

CALL OFF CONTRACT TERMS AND CONDITIONS
FOR HARDWARE AND IT SERVICES

1. Definitions and Interpretation

1.1 In these Terms and Conditions, the following expressions shall have the following meanings:

“Framework Agreement”

“Annex”

“Business Day”

“Call Off Contract”

“Commencement Date”

“Company”

“Confidential Information”

“Services”

“Supplier”

“Equipment”

In the context otherwise requires, the following meanings:

“Framework Agreement” entered into by the Company and the Supplier pursuant to which the Call Off Contract is entered into;

“Annex” any document attached to the Order for the Call Off Contract, as necessary, in the form of one of the Annexes to the Terms and Conditions

“Business Day” any day other than Saturday and Sunday) on which the Supplier is open for [their full range of services in London]>>;

“Call Off Contract” the contract entered into by the Company and the Supplier pursuant to the Ordering Procedure under the Framework Agreement to which these Terms and Conditions apply, under which the Supplier is to provide the Services which are the subject of these Terms and Conditions

“Commencement Date” the date of commencement for the Call Off Contract as set out in the Specification of Services Annex;

“Company” the Company >> a company registered in England >> under number <<Company Number>> whose registered office is at <<Company Address>>

“Confidential Information” any technical, financial or other information disclosed by the Company to the Supplier pursuant to the Call Off Contract;

“Services” the Services to be provided by the Supplier to the Company as set out in the Specification of Services Annex, which may include installation and/or repair of computer hardware and/or software

“Supplier” the Supplier >> a company registered in England >> under number <<Company Number>> whose registered office is at <<Supplier Address>>

“Equipment” any equipment owned by the Company listed or referred to in the Equipment Annex, and shall include any replacement equipment or parts thereof as is from time to time substituted to update or replace parts of the equipment, where any such substituted equipment or part is installed by the Supplier (whether supplied by the Supplier);

“Fees”

“Software”

“Working Hours”

1.2 The “Call Off Contract” shall incorporate both these Terms and Conditions and the provisions of the Agreement.

2. Supplier’s Obligations

2.1 With effect from the date of the Call Off Contract, the Supplier shall, in accordance with the terms of payment specified in the Specification of Services Annex, provide the Services under the Call Off Contract.

2.2 The Supplier will use its best skill and judgement to perform the Services in accordance with the Specification of Services Annex or otherwise agreed under the Call Off Contract.

2.3 The Supplier will, subject to the availability of spare parts, maintain the functionality of all Equipment and Software installed on the Equipment and ensure that all Software is up-to-date and secure. In the event of any corruption or other failure of Software, the Supplier shall render such technical assistance as may be necessary to secure the satisfactory operation of the Software.

2.4 Upon receipt of the Call Off Contract, the Supplier shall (subject to the availability of spare parts) carry out all Services specified in the Specification of Services Annex during Working Hours until the Services are completed to the satisfaction of the Company.

2.5 The Supplier will not be responsible for the performance of any Software which the Supplier has undertaken to install or maintain under Clause 2.3.

2.6 The Supplier shall use its best skill and judgement to complete its obligations under the Specification of Services Annex. The parties agree that time will not be of the essence in the performance of these obligations.

3. Company’s Obligations

3.1 The Company shall:

3.1.1 allow the Supplier to install and maintain the Equipment and all relevant Software for the Services;

3.1.2 provide adequate facilities for the Supplier’s staff; and

3.1.3 co-operate with the Supplier in the investigation and rectification of any defect or malfunction in the Equipment or Software.

