agreement provisions in clause 2.1 will be modified as follows:

2.2.1 a reference to the 'Framework Agreement' will be a reference to the 'Call-Off Contract'

2.2.2 a reference to 'CCS' or to 'CCS and/or the Buyer' will be a reference to 'the Buyer'

2.2.3 a reference to the 'Parties' and a 'Party' will be a reference to the Buyer and Supplier as Parties under this Call-Off Contract

2.3 The Parties acknowledge that they are required to complete the applicable Annexes contained in Schedule 7 (Processing Data) of the Framework Agreement for the purposes of this Call-Off Contract. The applicable Annexes being reproduced at Schedule 7 of this Call-Off Contract.

2.4 The Framework Agreement incorporated clauses will be referred to as incorporated Framework clause 'XX', where 'XX' is the Framework Agreement clause number.

2.5 When an Order Form is signed, the terms and conditions agreed in it will be incorporated into this Call-Off Contract.

3. Supply of services

3.1 The Supplier agrees to supply the G-Cloud Services and any Additional Services under the terms of the Call-Off Contract and the Supplier's Application.

3.2 The Supplier undertakes that each G-Cloud Service will meet the Buyer's acceptance criteria, as defined in the Order Form.

4. Supplier staff

4.1 The Supplier Staff must:

4.1.1 be appropriately experienced, qualified and trained to supply the Services

4.1.2 apply all due skill, care and diligence in faithfully performing those duties

4.1.3 obey all lawful instructions and reasonable directions of the Buyer and provide the Services to the reasonable satisfaction of the Buyer

4.1.4 respond to any enquiries about the Services as soon as reasonably possible

4.1.5 complete any necessary Supplier Staff vetting as specified by the Buyer

4.2 The Supplier must retain overall control of the Supplier Staff so that they are not considered to be employees, workers, agents or contractors of the Buyer.

4.3 The Supplier may substitute any Supplier Staff as long as they have the equivalent experience and qualifications to the substituted staff member.

4.4 The Buyer may conduct IR35 Assessments using the ESI tool to assess whether the Supplier's engagement under the Call-Off Contract is Inside or Outside IR35.

4.5 The Buyer may End this Call-Off Contract for Material Breach as per clause 18.5 hereunder if the Supplier is delivering the Services Inside IR35.

4.6 The Buyer may need the Supplier to complete an Indicative Test using the ESI tool before the Start date or at any time during the provision of Services to provide a preliminary view of whether the Services are being delivered Inside or Outside IR35. If the Supplier has completed the Indicative Test, it must download and provide a copy of the PDF with the 14digit ESI reference number from the summary outcome screen and promptly provide a copy to the Buyer.

4.7 If the Indicative Test indicates the delivery of the Services could potentially be Inside IR35, the Supplier must provide the Buyer with all relevant information needed to enable the Buyer to conduct its own IR35 Assessment.

4.8 If it is determined by the Buyer that the Supplier is Outside IR35, the Buyer will provide the ESI reference number and a copy of the PDF to the Supplier.

5. Due diligence

5.1 Both Parties agree that when entering into a Call-Off Contract they:

5.1.1 have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party

5.1.2 are confident that they can fulfil their obligations according to the Call-Off Contract terms

5.1.3 have raised all due diligence questions before signing the Call-Off Contract

5.1.4 have entered into the Call-Off Contract relying on their own due diligence

6. Business continuity and disaster recovery

- 6.1 The Supplier will have a clear business continuity and disaster recovery plan in their Service Descriptions.
- 6.2 The Supplier's business continuity and disaster recovery services are part of the Services and will be performed by the Supplier when required.
- 6.3 If requested by the Buyer prior to entering into this Call-Off Contract, the Supplier must ensure that its business continuity and disaster recovery plan is consistent with the Buyer's own plans.

7. Payment, VAT and Call-Off Contract charges

- 7.1 The Buyer must pay the Charges following clauses 7.2 to 7.11 for the Supplier's delivery of the Services.
- 7.2 The Buyer will pay the Supplier within the number of days specified in the Order Form on receipt of a valid invoice.
- 7.3 The Call-Off Contract Charges include all Charges for payment processing. All invoices submitted to the Buyer for the Services will be exclusive of any Management Charge.
- 7.4 If specified in the Order Form, the Supplier will accept payment for G-Cloud Services by the Government Procurement Card (GPC). The Supplier will be liable to pay any merchant fee levied for using the GPC and must not recover this charge from the Buyer.
- 7.5 The Supplier must ensure that each invoice contains a detailed breakdown of the G-Cloud Services supplied. The Buyer may request the Supplier provides further documentation to substantiate the invoice.
- 7.6 If the Supplier enters into a Subcontract it must ensure that a provision is included in each Subcontract which specifies that payment must be made to the Subcontractor within 30 days of receipt of a valid invoice.
- 7.7 All Charges payable by the Buyer to the Supplier will include VAT at the appropriate Rate.
- 7.8 The Supplier must add VAT to the Charges at the appropriate rate with visibility of the amount as a separate line item.
- 7.9 The Supplier will indemnify the Buyer on demand against any liability arising from the Supplier's failure to account for or to pay any VAT on payments made to the Supplier under this Call-Off Contract. The Supplier must pay all sums to the Buyer at least 5 Working Days before the date on which the tax or other liability is payable by the Buyer.
- 7.10 The Supplier must not suspend the supply of the G-Cloud Services unless the Supplier is entitled to End this Call-Off Contract under clause 18.6 for Buyer's failure to pay undisputed sums of money. Interest will be payable by the Buyer on the late payment of any undisputed sums of money properly invoiced under the Late Payment of Commercial Debts (Interest) Act 1998.

- 7.11 If there's an invoice dispute, the Buyer must pay the undisputed portion of the amount and return the invoice within 10 Working Days of the invoice date. The Buyer will provide a covering statement with proposed amendments and the reason for any non-payment. The Supplier must notify the Buyer within 10 Working Days of receipt of the returned invoice if it accepts the amendments. If it does then the Supplier must provide a replacement valid invoice with the response.
- 7.12 Due to the nature of G-Cloud Services it isn't possible in a static Order Form to exactly define the consumption of services over the duration of the Call-Off Contract. The Supplier agrees that the Buyer's volumes indicated in the Order Form are indicative only.

8. Recovery of sums due and right of set-off

- 8.1 If a Supplier owes money to the Buyer, the Buyer may deduct that sum from the Call-Off Contract Charges.

9. Insurance

- 9.1 The Supplier will maintain the insurances required by the Buyer including those in this clause.

- 9.2 The Supplier will ensure that:

9.2.1 during this Call-Off Contract, Subcontractors hold third party public and products liability insurance of the same amounts that the Supplier would be legally liable to pay as damages, including the claimant's costs and expenses, for accidental death or bodily injury and loss of or damage to Property, to a minimum of £1,000,000

9.2.2 the third-party public and products liability insurance contains an 'indemnity to principals' clause for the Buyer's benefit

9.2.3 all agents and professional consultants involved in the Services hold professional indemnity insurance to a minimum indemnity of £1,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

9.2.4 all agents and professional consultants involved in the Services hold employers liability insurance (except where exempt under Law) to a minimum indemnity of £5,000,000 for each individual claim during the Call-Off Contract, and for 6 years after the End or Expiry Date

- 9.3 If requested by the Buyer, the Supplier will obtain additional insurance policies, or extend existing policies bought under the Framework Agreement.
- 9.4 If requested by the Buyer, the Supplier will provide the following to show compliance with this clause:

9.4.1 a broker's verification of insurance

9.4.2 receipts for the insurance premium

9.4.3 evidence of payment of the latest premiums due

9.5 Insurance will not relieve the Supplier of any liabilities under the Framework Agreement or this Call-Off Contract and the Supplier will:

9.5.1 take all risk control measures using Good Industry Practice, including the investigation and reports of claims to insurers

9.5.2 promptly notify the insurers in writing of any relevant material fact under any Insurances

9.5.3 hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of insurance

9.6 The Supplier will not do or omit to do anything, which would destroy or impair the legal validity of the insurance.

9.7 The Supplier will notify CCS and the Buyer as soon as possible if any insurance policies have been, or are due to be, cancelled, suspended, Ended or not renewed.

9.8 The Supplier will be liable for the payment of any:

9.8.1 premiums, which it will pay promptly

9.8.2 excess or deductibles and will not be entitled to recover this from the Buyer

10. Confidentiality

10.1 The Supplier must during and after the Term keep the Buyer fully indemnified against all Losses, damages, costs or expenses and other liabilities (including legal fees) arising from any breach of the Supplier's obligations under incorporated Framework Agreement clause 34. The indemnity doesn't apply to the extent that the Supplier breach is due to a Buyer's instruction.

11. Intellectual Property Rights

11.1 Save for the licences expressly granted pursuant to Clauses 11.3 and 11.4, neither Party shall acquire any right, title or interest in or to the Intellectual Property Rights ("IPR"s) (whether pre-existing or created during the Call-Off Contract Term) of the other Party or its licensors unless stated otherwise in the Order Form.

11.2 Neither Party shall have any right to use any of the other Party's names, logos or trademarks on any of its products or services without the other Party's prior written consent.

11.3 The Buyer grants to the Supplier a royalty-free, non-exclusive, non-transferable licence during the Call-Off Contract Term to use the Buyer's or its relevant licensor's Buyer Data and related IPR solely to the extent necessary for providing the Services in accordance with this Contract, including the right to grant sub-licences to Subcontractors provided that:

11.3.1 any relevant Subcontractor has entered into a confidentiality undertaking with the Supplier on substantially the same terms as set out in Framework Agreement clause 34 (Confidentiality); and

11.3.2 the Supplier shall not and shall procure that any relevant Sub-Contractor shall not, without the Buyer's written consent, use the licensed materials for any other purpose or for the benefit of any person other than the Buyer.

11.4 The Supplier grants to the Buyer the licence taken from its Supplier Terms which licence shall, as a minimum, grant the Buyer a non-exclusive, non-transferable licence during the Call-Off Contract Term to use the Supplier's or its relevant licensor's IPR solely to the extent necessary to access and use the Services in accordance with this Call-Off Contract.

11.5 Subject to the limitation in Clause 24.3, the Buyer shall:

11.5.1 defend the Supplier, its Affiliates and licensors from and against any third-party claim:

- (a) alleging that any use of the Services by or on behalf of the Buyer and/or Buyer Users is in breach of applicable Law;
- (b) alleging that the Buyer Data violates, infringes or misappropriates any rights of a third party;
- (c) arising from the Supplier's use of the Buyer Data in accordance with this Call-Off Contract; and

11.5.2 in addition to defending in accordance with Clause 11.5.1, the Buyer will pay the amount of Losses awarded in final judgment against the Supplier or the amount of any settlement agreed by the Buyer, provided that the Buyer's obligations under this Clause 11.5 shall not apply where and to the extent such Losses or third-party claim is caused by the Supplier's breach of this Contract.

11.6 The Supplier will, on written demand, fully indemnify the Buyer for all Losses which it may incur at any time from any claim of infringement or alleged infringement of a third party's IPRs because of the:

11.6.1 rights granted to the Buyer under this Call-Off Contract

11.6.2 Supplier's performance of the Services

11.6.3 use by the Buyer of the Services

- 11.7 If an IPR Claim is made, or is likely to be made, the Supplier will immediately notify the Buyer in writing and must at its own expense after written approval from the Buyer, either:
- 11.7.1 modify the relevant part of the Services without reducing its functionality or performance
 - 11.7.2 substitute Services of equivalent functionality and performance, to avoid the infringement or the alleged infringement, as long as there is no additional cost or burden to the Buyer
 - 11.7.3 buy a licence to use and supply the Services which are the subject of the alleged infringement, on terms acceptable to the Buyer
- 11.8 Clause 11.6 will not apply if the IPR Claim is from:
- 11.8.1 the use of data supplied by the Buyer which the Supplier isn't required to verify under this Call-Off Contract
 - 11.8.2 other material provided by the Buyer necessary for the Services
- 11.9 If the Supplier does not comply with this clause 11, the Buyer may End this Call-Off Contract for Material Breach. The Supplier will, on demand, refund the Buyer all the money paid for the affected Services.

12. Protection of information

- 12.1 The Supplier must:
- 12.1.1 comply with the Buyer's written instructions and this Call-Off Contract when Processing Buyer Personal Data
 - 12.1.2 only Process the Buyer Personal Data as necessary for the provision of the G-Cloud Services or as required by Law or any Regulatory Body
 - 12.1.3 take reasonable steps to ensure that any Supplier Staff who have access to Buyer Personal Data act in compliance with Supplier's security processes
- 12.2 The Supplier must fully assist with any complaint or request for Buyer Personal Data including by:
- 12.2.1 providing the Buyer with full details of the complaint or request
 - 12.2.2 complying with a data access request within the timescales in the Data Protection Legislation and following the Buyer's instructions
 - 12.2.3 providing the Buyer with any Buyer Personal Data it holds about a Data Subject

(within the timescales required by the Buyer)

12.2.4 providing the Buyer with any information requested by the Data Subject

12.3 The Supplier must get prior written consent from the Buyer to transfer Buyer Personal Data to any other person (including any Subcontractors) for the provision of the G-Cloud Services.

