Cloud Terms of Service

1. Terms of Service

This document sets out the terms and conditions applicable to any cloud service provided by MCS Limited (the "Supplier"). The terms and conditions of this document, any additional terms and any Order Forms entered into by you and MCS are collectively referred to as the "Agreement."

2. Definitions

2.1. In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

Account	refers to the Service plans and features selected by Client through the Supplier's customer portal at the time of enrolment or as described in a Schedule to this Agreement.
Acceptable Use Policy	means the acceptable use policy made available to the Client online at www.mcs.ky/about-us/policies (or such other web address notified by Supplier to the Client from time to time), as amended from time to time in accordance with the provisions of this Agreement;
Back-Up Policy	means the policy (if any) for backing up and, if applicable to the Service, archiving the Client Data included in the Service Description;
Business Day	means Monday to Friday, 09:00 to 17:00 (all times given refer to Cayman Islands local time), except where the day is a National Holiday;
Business Hour	means an hour within the Business Day;
Client	means the entity contracting with Supplier for the supply of the services;
Client Affiliates	any person, partnership, joint venture, corporation or other form of enterprise, domestic or foreign, including but not limited to, subsidiaries that directly, or indirectly control, are controlled by or are under common control with the Client.
Client's Applications	means the software applications (if any) which have been acquired by or are licensed to the Client and which are used by the Client on the Virtual Machine(s) provided by Supplier as part of the Services;
Client Data	means the data (if any) which the Client stores on any equipment used in the provision of the Services, or which Supplier inputs into the Software for the Client for the purpose of facilitating the Client's use of the Services;
Client Procedures	means the procedures for requesting a service or a change to a service, notifying Supplier of the unavailability of a service or claiming a Service Credit that are specified at www.mcs.ky/about-us/policies (or such other

web address notified by Supplier from time to time), as amended by Supplier from time to time;

Cloud Resources	means resources such as processor, memory, disk, data transfer (also referred to as bandwidth), virtualisation software, operating system and network or software elements that comprise a cloud based infrastructure.
Data Controller	has the meaning given to that expression in the Data Protection Legislation;
Data Processor	has the meaning given to that expression in the Data Protection Legislation;

Data Protection Legislation

means the legislation relating to the processing of data relating to any living individual and applicable to the Client;

Data Subject	has the meaning given to that expression in the Data Protection Legislation;
Defect	means a failure of the Services to comply in any material respect with the description of that service in the Service Description, and Defective is to be construed accordingly;

Denial of Service Attack

means an attack which is intended to cause or actually causes any information technology resource, network, website or service to be disrupted, disabled, reduced or rendered unavailable, including (without limitation) a distributed denial of service attack;

Documentation	means documentation which is owned by Supplier or in which Supplier has rights to sub-licence and is associated with the Software or Service as it describes the characteristics of the Software or Service (including but not limited to technical, functional and performance characteristics) and/or it allows the Client to make full use of the Software or Service;
Effective Date	means the date defined in the Order Form or in the absence of any such definition means the date that the Supplier received the Order Form;

Intellectual Property Rights

means any patent, copyright, trade mark, trade name, service mark, registered design, design right (registered or unregistered), know-how, right of confidence, trade secret, right to extract or exploit data, database rights, any similar rights protected in any jurisdiction, whether now existing or coming into existence at some future date, any application for any of the above, and any accrued rights of action in respect of any of the above;

Harmful Element

means any virus, worm, time bomb or anything else which might disrupt, disable, harm or impede the operation of any information system, or which might corrupt, damage, destroy or render inaccessible any software, data or file on, or that may allow any unauthorised person to gain access to, any information system or any software, data or file on it;

Materials

means tools, software, object libraries and methodologies owned by Supplier or in which Supplier has rights to sub licence that relate to the Service;

National Holiday

means bank and public holidays in the Cayman Islands;

Notice Period

means the period of time that the Client must provide if it wishes to give notice not to renew the Service;

Order Form

means a statement supplied by Client to Supplier requesting services including, without limitation, Supplier's order form, an on-line web form, a Client purchase order or a Client email.

Personal Data

has the meaning given to that expression in the Data Protection Legislation;

Professional Services

means professional services supplied by the Supplier including, without limitation, project management, design and technical consultancy, programming, implementation and migration services;

Scheduled Maintenance

means any planned or preventative repair, maintenance, upgrade, update, support, testing or implementation of any system about which the Client is notified at least 48 hours in advance and that is performed during a standard maintenance window between 22:00 and 04:00 local time of the datacentre or at another time outside of Business Hours with not less than 7 days' notice to the Client;

Services

collective term for any of the services described in this Agreement;

Service Credits

means the service credits as described in the Client Procedures;

Service Description

is the service description provided to the Client or published at www.mcs.ky/about-us/policies (or such other web address as may be notified to the Client from time to time), as amended by Supplier from time to time;

Software	Software is the software, including without limitation, application packages, operating systems, databases and portals, provided for use by the Client as part of the Services, including any associated user documentation;
Software Terms	means the terms and conditions imposed by Supplier or any third party provider of the Software made available to the Client from time to time online at the web address www.mcs.ky/about-us/policies (or such other web address as may be notified to the Client from time to time), as amended from time to time by the relevant software supplier;
Subscription Term	means the period of time which Client may access the applicable Service as set forth in the Order Form or in the absence of such a definition shall mean thirty six months;
Supplier Affiliates	any person, partnership, joint venture, corporation or other form of enterprise, domestic or foreign, including but not limited to, subsidiaries that directly, or indirectly control, are controlled by or are under common control with the Supplier;
Support Services	are the support services included in the Service Description;
User	is an end user of the Service including, without limitation, an employee, customer, agent, contractor, business partner or supplier, of the Client that has a User Account;
User Account	means a logon provided to Client to allow a User to access the Service;
Virtual Machine	is a guest operating system such as Windows or Linux that runs as an isolated entity on a host and is separated from the physical resources it uses such that the host environment is able to dynamically assign those resources among several Virtual Machines.

Except as otherwise defined in Clause 2 above, capitalised terms shall have the meaning given to them in the Order Form.