3.2 The Company shall ensure the safe use of any Equipment, computer

Services payable by the Company to the Supplier for the performance of the Supplier’s Services under the Call Off Contract;

Software, programs, applications, instructions or other data which may from time to time be installed on the Equipment and Software systems; and

Working hours of [the Company] OR otherwise agreed under the Call Off Contract. <<Insert hours here e.g. 09:00 to 17:00>>

to incorporate both these Terms and Conditions and the provisions of the Agreement.

until any termination under Clause 7 of the Agreement, the Supplier shall ensure that the Services are being paid in accordance with the terms of payment specified in the Specification of Services Annex or otherwise agreed under the Call Off Contract.

and skill to perform the Services in accordance with the Specification of Services Annex or otherwise agreed under the Call Off Contract.

reasonable endeavours to maintain the functionality of all Equipment and Software installed or otherwise operative on the Equipment and ensure that all any Software which may have been corrupted or otherwise failed due to hardware failure and to render such technical assistance as may be necessary to secure the satisfactory operation of the Software.

support or rectification of a defect, the Supplier shall (subject to the availability of spare parts) carry out all Services specified in the Specification of Services Annex during Working Hours until the Services are completed to the reasonable satisfaction of the Company.

performance of any Software which the Supplier has undertaken to install or maintain under Clause 2.3.

endeavours to complete its obligations under the Specification of Services Annex. The parties agree that time will not be of the essence in the performance of these obligations.

to install and maintain the Equipment and all relevant Software for the Services;

facilities for the Supplier’s staff; and

of any defect or malfunction in the Equipment or Software.

use of any Equipment, computer

S

A

M

P

L

E

systems, peripherals
Services and shall be
communications media

ecessary to enable it to provide the
ing, installing and maintaining all
upplier.

3.3 The Company will not
made by any party
and notified to, the S
without such authori
the right to review
accordingly.

modifications to the Software to be
es or modifications authorised by,
s or modifications are carried out
notification, the Supplier reserves
conditions and make adjustments

3.4 The Company will r
associated with the
installation media, c
hardware for the effi

o the Supplier all documentation
documents, original Software
equipment and any other relevant
Equipment and the Software.

3.5 The Company shall
minimise any potentia
the Supplier as requi

backups in such a manner as to
e that these are made available to

3.6 The Company shall
health of the Supplie
premises.

cautions to ensure the safety and
n personnel are at the Company's

4. Price

4.1 The Company agree
Specification of Servi

ccordance with Clause 5 and the

4.2 The Supplier shall b
incidental expenses
supplied in connectio

om the Company its reasonable
or third party goods and services
e Services.

4.3 The Company shall p
Supplier that are n
accordance with the
the time of the perfo
charge for additional
under the Specificatio

additional services provided by the
Specification of Services Annex in
gency e.g. hourly>> rate in effect at
ate as may be agreed. Any such
ed separately from any Fees due

4.4 All sums payable by
of any value added o
be additionally liable.

the Call Off Contract are exclusive
on profit, for which that party shall

5. Payment

5.1 All payments require
party shall be made v
invoice, without any
any) of tax as that pa

to the Call Off Contract by either
>> days of the date of the relevant
deduction except such amount (if
or withhold by law.

5.2 The time of payment
the Company fails to
due under the Call O
the Company interes
base rate of <<Name
the date on which the

e of these terms and conditions. If
ne due date in respect of any sum
plier shall have the right to charge
g at the rate of << >>% above the
om the due date for payment until

6. Variation and Amendment

6.1 If the Company wis

of the Specification of Services

Annex it must notify
The Supplier shall
changes and any ad
to the Company.

- 6.2 If, due to circumsta
change in the arrang
notify the Company
changes to a minimu
close to the origi
circumstances.

7. Termination

- 7.1 The Supplier may ter
7.1.1 the Company
7.1.2 the Company
a bona fide
voluntarily or
administrator,
substantial pa
7.1.3 the Company
debts by virtua
7.1.4 the Company
7.1.5 the Supplier
Supplier's obli
Framework Ag
the nature an
Services due
or any longer