13. Buyer data

13.1 The Supplier must not remove any proprietary notices in the Buyer Data.

13.2 The Supplier will not store or use Buyer Data except if necessary to fulfil its obligations.

13.3 If Buyer Data is processed by the Supplier, the Supplier will supply the data to the Buyer as requested.

13.4 The Supplier must ensure that any Supplier system that holds any Buyer Data is a secure system that complies with the Supplier's and Buyer's security policies and all Buyer requirements in the Order Form.

13.5 The Supplier will preserve the integrity of Buyer Data processed by the Supplier and prevent its corruption and loss.

13.6 The Supplier will ensure that any Supplier system which holds any protectively marked Buyer Data or other government data will comply with:

13.6.1 the principles in the Security Policy Framework:

<https://www.gov.uk/government/publications/security-policy-framework> and the Government Security Classification policy:

<https://www.gov.uk/government/publications/government-securityclassifications>

13.6.2 guidance issued by the Centre for Protection of National Infrastructure on Risk Management: <https://www.cpni.gov.uk/content/adopt-risk-managementapproach> and Protection of Sensitive Information and Assets:

<https://www.cpni.gov.uk/protection-sensitive-information-and-assets>

13.6.3 the National Cyber Security Centre's (NCSC) information risk management guidance: <https://www.ncsc.gov.uk/collection/risk-management-collection>

13.6.4 government best practice in the design and implementation of system components, including network principles, security design principles for digital services and the secure email blueprint:

<https://www.gov.uk/government/publications/technologycode-of-practice/technology-code-of-practice>

13.6.5 the security requirements of cloud services using the NCSC Cloud Security Principles and accompanying guidance:

<https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles>

13.6.6 Buyer requirements in respect of AI ethical standards.

13.7 The Buyer will specify any security requirements for this project in the Order Form.

13.8 If the Supplier suspects that the Buyer Data has or may become corrupted, lost, breached or significantly degraded in any way for any reason, then the Supplier will notify the Buyer immediately and will (at its own cost if corruption, loss, breach or degradation of the Buyer Data was caused by the action or omission of the Supplier) comply with any remedial action reasonably proposed by the Buyer.

13.9 The Supplier agrees to use the appropriate organisational, operational and technological processes to keep the Buyer Data safe from unauthorised use or access, loss, destruction, theft or disclosure.

13.10 The provisions of this clause 13 will apply during the term of this Call-Off Contract and for as long as the Supplier holds the Buyer's Data.

14. Standards and quality

14.1 The Supplier will comply with any standards in this Call-Off Contract, the Order Form and the Framework Agreement.

14.2 The Supplier will deliver the Services in a way that enables the Buyer to comply with its obligations under the Technology Code of Practice, which is at:
<https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>

14.3 If requested by the Buyer, the Supplier must, at its own cost, ensure that the G-Cloud Services comply with the requirements in the PSN Code of Practice.

14.4 If any PSN Services are Subcontracted by the Supplier, the Supplier must ensure that the services have the relevant PSN compliance certification.

14.5 The Supplier must immediately disconnect its G-Cloud Services from the PSN if the PSN Authority considers there is a risk to the PSN's security and the Supplier agrees that the Buyer and the PSN Authority will not be liable for any actions, damages, costs, and any other Supplier liabilities which may arise.

15. Open source

15.1 All software created for the Buyer must be suitable for publication as open source, unless otherwise agreed by the Buyer.

15.2 If software needs to be converted before publication as open source, the Supplier must also provide the converted format unless otherwise agreed by the Buyer.

16. Security

16.1 If requested to do so by the Buyer, before entering into this Call-Off Contract the Supplier will, within 15 Working Days of the date of this Call-Off Contract, develop (and obtain the Buyer's written approval of) a Security Management Plan and an Information Security Management System. After Buyer approval the Security Management Plan and Information Security Management System will apply during the Term of this Call-Off Contract. Both plans will comply with the Buyer's security policy and protect all aspects and processes associated with the delivery of the Services.

16.2 The Supplier will use all reasonable endeavours, software and the most up-to-date antivirus definitions available from an industry-accepted antivirus software seller to minimise the impact of Malicious Software.

16.3 If Malicious Software causes loss of operational efficiency or loss or corruption of Service Data, the Supplier will help the Buyer to mitigate any losses and restore the Services to operating efficiency as soon as possible.

16.4 Responsibility for costs will be at the:

16.4.1 Supplier's expense if the Malicious Software originates from the Supplier software or the Service Data while the Service Data was under the control of the Supplier, unless the Supplier can demonstrate that it was already present, not quarantined or identified by the Buyer when provided

16.4.2 Buyer's expense if the Malicious Software originates from the Buyer software or the Service Data, while the Service Data was under the Buyer's control

16.5 The Supplier will immediately notify the Buyer of any breach of security of Buyer's Confidential Information. Where the breach occurred because of a Supplier Default, the Supplier will recover the Buyer's Confidential Information however it may be recorded.

16.6 Any system development by the Supplier should also comply with the government's '10 Steps to Cyber Security' guidance:

<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>

16.7 If a Buyer has requested in the Order Form that the Supplier has a Cyber Essentials certificate, the Supplier must provide the Buyer with a valid Cyber Essentials certificate (or equivalent) required for the Services before the Start date.

17. Guarantee

17.1 If this Call-Off Contract is conditional on receipt of a Guarantee that is acceptable to the Buyer, the Supplier must give the Buyer on or before the Start date:

17.1.1 an executed Guarantee in the form at Schedule 5

17.1.2 a certified copy of the passed resolution or board minutes of the guarantor approving the execution of the Guarantee

18. Ending the Call-Off Contract

18.1 The Buyer can End this Call-Off Contract at any time by giving 30 days' written notice to the Supplier, unless a shorter period is specified in the Order Form. The Supplier's obligation to provide the Services will end on the date in the notice.

18.2 The Parties agree that the:

18.2.1 Buyer's right to End the Call-Off Contract under clause 18.1 is reasonable considering the type of cloud Service being provided

18.2.2 Call-Off Contract Charges paid during the notice period are reasonable compensation and cover all the Supplier's avoidable costs or Losses

18.3 Subject to clause 24 (Liability), if the Buyer Ends this Call-Off Contract under clause 18.1, it will indemnify the Supplier against any commitments, liabilities or expenditure which result in any unavoidable Loss by the Supplier, provided that the Supplier takes all reasonable steps to mitigate the Loss. If the Supplier has insurance, the Supplier will reduce its unavoidable costs by any insurance sums available. The Supplier will submit a fully itemised and costed list of the unavoidable Loss with supporting evidence.

18.4 The Buyer will have the right to End this Call-Off Contract at any time with immediate effect by written notice to the Supplier if either the Supplier commits:

18.4.1 a Supplier Default and if the Supplier Default cannot, in the reasonable opinion of the Buyer, be remedied

18.4.2 any fraud

18.5 A Party can End this Call-Off Contract at any time with immediate effect by written notice if:

18.5.1 the other Party commits a Material Breach of any term of this Call-Off Contract (other than failure to pay any amounts due) and, if that breach is remediable, fails to remedy it within 15 Working Days of being notified in writing to do so

18.5.2 an Insolvency Event of the other Party happens

18.5.3 the other Party ceases or threatens to cease to carry on the whole or any material part of its business

18.6 If the Buyer fails to pay the Supplier undisputed sums of money when due, the Supplier must notify the Buyer and allow the Buyer 5 Working Days to pay. If the Buyer doesn't pay within 5 Working Days, the Supplier may End this Call-Off Contract by giving the length of notice in the Order Form.

18.7 A Party who isn't relying on a Force Majeure event will have the right to End this Call-Off Contract if clause 23.1 applies.

19. Consequences of suspension, ending and expiry

19.1 If a Buyer has the right to End a Call-Off Contract, it may elect to suspend this Call-Off Contract or any part of it.

19.2 Even if a notice has been served to End this Call-Off Contract or any part of it, the Supplier must continue to provide the ordered G-Cloud Services until the dates set out in the notice.

19.3 The rights and obligations of the Parties will cease on the Expiry Date or End Date (whichever applies) of this Call-Off Contract, except those continuing provisions described in clause 19.4.

19.4 Ending or expiry of this Call-Off Contract will not affect:

19.4.1 any rights, remedies or obligations accrued before its Ending or expiration

19.4.2 the right of either Party to recover any amount outstanding at the time of Ending or expiry

19.4.3 the continuing rights, remedies or obligations of the Buyer or the Supplier under clauses

- 7 (Payment, VAT and Call-Off Contract charges)
- 8 (Recovery of sums due and right of set-off)
- 9 (Insurance)
- 10 (Confidentiality)
- 11 (Intellectual property rights)
- 12 (Protection of information)
- 13 (Buyer data)
- 19 (Consequences of suspension, ending and expiry)

- 24 (Liability); and incorporated Framework Agreement clauses: 4.1 to 4.6, (Liability), 24 (Conflicts of interest and ethical walls), 35 (Waiver and cumulative remedies)

19.4.4 any other provision of the Framework Agreement or this Call-Off Contract which expressly or by implication is in force even if it Ends or expires.

19.5 At the end of the Call-Off Contract Term, the Supplier must promptly:

19.5.1 return all Buyer Data including all copies of Buyer software, code and any other software licensed by the Buyer to the Supplier under it

19.5.2 return any materials created by the Supplier under this Call-Off Contract if the IPRs are owned by the Buyer

19.5.3 stop using the Buyer Data and, at the direction of the Buyer, provide the Buyer with a complete and uncorrupted version in electronic form in the formats and on media agreed with the Buyer

19.5.4 destroy all copies of the Buyer Data when they receive the Buyer's written instructions to do so or 12 calendar months after the End or Expiry Date, and provide written confirmation to the Buyer that the data has been securely destroyed, except if the retention of Buyer Data is required by Law

19.5.5 work with the Buyer on any ongoing work

19.5.6 return any sums prepaid for Services which have not been delivered to the Buyer, within 10 Working Days of the End or Expiry Date

19.6 Each Party will return all of the other Party's Confidential Information and confirm this has been done, unless there is a legal requirement to keep it or this Call-Off Contract states otherwise.

19.7 All licences, leases and authorisations granted by the Buyer to the Supplier will cease at the end of the Call-Off Contract Term without the need for the Buyer to serve notice except if this Call-Off Contract states otherwise.

20. Notices

20.1 Any notices sent must be in writing. For the purpose of this clause, an email is accepted as being 'in writing'.

- Manner of delivery: email
- Deemed time of delivery: 9am on the first Working Day after sending
- Proof of service: Sent in an emailed letter in PDF format to the correct email address without any error message

20.2 This clause does not apply to any legal action or other method of dispute resolution which should be sent to the addresses in the Order Form (other than a dispute notice under this Call-Off Contract).