2.2.   In this Agreement, unless otherwise specified:

2.2.1.   the headings in this Agreement shall not affect its interpretation;

2.2.2.   unless otherwise stated, references to a statute or law or any article or part of any statute or law include any amendment, modification or re-enactment and subordinate legislation under it in force from time to time;

2.2.3.   except where the context otherwise requires, the masculine includes the feminine, the singular includes the plural and, in each case, vice versa;

2.2.4.   a person includes any person, individual, company, firm, corporation, government, state or agency of a state or any undertaking or organisation (whether or not having separate legal personality and irrespective of the jurisdiction in or under the law of which it was incorporated or exists);

2.2.5.   references to recitals, clauses and schedules are to recitals, clauses of and schedules to this Agreement unless the context otherwise requires;

3.   Background

3.1.   Supplier provides a range of cloud based services (the "Cloud Services") including, without limitation, infrastructure as a service, platform as a service, desktop as a service and software as a service.

3.2.   Provided the Client complies with its obligations under this Agreement, Supplier will, from the Effective Date and until the termination date of this Agreement, provide the Services to the Client on the terms and conditions of this Agreement.

4.   Interpretation

4.1.   Wherever possible the contract documents are to be read as cumulative and complementary. However, to the extent that any provisions of any of the contract documents are or may be inconsistent, the contract documents shall be interpreted and applied in the following priority:

4.1.1.   highest; any specific terms and conditions agreed between Supplier and Client;

4.1.2.   the policies and Software Terms referred to in this Agreement;

4.1.3.   lowest; the provisions of this Agreement

5.   Fees and Payments

5.1.   Payments for the Services must be made monthly in arrears.

5.2.   Unless otherwise described in the Order Form the Services are billed in whole months. For example if the Service is provisioned on 15th of the month then Client will be invoiced for the whole month.

5.3.   Supplier will invoice Client on a monthly basis. Charging for Cloud Services will commence when Supplier provisions those services. This will usually be within 30 days of the Effective Date.

5.4.   Supplier can vary Service fees by providing one month's notice to Client.

5.5.   Payment is due on the fifteenth (15th) day after the date of invoice. A service charge of 1.5% per month (or the maximum rate permitted by applicable law, if lower) will be assessed against overdue invoices from the original due date for payment.

5.6.   If the Client fails to pay any amount by the due date for payment then Supplier will notify Client and if full payment is not made within 20 Business Days of such notice then Supplier may, without liability to the Client, disable the Client's passwords, account and access to all or part of the Services and Supplier will be under no obligation to provide the Services while that amount remains unpaid.

5.7.   Supplier is not obliged to provide any service except those specifically included under the headings 'The Services' and 'The Support Services' in the Service Description. Supplier reserves the right to charge Client, and Client will pay Supplier its standard charges from time to time for, any other service supplied by Supplier.

5.8.   On the termination of this Agreement Client will pay Supplier, in accordance with this Clause 5, all unpaid fees and expenses accrued up to the date of termination of this Agreement and for all costs and expenses which Supplier has incurred or agreed to incur in connection with any work done or to be done for the Client.

5.9.   If Client exceeds any of the limitations (for instance, but not limited to, the amount of storage capacity utilised) specified in the Service Description, Supplier may charge Client, and Client will pay, Supplier's then current fees for that overage.

5.10.   The Service fees and other fees and charges payable under this Agreement are not refundable.

5.11.   Client shall be responsible for paying any applicable sales, use, excise, value added, withholding, or similar taxes, duties, or assessments imposed upon the Services rendered or products provided hereunder by any national, state, local, or foreign government authority, exclusive of any taxes based upon Supplier's income or payroll.

5.12.   Client may utilise more or fewer Cloud Resources (whether by using self-service tools or instruction to Supplier) and, unless otherwise agreed in writing, said resources will be charged at the same rate as Client's existing resources. Client recognises that an explicit increase in one Cloud Resource (e.g. storage) may have a consequent increase in other Cloud Resources (e.g. CloudCopy or CloudShield). An increase or decrease in Cloud Resources will be reflected in the monthly fee as described in Clause 5.2. The ability of the Client to decrease Cloud Resources without providing notice as required under Clause 6.2.2 is allowed by the Supplier in its absolute discretion and may be withdrawn without notice.

5.13.   Additional Cloud Resources ordered by Client as described in Clause 5.12 will co-term with first order placed by Client for Cloud Resources.

6. Term & Termination

6.1. The term of this Agreement shall commence on the Effective Date and shall continue until terminated as stated herein.

6.2. The term of the Agreement shall be the Subscription Term unless extended or terminated as described below.

6.2.1. Unless specifically agreed in writing between the parties in the Order Form the Notice Period shall be 90 days.

6.2.2. Either party may provide notice that it does not wish to renew the service at any point subject to such notice not expiring before the later of a) the Subscription Term and b) the Notice Period.

6.2.3. After the Subscription Term, or the expiry of any extension thereof, the term will, unless either party has given notice, be automatically extended for a calendar month.

6.3. Termination for Cause. If either party fails to comply with any of the material terms and conditions of this Agreement, including without limitation the payment of any fees or other reimbursement due under this Agreement, the non-defaulting party may terminate this Agreement and any and all license rights upon thirty (30) days' written notice to the defaulting party specifying any such breach, unless within the period of such notice, all breaches specified therein shall have been remedied.

6.4. Either party may terminate this Agreement upon: (i) the institution of insolvency, bankruptcy, or similar proceedings by or against the other party, (ii) any assignment or attempted assignment by the other party for the benefit of creditors, or (iii) any appointment, or application for such appointment, of a receiver for the other party. Termination is not an exclusive remedy for Supplier and Supplier reserves all other available remedies in contract or by law.

6.5. The termination of this Agreement will not affect any accrued rights or liabilities of either party, nor will it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly, or by implication, intended to come into or to continue in force on or after termination.

6.6. Effect of Termination. Upon termination of this Agreement, Client and any Users must immediately stop using the Service, return or destroy all documentation, and certify such return or destruction in writing. Termination of the Service will result in the deactivation or deletion of all User Accounts or your access to all User Accounts. Client Data will be retained by Supplier and made available to Client as described in the Client Exit Assistance Services published at www.mcs.ky/about-us/policies (or such other web address as may be notified to the Client from time to time), as amended from time to time by Supplier;

6.7. The termination of this Agreement will not affect any accrued rights or liabilities of either party, nor will it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly, or by implication, intended to come into or to continue in force on or after termination.

