

FORESHORE CLOUD SERVICES
SUBSCRIPTION TERMS AND CONDITIONS

March 2023

These Conditions apply to the Cloud Compute Services, Data Backup Services, S3 Cloud Solution Services and Cloud Disaster Recovery Services (known as Recovery as a Service (“**RaaS**”)) offered by Foreshore Limited (“**Foreshore**”) as indicated on the relevant Order Form. The Services are hosted in Sure/Foreshore Data Centre facilities in Jersey, Guernsey and the Isle of Man.

1. DEFINITIONS AND INTERPRETATION

1.1 The following expressions have the meaning set opposite:

95th Percentile Calculation – a calculation to compute the 95th percentile value for burstable bandwidth services. Foreshore will gather samples of traffic usage, both inbound and outbound, at regular intervals. Foreshore will discard the highest 5% of the samples for each of the inbound and outbound traffic, and the next highest sample becomes the 95th percentile value for the dataset. Customer will be billed at the higher value of the inbound and outbound 95th percentile calculations;

an Additional Service – a service listed under the heading 'Additional Services' in the Service Specific Terms and Order Form;

the Acceptable Use Policy – means the Foreshore acceptable use policy attached at Schedule 1;

this Agreement - these Conditions including any schedules, the applicable Order Form, the Service Specific Terms and the Acceptable Use Policy, each as amended from time to time in accordance with these Conditions;

Authentication Services – means the two-factor authentication services as defined in Schedule 6;

"Authorised Users" - in respect of a Service, those individuals who are authorised by the Customer to access and use the Product;

the Back-Up Policy – the policy (if any) for backing up and, if applicable to the Service, archiving the Customer Data included in the Service Specific Terms;

a Business Day - any day which is not a Saturday, Sunday or public holiday in England Jersey, Guernsey or the Isle of Man;

Business Hours - 8.30 am to 5.00 pm London time on a Business Day;

Charges – the amounts payable for the Services, as set out in the relevant Service Specific Terms and/or each Order Form;

Cloud Resources – 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;

Commencement Date – The start date of the Agreement as set out in the Customer's Order Form;

Conditions – has the meaning given to that term in clause 1.2 below;

Control - the power to direct or cause the direction of the management and policies of a party, whether through the ownership of voting shares, by contract, or in some other way and the expressions **to Control** and **Controlled** are to be construed accordingly;

Confidential Information – information or data of a confidential nature, including (without limitation) any and all information which relates to any of the following: a party's customers, suppliers, technology and business activities (regardless of the form in which that information or data is stored or communicated). Foreshore's Confidential Information includes (without limitation): any and all Personal Data communicated by Foreshore to the Customer and any and all information relating to any of the following: the Services, the technology, the systems, tools and methodologies which Foreshore or its suppliers uses to provide any services, Foreshore's customers, suppliers and prospects, Foreshore's business affairs, financial affairs, business plans and strategies. The Customer's Confidential Information includes the Customer Data and any and all Personal Data communicated by the Customer to Foreshore;

the Customer - means the customer entering into this Agreement;

the Customer Data – the data (if any) which the Customer stores on any equipment used in the provision of the Services, or which Foreshore inputs into the Software for the Customer for the purpose of facilitating the Customer's use of the Services;

the Customer's Applications – the software applications (if any) which have been acquired by or are licensed to the Customer and which are used by the Customer on the Virtual Machine(s) provided by Foreshore as part of the Services;

the Customer Notification Policy – means the policy for Foreshore notifying, or otherwise communicating with, Designated Contacts attached at Schedule 2;

the Customer Procedures – the procedures for requesting a service or a change to a service, notifying Foreshore of the unavailability of a service or claiming a Service Credit attached at Schedule 3;

the Customer's System – the computer equipment, terminals, peripheral equipment, software, telecommunications systems and network connections necessary for the Customer to connect to Foreshore's data centre(s) and to receive the Services;

a Defect - a failure of the Services to comply in any material respect with the description of that service in the Service Specific Terms, and **Defective** is to be construed accordingly;

a Denial of Service Attack – 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;

a Designated Contact – an individual designated from time to time by the Customer to be the Customer's point of contact or one of the Customer's points of contact for the purpose of this Agreement and whose name and up to date contact details (including email address) have been provided by the Customer to Foreshore. (For the avoidance of doubt this includes the Customer's Primary Contact, any Admin Contact or Contact);

Foreshore Associated Service – additional services which may be provided by Foreshore or an affiliate of Foreshore to the Customer;

the Foreshore Cloud Service Description – the service descriptions set out in Schedule 5 as amended by Foreshore from time to time;