21. Exit plan

- 21.1 The Supplier must provide an exit plan in its Application which ensures continuity of service and the Supplier will follow it.
- 21.2 When requested, the Supplier will help the Buyer to migrate the Services to a replacement supplier in line with the exit plan. This will be at the Supplier's own expense if the Call-Off Contract Ended before the Expiry Date due to Supplier cause.
- 21.3 If the Buyer has reserved the right in the Order Form to extend the Call-Off Contract Term beyond 36 months the Supplier must provide the Buyer with an additional exit plan for approval by the Buyer at least 8 weeks before the 30 month anniversary of the Start date.
- 21.4 The Supplier must ensure that the additional exit plan clearly sets out the Supplier's methodology for achieving an orderly transition of the Services from the Supplier to the Buyer or its replacement Supplier at the expiry of the proposed extension period or if the contract Ends during that period.
- 21.5 Before submitting the additional exit plan to the Buyer for approval, the Supplier will work with the Buyer to ensure that the additional exit plan is aligned with the Buyer's own exit plan and strategy.
- 21.6 The Supplier acknowledges that the Buyer's right to take the Term beyond 36 months is subject to the Buyer's own governance process. Where the Buyer is a central government department, this includes the need to obtain approval from GDS under the Spend Controls process. The approval to extend will only be given if the Buyer can clearly demonstrate that the Supplier's additional exit plan ensures that:
 - 21.6.1 the Buyer will be able to transfer the Services to a replacement supplier before the expiry or Ending of the period on terms that are commercially reasonable and acceptable to the Buyer
 - 21.6.2 there will be no adverse impact on service continuity
 - 21.6.3 there is no vendor lock-in to the Supplier's Service at exit
 - 21.6.4 it enables the Buyer to meet its obligations under the Technology Code Of Practice
- 21.7 If approval is obtained by the Buyer to extend the Term, then the Supplier will comply with its obligations in the additional exit plan.
- 21.8 The additional exit plan must set out full details of timescales, activities and roles and responsibilities of the Parties for:

- 21.8.1 the transfer to the Buyer of any technical information, instructions, manuals and code reasonably required by the Buyer to enable a smooth migration from the Supplier
- 21.8.2 the strategy for exportation and migration of Buyer Data from the Supplier system to the Buyer or a replacement supplier, including conversion to open standards or other standards required by the Buyer
- 21.8.3 the transfer of Project Specific IPR items and other Buyer customisations, configurations and databases to the Buyer or a replacement supplier
- 21.8.4 the testing and assurance strategy for exported Buyer Data
- 21.8.5 if relevant, TUPE-related activity to comply with the TUPE regulations
- 21.8.6 any other activities and information which is reasonably required to ensure continuity of Service during the exit period and an orderly transition

22. Handover to replacement supplier

- 22.1 At least 10 Working Days before the Expiry Date or End Date, the Supplier must provide any:

- 22.1.1 data (including Buyer Data), Buyer Personal Data and Buyer Confidential Information in the Supplier's possession, power or control

- 22.1.2 other information reasonably requested by the Buyer

- 22.2 On reasonable notice at any point during the Term, the Supplier will provide any information and data about the G-Cloud Services reasonably requested by the Buyer (including information on volumes, usage, technical aspects, service performance and staffing). This will help the Buyer understand how the Services have been provided and to run a fair competition for a new supplier.

- 22.3 This information must be accurate and complete in all material respects and the level of detail must be sufficient to reasonably enable a third party to prepare an informed offer for replacement services and not be unfairly disadvantaged compared to the Supplier in the buying process.

23. Force majeure

- 23.1 If a Force Majeure event prevents a Party from performing its obligations under this Call-Off Contract for more than 30 consecutive days, the other Party may End this Call-Off Contract with immediate effect by written notice.

24. Liability

24.1 Subject to incorporated Framework Agreement clauses 4.1 to 4.6, each Party's Yearly total liability for Defaults under or in connection with this Call-Off Contract shall not exceed the greater of five hundred thousand pounds (£500,000) or one hundred and twenty-five per cent (125%) of the Charges paid and/or committed to be paid in that Year (or such greater sum (if any) as may be specified in the Order Form).

24.2 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Supplier's liability:

24.2.1 pursuant to the indemnities in Clauses 7, 10, 11 and 29 shall be unlimited; and

24.2.2 in respect of Losses arising from breach of the Data Protection Legislation shall be as set out in Framework Agreement clause 28.

24.3 Notwithstanding Clause 24.1 but subject to Framework Agreement clauses 4.1 to 4.6, the Buyer's liability pursuant to Clause 11.5.2 shall in no event exceed in aggregate five million pounds (£5,000,000).

24.4 When calculating the Supplier's liability under Clause 24.1 any items specified in Clause 24.2 will not be taken into consideration.

25. Premises

25.1 If either Party uses the other Party's premises, that Party is liable for all loss or damage it causes to the premises. It is responsible for repairing any damage to the premises or any objects on the premises, other than fair wear and tear.

25.2 The Supplier will use the Buyer's premises solely for the performance of its obligations under this Call-Off Contract.

25.3 The Supplier will vacate the Buyer's premises when the Call-Off Contract Ends or expires.

25.4 This clause does not create a tenancy or exclusive right of occupation.

25.5 While on the Buyer's premises, the Supplier will:

25.5.1 comply with any security requirements at the premises and not do anything to weaken the security of the premises

25.5.2 comply with Buyer requirements for the conduct of personnel

25.5.3 comply with any health and safety measures implemented by the Buyer

25.5.4 immediately notify the Buyer of any incident on the premises that causes any damage to Property which could cause personal injury

25.6 The Supplier will ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Buyer on request.

26. Equipment

26.1 The Supplier is responsible for providing any Equipment which the Supplier requires to provide the Services.

26.2 Any Equipment brought onto the premises will be at the Supplier's own risk and the Buyer will have no liability for any loss of, or damage to, any Equipment.

26.3 When the Call-Off Contract Ends or expires, the Supplier will remove the Equipment and any other materials leaving the premises in a safe and clean condition.

27. The Contracts (Rights of Third Parties) Act 1999

27.1 Except as specified in clause 29.8, a person who isn't Party to this Call-Off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. This does not affect any right or remedy of any person which exists or is available otherwise.

28. Environmental requirements

28.1 The Buyer will provide a copy of its environmental policy to the Supplier on request, which the Supplier will comply with.

28.2 The Supplier must provide reasonable support to enable Buyers to work in an environmentally friendly way, for example by helping them recycle or lower their carbon footprint.

29. The Employment Regulations (TUPE)

29.1 The Supplier agrees that if the Employment Regulations apply to this Call-Off Contract on the Start date then it must comply with its obligations under the Employment Regulations and (if applicable) New Fair Deal (including entering into an Admission Agreement) and will indemnify the Buyer or any Former Supplier for any loss arising from any failure to comply.

29.2 Twelve months before this Call-Off Contract expires, or after the Buyer has given notice to End it, and within 28 days of the Buyer's request, the Supplier will fully and accurately disclose to the Buyer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:

29.2.1 the activities they perform

- 29.2.2 age
- 29.2.3 start date
- 29.2.4 place of work
- 29.2.5 notice period
- 29.2.6 redundancy payment entitlement
- 29.2.7 salary, benefits and pension entitlements
- 29.2.8 employment status
- 29.2.9 identity of employer
- 29.2.10 working arrangements
- 29. 2.11 outstanding liabilities
- 29.2.12 sickness absence
- 29.2.13 copies of all relevant employment contracts and related documents
- 29.2.14 all information required under regulation 11 of TUPE or as reasonably requested by the Buyer

The Supplier warrants the accuracy of the information provided under this TUPE clause and will notify the Buyer of any changes to the amended information as soon as reasonably possible. The Supplier will permit the Buyer to use and disclose the information to any prospective Replacement Supplier.

- 29.3 In the 12 months before the expiry of this Call-Off Contract, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Buyer) or their terms and conditions, other than in the ordinary course of business.
- 29.4 The Supplier will cooperate with the re-tendering of this Call-Off Contract by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 29.5 The Supplier will indemnify the Buyer or any Replacement Supplier for all Loss arising from both:
 - 29.5.1 its failure to comply with the provisions of this clause
 - 29.5.2 any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer
- 29.6 The provisions of this clause apply during the Term of this Call-Off Contract and indefinitely after it Ends or expires.
- 29.7 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Buyer and Supplier may agree.

30. Additional G-Cloud services

- 30.1 The Buyer may require the Supplier to provide Additional Services. The Buyer doesn't have to buy any Additional Services from the Supplier and can buy services that are the same as or similar to the Additional Services from any third party.
- 30.2 If reasonably requested to do so by the Buyer in the Order Form, the Supplier must provide and monitor performance of the Additional Services using an Implementation Plan.

31. Collaboration

- 31.1 If the Buyer has specified in the Order Form that it requires the Supplier to enter into a Collaboration Agreement, the Supplier must give the Buyer an executed Collaboration Agreement before the Start date.
- 31.2 In addition to any obligations under the Collaboration Agreement, the Supplier must:
 - 31.2.1 work proactively and in good faith with each of the Buyer's contractors
 - 31.2.2 co-operate and share information with the Buyer's contractors to enable the efficient operation of the Buyer's ICT services and G-Cloud Services

32. Variation process

- 32.1 The Buyer can request in writing a change to this Call-Off Contract if it isn't a material change to the Framework Agreement/or this Call-Off Contract. Once implemented, it is called a Variation.
- 32.2 The Supplier must notify the Buyer immediately in writing of any proposed changes to their G-Cloud Services or their delivery by submitting a Variation request. This includes any changes in the Supplier's supply chain.
- 32.3 If Either Party can't agree to or provide the Variation, the Buyer may agree to continue performing its obligations under this Call-Off Contract without the Variation, or End this CallOff Contract by giving 30 days notice to the Supplier.

33. Data Protection Legislation (GDPR)

- 33.1 Pursuant to clause 2.1 and for the avoidance of doubt, clause 28 of the Framework Agreement is incorporated into this Call-Off Contract. For reference, the appropriate UK GDPR templates which are required to be completed in accordance with clause 28 are reproduced in this Call-Off Contract document at Schedule 7.

Schedule 3: Collaboration Agreement

Not Applicable

Schedule 4: Alternative Clauses

Not Applicable

Schedule 5: Guarantee

Not Applicable

Schedule 6: Glossary and interpretations

In this Call-Off Contract the following expressions mean:

Expression	Meaning
Additional Services	Any services ancillary to the G-Cloud Services that are in the scope of Framework Agreement Clause 2 (Services) which a Buyer may request.
Admission Agreement	The agreement to be entered into to enable the Supplier to participate in the relevant Civil Service pension scheme(s).
Application	The response submitted by the Supplier to the Invitation to Tender (known as the Invitation to Apply on the Platform).
Audit	An audit carried out under the incorporated Framework Agreement clauses.
Background IPRs	<p>For each Party, IPRs:</p> <ul style="list-style-type: none"> owned by that Party before the date of this Call-Off Contract (as may be enhanced and/or modified but not as a consequence of the Services) including IPRs contained in any of the Party's Know-How, documentation and processes created by the Party independently of this Call-Off Contract, or <p>For the Buyer, Crown Copyright which isn't available to the Supplier otherwise than under this Call-Off Contract, but excluding IPRs owned by that Party in Buyer software or Supplier software.</p>
Buyer	The contracting authority ordering services as set out in the Order Form.
Buyer Data	All data supplied by the Buyer to the Supplier including Personal Data and Service Data that is owned and managed by the Buyer.
Buyer Personal Data	The Personal Data supplied by the Buyer to the Supplier for purposes of, or in connection with, this Call-Off Contract.
Buyer Representative	The representative appointed by the Buyer under this Call-Off Contract.
Buyer Software	Software owned by or licensed to the Buyer (other than under this Agreement), which is or will be used by the Supplier to provide the Services.

Call-Off Contract	This call-off contract entered into following the provisions of the Framework Agreement for the provision of Services made between the Buyer and the Supplier comprising the Order Form, the Call-Off terms and conditions, the Call-Off schedules and the Collaboration Agreement.
Charges	The prices (excluding any applicable VAT), payable to the Supplier by the Buyer under this Call-Off Contract.
Collaboration Agreement	An agreement, substantially in the form set out at Schedule 3, between the Buyer and any combination of the Supplier and contractors, to ensure collaborative working in their delivery of the Buyer's Services and to ensure that the Buyer receives end-to-end services across its IT estate.
Commercially Sensitive Information	Information, which the Buyer has been notified about by the Supplier in writing before the Start date with full details of why the Information is deemed to be commercially sensitive.
Confidential Information	<p>Data, Personal Data and any information, which may include (but isn't limited to) any:</p> <ul style="list-style-type: none"> • information about business, affairs, developments, trade secrets, know-how, personnel, and third parties, including all Intellectual Property Rights (IPRs), together with all information derived from any of the above • other information clearly designated as being confidential or which ought reasonably be considered to be confidential (whether or not it is marked 'confidential').
Control	'Control' as defined in section 1124 and 450 of the Corporation Tax Act 2010. 'Controls' and 'Controlled' will be interpreted accordingly.
Controller	Takes the meaning given in the UK GDPR.

Crown	The government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies carrying out functions on its behalf.
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Data Loss Event	Event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Call-Off Contract and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
Data Protection Impact Assessment (DPIA)	An assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data.
Data Protection Legislation (DPL)	(i) the UK GDPR as amended from time to time; (ii) the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy; (iii) all applicable Law about the Processing of Personal Data and privacy.
Data Subject	Takes the meaning given in the UK GDPR
Default	<p>Default is any:</p> <ul style="list-style-type: none"> • breach of the obligations of the Supplier (including any fundamental breach or breach of a fundamental term) • other default, negligence or negligent statement of the Supplier, of its Subcontractors or any Supplier Staff (whether by act or omission), in connection with or in relation to this Call-Off Contract <p>Unless otherwise specified in the Framework Agreement the Supplier is liable to CCS for a Default of the Framework Agreement and in relation to a Default of the Call-Off Contract, the Supplier is liable to the Buyer.</p>
DPA 2018	Data Protection Act 2018.
Employment Regulations	The Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE')

End	Means to terminate; and Ended and Ending are construed accordingly.
Environmental Information Regulations or EIR	The Environmental Information Regulations 2004 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department about the regulations.
Equipment	The Supplier's hardware, computer and telecoms devices, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from CCS or the Buyer) in the performance of its obligations under this Call-Off Contract.