6.8. The provisions of Clauses 6.3, 6.4, 13, 14, 16.6, and 17 shall survive termination of this Agreement.

7. The Client Data

7.1. Supplier does not claim any Intellectual Property Rights in the Client Data and the Client will own all Intellectual Property Rights in the Client Data.

7.2. Supplier is not responsible for the content of any of the Client Data. The Client will ensure that Client Data conforms to Acceptable Use Policy.

7.3. Removed.

7.4. The Client is responsible for setting the controls so that particular Client Data are accessible only by, and may be changed only by, those people whom the Client intends to have access to or to be able to change them.

7.5. If any of the Client Data is degraded, lost, destroyed or corrupted as a result of Supplier's breach of this Agreement or its negligence, Supplier will use reasonable endeavours to restore the degraded, lost or corrupted Client Data from the latest back-up of that Client Data maintained by Supplier. Supplier's compliance with this clause 7.5 will be in full and final settlement of all claims which the Client may have against Supplier in connection with the degradation, loss, destruction and corruption of the Client Data.

7.5.1. Supplier will not be responsible for any degradation, loss, destruction, alteration or disclosure of any of the Client Data caused by the Client or any third party retained by the Client.

7.6. Whilst during the provision of the Services any Client Data in transit between the Client's System and Supplier's IT Infrastructure, are at the Client's risk, and Supplier will not be liable for any degradation, loss, destruction or corruption of any of the Client Data while in transit.

7.7. If Supplier processes any Personal Data on the Client's behalf when providing the Services or any Additional Service, the parties intend that the Client will be the Data Controller and Supplier will be a Data Processor in relation to those Personal Data and agree that:

7.7.1. the Client will ensure that it is entitled to transfer Personal Data to Supplier so that Supplier may lawfully process and transfer Personal Data in accordance with this Agreement on the Client's behalf;

7.7.2. the Client will ensure that all Data Subjects have been informed of, and have given their consent to, such processing and transfer as required by the Data Protection Legislation;

7.7.3. Supplier will process and transfer Personal Data only in accordance with this Agreement, the Data Protection Legislation and any lawful and reasonable instructions given by the Client from time to time; and

7.8. Supplier will take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data or their accidental loss, destruction or damage, having regard to the state of technological development, the cost of implementing any measures, the harm which might result from such unauthorised or unlawful processing or accidental loss, destruction or damage, and the nature of the data to be protected.

7.9. Supplier may host the Service using its own infrastructure or it may engage a third party to host the Service on its behalf. Client Data will, unless otherwise defined, be stored exclusively in the Cayman Islands. The Service can be accessed from outside of these

jurisdictions and the Client understands that if it requires to restrict such access then it is responsible for implementing technical or other measures to effect such restriction.

7.10.   The Client Data will be stored for 30 days following the termination of your Account (the "Storage Period"). Upon the end of the Storage Period, unless Supplier has been notified that Client wishes to use the Client Exit Assurance Services, then all Client Data will be permanently deleted from the Supplier's or third-party's servers. Once deleted, this information cannot be recovered.

8.   Third Party Providers

8.1.   The Services may allow the Client to access and use software and operating systems provided by third parties. If the Client does so, it does so at the Client's (and not Supplier's) risk.

8.2.   Supplier will have no liability and no obligation in relation to the content or use of any third party software or operating systems, or any correspondence between the Client with any third party, or in relation to any transaction or contract entered into between the Client and any third party.

9.   Help Desk

9.1.   Supplier will provide help desk support in accordance with the terms of this Agreement. The help desk should be considered as the single entry point for both functional and technical matters and issues. The Client will designate one primary support contact as the responsible party for communication with Supplier during the provision of the Service and all customer queries must be channelled through your designated support contact. Communication with the help desk will be via the following email account helpdesk@mcs.ky.

9.2.   The Help Desk services are described at www.mcs.ky/about-us/policies (or such other web address as may be notified to the Client from time to time), as amended from time to time by Supplier.

10.   Professional Services

10.1.   Supplier offers a range of professional and consultancy services. Where Supplier provides Professional Services to the Client they are subject to the terms and conditions described at www.mcs.ky/about-us/policies (or such other web address as may be notified to the Client from time to time), as amended from time to time by Supplier.

11.   Use of the Services

11.1.   The Client will comply with the Acceptable Use Policy in effect at the time when the Services are provided. Supplier reserves the right, without liability to the Client, to disable the Client's access to the Service if the Client breaches the Acceptable Use Policy.

11.2.   If Supplier supplies any Software to the Client as part of the Services, the Client will comply with the Software Terms for that Software that are in effect at the time when the Service is provided, and Supplier reserves the right, without liability to the Client, to disable the Client's access to the Service if the Client breaches those Software Terms.

11.3.   The Client will not:

11.3.1. except to the extent expressly permitted under this Agreement, copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute the Services or the Software in any form or media or by any means, and not to attempt to do any of the above;

11.3.2. except to the extent permitted by any applicable law which the parties cannot exclude by agreement, reverse compile, disassemble, reverse engineer or reduce to human-readable form all or any of the Software, and not to attempt to do any of the above;

11.3.3. use the Services or the Software to create or supply a product or service which competes with the Services.

11.3.4. license, sell, rent, lease, transfer, assign, distribute, display, disclose, exploit, make the Services or the Software available to any third party;

11.3.5. assist or allow any third party to do any of the acts prohibited by Conditions 11.3.1 to 11.3.4 (inclusive); or

11.3.6. change, add or delete any public IP address or MAC address allocated to it by Supplier without first obtaining Supplier's permission in writing.

11.4. The Client will:

11.4.1. use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and the Software. The Client will notify Supplier immediately if the Client becomes aware of any such unauthorised access;

11.4.2. comply with, and ensure that its staff comply with any rules, regulations, standards, protocols and procedures issued by Supplier to the Client from time to time in connection with the use or security of the Services and the Software; and

11.4.3. notify Supplier as soon as the Client becomes aware of, or suspects, any unauthorised use of or breach of security in relation to the Services and the Software

11.5. User Accounts are specific to an individual user and under no circumstances may User Accounts or passwords be shared among or by different users.

11.6. Client agrees to notify Supplier immediately of any unauthorized use of a User Account, or any other breach of security regarding the Service of which it becomes aware.