- 7.2 In the event of termin
already paid to it by
either party may have

8. Liability

- 8.1 The Company shall
and expenses suffer
equipment (including
or employees.
8.2 The Supplier will inde
the Supplier's neglig
the Services.
8.3 The Supplier will inde
caused by the Suppl
Services. The Suppli
£<<e.g. 500,000>> fo
8.4 In no event will the S
these Terms and Con
other term of the
misrepresentation, or
8.4.1 loss of or dam

as soon as is reasonably possible.
deavours to make any required
urred shall be separately invoiced

er's control, it has to make any
provision of the Services it shall
r shall endeavour to keep such
er the Company arrangements as
is reasonably possible in the

act forthwith if:

obligations thereunder;

ion (other than for the purposes of
struction) whether compulsory or
creditors generally or has an
or receiver appointed over all or a
sets;

shall be deemed unable to pay its
solvency Act 1986;

ease to carry on business; or

g or fails to perform any of the
e Majeure Cause (as defined in the
es where, having proper regard to
or likely future disruption to the
s that it cannot effectively provide,

the Supplier shall retain any sums
prejudice to any other rights that
wise.

against all damages, costs, claims
ing from loss or damage to any
sed by the Company, or its agents

personal injury or death caused by
he performance by the Supplier of

direct damage to tangible property
ection with the performance of the
his sub-Clause shall be limited to
s of connected events.

son of any breach by it of any of
any implied warranty, condition or
or any negligent or innocent
duty at common law, for any:

S

A

M

P

L

E

- 8.4.2 loss of use of
- 8.4.3 loss of use of
- 8.4.4 interruption to
- 8.4.5 loss of income
- 8.4.6 loss of profit, or business opportunity, or goodwill;
- 8.4.7 loss of anticipated
- 8.4.8 any indirect, special or other claims, or actually foreseeable

arising from any act or omission of the Supplier in connection with the performance of its obligations under the Call Off Contract.

- 8.5 Except as provided above, the Supplier's maximum liability for personal injury, death and damage to tangible property, and for fraudulent misrepresentation, the Supplier's maximum liability under the Call Off Contract or otherwise for any claim or in the form of the additional cost of remedial services or paid up until the point of the subject of the Contract, shall be limited to a sum equivalent to the price of the Services that are the subject of the Contract, or 25% of the same, whichever is the greater, and necessarily incurred by the Company in obtaining the Services and/or services.

- 8.6 The parties acknowledge that the limitations contained in this Clause 8 are reasonable in the circumstances.

- 8.7 These limitations shall apply regardless of the form of action, whether in contract or tort, including negligence, or any other form of action.

- 8.8 Nothing in these Terms and Conditions shall be intended to or will exclude or limit the Supplier's liability for personal injury caused by the Supplier's negligent misrepresentation by the Supplier.

- 8.9 For the purposes of these Terms and Conditions, the Supplier includes its employees, sub-contractors and suppliers.

- 8.10 Employees, sub-contractors and suppliers of the Supplier shall all have the benefit of the limitations of liability set out above in terms of the Contracts (Rights of Third Parties) Act 1999.

9. [Confidentiality]

- 9.1 During the term of the Call Off Contract for any reason, the disclosing party shall be under the following obligation to the receiving party ('the Receiving Party') to keep Confidential Information ('the Confidential Information') confidential after termination of the Call Off Contract for any reason, starting on <<date>>], the party disclosing Confidential Information ('the Disclosing Party') to the receiving party ('the Receiving Party').

- 9.2 Subject to sub-Clause 9.1, the Disclosing Party shall:

- 9.2.1 may not use the Confidential Information of the Disclosing Party for any purpose other than the performance of its obligations under the Call Off Contract;

- 9.2.2 may not disclose the Confidential Information of the Disclosing Party to any person except in writing and with the prior written consent of the Disclosing Party;