ESI Reference Number	The 14 digit ESI reference number from the summary of the outcome screen of the ESI tool.
Employment Status Indicator test tool or ESI tool	The HMRC Employment Status Indicator test tool. The most up-to-date version must be used. At the time of drafting the tool may be found here: https://www.gov.uk/guidance/check-employment-status-fortax
Expiry Date	The expiry date of this Call-Off Contract in the Order Form.

Force Majeure	<p>A force Majeure event means anything affecting either Party's performance of their obligations arising from any:</p> <ul style="list-style-type: none"> • acts, events or omissions beyond the reasonable control of the affected Party • riots, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare • acts of government, local government or Regulatory Bodies • fire, flood or disaster and any failure or shortage of power or fuel • industrial dispute affecting a third party for which a substitute third party isn't reasonably available <p>The following do not constitute a Force Majeure event:</p> <ul style="list-style-type: none"> • any industrial dispute about the Supplier, its staff, or failure in the Supplier's (or a Subcontractor's) supply chain • any event which is attributable to the wilful act, neglect or failure to take reasonable precautions by the Party seeking to rely on Force Majeure • the event was foreseeable by the Party seeking to rely on Force Majeure at the time this Call-Off Contract was entered into • any event which is attributable to the Party seeking to rely on Force Majeure and its failure to comply with its own business continuity and disaster recovery plans
Former Supplier	<p>A supplier supplying services to the Buyer before the Start date that are the same as or substantially similar to the Services. This also includes any Subcontractor or the Supplier (or any subcontractor of the Subcontractor).</p>
Framework Agreement	<p>The clauses of framework agreement RM1557.13 together with the Framework Schedules.</p>
Fraud	<p>Any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts in relation to this Call-Off Contract or</p>
	<p>defrauding or attempting to defraud or conspiring to defraud the Crown.</p>
Freedom of Information Act or FoIA	<p>The Freedom of Information Act 2000 and any subordinate legislation made under the Act together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to the legislation.</p>
G-Cloud Services	<p>The cloud services described in Framework Agreement Clause 2 (Services) as defined by the Service Definition, the Supplier Terms and any related Application documentation, which the Supplier must make available to CCS and Buyers and those services which are deliverable by the Supplier under the Collaboration Agreement.</p>

UK GDPR	The retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679).
Good Industry Practice	Standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking in the same or similar circumstances.
Government Procurement Card	The government's preferred method of purchasing and payment for low value goods or services.
Guarantee	The guarantee described in Schedule 5.
Guidance	Any current UK government guidance on the Public Contracts Regulations 2015. In the event of a conflict between any current UK government guidance and the Crown Commercial Service guidance, current UK government guidance will take precedence.
Implementation Plan	The plan with an outline of processes (including data standards for migration), costs (for example) of implementing the services which may be required as part of Onboarding.
Indicative test	ESI tool completed by contractors on their own behalf at the request of CCS or the Buyer (as applicable) under clause 4.6.
Information	Has the meaning given under section 84 of the Freedom of Information Act 2000.
Information security management system	The information security management system and process developed by the Supplier in accordance with clause 16.1.
Inside IR35	Contractual engagements which would be determined to be within the scope of the IR35 Intermediaries legislation if assessed using the ESI tool.

Insolvency event	<p>Can be:</p> <ul style="list-style-type: none"> • a voluntary arrangement • a winding-up petition • the appointment of a receiver or administrator • an unresolved statutory demand • a Schedule A1 moratorium • a Dun & Bradstreet rating of 10 or less
Intellectual Property Rights or IPR	<p>Intellectual Property Rights are:</p> <ul style="list-style-type: none"> • copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information • applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction • all other rights having equivalent or similar effect in any country or jurisdiction
Intermediary	<p>For the purposes of the IR35 rules an intermediary can be:</p> <ul style="list-style-type: none"> • the supplier's own limited company • a service or a personal service company • a partnership <p>It does not apply if you work for a client through a Managed Service Company (MSC) or agency (for example, an employment agency).</p>
IPR claim	As set out in clause 11.5.
IR35	IR35 is also known as 'Intermediaries legislation'. It's a set of rules that affect tax and National Insurance where a Supplier is contracted to work for a client through an Intermediary.
IR35 assessment	Assessment of employment status using the ESI tool to determine if engagement is Inside or Outside IR35.
Know-How	All ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the G-Cloud Services but excluding know-how already in the Supplier's or Buyer's possession before the Start date.
Law	Any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements with which the relevant Party is bound to comply.

Loss	All losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgement, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and ' Losses ' will be interpreted accordingly.
Lot	Any of the 3 Lots specified in the ITT and Lots will be construed accordingly.
Malicious Software	Any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.
Management Charge	The sum paid by the Supplier to CCS being an amount of up to 1% but currently set at 0.75% of all Charges for the Services invoiced to Buyers (net of VAT) in each month throughout the duration of the Framework Agreement and thereafter, until the expiry or End of any Call-Off Contract.
Management Information	The management information specified in Framework Agreement Schedule 6.
Material Breach	Those breaches which have been expressly set out as a Material Breach and any other single serious breach or persistent failure to perform as required under this Call-Off Contract.
Ministry of Justice Code	The Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000.

New Fair Deal	The revised Fair Deal position in the HM Treasury guidance: "Fair Deal for staff pensions: staff transfer from central government" issued in October 2013 as amended.
Order	An order for G-Cloud Services placed by a contracting body with the Supplier in accordance with the ordering processes.
Order Form	The order form set out in Part A of the Call-Off Contract to be used by a Buyer to order G-Cloud Services.

Ordered G-Cloud Services	G-Cloud Services which are the subject of an order by the Buyer.
Outside IR35	Contractual engagements which would be determined to not be within the scope of the IR35 intermediaries legislation if assessed using the ESI tool.
Party	The Buyer or the Supplier and 'Parties' will be interpreted accordingly.
Personal Data	Takes the meaning given in the UK GDPR.
Personal Data Breach	Takes the meaning given in the UK GDPR.
Platform	The government marketplace where Services are available for Buyers to buy.
Processing	Takes the meaning given in the UK GDPR.
Processor	Takes the meaning given in the UK GDPR.
Prohibited act	<p>To directly or indirectly offer, promise or give any person working for or engaged by a Buyer or CCS a financial or other advantage to:</p> <ul style="list-style-type: none"> • induce that person to perform improperly a relevant function or activity • reward that person for improper performance of a relevant function or activity • commit any offence: <ul style="list-style-type: none"> ○ under the Bribery Act 2010 ○ under legislation creating offences concerning Fraud ○ at common Law concerning Fraud ○ committing or attempting or conspiring to commit Fraud

Project Specific IPRs	Any intellectual property rights in items created or arising out of the performance by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of this Call-Off Contract including databases, configurations, code, instructions, technical documentation and schema but not including the Supplier's Background IPRs.
Property	Assets and property including technical infrastructure, IPRs and equipment.
Protective Measures	Appropriate technical and organisational measures which may include: pseudonymisation and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it.
PSN or Public Services Network	The Public Services Network (PSN) is the government's high performance network which helps public sector organisations work together, reduce duplication and share resources.
Regulatory body or bodies	Government departments and other bodies which, whether under statute, codes of practice or otherwise, are entitled to investigate or influence the matters dealt with in this Call-Off Contract.
Relevant person	Any employee, agent, servant, or representative of the Buyer, any other public body or person employed by or on behalf of the Buyer, or any other public body.
Relevant Transfer	A transfer of employment to which the employment regulations applies.
Replacement Services	Any services which are the same as or substantially similar to any of the Services and which the Buyer receives in substitution for any of the services after the expiry or Ending or partial Ending of the Call-Off Contract, whether those services are provided by the Buyer or a third party.

Replacement supplier	Any third-party service provider of replacement services appointed by the Buyer (or where the Buyer is providing replacement Services for its own account, the Buyer).
Security management plan	The Supplier's security management plan developed by the Supplier in accordance with clause 16.1.

Services	The services ordered by the Buyer as set out in the Order Form.
Service data	Data that is owned or managed by the Buyer and used for the GCloud Services, including backup data.
Service definition(s)	The definition of the Supplier's G-Cloud Services provided as part of their Application that includes, but isn't limited to, those items listed in Clause 2 (Services) of the Framework Agreement.
Service description	The description of the Supplier service offering as published on the Platform.
Service Personal Data	The Personal Data supplied by a Buyer to the Supplier in the course of the use of the G-Cloud Services for purposes of or in connection with this Call-Off Contract.
Spend controls	The approval process used by a central government Buyer if it needs to spend money on certain digital or technology services, see https://www.gov.uk/service-manual/agile-delivery/spend-controlscheck-if-you-need-approval-to-spend-money-on-a-service
Start date	The Start date of this Call-Off Contract as set out in the Order Form.

Subcontract	Any contract or agreement or proposed agreement between the Supplier and a subcontractor in which the subcontractor agrees to provide to the Supplier the G-Cloud Services or any part thereof or facilities or goods and services necessary for the provision of the GCloud Services or any part thereof.
Subcontractor	Any third party engaged by the Supplier under a subcontract (permitted under the Framework Agreement and the Call-Off Contract) and its servants or agents in connection with the provision of G-Cloud Services.
Subprocessor	Any third party appointed to process Personal Data on behalf of the Supplier under this Call-Off Contract.
Supplier	The person, firm or company identified in the Order Form.
Supplier Representative	The representative appointed by the Supplier from time to time in relation to the Call-Off Contract.

Supplier staff	All persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Call-Off Contract.
Supplier Terms	The relevant G-Cloud Service terms and conditions as set out in the Terms and Conditions document supplied as part of the Supplier's Application.
Term	The term of this Call-Off Contract as set out in the Order Form.
Variation	This has the meaning given to it in clause 32 (Variation process).

Working Days	Any day other than a Saturday, Sunday or public holiday in England and Wales.
Year	A contract year.

Schedule 7: UK GDPR Information

This schedule reproduces the annexes to the UK GDPR schedule contained within the Framework Agreement and incorporated into this Call-off Contract and clause and schedule references are to those in the Framework Agreement but references to CCS have been amended.

Annex 1: Processing Personal Data

This Annex shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

- 1.1 The contact details of the Buyer's Data Protection Officer are:
DataProtectionOfficer@dft.gov.uk
- 1.2 The contact details of the Supplier's Data Protection Officer are: Peter Dewsbury - CEO
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Descriptions	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with paragraph 2-15 Framework Agreement Schedule 4 (Where the Party is a Controller and the other Party is Processor) and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data.</p>
Duration of the Processing	<p>3 years: 17th February 2023 – 16th February 2026, with potential for extension in accordance with the terms of the contract, which can be extended by the Buyer for one period of up to 12 months. The extension period is subject to clauses 1.3 and 1.4 in Part B.</p>
Nature and purposes of the Processing	<p>The nature of the data will be required to be held solely for the use of ATE and the ability to reference previous records, correspondence and comments in order to inform further actions, correspondence and recommendations.</p> <p>Purpose - Historic records in relation to planning are important given the need to understand planning case history, previous decisions and correspondence at a given point in the history of a site or development.</p> <p>Other uses for the processing of the data include for internal performance monitoring and reporting, appraisals, disciplinary procedures (associated with performance)</p>

Type of Personal Data	Names, addresses, postcodes, positions, telephone numbers, land interests and proposals and information relating to individual staff and team performance.
Categories of Data Subject	Property developers, developer's agents, local authority officers, ATE officers and other statutory consultees involved in the planning process.
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Union or Member State law to preserve that type of data	<p>As per the Appendix C Exit Plan: (included for the avoidance of doubt)</p> <p>Data Extraction Upon receiving notification of termination of contract as per the terms of the contract with an appropriate notice period, your account will be closed based on either the requested termination date or upon expiration of your contract. If there is no subsequent extension or new contract formed then the customer will be entitled to extract all of their data from the Arcus Software as a Service (SaaS) environment using a standard set of tools provided within the Salesforce platform that underpins the Arcus product range.</p> <p>Your data will be available for 30 days from the date of termination and can be exported from the Arcus system in standard CSV files by the Buyer using standard data management tools including the Salesforce Dataloader application. The data can be securely downloaded and if necessary, Arcus can perform intermediary services to extract the data in a specific CSV format at an additional cost (which will vary according to the volume and complexity of the data itself)</p> <p>Detailing the transfer and cessation process The Salesforce platform provides an Administration option to export all of the data (see https://help.salesforce.com/articleView?id=admin_exportdata.htm&type=5 for further information. As the Department for Transport have their own Administrators this can be done at any time.</p> <p>During the period of transition (before the contract expiry / termination date), access to the Salesforce.com platform, and the Arcus Application licences (SaaS) will remain open and accessible for the Buyer. At the end of the transition this access will cease, and all data will need to be migrated from the platform.</p> <p>Ensuring no disruption or degradation of service during transition The Buyer will need to ensure that all data is extracted during the transition period and before the expiration of the underlying Salesforce.com licences. This will ensure that services are not disrupted, and data remains accessible.</p> <p>There are no off-boarding costs. The Buyer would submit formal notification to their Account Manager informing Arcus</p>

	<p>Global of intention not to renew the contract. The Off-boarding process would involve the Account Manager submitting a ticket to the Service Desk acting as a formal audit trail of request. A Customer Off Boarding Form is issued for completion. The form details where Customer data may reside so that a systematic approach can be taken to remove/delete data from Arcus Global equipment.</p> <p>The entire database can be exported to csv to allow transfer to other systems. Customer data will remain available for 30 days from the date of termination and can be exported from the Arcus system in CSV files by the customer using standard data management tools included within the platform. Where documents are stored in the Salesforce cloud these will also be made available as a single set of download files for transfer. Following the 30 day retention period all customer data is securely destroyed.</p>
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Annex 2: Joint Controller Agreement

Not Applicable

Schedule 8 – Supplier Terms and Conditions

Appendix A: Arcus Salesforce Pass through terms and conditions

The terms below form part of the Supplier terms and they are appended to the Call Off Order Form for ease of reference only. For the avoidance of doubt, in the event of any conflict between these terms and the Order Form, the Call-Off terms and conditions or the Call-Off schedules, these terms shall take the same level of precedence as the Supplier terms.