11.7. Client and any User agrees to abide by all laws, rules, and regulations that are applicable to the use of the Service. In addition, Client and any User may not, and may not permit any third party to, (i) access the Service for the purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes; (ii) use it in a way that harms Supplier or our affiliates, resellers, distributors, service providers and/or suppliers; (iii) use automated scripts to access the service; (iv) resell, copy, transfer, reproduce, modify, translate, prepare derivative works of, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Service; (v) use the Service in a service bureau or any other manner to provide services for a third party; or (vi) circumvent or disable any security or other technological features or measures of the Service. Except for the express rights granted herein, Supplier does not grant any other licenses, whether express or implied, to any Supplier software, services, or intellectual property.

11.8.   Future versions of the Service may be developed and released by Supplier at its sole discretion. Supplier does not warrant or represent that it will develop or release any upgrades within a given timeframe.

11.9.   Supplier operates a policy of providing Service credits for Service downtime, as described at www.mcs.ky/about-us/policies (or such other web address as may be notified to the Client from time to time), as amended from time to time by Supplier.

12.   The Services

12.1.   Subject to Condition 12.3, Supplier will use reasonable endeavours to make the Services available except for when Scheduled Maintenance, emergency or unplanned maintenance is carried out.

12.2.   Supplier will endeavour to carry out emergency and unplanned maintenance and other emergency operations outside Business Hours and Supplier will endeavour to give the Client at least 2 Business Hours' notice in advance of the same. However, the Client acknowledges that, depending on the circumstances, Supplier may not be able to give that or any notice of emergency or unplanned maintenance. Supplier will give notice of Scheduled Maintenance by e-mail.

12.3.   Supplier may suspend access to Services without liability to the Client if:

12.3.1. there has been, or if Supplier suspects that there may have been, a breach of security, or a breach of this Agreement, or any unlawful or illegal use of the Services, the Software by the Client or by any other person;

12.3.2. Supplier knows or suspects that a Harmful Element has been introduced into the Services, the Software, or Supplier's IT Infrastructure, or the system of any other person where that may affect the Services, the Software, or the Client Properties, or the system of any other client of the Supplier;

12.3.3. Supplier knows or suspects that any Client Data infringes the Intellectual Property Rights or other rights of any third party, or is in any way unlawful, or is likely to lead to any third party instituting legal proceedings against Supplier or its suppliers;

12.3.4. there is a Denial of Service Attack that affects the Services, Supplier's Equipment, or the systems of or the services provided to any other client of the Supplier; or

12.3.5. the Client changes, adds to or deletes any public IP address or MAC address allocated to it by Supplier without first obtaining Supplier's written permission.

13.   Intellectual Property

13.1.   Client acknowledges and agrees that Supplier or its licensors own all Intellectual Property Rights in the Service and the Software. Except as expressly stated in this Agreement, this Agreement does not grant Client any rights in respect of the Service or the Software.

13.2.   For the avoidance of doubt, unless expressly stated to the contrary, ownership of relevant Intellectual Property Rights in software or other materials that existed at the commencement of the Agreement is not affected.

13.3.   Supplier and Supplier personnel will be free to fully employ and use at all times their know-how, expertise, methods, techniques, or skills as gained, learned or enhanced during the provision of any Services.

13.4.   Third-Party Properties. Nothing herein shall cause or imply any sale, license, or other transfer of proprietary rights of or in any third party software or products from one party to this Agreement to the other party.

13.5.   Supplier warrants that it has up-to-date licenses for all third party software it may use or employ in the provision of the Services.

13.6.   The Supplier is not responsible for any infringements to third party copyrights, patents or trade secrets where the Client has made amendments to original documents and similar works prepared by the Supplier without the express approval of the Supplier, or where the Client fails to use the most recent versions of such works that have been delivered by the Supplier.

14.   Confidentiality

14.1.   Neither party shall disclose to a third party Confidential Information (as defined below) of the other party.

14.2.   The receiving party shall use the same degree of care as it uses to protect the confidentiality of its own confidential information of like nature, but no less than a reasonable degree of care, to maintain in confidence the Confidential Information of the disclosing party.

14.3.   Either party may disclose Confidential Information received from the other party which:

14.3.1. is required to be disclosed by law, subpoena or other process,

14.3.2. is disclosed to nominated third parties under written authority from the original disclosing party of the Confidential Information; or

14.3.3. is disclosed to the receiving party's legal counsel, accountants or professional advisors to the extent necessary for them to advise upon the interpretation or enforcement of this Agreement.

14.4.   Confidential Information means information related to the subject matter of this Agreement (including any Client customer data or third party information), and the business of the disclosing party, which

14.4.1. derives economic value, actual or potential, from not being generally known to or readily ascertainable by other persons who can obtain economic value from the disclosure or use of the information,

14.4.2. is the subject of efforts by the disclosing party or owner of the third party Confidential Information that are reasonable under the circumstances to maintain the secrecy of the information,

14.4.3. is identified by either party as "Confidential" and/or "Proprietary", or which, under all of the circumstances, ought reasonably to be treated as confidential and/or proprietary, including this Agreement.

14.5.   Confidential Information shall not include any information that

14.5.1. is at the time of disclosure, or thereafter becomes, through a source other than the receiving party, publicly known,

14.5.2. is subsequently learned from a third party that does not impose an obligation of confidentiality on the receiving party,

14.5.3. was known to the receiving party at the time of disclosure, or

14.5.4. is developed independently by the receiving party.

14.6. The obligations of confidentiality hereunder with respect to any Confidential Information shall survive the termination of this Agreement.

14.7. If the receiving party receives an order of a competent court (a "Court Order") to divulge any Confidential Information belonging to the disclosing party, then the receiving party is permitted to release such information to the court in accordance with any Court Order so served. The party receiving such Court Order agrees (unless the Court Order specifically prohibits this) promptly to notify the disclosing party, and if so requested, will provide reasonable cooperation to the disclosing party in resisting the disclosure.

14.8. Upon termination of this Agreement, the receiving party, at the option and written request of the disclosing party, will return or destroy all Confidential Information belonging to the other party.

14.9. Supplier may name the Client in its marketing materials, including its website, but may not, without the prior written approval of the Client, identify the products or services supplied or attribute any comment to the Client.

15. Warranty

15.1. Client's Identity. Client warrants: (i) that it has accurately identified itself through its Account and will maintain the accuracy of such identification; and (ii) that it is a corporation or other business entity authorized to do business pursuant to applicable law or is an individual 18 years or older.

15.2. Right to Do Business. Each party warrants that it has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required by this Agreement.