- 9.2.3 shall make Confidential Information available to the use or disclosure of the Receiving Party.
- 9.3 The obligations of confidentiality shall not apply to any Confidential Information that the Disclosing Party has already made available to the Receiving Party on a non-confidential basis through no fault of the Receiving Party.
- 9.3.1 Confidential Information is in the possession of the Receiving Party or is published in the public domain before its receipt by the Receiving Party.
- 9.3.2 Confidential Information is or becomes available to the Receiving Party on a non-confidential basis through no fault of the Receiving Party.
- 9.3.3 Confidential Information is required to be disclosed by applicable law or regulation;
- 9.3.4 Confidential Information is received in good faith by the Receiving Party from a third party who, to the best of the Receiving Party's knowledge, the Receiving Party claims to have no obligation of confidentiality to the Disclosing Party in respect of it and who does not impose any obligation of confidentiality upon the Receiving Party.
- 9.4 Without prejudice to the remedies to which it may be entitled, the Disclosing Party agrees that in the event of breach of this clause the Disclosing Party may, without proof of special damage, be entitled to an injunction and/or other remedies for any threatened or actual breach of the provisions of this clause shall survive the termination or expiry of the contract for whatever reason.]
- 9.5 The obligations of confidentiality shall survive the termination or expiry of the contract for whatever reason.]
10. **Force Majeure**
- Neither Party to the Call Off Contract shall be liable for any failure or delay in performing their obligations under the Call Off Contract if such failure or delay results from any Force Majeure Cause as defined in the Call Off Contract.
11. **[Dispute Resolution (ADR)]**
- 11.1 The parties shall attempt to resolve any dispute arising out of or relating to the Call Off Contract through their appointed representatives who have the authority to bind them.
- 11.2 If negotiations under paragraph 11.1 fail, the parties will attempt to resolve the matter within 21 days of receipt of a written notice of dispute. If the parties do not resolve the matter within 21 days, the parties will attempt to resolve the matter through Alternative Dispute Resolution (ADR) procedure.
- 11.3 If the ADR procedure does not resolve the matter within 28 days of the initiation of the ADR procedure, the parties will attempt to resolve the matter through arbitration.
- 11.4 The seat of the arbitration shall be England and Wales. The arbitration shall be governed by the Arbitration Act 1996 and Rules for Arbitration as agreed by the parties. In the event that the parties are unable to agree on the seat of arbitration, either party may apply to the President or Deputy President for the time being of the Chartered Institute of Arbitrators for the appointment of an arbitrator for any decision on rules that may be required.
- 11.5 Nothing in this Clause shall prevent either party or its affiliates from applying to a court for interim relief.

11.6 The parties hereby agree that the outcome of the final method of dispute resolution under this Order Form [not] be final and binding on both parties.]

These Annexes are included as part of the Order Form and its terms and conditions so that the format of the Order Form is agreed as part of the Order Form. When each Order Form is completed, a copy of each of the Annexes shall be attached to the Order Form and completed in full before the Order Form is accepted by the Supplier

and outcome of the final method of dispute resolution under this Order Form [not] be final and binding on both parties.]

and Conditions so that the format of the Order Form is agreed as part of the Order Form. When each Order Form is completed, a copy of each of the Annexes shall be attached to the Order Form and completed in full before the Order Form is accepted by the Supplier

S

A

M

P

L

E

| Equipment Specification | | tion |
|-------------------------|--|------|
| << >> | | |
| << >> | | |
| << >> | | |
| << >> | | |
| << >> | | |
| << >> | | |
| << >> | | |

S

A

M

P

L

E

S

Commencement Date: << >>

| Description | Amount in Pounds Sterling | Completion and Invoice date |
|-------------|---------------------------|-----------------------------|
| | | |

A

M

P

L

E

1. Data Processing

Scope

<<Insert description of the scope of the processing to be carried out>>.

Nature

<<Insert description of the nature of the processing to be carried out>>.

Purpose

<<Insert description of the purpose of the processing to be carried out>>.

Duration

<<Insert details of the duration of the processing>>.

2. Types of Personal Data

<<List the types of personal data to be processed>>.

3. Categories of Data Subject

<<List the categories of data subject>>.

4. Organisational and Technical Measures

<<Describe the organisational and technical measures to be implemented as referenced in the Framework Agreement>>.

S

A

M

P

L

E