The Customer usage of any Products based on Salesforce Platform shall be governed by applicable OEM and Reseller terms as expressed in:

https://www.salesforce.com/content/dam/web/en_us/www/documents/legal/Agreements/alliance-agreements-and-terms/OEM-Pass-Through-Terms.pdf.

The Customer acknowledges that these terms are deemed to be incorporated into this agreement by reference.

Appendix B: Arcus Software Support for Salesforce Apps

Introduction

Customers that purchase Arcus Software built on the Salesforce platform are investing in a platform technology that has an unrivalled ability to grow and adapt with the changing needs of their organisation.

This is very different to traditional software applications which are generally delivered in fixed “silos” of functionality with limited configuration options.

Salesforce’s advice on system administration resourcing can be found at <https://help.salesforce.com/servlet/servlet.FileDownload?file=015300000001x8hWAAQ>

As a result, our standard Software Support is focussed on enabling our customer’s system administrators to make the most of their investment as well as keeping teams working with standard “break fix” services.

Customers can expect:

- a clear explanation of standard system administration tasks that must be undertaken to keep your software running smoothly with links to documentation and customer specific notes made by your project team - “Minimum System Administration Requirements”
- a responsive Support team that will point you in the right direction or work directly within your environment (“orgs”) to resolve issues and apply regular updates
- continuous investment in research & development by Salesforce and Arcus to address bugs and deliver ever-greater value to customers
- the option to buy additional services on an ad-hoc or “managed service” basis when facing resource constraints - please contact your account manager to discuss or review the “Arcus Salesforce Managed Service, Customer Success and Support” service on the digital marketplace.

Arcus Support Process

Tickets can be raised through any of the following methods:

- Web Portal (also hosts the Arcus Knowledgebase)
- Email
- Phone Call

Once a ticket has been logged, our Service Desk then manages the classification and resolution of the ticket drawing in resources from our development, product management, training, test and release management functions.

In the event that an incident is detected by Arcus then nominated customer staff will be notified by email of the nature of the incident and receive regular updates on its resolution. Customer staff will also be notified of any planned downtime that is the result of approved change requests (originating from Arcus) or notified downtime from Salesforce or other third parties.

Types of support

The Arcus Support team provides three types of support:

- **General guidance** - provision of documentation (and signposting to relevant Salesforce, Arcus or 3rd party documentation)
- **Specific guidance** - review of customer queries in relation to general guidance, and/or in the context of their specific solution configuration
- **Execution** - making changes to customer environments

Support is available for a whole range of different categories of issue:

- **Environment maintenance** - standard tasks such as user management and maintaining bank holiday information
- **Issue resolution** - tackling problems with a customer environment (within the scope defined at contract) including:
 - Bugs

- Missing features
- Feature quality
- Configuration error / gap
- Training error / knowledge gap
- Integration errors
- **Delivering enhancements** - extending or enhancing functionality to meet new requirements (outside the scope defined at contract) including:
 - Data quality / cleansing
 - Reports & Dashboards
 - Re-configuring existing features (e.g. changing workflow defining target dates)
 - Configuring newly released or previously out-of-scope features
 - Building a brand new feature
 - Enhancing an existing feature
- **Scoping changes** and preparing solution designs
- **Developer coaching** to help teams extend their use of Salesforce and Arcus apps
- **Updates / Upgrades Deployment** to put in place the latest versions of technology, Arcus will always ensure that the latest versions of our software support the relevant statutory requirements
- **Updates / Upgrades Configuration** to help customers take advantage of new features

These could all relate to standard Salesforce, Arcus apps, 3rd party technology such as Conga Composer or custom features.

Scope of support

The table below outlines whether or not each type of requirement is included within Standard support or requires optional supplementary services to be purchased.

Requirement	Commercial Model		
	General guidance	Specific guidance	Execution
End user support	Optional	Optional	Optional
Environment maintenance	Standard	Standard	Optional
Issue resolution	Standard	Standard	Standard*
Delivering enhancements	Standard	Optional	Optional
Scoping changes	Standard	Optional	Optional
Developer coaching	Standard	Optional	Optional
Updates / Upgrades Deployment	Standard	Standard	Standard **
Updates / Upgrades Configuration	Standard	Optional	Optional

* Arcus reserves the right to charge based on its standard hourly rates for issue resolution where the issue has been caused by the actions of the customer or a 3rd party.

**** Arcus will offer to apply proactive upgrades / updates three times per annum (unless already applied through issue resolution work). Salesforce delivers three major releases per annum - https://trailhead.salesforce.com/en/content/learn/modules/sf_releases/sf_releases_start.**

Note: Not all issues will be accepted for resolution, particularly if related to shared product features where changes will impact on all users.

Out of scope items

Where an item is out of scope for standard support the Arcus team will be happy to:

- signpost the relevant Knowledge articles or Salesforce Trailhead / Help resources
- establish a call-off arrangement based on a committed average monthly volume of enhancement work
- complete the work as an additionally chargeable service request based on a standard professional services rate card

Customer obligations

Arcus Support is funded through customer licence fees. In order to keep costs under control and ensure pricing is fair for all customers we ask that customers:

- allocate suitably trained (e.g. Trailhead e-learning) resources to undertake all system administration tasks outside of their success plan
- nominate a suitable number of authorised contacts that will analyse requests from users and undertake any necessary investigation before resolving locally or reporting to the Arcus Service Desk
- clearly specify issues when reporting them to the Arcus Service Desk - standards will be communicated during onboarding - and collate supporting evidence as and when required
- liaise with 3rd parties and internal IT teams to provide information and undertake actions necessary to achieve the required business outcomes
- test all changes made by Arcus (or any other party) in a sandbox environment prior to release to production
- manage all end user communication
- notify the Arcus Service Desk of all recent changes applied to their Salesforce environment when reporting new issues

The Arcus Service Desk will be asked to report regularly to account managers as to whether or not these obligations are being met and the findings will be discussed during regular review meetings as required.

Standard Service Levels

All issues raised will be classified into one of four categories. The table below outlines the standard classification method practised by the Arcus Global service desk.

Prioritisation table

Priority	Definition
Critical / P1	The Service is down or does not function at all, and there is no circumvention for the problem; a significant number of users (over 40%) are affected, and a production business system is inoperable.
High / P2	A component of the Service is not performing: creating a significant operational impact (affecting over 10% of users).
Moderate / P3	A component of the Service is not performing as documented: unexpected results; circumventable problems; moderate or minor operational impact causing inconvenience.

Low / P4	Usage questions or normal business questions: clarification of documentation, suggestions; requests for new product features and enhancements.
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Response and resolution table

Priority	Response (working hrs)	Target Resolution (working hours)
Critical	< 4 hrs	8 hrs
High	< 8 hrs	16 hrs
Moderate	< 16 hrs	40 hrs
Low	< 40 hrs	80 hrs

The response time is the maximum time in which Arcus will respond to the submitter acknowledging receipt of their issue, first you receive an automated response then one of the Service Desk will send you a personal message. The actual response time will generally be much faster.

Achievement of these resolution times is subject to the issue being within Arcus scope to resolve i.e. issue is within an Arcus supplied technology asset. Issues related to the Salesforce platform itself will be addressed in line with Salesforce SLAs (these depend on whether or not the customer has purchased a Premier Success Plan).

The Arcus Service Desk will be the first point of contact for the Council's 1st line support team (or other named support individuals) where they have been unable to resolve an incident or service request themselves.

All tickets recorded within our Support portal can be logged (and viewed and updated) via phone, email or web self-service. Arcus Global currently uses Salesforce Service Cloud as its Service Management system.

Working hours

The Salesforce platform is monitored 24/7/365. All issues are resolved on the same "round the clock" basis.

Arcus standard Service Desk hours are 08:30-17:30 each day.

Out-of-hours tickets should continue to be logged by email/portal access.

Where changes need to be deployed that are disruptive to use of the system a suitable out of hours window will be achieved as required.

Extended support hours

Extended support hours are available on an ad-hoc or ongoing basis at an additional cost. Please contact your account manager to discuss your requirements and suitable options to provide the necessary assistance.

Appendix C: G-Cloud 13 Standard Exit Plan

Introduction

This document details the exit plan for the Department for Transport (DfT) Arcus Planning solution. The document is structured in response around - Exit Plan requirements of the G-Cloud Call off contract.

Exit Plan

The following plan details actions and responsibilities pursuant to the exit plan for the Department for Transport from the Arcus Planning solution.

Data Extraction

Upon receiving notification of termination of contract as per the terms of the contract with an appropriate notice period, your account will be closed based on either the requested termination date or upon expiration of your contract. If there is no subsequent extension or new contract formed then the customer will be entitled to extract all of their data from the Arcus Software as a Service (SaaS) environment using a standard set of tools provided within the Salesforce platform that underpins the Arcus product range.

Your data will be available for 30 days from the date of termination and can be exported from the Arcus system in standard CSV files by the Buyer using standard data management tools including the Salesforce Dataloader application. The data can be securely downloaded and if necessary, Arcus can perform intermediary services to extract the data in a specific CSV format at an additional cost (which will vary according to the volume and complexity of the data itself)

Management Structure supporting termination, transfer and cessation of service.

Once a notification of termination has been received from the Buyer the following team will be responsible for supporting the commercial, contractual and technical aspects of the cessation of service:

- Business Development Director (James Thompson)
- Software Support Manager (Stephen Monks)
- Commercial Director (Denis Kaminsky)

Detailing the transfer and cessation process

The Salesforce platform provides an Administration option to export all of the data (see https://help.salesforce.com/articleView?id=admin_exportdata.htm&type=5 for further information. As the Department for Transport have their own Administrators this can be done at any time.

During the period of transition (before the contract expiry / termination date), access to the Salesforce.com platform, and the Arcus Application licences (SaaS) will remain open and accessible for the Buyer. At the end of the transition this access will cease, and all data will need to be migrated from the platform.

Transferring services (including process documentation, data transfer and technology segregation) to replacement supplier and or customer

Not applicable as this is a SaaS service. Details on data extraction are detailed in section 1.

Transfer of contracts related to the service

Not applicable as this is a SaaS service.

Training of key members of staff

Not applicable as this is a SaaS service. As part of the initial contract Arcus will supply the Buyer Transport with technical documentation related to usage of the system as well as user training guides.

Provision of documentation related to the service.

Upon request we will supply the following:

- System specification as PDF named TBC with the Department for Transport
- System changes as PDF named TBC with the Department for Transport

Novation of services, leases, maintenance and support agreements

Not applicable as this is SaaS.

Ensuring no disruption or degradation of service during transition

The Buyer will need to ensure that all data is extracted during the transition period and before the expiration of the underlying Salesforce.com licences. This will ensure that services are not disrupted, and data remains accessible.

There are no off-boarding costs. The Buyer would submit formal notification to their Account Manager informing Arcus Global of intention not to renew the contract. The Off-boarding process would involve the Account Manager submitting a ticket to the Service Desk acting as a formal audit trail of request. A Customer Off Boarding Form is issued for completion. The form details where Customer data may reside so that a systematic approach can be taken to remove/delete data from Arcus Global equipment.