15.3. Supplier warrants that the Services provided to the Client will be provided with reasonable skill and care and will substantially comply with the Documentation relating to it.

15.4. Notwithstanding Clause 15.3 or any other provision of this Agreement:

15.4.1. Because of the nature of software, information systems, telecommunications systems and the internet, Supplier does not warrant or represent that the use of the Services will be uninterrupted or error-free; nor that every Defect, error or deficiency in the Services can be rectified, nor that the Services or the information obtained by the Client through the use of the Services will meet the Client's requirements;

15.4.2. Supplier will not be liable for any problem with, or any delay or interruption in the Services or for any failure or delay in delivery, or for any loss or damage resulting from the transfer of data (or the failure to transfer data) over any communications network or facility not operated by the Supplier, including (without limitation) the Client's network connections or telecommunications links and the internet, and the Client acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications networks and facilities;

15.4.3. Supplier will not be liable if the Services do not provide a facility or feature not set out in the Service Description;

15.4.4. Supplier will not be liable for any fault or defect in any of the Client's Applications or for any fault or defect caused by the application of any security patch, or caused by any upgrade, update, new release, revision, version, workaround or modification to the Client's Applications; and

15.4.5. Supplier will not be liable for any error or incompleteness in the Client Data.

15.5. Supplier will not be liable under any warranty or any other provision of this Agreement to the extent that any loss or damage is caused by:

15.5.1. the Client or any User not having complied with this Agreement; any negligent or unlawful act or omission of the Client or User; the misuse of the Services (or any part of any of them), or the use of, the Services by the Client or any User contrary to Supplier's instructions; any delay or failure on the part of the Client in providing any information or data to Supplier; any delay or failure on the part of the Client to notify Supplier of any error in the Client Data; any other act or omission on the part of the Client; any act or omission of any third party;

15.5.2. the Client having failed to comply with any technical prerequisites or licensing requirements specified from time to time by the licensor of any software or the manufacturer of any equipment; or the Client's failure to implement, or delay in implementing, any firewall, anti-virus software, security patch, upgrade, update, new release, revision, version, workaround or modification which would have remedied or mitigated the effects of any Harmful Element, Defect, error or deficiency;

15.5.3. the modification or alteration of the Services by anyone except Supplier or Supplier's suppliers; or

15.5.4. any failure by the Client to keep full and up-to-date security copies of the software forming part of the Client Properties and of the Client's Applications in accordance with best computing practice, and of the Client Data which it supplies to Supplier or processes using the Services.

15.6. The Client acknowledges that the benefits of using the Services are dependent on the Client exercising proper skill, care and judgement in inputting and maintaining the Client Data and in interpreting the information and data received via the Services. Supplier does not warrant that any such data will be complete, accurate or up to date, and Supplier will not be liable for the consequences of any decision taken by the Client or any other person, on the basis of that information or data.

15.7. The express undertakings and warranties given by Supplier in this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations on the part of Supplier, whether

express or implied by statute, common law, custom, trade usage, course of dealing or in any other way. All of these are excluded to the fullest extent permitted by law.

15.8.   The Client warrants that:

15.8.1. it has not been induced to enter into this Agreement by any representation or warranty except those specifically set out in this Agreement. The Client waives all claims for breach of any warranty and all claims for any misrepresentation, (negligent or any other kind, unless made by Supplier fraudulently) which is not specifically set out in this Agreement; and

15.8.2. Disclaimers of Warranty. Except for the warranty in clauses 15.3 above, Supplier disclaims any and all express or implied warranties, including any warranties of merchantability, fitness for purpose, or with respect to design or latent defects, or compliance with laws, regulations, or official government releases applicable to the Client.

16.   The Client's obligations

16.1.   The Client will:

16.1.1. before the Services commence, procure the Client's Applications and all internal computer equipment, terminals, peripheral equipment, software, telecommunications systems and network connections necessary for it to receive the Services;

16.1.2. ensure that any of the operating systems or Client's Applications are appropriately licensed for use on Virtual Machines in multi-tenant virtualized (cloud) environment including, but not limited to, Microsoft SPLA licensing requirements.

16.2.   When using the Services the Client will comply with all laws and regulatory requirements and the rules, regulations and standards imposed by any competent body which apply to its activities and will not use the Services to commit, or to assist in the commission of, any fraud or other criminal or unlawful activity.

16.3.   The Client will not intentionally introduce any Harmful Element into the Services. The Client will use up-to-date and adequate anti-virus software and firewalls and will apply and implement all security patches, upgrades, updates, new releases, revisions, versions, workarounds and modifications in order to remedy or mitigate the effects of any Harmful Element as soon as is reasonably possible.

16.4.   The Client will:

16.4.1. in accordance with the Client Procedures, appoint at least one Designated Contact who will act as the Client's Primary Contact and who will have authority to take decisions and act on behalf of the Client in relation to the Services and this Agreement. (The Client agrees that Supplier may act on any request, notification or claim made in accordance with the Client Procedures.); and

16.4.2. Provide up to three nominated contacts who are authorised to place calls to Supplier's help desk, notify Supplier immediately of any changes in the details of those individuals and ensure that no one except those individuals contacts Supplier's help desk.

16.4.3. The Client recognises that delivery by the Supplier of the Services depends upon features and functions provided by VMware, and other software suppliers, and that periodically the suppliers will make new software releases and that these will need to be implemented in order that the Supplier can continue to deliver its obligations. The Client recognises its responsibility to implement software releases as these are made available by Supplier and its partners and that failure to do so may result in Supplier being unable to deliver the Services.

16.5. The Client will carry out its obligations under this Agreement in a timely and efficient manner. In the event of any delay on the part of the Client, Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary.

16.6. Client will indemnify Supplier and keep Supplier indemnified against all and any losses, costs, claims and liabilities incurred by Supplier as a result of any and all breaches of Conditions 11.7, 14.1, 14.2, 15.1, 15.2, and 15.3.

17. Disclaimer and Limitation of Liability

17.1. This Clause sets out the Parties' entire liability (including any liability for the acts and omissions of its employees, agents and sub-contractors) to the other in respect of:

17.1.1. any breach of its contractual obligations arising under this Agreement; and

17.1.2. any representations (other than pre-contractual fraudulent misrepresentations) or statements or tortious acts or omissions including negligence arising under or in connection with this Agreement;

17.2. Neither Party excludes or limits liability to the other Party in respect of:

17.2.1. death or personal injury;

17.2.2. any fraudulent pre-contractual misrepresentations made by it on which the other Party can be shown to have relied.

