

## SUPPORT AND MAINTENANCE AGREEMENT

### 1 DEFINITIONS

"The Supplier" means HALCROW GROUP LIMITED (a Jacobs Engineering Group Inc. company), a company incorporated under the laws of England & Wales with registered No. 03415971, of Elms House, 43 Brook Green, London, W6 7EF, United Kingdom.

"You" means the person, firm or company that has placed an order for support and maintenance.

"Quotation" means the quotation for the supply of support and maintenance services provided by the Supplier and accepted by you.

"Order" means your formal acceptance of a Quotation.

"Software Products" means the supported software products for which you have End User Licence Agreements as listed in the accepted Quotation.

"Services" means the services set out in this support and maintenance agreement.

"End User Licence Agreement" means the end user licence agreement provided separately by the Supplier for the software products.

### 2 PROVISION OF SERVICES

The Supplier in consideration of the payment made by you in accordance with this agreement hereby agrees to provide support and maintenance for the Software Products on the terms set out in this agreement.

### 3 TERM

Supply of the Services shall commence on the date of your Order and, subject to termination in accordance with the provisions of this agreement, shall continue for a fixed term of one year or as otherwise stated in the Quotation.

### 4 PAYMENT

4.1 The fee for the Services is the sum stated in the Quotation and is payable in advance. The due date for payment is 28 days after the Order date and the Supplier reserves the right to charge you interest in respect of late payment at the rate of 2% per annum above the Bank of England base rate from the due date.

4.2 Staff charge rates and travel and subsistence expenses for services in addition to the Services, will be charged at the Supplier's current rates.

### 5 THE SERVICES

5.1 The Services provided by the Supplier will consist of technical support for the Software Products comprising advice by telephone, e-mail or web-based enquiry facilities. When support queries are raised with our technical team, they may be logged into our online support ticket system including relevant contact details. The Supplier may record, store, and process all such data collected in connection with support queries and may use that data for the purpose of investigating malfunctions and other queries, providing the support Services, improving the Software Product and developing Updates and New Releases.

- 5.2 The Services will include advice on software installation, model running and software functionality (current version only). The advice will be limited to that which is reasonably necessary to assist a competent user.
- 5.3 Contact details for accessing the support facilities are available at [www.floodmodeller.com](http://www.floodmodeller.com).
- 5.4 All Services will be performed within the Supplier's normal UK working hours of 9am to 5pm Monday to Friday excluding English public holidays and the period between 25 December and 1 January.
- 5.5 The Supplier will use all reasonable endeavours to respond to requests for technical support within one working day.

### CLAUSE 6.0 NOT USED

#### 7 SOFTWARE LICENCE

Except as specifically modified by this agreement and except so far as the context otherwise requires, this agreement shall also be governed by and is without prejudice to the applicable End User Licence Agreement.

#### 8 WARRANTY

- 8.1 The Supplier warrants that it will perform the Services with reasonable skill and care.
- 8.2 You shall give written notice to the Supplier within 7 days of becoming aware of a breach of this warranty, providing all information reasonably necessary to enable the Supplier to remedy the breach. The Supplier shall then, at its own option and expense, remedy that breach within a reasonable period following receipt of such notice, or terminate this agreement immediately on written notice to you and repay to you all sums which you have paid to the Supplier under this agreement, less a charge for the Services performed up to the date of termination. This clause sets out your sole remedy and the Supplier's entire liability for breach of clause 8.1.
- 8.3 For the avoidance of doubt, the Supplier's total liability under or in connection with this agreement, however arising shall be limited to the value of the fee due under this agreement, except in respect of death or personal injury arising from the Supplier's negligence.

#### 9 FORCE MAJEURE

No party shall be liable to the other for any delay or non-performance of its obligations under this agreement arising from any cause beyond its reasonable control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion. For the avoidance of doubt, nothing in this clause shall excuse you from any payment obligations under this agreement.

#### 10 WAIVER

No forbearance or delay by either party in enforcing its rights shall prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or of any later breach.

#### 11 TERMINATION

Each party shall have the right, without prejudice to its other rights or remedies, to terminate this agreement immediately by notice to the other if the other is in material or persistent breach of any of its obligations under this agreement and either that breach is incapable of remedy, or that other party has failed to remedy that breach within 30 days after receiving written notice requiring it to do so.

### **12 SEVERABILITY**

If any provision of this agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

### **13 ENTIRE AGREEMENT**

This Support and Maintenance Agreement contains the entire agreement between us relating to the subject matter and supersedes all proposals, representations, understandings and prior agreements, whether oral or written, and all other communications between us relating to that subject matter.

### **14 GOVERNING LAW AND JURISDICTION**

This agreement shall be governed by and construed in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.