The entire database can be exported to csv to allow transfer to other systems. Customer data will remain available for 30 days from the date of termination and can be exported from the Arcus system in CSV files by the customer using standard data management tools included within the platform. Where documents are stored in the Salesforce cloud these will also be made available as a single set of download files for transfer. Following the 30 day retention period all customer data is securely destroyed.

Appendix D: On-boarding Plan (Project Plan)

The onboarding plan for this Call-Off Contract is as per onboarding section on the Supplier's Service Definition <https://www.applytosupply.digitalmarketplace.service.gov.uk/g-cloud/services/141681363566331>

A detailed project plan will be agreed with the customer within 21 days of project commencement.

Appendix E: Arcus Global Supplier Terms

1. Definitions and interpretation

1.1. In this Agreement the following words and phrases shall have the following meanings:

“Access Requirements” means the access requirements set out in the Order Form;

“Agreement” has means a contract between the Customer and Arcus Global on the terms of the Order Form, the Arcus Global Terms (as set out in clause 2.1 below) and (where applicable) the Framework Terms;

“Arcus Global Product” means the Arcus Global software set out in the Order Form;

“Arcus Global Terms” means these Arcus Global General Terms and (where applicable under the Order Form) the attached Professional Services Terms, Products Terms, Resale Terms and Support Terms;

“Charges” means the Professional Services Charges, Product Charges and Support Charges (as applicable);

“Claim” means a claim brought against the Customer that the normal use or possession of the Products or the Documentation in accordance with this Agreement infringes a third party’s copyright;

“Customer” means the “Buyer” as stated in the G-Cloud Call off Order Form above

“Customer Data” means all data held in the Product and belonging to the Customer and/or its licensors;

“Customer Failure” means a breach by the Customer of any Customer Responsibilities;

“Customer Responsibilities” means the responsibilities of the Customer set out in this Agreement;

“Confidential Information” means any information which is designated by the party disclosing it to be confidential (including, in respect of Arcus Global, the Products and the Documentation);

“Contract Year” means each period of 12 months starting on the date of this Agreement or an anniversary of the date of this Agreement;

“Data Tools” means tools, processes and applications including reporting tools, business intelligence applications, machine learning models, data discovery and ETL processes, and predictive analytics;

“Deliverable” means a deliverable provided by Arcus Global under this Agreement, including the deliverables set out in the Order Form;

“GDPR” means the General Data Protection Regulation (GDPR) as it applies in the UK, tailored by the Data Protection Act 2018;

“Documentation” means any instruction manuals and other information associated with the Products which may be provided by Arcus Global to the Customer, whether in electronic form or otherwise;

“Framework Terms” means the terms of G-Cloud or any other framework agreement to which Arcus Global has agreed in writing, where the Customer purchases Products and/or Services from Arcus Global under the terms of the framework;

“Licence Restrictions” means the licence restrictions for a Product set out in the Order Form;

“Order Form” means an order form executed by Arcus Global and the Customer including any reference appendixes or schedules;

“Personal Data” means personal data (as defined in the GDPR) processed by Arcus Global on behalf of the Customer under this Agreement;

“Product” means a Arcus Global Product and/or Third Party Product as appropriate;

“Product Charges” means the charges for the Products set out in the Order Form;

“Professional Services” means the professional services set out in the Order Form;

“Professional Services Charges” means the charges for the Professional Services set out in the Order Form;

“Renewal Period” has the meaning in respect of each Product set out in the Order Form;

“Services” means the services provided by Arcus Global under this Agreement, including (where applicable) the provision of access to the Products and/or the Third Party Products, the Professional Services and/or the Support Services;

“Support Services” means the support services set out in the Order Form;

“Third Party Product” means the third party software set out in the Order Form;

“User” means an employee of the Customer who is permitted to use the Products;

“Warranty Period” means a period of 90 days commencing on the earlier of (i) the date that the Product is first delivered to the Customer; and (ii) the date that the Customer first accesses or uses the Product; and

“Working Days” means Monday to Friday excluding bank and public holidays in the UK;

1.2. In this Agreement:

1.2.1.a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time;

1.2.2.the words “including” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;

1.2.3.the headings are for ease of reference only and shall not affect the interpretation or construction of this Agreement; and

1.2.4.references to this Agreement are references to this Agreement as amended from time to time.

2. Status

- 2.1. Each Order Form constitutes a separate contract subject to the Arcus Global Terms.
- 2.2. This Agreement will become binding on Arcus Global only from the date that the Order Form is signed by an authorised representative of Arcus Global.
- 2.3. The terms of this Agreement will apply notwithstanding any terms attached to any purchase order or otherwise provided to Arcus Global by the Customer.
- 2.4. If there is any conflict between the Order Form, the Arcus Global Terms and/or the Framework Terms, the Order Form will take precedence over the Arcus Global Terms and the Arcus Global Terms will take precedence over the Framework Terms (to the extent permitted under the Framework Terms).

3. Customer Responsibilities

- 3.1. The Customer shall comply with the Customer Responsibilities.
- 3.2. If there is a Customer Failure then without prejudice to any of Arcus Global's other rights and remedies it:
 - 3.2.1. shall be granted an extension of time in respect of any timeframes agreed by the parties based on the period of delay caused by the Customer Failure;
 - 3.2.2. shall not be deemed to be in breach of this Agreement where the Customer Failure causes Arcus Global to breach this Agreement; and
 - 3.2.3. may charge the Customer for any additional costs or expenses it incurs as a result of the Customer Failure.
- 3.3. Arcus Global may, on reasonable notice, visit any premises in which the Customer is using or accessing the Products to determine whether the use of the Products by the Customer complies with this Agreement. The Customer shall grant Arcus Global such access to its premises and to its IT equipment (including Customer orgs or other environments) as is required to enable Arcus Global to verify that the Customer is complying with this Agreement.
- 3.4. Unless specifically agreed in writing, Customer will not, and will ensure that its end users, agents or 3rd parties under its control:
 - 3.4.1. copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, export or move to another org. or otherwise attempt to extract any or all of the source code, objects, apex classes, data schemas, fields or logic contained in the Products or Services, whether these are contained within managed or unmanaged packages or within customer org (except to the extent such restriction is expressly prohibited by applicable law);
 - 3.4.2. sub-licence, transfer or distribute any or all of the Products or Services;
 - 3.4.3. sell, resell or otherwise make the Products or Services available as a commercial offering to a 3rd party or
 - 3.4.4. access or use the Services: (i) for High Risk Activities; (ii) in a manner intended to avoid incurring Charges

- 3.5. The Customer must inform Arcus in writing within 30 days of any usage of Arcus Products or Services in excess of volumes described in this Agreement. Arcus Global reserves the right to apply charges retrospectively for any such additional usage of Arcus Products or Services at any time during this Agreement.

4. Payment and payment terms

- 4.1. Arcus Global will invoice the Customer for Charges in accordance with the timeframes set out in the Order Form.
- 4.2. The Customer shall pay Charges invoiced by Arcus Global in accordance with clause 4.1 above within 14 days of the date of the invoice.
- 4.3. If the Customer does not pay any Charges within 14 days of the date of the invoice, Arcus Global may:
- 4.3.1. suspend provision of all or any of the Services or the Customer's access to the Products; and/or
 - 4.3.2. charge interest at a daily rate on all sums outstanding until payment in full is received whether before or after judgement at a rate of 2% above the base lending rate of Barclay's Bank plc from time to time. Arcus Global reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.4. The Customer shall be responsible for any applicable sales, use or value added taxes arising out of or in connection with this Agreement, other than UK corporation tax arising in respect of Arcus Global's income or profits. All payments due are expressed exclusive of UK Value Added Tax, which will be invoiced in addition where applicable.
- 4.5. The Customer shall reimburse Arcus Global for any reasonable travel and out-of-pocket expenses it incurs in the course of providing the Services.
- 4.6. Arcus Global may increase the Charges at the point of expiry of the minimum term and every 12 months thereafter. The prices shall be adjusted to the latest framework list price, or escalated by 7% per annum.
- 4.7. Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Products or Services has decreased from the prior term may result in re-pricing at renewal without regard to the prior term's per-unit pricing. The revised Charges shall take effect at contract renewal.

5. Warranties

- 5.1. Each party warrants that it has full capacity and authority to enter into and perform this Agreement.
- 5.2. Arcus Global warrants that the Products will during the Warranty Period under normal use conform in all material respects with the functionality outlined in the Documentation. If the Customer notifies Arcus Global in writing of any material failure of a Product so to conform during the Warranty Period, Arcus Global shall at its own expense and sole option either correct any demonstrable failure in the Products within a reasonable time or upon return of the Product (where applicable) and the related Documentation provide or authorise a refund of the relevant Product Charge to the Customer. This shall be the Customer's sole remedy against Arcus Global for any fault with the Products or failure of the Products to conform with the functionality outlined in the Documentation.

- 5.3. Arcus Global warrants that it will provide the Services with reasonable skill and care and that the Services will be of a professional quality conforming to generally accepted computer service industry practices. The Customer shall notify Arcus Global of any failure to comply with this warranty within 90 days of the provision of the relevant Services. The Customer's sole remedy against Arcus Global for any such failure shall be to require Arcus Global to correct such failure free of additional charge and within a reasonable time.
- 5.4. Except as expressly set out in this Agreement, all conditions, warranties, terms and undertakings, express or implied, whether by statute, common law, trade practice, custom, course of dealing or otherwise (including about quality, performance or fitness or suitability for purpose) in respect of the Products, the Documentation and the Services are excluded to the fullest extent permissible by law.

6. Intellectual Property Rights

- 6.1. Arcus Global owns, or is licensed to use, all copyright and other intellectual property rights in the Products and the Documentation.
- 6.2. Arcus Global will own any Intellectual Property Rights it creates in the course of providing the Services (including any Intellectual Property Rights in Deliverables). Any modifications or customisations to Arcus Global Products made in the course of the Services will be licensed to the Customer on the relevant Arcus Global Product Terms.
- 6.3. Save as expressly set out in this Agreement, the Customer does not acquire any rights in the Products or Services.
- 6.4. As part of the implementation of the Products or Services, Arcus may use other 3rd party software accepted best practice, and we do not expect to generate identifiable intellectual property or unique software code that is specific to each customer. However, in some cases, Arcus has pre-created a number of sub-modules, scripts, tools, software code (defined as Implementation IP) that may help to significantly improve the efficiency of delivery, data migration or integration tasks, as well as the quality of output for the Customer. Arcus may reuse software code (directly or in modified form) previously created by Arcus as part of our Products - such code will also be part of the Implementation IP. Arcus will retain all of the Intellectual Property Rights (IPR) for all Implementation IP in all cases.
- 6.5. Where the Customer has ordered the creation of a specific tool or script on a time and materials basis for their unique use case, Arcus will provide a perpetual, non-exclusive licence to the Customer following full payment of all fees due to Arcus. The licence will be royalty-free, as is, on "no support" basis. Such licence will apply only for the purposes of the specific deployment. All such IPR will be considered "Pre Existing IPR" or "Background IPR" under the terms of the G-Cloud and other frameworks, and its inclusion in the deployment or implementation does not transfer any rights to the Customer, nor does it allow reproduction / copying / modification by the Customer or any third party without prior written consent from Arcus.
- 6.6. Arcus Global warrants that the use of the Products and the Documentation in accordance with this Agreement will not infringe any third party's copyright.
- 6.7. Subject to clauses 6.6 and 6.7, if there is a Claim, Arcus Global shall indemnify the Customer against any damages that are awarded to be paid to such third party in respect of such Claim provided that the Customer:
 - 6.7.1. notifies Arcus Global of the Claim in writing as soon as reasonably practicable and in any event within 30 days of becoming aware of the Claim;

- 6.7.2. does not make any admission of liability or compromise or agree any settlement of the Claim without Arcus Global's prior written consent and does not otherwise prejudice the defence of the Claim;
- 6.7.3. gives Arcus Global, or such person as Arcus Global directs, immediate and complete control of the conduct or settlement of all negotiations and litigation arising from the Claim; and
- 6.7.4. on payment of its reasonable costs, gives Arcus Global, and other third parties as Arcus Global directs, all assistance reasonably required with the conduct or settlement of any such negotiations or litigation.
- 6.8. Arcus Global shall have no liability for any claim of infringement based on the use of a superseded or altered release of a Product if the infringement would have been avoided by the use of a current unaltered release of the Product which Arcus Global provides to the Customer.
- 6.9. If a Claim is brought, Arcus Global shall have the right in its absolute discretion and at its own expense:
- 6.9.1. to procure the right for the Customer to continue using the Products and/or the Documentation in accordance with the terms of this Agreement;
- 6.9.2. to make such alterations, modifications or adjustments to the Products and/or the Documentation so that they become non infringing; or
- 6.9.3. to replace the Products and/or the Documentation with non-infringing software and/or documentation.
- 6.10. If Arcus Global is unable to resolve a Claim by taking one of the actions under clause 6.7 Arcus Global may terminate this Agreement upon repayment to the Customer of the relevant Product Charges (less a reasonable deduction, determined by Arcus Global, in respect of any use of the Product made by the Customer). Any such payment such right shall be the Customer's sole and exclusive remedy under this Agreement in respect of the Claim.
- 6.11. If there is any claim attributable to the use or possession by the Customer of the Products and the Documentation other than in accordance with this Agreement, the provisions of clauses 6.4 to 6.8 shall not apply and Customer shall indemnify Arcus Global against all liabilities, costs and expenses which Arcus Global incurs as a result of the claim.