17.3. The liability of a Party to the other Party in relation to loss of or damage to any tangible property shall be limited to US$1,000,000. In all other circumstances, a Party may recover direct loss only and the liability of the other Party shall be as set out in Clauses 17.4 and 17.5 below.

17.4. To the extent Supplier is held legally liable to the Client and/or any Affiliate, Supplier's liability arising out of this Agreement, other than liability arising under Clause 17.2, shall not exceed the amount of the fees actually paid by Client to Supplier during the twelve (12) month period preceding the event upon which liability is predicated.

17.5. Notwithstanding anything else contained in this Agreement:

17.5.1. neither party shall be liable to the other for loss of profits, loss of contracts, loss of business, loss of revenue, loss of goodwill, loss of anticipated savings or loss of custom or customers; any indirect or consequential loss;

17.5.2. Supplier shall have no liability to the Client or any Affiliate for or arising out of any direct or indirect loss of or corruption of any computer application or operating software or data or for any loss of or damage to or destruction of data or for software restoration.

17.6. Other than those expressly set out in this Agreement, there are no other express or implied warranties, terms, conditions or representations in relation to the Services or otherwise, including those for satisfactory quality or fitness for purpose.

17.7. The provisions of this Clause 17 shall survive termination of this Agreement insofar as they relate to events occurring before such termination.

18. Law / Disputes Resolution

18.1. This Agreement shall be governed by and construed in accordance with the laws of England. The parties will try to resolve any dispute relating to this Agreement by negotiation between senior executives of the parties. If the matter is not resolved then the parties agree to consider resolving the dispute by an Alternative Dispute Resolution (ADR) Procedure using the services of the Centre for Dispute Resolution (CEDR), 70 Fleet Street, London EC4Y 1EU. If either party is not willing to accept an ADR Procedure then the forum for the settling of any disputes under this Agreement shall be the English Courts;

18.2. Provided that nothing in Clause 18.1 shall prevent either party seeking injunctive relief at any time it considers it appropriate to do so.

18.3. In any other case the dispute shall be determined by the English Courts and the Parties hereby submit to the exclusive jurisdiction of that court for such purpose.

19. General

19.1. The Client shall not assign, sub-license or otherwise transfer this Agreement whether in whole or in part, without prior written consent of the Supplier, and except as set out in Clause 19.2.

19.2. Supplier shall not unreasonably withhold or delay its consent to an assignment or transfer by the Client of the entire benefit of this Agreement (but not part thereof) to a Client Affiliate (for so long as it remains a Client Affiliate) provided that any such person or any such company enters into a written undertaking with Supplier to comply with the terms and conditions of this Agreement.

19.3. Except as specifically provided in this Agreement, this Agreement may only be amended or varied by agreement between the Parties such agreement to be in writing or by "click-through" on Supplier's web site.

19.4. This Agreement and any relevant Software Terms constitute the entire agreement between the parties relating to the subject matter hereof and the Client hereby warrants to Supplier that it has not been induced to enter into this Agreement by any prior representations whether oral or in writing, except as specifically contained in this Agreement and the Client hereby waives any claim for breach of any such representations which are not so specifically mentioned.

19.4.1. Severability. If any provision of this Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision will be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability.

19.4.2. The invalidity or unenforceability of one or more of the provisions contained in this Agreement will not have the effect of rendering any such provision invalid or unenforceable in any other case, circumstance or jurisdiction, or of rendering any other provisions of this Agreement invalid or unenforceable whatsoever.

19.5. Force Majeure. Supplier will be excused from performance of its obligations under this Agreement if such a failure to perform results from acts of god, fire, strike, embargo, terrorist attack, war, insurrection or riot or other causes beyond the reasonable control of the Supplier. Any delay resulting from any of such causes will extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.

19.6. The Supplier shall be deemed to be an independent contractor and accordingly in connection with the provision of the Services nothing in this Agreement shall constitute a relationship of employee and employer and nothing in this Agreement shall be construed as establishing a partnership or joint venture between the Supplier and Client. Each party will act in good faith in the performance of its respective duties and responsibilities and will not unreasonably delay or withhold the giving of consent or approval required for the other party under this Agreement. Each party will provide an acceptable standard of care in its dealings with the other party and its employees.

19.7. No waiver under this Agreement will be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of such waiver is sought. Any such waiver will constitute a waiver only with respect to the specific matter described therein and will in no way impair the rights of the party granting such waiver in any other respect or at any other time. Any delay or forbearance by either party in exercising any right hereunder will not be deemed a waiver of that right.

19.8. The parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the parties, their successors and permitted assigns. Nothing herein, whether express or implied, will confer upon any person or entity, other than the parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

19.9. All notices required by or relating to this Agreement will be in writing and will be sent by means of certified mail, postage prepaid, to the registered address of the Supplier and the most recent address of the Client that has been advised to the Supplier or addressed to such other address as that party may have given by written notice in accordance with this provision.

19.10. All notices required by or relating to this Agreement may also be communicated by email, provided that the sender receives and retains confirmation of successful transmittal to the recipient. Such notices will be effective on the date indicated in such confirmation.

19.11. In the event that either party delivers any notice hereunder by means of email transmission in accordance with the preceding sentence, such party will promptly thereafter send a duplicate of such notice in writing by means of certified mail, postage prepaid, to the receiving party, addressed as set forth above or to such other address as the receiving party may have previously substituted by written notice to the sender.

19.12. Any reference in this Agreement to a statute or regulation is to be construed as a reference to that statute or regulation as amended or re-enacted from time to time.

19.13. The headings in this Agreement are for ease of reference only; they do not affect its interpretation or construction.

End of Document

Acceptable Use Policy for cloud services provided by MCS

1. The purpose of this policy and the consequences of breaching it

1.1. This policy (the "Policy") sets out the rules which apply when the Client uses any service (**a "MCS Service"**) provided by MCS and Calligo.

1.2. This Policy is designed to help protect MCS, its partner, Calligo, its suppliers and its clients from the consequences of irresponsible, illegal and unlawful activities; it is in everyone's interest that all users of MCS services comply with this Policy.