7. Customer Data

- 7.1. In the course of providing the Services, Arcus Global may use Data Tools that access and/or use the Customer Data and the Customer hereby agrees to this use.
- 7.2. Arcus Global will own all right and title in and to the output of such use, including all related metadata and know-how ("**Output**").
- 7.3. Arcus Global's use of the Data Tools pursuant to clause 7.1 above will not involve any access to and/or use of Personal Data and, accordingly, the Output will not contain any Personal Data.
- 7.4. The Customer Data will remain the property of the Customer and/or its licensors and, save Arcus Global's right to access and use the Customer Data pursuant to clause 7.1 above, Arcus Global will not acquire any right in or title to the Customer Data.

8. Limitation of liability

- 8.1. Nothing in this Agreement shall exclude or restrict the liability of either party to the other for death or personal injury resulting from the negligent act of one party or for liability for any fraudulent misrepresentation by either party.
- 8.2. Subject to clauses 8.1, and 8.3, the liability of Arcus Global to the Customer for direct loss in contract, tort or otherwise arising out of or in connection with this Agreement, the Customer's use of the Products or the Documentation and/or the Services shall be limited in aggregate during each Contract Year to the greater of £1,000 and the total Charges paid by the Customer to Arcus Global during the relevant Contract Year.
- 8.3. Subject to clause 8.1, in no circumstances shall Arcus Global be liable to the Customer in contract, tort, negligence, breach of statutory duty or otherwise in respect of any of the following arising out of or in connection with this Agreement or the Customer's use of the Products or the Documentation or the Services:
- 8.3.1. loss of profits, anticipated savings, revenue, goodwill or business opportunity;
- 8.3.2. loss or corruption of or cost of restoration of data or for use of any results obtained by use of the Products;
- 8.3.3. any indirect, consequential, financial or economic loss or damage, costs or expenses;
- 8.3.4. loss of availability arising out of or in connection with the Products or Services or otherwise under, in connection with or in relation to this Agreement; or
- 8.3.5. loss of access to the Products due to the failure by the Customer to comply with the Access Requirements.
- 8.4. If any of the limitations on Arcus Global' liability under this Agreement are adjudged to be unreasonable in the circumstances, then such limitation shall be increased to the amount that Arcus Global can recover from its insurer for the loss in question.
- 8.5. The payments due under this Agreement have been negotiated and agreed on the basis that the parties may exclude or limit their liability to each other as set out in this Agreement. The parties each confirm that they will themselves bear or insure against any loss for which the other party has limited or excluded liability under this Agreement.
- 8.6. Arcus Global shall bear the cost of complying with all legislation and any amendments thereto. In the event that a change in legislation necessitates a material change to the performance of this Agreement and provided that such change could not have reasonably been foreseen by Arcus Global at the date of the Agreement the Parties shall enter into negotiations in good faith to make such adjustments to the Charges as may be necessary to compensate Arcus Global for any additional costs as are both reasonably and necessarily incurred in accommodating such changes..

9. Term

- 9.1. This Agreement shall commence on the date specified on the Order Form and shall continue until the expiry or the Minimum Term and any applicable extensions or the termination or expiry of all Products and Services specified in the Order Form (whichever is longer), unless terminated in accordance with Clause 10.

10. Termination

- 10.1. Either party may terminate this Agreement by giving written notice to the other if the other commits a material or persistent breach of any term of this Agreement and that breach (if

capable of remedy) is not remedied within 30 days of written notice being given requiring it to be remedied (and where such breach is not capable of remedy, the relevant party shall be entitled to terminate the Agreement with immediate effect).

- 10.2. This Agreement may be terminated by either party if an interim order is made, or a voluntary arrangement approved, or if a petition for bankruptcy order is presented or a bankruptcy order is made against the other party or if a receiver or trustee is appointed of the other party's estate or a voluntary arrangement is approved or a notice is served of intention to appoint an administrator or an administrator is appointed by Court order or by any other means, or a receiver or administrative receiver is appointed over any of the other party's assets or undertaking or a resolution or petition to wind up the other party is passed or presented (otherwise than for the purposes of reconstruction or amalgamation), or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding up petition or make a winding up order or any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the above events.
- 10.3. Upon termination or expiry of this Agreement all licences granted under this Agreement shall immediately terminate.
- 10.4. Termination of this Agreement shall not relieve the Customer of its obligation to pay any Charges that have accrued or would have accrued prior to the expiry of the Minimum Term.
- 10.5. Any termination of this Agreement shall be without prejudice to any other rights or remedies either party may be entitled to under this Agreement or at law.
- 10.6. Following termination of this Agreement (by either party for whatever reason) the Customer shall:
- 10.6.1. within seven days at Arcus Global's option, either return to Arcus Global or destroy all copies of the Products and Documentation in its possession and a duly authorised officer of the Customer shall certify in writing to Arcus Global that the Customer has complied with such obligation; and
- 10.6.2. as soon as reasonably practical ensure that all data (including the Personal Data) is removed or deleted from the Products. If the Customer does not remove or delete the data within [14 days], Arcus Global may remove or delete the data (and will have no liability for the loss of such data).

11. Confidentiality

- 11.1. Neither party shall during the term of this Agreement or for a period of five years after expiry or termination of this Agreement:
- 11.1.1. divulge or communicate to any person, company, business entity or other organisation;
- 11.1.2. use for its own purposes or for any purposes other than those of the other party; or
- 11.1.3. through any failure to exercise due care and diligence, cause any unauthorised disclosure of any trade secrets or Confidential Information relating to the other party. These restrictions will cease to apply to any such information that becomes available to the public generally other than through a breach of a duty of confidentiality owed to the other party. Neither party shall be restricted from disclosing the Confidential Information or any part of it pursuant to a judicial or other lawful government order, but only to the extent required by such order and subject to the party obliged to comply with such order giving the other party as much notice of the terms of the order as may be reasonably practicable.

11.2. Nothing in this clause 11 shall prevent:

11.2.1. Arcus Global from disclosing the Products to any third party;

11.2.2. the Customer from disclosing the Products to the Users, provided that the Customer remains responsible for the Users' compliance with the obligations of confidentiality set out in this Agreement; or

11.2.3. Arcus Global from including the name of the Customer in its publicity materials to reference the Customer's use of the Products.

11.2.4. Arcus Global acknowledges that the Customer is a public authority for the purposes of the Freedom of Information Act 2000 and may be required to disclose information about this Agreement to enquirers in accordance with the provisions of that Act. The Customer shall, where possible, notify Arcus Global in writing of any requests it receives for Confidential Information relating to Arcus Global and shall discuss with Arcus Global prior to the disclosure of such information any exemptions that may apply to such Confidential Information.

12. Data Protection

12.1. The Customer is the data controller and Arcus Global is the data processor (each as defined in the GDPR) in respect of any Personal Data.

12.2. The Customer, as data controller, is responsible for compliance with the GDPR in respect of the Personal Data. The Customer shall obtain all consents and provide all notices necessary to enable Arcus Global to receive and process the Personal Data for the purpose of providing the Services.

12.3. Arcus Global will:

12.3.1. process the Personal Data only on the instructions of the Customer as set out in this Agreement; and

12.3.2. put in place all reasonable technical and organisational security measures in respect of the Personal Data, as set out in this Agreement.

12.3.3. contract data sub-processors as required to deliver the Products and Services.

12.3.4. make available, upon request, the current sub-processors applicable to this contract

13. Bribery and corruption

13.1. The Customer shall:

13.1.1. comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including the Bribery Act 2010;

13.1.2. have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with clause 13.1.1 above; and

13.1.3. promptly report to Arcus Global any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of this Agreement.

14. General

- 14.1. The failure or delay of Arcus Global to exercise or enforce any right under this Agreement shall not operate as a waiver of that right or preclude the exercise or enforcement of it at any time.
- 14.2. Neither party shall be liable for any delay in or for failure to perform its obligations under this Agreement, other than an obligation to make any payment due to the other party, if that delay or failure is caused by circumstances beyond the control of that party including fires, strikes, insurrection, riots, embargoes, or regulations of any civil or military authority.
- 14.3. The Customer shall not seek directly or through any third party to employ permanently or temporarily engage personnel who are supplying Services during the term of this Agreement or for six working months after termination or expiry of this Agreement. Any such approach shall result in payment by the Customer of damages including loss of revenue and expertise. As an agreed pre-estimate of damages, this sum shall be 6 working months of the standard price applicable to the person(s) affected and payable upon presentation of its invoice by Arcus Global.
- 14.4. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter of this Agreement and supersedes, cancels and replaces all prior agreements, licences, negotiations and discussions between the parties relating to it. The Customer acknowledges that it has not been induced to enter into this Agreement by, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) not expressly incorporated into this Agreement. However, nothing in this Agreement will exclude either party's liability for any fraudulent statement or act.
- 14.5. Both Parties agree that when entering into this Agreement they:
- 14.5.1. have made their own enquiries and are satisfied by the accuracy of any information supplied by the other Party
 - 14.5.2. are confident that they can fulfil their obligations according to the Agreement terms
 - 14.5.3. have raised all due diligence questions before signing the Agreement
 - 14.5.4. have entered into the Agreement relying on their own due diligence
- 14.6. No variation of this Agreement shall be valid unless it is in writing and signed by an authorised representative of each of the parties.
- 14.7. The Customer shall not (without Arcus Global's prior written consent) assign this Agreement nor any of its rights or obligations under this Agreement nor sub-license the use of the Products or the Documentation. Arcus Global shall be entitled to assign this Agreement to another member of the Arcus Global group of companies and/or an assignee of Arcus Global's business. This Agreement shall be binding on any successors and assignees.
- 14.8. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement, and nothing in this Agreement shall confer or purport to confer on any third party any benefit or any right to enforce any term of this Agreement or operate to give any third party the right to enforce any term of this Agreement.
- 14.9. If any provision of this Agreement is held to be unlawful, invalid or unenforceable, in whole or in part, under any enactment or rule of law, such provision or part shall to that extent be severed from this Agreement and rendered ineffective as far as possible without modifying

or affecting the legality, validity or enforceability of the remaining provisions of this Agreement which will remain in full force and effect.

14.10. Any notice to be given under this Agreement shall be in writing and shall be delivered by hand, sent by first class post to the address of the other party set out in this Agreement (or such other address as may have been notified in the Order Form) or sent by email to the address notified in the Order Form or from time to time. Any such notice or other document shall be deemed to have been served: if delivered by hand - at the time of delivery; if sent by post - upon the expiration of 48 hours after posting; and if sent by email - immediately unless the sender receives notice from the recipient that the email has not been received.

14.11. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

14.12. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Arcus Global – Professional Services Terms

1. Definitions

1.1. In these Professional Services Terms:

1.1.1. “**Project Plan**” means any project plan set out in the Order Form.

2. Professional Services

2.1. Subject to clause 2.2 below, Arcus Global will provide the Professional Services to the Customer.

2.2. Arcus Global will use reasonable endeavours to deliver any Deliverables to meet the Customer's requirements as set out in the Order Form. However, Arcus Global cannot warrant that the Deliverables will meet the Customer's business requirements or that they will deliver a particular output or result.

3. Project Plan

3.1. Arcus Global will use reasonable endeavours to meet any delivery dates set out in a Project Plan (including in respect of the delivery of any Deliverables). Time is not of the essence in respect of any of Arcus Global's obligations relating to the Professional Services.

4. Acceptance

4.1. The Customer shall be deemed to accept any Deliverables received from Arcus Global under this Agreement seven days after delivery.

5. Customer Responsibilities

5.1. The Customer shall provide all cooperation reasonably required by Arcus Global in the provision of the Professional Services, including access to information, staff, systems and locations.

- 5.2. The Customer shall comply with any Customer Responsibilities set out in the Order Form in respect of the Professional Services in accordance with any timeframes for such Customer Responsibilities (including in any Project Plan).
- 5.3. Failure to comply with Customer Responsibilities in a timely manner may result in changes to the Project Plan and additional Charges.

6. Payment

- 6.1. The Customer shall pay the Professional Services Charges in accordance with the timeframes set out in the Order Form.

7. Termination

- 7.1. Either party may terminate the Professional Services by giving the other party not less than three months' notice in writing.
- 7.2. Termination of Professional Services under Clause 7.1 shall not relieve the Customer of its obligation to pay any Charges that have accrued or would have accrued prior to the expiry of the notice period.
- 7.3. If the Customer terminates Professional Services engagement before it is completed, Arcus Products or Third Party Products under this agreement may not be usable by the customer. In this case, the applicable Product charges will remain payable in accordance with the terms of this Agreement.

Arcus Global – Product Terms

1. Definitions

- 1.1. In these Arcus Global Product Terms:
- 1.2. "Malicious Code" means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, Trojan horses, viruses and other similar things or devices.

2. Licence

- 2.1. In consideration of payment of the relevant Product Charges, Arcus Global grants to the Customer a non-exclusive, non-transferable licence to use the Arcus Global Products for its internal business purposes.
- 2.2. Subject to the Customer continuing to pay the relevant Product Charges in accordance with clause 6.1 below and provided that Arcus Global has not exercised its rights to terminate this Agreement under clause 10 of the Arcus Global General Terms, the licence granted under clause 2.1 above shall be perpetual.
- 2.3. The Customer's use of each Arcus Global Product shall be limited by the relevant Licence Restrictions. Where the Licence Restrictions limit the number of Users or restrict the Customer

to use by named Users, the Customer shall ensure that only those Users use or access the Products and that usage is not shared with other users without Arcus Global's prior written consent.

- 2.4. The Customer shall not sell any rights in respect of the Products to any third party or use the Products to provide services to any third party.
- 2.5. The Customer shall not copy, reproduce, merge, translate, disassemble, decompile, recompile or reverse engineer the Arcus Global Products or create derivative works based on the whole or any part of the Arcus Global Products. The information necessary to achieve interoperability of the Products with other computer software programs is available from Arcus Global on request.
- 2.6. The Customer shall only modify the Products to the extent that the Order Form and/or Documentation expressly permit modification. If the Customer modifies the Products under this clause (whether by configuration, customisation or otherwise):
- 2.7. the Customer shall be solely responsible for such modifications; and
- 2.8. Arcus Global shall not be responsible for any adverse effect that such modifications have on the functionality or performance of the Products.
- 2.9. The Customer shall only incorporate the Products into other software to the extent that the Order Form and/or Documentation expressly permit the Products to be incorporated into other software. Where Products will be used with other software under this clause 2.7, the Customer shall ensure that it satisfies the Access Requirements.
- 2.10. Where access to Arcus Products requires use of 3rd party products (such as 3rd party platforms), the Customer shall purchase such 3rd Party Products

3. Documentation

- 3.1. Arcus Global grants the Customer the right to possess and refer to the Documentation.
- 3.2. The Customer shall only use the Documentation for its internal business purposes and shall not make the Documentation available for use by any third party.
- 3.3. The Customer shall not copy the whole or any part of the Documentation, and shall not remove any trademark, copyright or proprietary notices from the Documentation.

4. Access, delivery and installation

- 4.1. Arcus Global's only obligations in respect of enabling access to and/or the delivery and installation of the Arcus Global Products are set out in the Order Form as Professional Services.
- 4.2. To enable Arcus Global to provide the Professional Services in accordance with clause 4.1 above the Customer shall ensure that the Access Requirements in respect of each Arcus Global Product are met.

5. Customer Responsibilities

- 5.1. The Customer shall not in the course of using the Product access, store, distribute or transmit any Malicious Code or any material that:

- 5.1.1.is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- 5.1.2.facilitates illegal activity;
- 5.1.3.depicts sexually explicit images;
- 5.1.4.promotes unlawful violence;
- 5.1.5.is discriminatory based on race, gender, colour, religious belief, sexual orientation or disability;
- 5.1.6.in a manner that is illegal or causes damage or injury to any person or property; or
- 5.1.7.has an adverse effect on the functionality or availability of any infrastructure used by or on behalf of Arcus Global to host the relevant Product.
- 5.2. If the Customer breaches clause 5.1 above, Arcus Global reserves the right (without liability or prejudice to its other rights):
 - 5.2.1.to disable the Customer's access to any material that breaches the provisions of this clause; and/or
 - 5.2.2.to suspend the provision of the Services or the Customer's access to the Products.
- 5.3. The Customer shall comply with the Access Requirements applicable to each Product.

6. Payment

- 6.1. The Customer shall pay the Product Charges for the Arcus Global Products in accordance with the timeframes set out in the Order Form.
- 6.2. Where a Renewal Period applies to the Customer's use of any Arcus Global Product, the Customer shall pay the relevant Product Charges for each Renewal Period in accordance with the Order Form.
- 6.3. Licence fees will be invoiced 90 days prior to the start of the licence period.

7. Termination

- 7.1. The Customer may terminate Product licences by giving a minimum of 90 days notice prior to the expiry of the Minimum Term, for each relevant Product.
- 7.2. Arcus Global Products will continue to automatically renew by the Renewal Period unless terminated by the Customer giving a minimum 90 days notice prior to each Renewal Period.

Arcus Global – Support Terms

1. Definitions

- 1.1. In these Arcus Global Support Terms, the following words and phrases shall have the following meanings:

“Fault” means a demonstrable fault, error or other problem in a Product that is capable of replication by Arcus Global;

“Support Hours” means the support hours set out in the Order Form;

“Support Request” means a request made by the Customer in accordance with clause 4 below for support in relation to the Products, including correction of a Fault; and

“Upgrade” means all significant changes made to a Product, new features requiring changes to the code and testing, or work requiring senior employees of Arcus Global, including batch extracts, migration, integration, conversion and import/export, made available by Arcus Global to the Customer.

2. Support Services

2.1. Arcus Global shall provide the following Support Services during the Support Hours via a support portal, telephone or email, as appropriate:

2.1.1.a support portal (which is the preferred reporting method), email and telephone helpdesk facility during Support Hours, for reporting new Faults and monitoring Arcus Global's progress against existing incidents;

2.1.2.where there is a Fault, ensuring that an engineer provides an initial telephone or email response;

2.1.3.using reasonable endeavours to provide a fix (or, where a fix is not possible, workaround) for each Fault with a reasonable time after receiving notice of the Fault; and

2.1.4.active monitoring of the Services with a monthly report of Arcus Global's findings.

2.2. Arcus Global may in its entire discretion resolve a Fault by providing a bug fix, workaround, patch or other minor modification to the Products.

2.3. Arcus Global shall not be liable to provide Support Services where any Fault results from or is connected with:

2.3.1.the failure of the Customer to comply with the relevant Access Requirements and/or any other Customer Failure;

2.3.2.any improper use, operation or neglect of the Products by the Customer (including any use of the Products that does not comply with this Agreement, the Documentation and/or any other instructions provided to the Customer by Arcus Global from time to time);

2.3.3.the Customer's failure to implement recommendations in respect of or solutions to Faults previously advised by Arcus Global; or

2.3.4.any repair, adjustment, alteration or modification of the Products or maintenance of the Products by any person other than Arcus Global or its authorised agents without Arcus Global's prior written consent.

2.4. Arcus Global reserves the right:

2.4.1.to refuse to respond to requests for Support Services made by any person who the Customer has not nominated as one of its support contacts in accordance with clause

5.1.1 below and if any such person makes a request for Support Services, Arcus Global shall be entitled to redirect that person to the Customer's nominated support contacts;

2.4.2.to monitor requests for Support Services and levels of support requested and, if it is found that an excessive number of inappropriate requests for Support Services are being made to Arcus Global, to notify the Customer of that fact and either temporarily or permanently to stop providing Support Services to the Customer whereupon the Customer shall investigate the number of requests being made and the reasons for such requests and Arcus Global may in its entire discretion assist the Customer to find out the reasons for the number of requests for Support Services and to reduce the number of such requests; and

2.4.3.to refuse to supply Support Services in respect of any alleged fault which could have been resolved by the Customer following any instructions set out in any related documentation provided by Arcus Global.

2.5. Arcus Global reserves the right to charge the Customer an additional sum (at the rates set out in the Order Form or, where not agreed, its standard rates for the provision of professional services) for the provision of support or other services in any of the following circumstances: namely, where:

2.5.1.support or other services are provided in respect of any Fault resulting from or connected with any of the circumstances set out in paragraph 2.3;

2.5.2.any assistance, support or other services are provided by Arcus Global in relation to any matter referred to in clause 2.4;

2.5.3.performance of the Support Services is made more difficult or costly as a result of the Customer's failure to inform Arcus Global of a problem as soon as reasonably practicable;

2.5.4.the Customer requests Arcus Global to perform the Support Services outside the Support Hours; or

2.5.5.the Customer requests that Arcus Global provides the Support Services at any of its premises where the Products are being used.

3. Upgrades

3.1. From time to time, Arcus Global may make Upgrades available to the Customer.

3.2. Where Arcus Global makes available an Upgrade to the Customer, the Customer shall not be liable to pay additional Support Fees except where such Upgrade provides additional features in which case additional Product Charges may be payable.

3.3. Arcus Global may at its discretion make available minor upgrades (being any upgrade other than a major Upgrade) to the Customer free of any additional charge.

3.4. Following installation of any Upgrade, Arcus Global's obligation to provide the Support Services shall only extend to the Products incorporating the Upgrade and shall cease in respect of the Products without the Upgrade. The Customer shall not refuse any Upgrade necessary at Arcus Global's reasonable determination for the continued operation of the Products.

3.5. Any Upgrades made to the Products by Arcus Global form part of the Products.

4. Submitting Support Requests and access

- 4.1. The Customer may request Support Services by way of a Support Request.
- 4.2. Each Support Request shall include a description and the start time of the incident.
- 4.3. The Customer shall provide Arcus Global with:
 - 4.3.1. prompt notice of any Faults; and
 - 4.3.2. such output and other data, documents, information, assistance and (subject to compliance with all Customer's security and encryption requirements notified to Arcus Global in writing) remote access to the Customer system, as are reasonably necessary to assist Arcus Global to reproduce operating conditions similar to those present when the Customer detected the relevant Fault and to respond to the relevant Support Request.
- 4.4. Save where agreed in advance by Arcus Global, all Support Services shall be provided from Arcus Global's office.
- 4.5. The Customer acknowledges that, to assess and resolve Support Requests, it may be necessary to permit Arcus Global direct access to the Customer's premises, system, files, equipment and personnel.
- 4.6. The Customer shall provide such access promptly, provided that Arcus Global complies with all the Customer's security requirements and other policies and procedures relating to contractors entering and working at the Customer's premises notified to Arcus Global.

5. Customer Responsibilities

- 5.1. The Customer shall:
 - 5.1.1. nominate in writing an appropriate number of appropriately technically qualified and experienced persons within its organisation who shall be the points of contact between Arcus Global and the Customer for all requests for Support Services and shall notify Arcus Global in writing at least 10 Working Days in advance of any changes made to such nominations;
 - 5.1.2. adequate information and written material to enable Arcus Global to recreate any Fault in respect of which the Customer requests the Support Services;
 - 5.1.3. procure that all Arcus Global's instructions are followed in relation to the Products;
 - 5.1.4. ensure that its infrastructure meets the Access Requirements;
 - 5.1.5. procure that the Products are operated only by competent users in a proper and skilful manner and in accordance with the terms of any licence for use and any related documentation;
 - 5.1.6. ensure that the relevant units of the Customer's computer hardware remain switched on and connected to the internet by a connection configured in accordance with any documentation related to the Products and permit Arcus Global to access and amend any information and data stored on them so that Arcus Global can provide the Support Services remotely and any necessary downloads can be completed;

5.1.7. take frequent and regular backups of all data and configuration information relating to the operation of the Products;

5.1.8. not permit anyone other than Arcus Global's authorised representatives to provide any support or maintenance services in respect of the Products; and

5.1.9. not use the Products or any part of it knowing it to be faulty without Arcus Global's knowledge and consent.

6. Service levels and service credits

6.1. Arcus Global shall use reasonable endeavours to comply with any service levels set out in the Order Form.

6.2. Where Arcus Global agrees in an Order Form to pay service credits in respect of any failures to comply with agreed service levels, such service credits will be the Customer's sole remedy for any such failures.

7. Payment

7.1. The Customer shall pay the Support Charges in accordance with the timeframes set out in the Order Form.

7.2. If the Customer at any time terminates this Agreement and subsequently seeks to purchase Support Services, Arcus Global shall be entitled to charge the Customer at its then current rates in respect of any period following such termination during which the Customer did not purchase Support Services.

8. Termination

8.1. Either party may terminate the Support Services by giving the other party notice in writing equal to the Renewal Period for the Product in respect of which Arcus Global is providing Support Services.

8.2. Termination of Support Services required for supporting Arcus Products will not relieve the customer of the Product Charges, which will remain payable in accordance with this Agreement