1.3. This Policy is part of each Client's Agreement with MCS. If the Client breaches this Policy, MCS may suspend or terminate the Client's use of any MCS Service in accordance with the Agreement between MCS and the Client for that MCS Service, and MCS may claim damages for any loss caused by that breach.

1.4. If MCS thinks that the Client's use of any MCS Service involves, or may involve, any illegal or unlawful activity, it may report that activity to the appropriate authorities.

1.5. If it is alleged that the Client's use of any MCS Service is, or involves, any illegal or unlawful activity, MCS may co-operate with an investigation that is undertaken by a competent law enforcement or regulatory authority into that activity and may disclose any information to that law enforcement or regulatory authority.

1.6. MCS may delete, edit, block or permanently remove from its systems any material if it has reason to believe that that material is unlawful or illegal or in some other way breaches this Policy.

1.7. MCS reserves the right immediately to remove or disable access to any material on its systems which is, or MCS suspects is, infected with a virus or which might infect or corrupt MCS's data or systems or the data or systems of any other person.

1.8. The Client must ensure that its users, everyone who accesses or uses any MCS service through the Client's IT systems and the Client's clients who use any MCS service comply with this policy.

2. Monitoring

2.1. MCS may, but is not obliged to, monitor the use of any MCS service to ensure compliance with this Policy.

3. Unacceptable practices

3.1. The Client must not, when using any MCS service, violate a law or regulation which it, or MCS, or its partners, or its suppliers are subject to.

3.2. The Client may not use any MCS Service to do or attempt to do any of the following:

3.2.1.   obtain unauthorised access to, or the use of, any data, service, system or network, unless the Client has the permission of the owner of the data, service, system or network;

3.2.2.   probe, scan or test the vulnerability of any system or network or breach any security, verification or authentication measures (including those of MCS) unless the Client has the permission of the owner of the system or network;

3.2.3.   monitor data or traffic on any network or system unless the Client has the permission of the owner of the system or network;

3.2.4.   interfere with the provision of any service (including a MCS service) to any other person, system or network, or adversely affect the operation of any service, system or network (including those of MCS), whether by mail bombing, flooding, overloading any system or network, broadcast attack, transmissions causing a system or network crash, or in any other way;

3.2.5.   use an account or an IT system unless the Client has the owner's permission to do so;

3.2.6.   collect information by deceit;

3.2.7.   collect information by, without limitation, internet scamming, password theft, phishing, security hole scanning;

3.2.8.   distribute software which covertly gathers information about a user or covertly transmits information about a user;

3.2.9.   violate generally accepted standards of Internet or other networks conduct and usage, including, but not limited to, denial of service attacks, web page defacement, port and network scanning, and unauthorised system penetrations; or

3.2.10. carry out any other unlawful or illegal activity.

3.3.   The Client must not omit, remove, falsify or misrepresent any transmission information, including but not limited to any:

3.3.1.   TCP-IP packet header, message header; or IP address.

4.   E-Mail

4.1.   The Client must not use any MCS Service to:

4.1.1.   send unsolicited commercial messages or communications in any form (Spam); or

4.1.2.   send any email if its content breaches section 3 of this policy.

4.2.   The Client must ensure that all marketing and other commercial emails sent using a MCS service comply with industry best practice, and all laws and regulations which apply to the Client's activities.

5. Internet Fair Use Policy

5.1. Some MCS Services include Internet connectivity as a bundled service. Such Internet, or IP, feed is subject to a fair use policy. This means that Client's use should conform to the normal usage patterns for such a service and failure to do so may result in suspension or termination of the service.

5.2. For example, CloudDesk users have access to the Internet to browse business related web sites. The service is not designed for organisations that, for example, regularly upload, download or stream large files such as videos, music, Photoshop or other graphic files.

5.3. Another example is CloudWeb which is primarily designed for the hosting of simple business and e-commerce websites and is not appropriate for the hosting of, for example, large multimedia content.

5.4. The above are examples only and are not intended as an exhaustive list of acceptable and unacceptable Internet bandwidth or other resource usage. MCS can provide additional bandwidth or cloud resources as chargeable services.

6. Changes to this Policy

6.1. The internet, how it is used and may be misused, and the law relating to that use and misuse frequently change. Therefore MCS reserves the right to update or modify this policy from time to time without prior notice by publishing the revised version of this policy on its website.

6.2. Although Calligo will try to notify a Designated Contact by email of any changes to this Policy, the Client must check the MCS website at www.mcs.ky/about-us/policies for updates and modifications to this Policy. Those updates and modifications will be binding on the Client (even if the Client has not checked whether there have been any changes to this Policy and whether or not Calligo has given notice of them).

Cloud Client Exit Assistance Services

1.   Introduction

This document describes the services that Supplier offers to support a Client that wishes to exit the Services.

2.   Client Exit Assistance Services

2.1.   Upon expiration or termination of their Agreement the Supplier shall offer the following services to the Client provided that the Client has, at that time, paid all fees and charges outstanding and all fees and charges resulting from the termination of their Agreement (whether or not due at the date of termination).

2.2.   The Supplier shall reasonably assist the Client with the transfer of the Services provided by the Supplier hereunder to another services provider or to the Client itself. These Services will be provided under an exit plan to be drawn up and agreed between the parties ("Client Exit Assistance Services"). If a formal exit plan is not agreed between the parties for any reason then the following provisions shall apply and shall form part of the Client Exit Assistance Services in any event:

2.2.1.   The Supplier will assist in the migration of the Client data to either the Client's own premises or to a third party nominated by the Client and give the Client and/or a third party nominated by the Client such help as is set forth below to enable such migration to take place;

2.2.2.   providing information to the Client detailing the Client's current usage and storage allocation to enable discussions with potential alternative suppliers;

2.2.3.   discuss with the Client the information required by the Client's potential alternative suppliers required to perform a technical verification and other due diligence exercise in relation to the provision of the;

2.2.4.   assistance from the Supplier's technical support personnel as may be reasonably necessary to resolve any technical problems during the migration of the Services;

2.2.5.   ensuring the attendance of relevant personnel at meetings as may reasonably be required; and

2.2.6.   providing escorted access to the Supplier data centres as may be reasonably required.

3.   Charges

3.1.   The Client shall pay the Supplier at its then current time and materials rates for any such Client Exit Assistance Services including the definition of the exit plan in addition to any other fees payable under their Agreement.

3.2.   Provided that the Supplier is not obliged to provide any of the Client Exit Assistance Services if the Agreement has been terminated by the Supplier for non-payment of fees or other breach of contract by the Client.

3.3.   The Client shall be responsible for the cost of any packaging, shipping, insurances, media or network services related to the transfer of any items from the Supplier to the Client.

3.4.   The Client shall continue to pay the Supplier for all fees incurred in relation to the on-going provision of the Services through the effective date of expiration or termination; provided, however, that such payment shall not affect any other rights and remedies the Supplier may have under this Agreement.

Cloud Client Notification Policy

1.   Introduction

1.1.   This Policy sets out how Supplier will contact the Client in various circumstances

1.2.   This Policy does not cover formal notices and requests made under the 'Notice' clause in the Client's Agreement with Supplier.

1.3.   A Designated Contact who has opted out of receiving email notifications from Supplier will not receive email communications as described in this Policy.

2.   Scheduled Maintenance

2.1.   Supplier will notify the Client of any Scheduled Maintenance by sending an email to a Designated Contact.

2.2.   Supplier will notify the Client of any planned maintenance to any network or core infrastructure by sending an email to one of the Client's Primary Contacts and the Client's Technical Contacts (if any).

2.3.   Supplier will notify the Client of any planned maintenance to a specific service (e.g. to CloudDesk) by sending an email to the Designated Contact for that service (e.g. the CloudDesk Contact).

3.   Emergency Maintenance

3.1.   Supplier will notify the Client of any emergency maintenance by sending an email to a Designated Contact.

3.2.   Supplier will notify the Client of any emergency maintenance to any network or core infrastructure by sending an email to one of the Client's Primary Contacts and Technical Contacts (if any).

3.3.   Supplier will notify the Client of any emergency maintenance to a specific service (e.g. to CloudDesk) by sending an email to the Designated Contact for that service (e.g. the CloudDesk Contact)

4.   Performance

4.1.   Supplier will notify the Client of any suspected performance degradation by sending an email to a Designated Contact.

4.2.   Supplier will notify the Client of any network or core infrastructure related suspected performance degradation by sending an email to one of the Client's Primary Contacts and Technical Contacts (if any).Supplier will notify the Client of any service specific suspected performance degradation (e.g. with CloudDesk) by sending an email to the Designated Contact for that service (e.g. the CloudDesk Contact)

5.   Service Updates

5.1.   Supplier will notify the Client of any service update (e.g. a new software release) or provide the Client with general service information by sending an email to a Designated Contact.

5.2.   Supplier will notify the Client of any network or core infrastructure related update notifications or provide the Client with general information about any network or core infrastructure by sending an email to one of the Client's Primary Contacts and Technical Contacts (if any).

5.3.   Supplier will notify the Client of any service specific update or provide the Client with general information about that service (e.g. CloudDesk) by sending an email to the Designated Contact for that service (e.g. the CloudDesk Contact).

6.   Primary Contact

6.1.   If Supplier does not have details of any other Designated Contact, or if Supplier only has details of one or more of the Client's Primary Contacts and Security Officers, Supplier will send any notification under this Policy to one of the Client's Primary Contacts by email.

7.   Changes to this Policy

7.1.   Supplier reserves the right to update or modify this Policy from time to time without prior notice by publishing the revised version of this Policy on its website.

7.2.   Although Supplier will try to notify a Designated Contact by email of any changes to this Policy, the Client must check the Supplier website at www.mcs.ky/about-us/policies for updates and modifications to this Policy. Those updates and modifications will be binding on the Client (even if the Client has not checked whether there have been any changes to this Policy and whether or not Supplier has given a Designated Contact notice of them).

Helpdesk Terms of Service

1. Introduction

This document describes how to contact the Supplier's Helpdesk, how Incidents will be classified and the expected response.

An Incident is defined as any event which is not part of the standard operation of the Service and which causes or may cause an interruption to, or a reduction in, the quality of that Service.

2. Helpdesk Contact Details

Telephone   +1 (345) 949 8263 or (insert mobile number)

Email   helpdesk@mcs.ky

3. Service Description – Helpdesk

3.1.   Service available during Business Hours for the logging and life-cycle management of Incidents relating to Services provided.

3.2.   Incident Classification

The following Incident classifications will apply to the Services provided under the terms of this Agreement.

Incident Priority	Urgency	Impact
Priority 1	Critical	An Incident that makes the Service unusable by Client for one or more of its business functions in live operation. The fault has a significant impact on Client's business operation and includes a direct financial impact.
Priority 2	High	A Service is not work properly according to specifications. The Incident severely restricts Client's ability to perform normal business operations and has a direct financial impact but a work around is possible.
Priority 3	Medium	A Service does not work properly according to specifications. The lack of functionality does not have a direct financial impact, a work around is possible but impacts the efficiency or effectiveness of Client's business operations.
Priority 4	Low	A routine Service Request by the Client for Services covered by this SOW.
Priority 5	Minor	An Incident that is entirely cosmetic. It has no significant impact to Client's business operations.

4. Additional Services

4.1. If the Client requests services, that are not included in the Service Description of Clause 3, by raising a support ticket (or Supplier raising one on behalf of the Client at the Client's request), then providing that Supplier is able to satisfy that request then it will be treated as a chargeable support ticket at the then current support rates.

4.2. Where Supplier works on an Incident that investigation then proves to be the responsibility of the Client then Supplier reserves the right to make a charge for any work it has undertaken.

5. Incident Reporting Process

5.1.1. To report an Incident, one of the Clients' nominated representatives will contact the Supplier's Help Desk via telephone or email to the contact details set forth above. As well as reporting potential Incidents within the Services, the Client is to notify the Supplier whenever there is an incident within the Client's infrastructure which could affect one or more of the Supplier's Services.

6. Help Desk Response Times

6.1. The Supplier will respond, to an Incident, as set forth below.

A "response" for this purpose means that the Supplier has acknowledged the report of an Incident, conducted an initial analysis and provided a resolution plan detailing the technical team assigned to the issue with an estimated fault resolution time, and the response time from the Client notification shall be measured accordingly.

Priority	Urgency	Response Time
Priority 1	Critical	Within 4 Business Hours of notification
Priority 2	High	Within 1 Business Day of notification
Priority 3	Medium	Within 3 Business Days of notification
Priority 4	Low / Service Request	Within 7 Business Days of notification
Priority 5	Minor	Within 14 Business Days of Notification