Foreshore IP – (a) all Intellectual Property Rights of Foreshore or its licensors existing before the Commencement Date and/or developed independently of the Agreement or any part of it; and (b) all rights (including Intellectual Property Rights), title and interest in, to and arising in connection with the Services or Foreshore Associated Service or any part of them, together with any and all adaptations, add-ons, modifications, updates, and/or enhancements to any Service or Foreshore Associated Service or part of them and/or any of their use and/or receipt and all copies of them;

Foreshore's IT Infrastructure - the computer equipment, terminals, peripheral equipment, software, telecommunications systems and network connections and other systems and infrastructure used by Foreshore or its suppliers from time to time to provide the Services (or any of them), as updated, reconfigured and upgraded by Foreshore from time to time;

Group - means the relevant company, any holding company of that company and any subsidiary of that company or its holding company;

a Harmful Element – any virus, worm, time bomb, time lock, drop dead device, trap and access code, material or anything else which (i) might disrupt, disable, harm or impede the operation of any information system, (ii) might corrupt, damage, destroy or render inaccessible any software, data or file on, (iii) may allow any unauthorised person to gain access to, any information system or any software, data or file on it, (iv) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, offensive, sexually explicit, discriminatory, promotes violence, (v) facilitates illegal activity, (vi) might otherwise cause damage or injury to person or property;

Initial Term - 36 months from the Commencement Date in respect of the Subscription Services and one month from the Commencement Date in respect of Pay As You Go Services or as otherwise specified on the Order Form;

Initial Service(s) – a service listed under the heading 'Service' in the first Order Form;

Intellectual Property Rights - 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;

Order Form – the initial Order Form and any subsequent order form, each of which individually forms a contract subject to the terms of this Agreement;

Overage – the use of the Services over and above any of the limitations (for instance, but not limited to, the amount of bandwidth transferred) specified in the Service Specific Terms;

The Pay As You Go Services (also referred to as The PAYG Services) - the services listed under the PAYG Services, PAYG Services (Usage Based) and RaaS PAYG Services (Usage Based) in the Service Specific Terms;

the PCI DSS – the data security standard for enhancing payment account data security, issued by the PCI Security Standards Council, as amended by the PCI Security Standards Council from time to time;

S3 Cloud Solution Services – means the object based S3 cloud storage solution services located in the Sure/Foreshore Data Centres;

S3 Bucket - means a S3 cloud storage resource provided by Foreshore in the Sure/Foreshore Data Centres;

Scheduled Maintenance - any planned or preventative repair, maintenance, upgrade, update, support, testing or implementation of any system about which the Customer is notified at least 48 hours in advance and that is performed during a standard maintenance window between 00:00 (midnight) and 02:00 local time of the datacentre or at any other time with not less than 7 days' notice to the Customer;

the Services – the Initial Services and any Additional Services (and Software, if applicable) as the same are set out in the first and any subsequent Order Forms;

the Service Credits – the service credits set out in the Service Specific Terms;

Service Delivery Date – means the date on which Foreshore make the Service available for use by the Customer or such other date as agreement in writing between the parties;

the Service Level – the service level set out in the Service Specific Terms;

the Service Specific Terms – the terms applicable for an individual Service attached to this Agreement in Schedules 5, 6 and 7 and any service specific terms attached to or incorporated by reference to an Order Form;

the Software - the online software packages provided for use by the Customer as part of the Services, including any associated user documentation;

the Software Terms – the terms and conditions imposed by any third party provider of the Software made available to the Customer from time to time online at the web address given in the Service Specific Terms (or such other web address as may be notified to the Customer from time to time), as amended from time to time by the relevant Software Supplier;

the Subscription Services – the services listed in the Service Description and the Order Form section that are not Pay As You Go Services;

the Support Services – the support services included in the Service Specific Terms;

A Virtual Machine – a software implementation of a machine (i.e. a computer) that executes programs like a physical machine and provides a complete system platform which supports the execution of a complete operating system 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; and

A Virtual Desktop – a Virtual Machine that is used as a remote virtual desktop for a single user to connect to.

- 1.2 Any reference in this Agreement to an enactment, statute or regulation is to be construed as a reference to that statute or regulation as amended or re-enacted from time to time and includes all orders, rules or regulations made under such enactment.
- 1.3 A reference to a Condition is to a condition in these terms and conditions.
- 1.4 The headings in this Agreement are for ease of reference only; they do not affect its interpretation or construction.
- 1.5 The order of precedence to resolve any inconsistency between different parts of the Agreement shall be (i) the Order Form; (ii) the Service Specific Terms; (iii) Acceptable Use Policies; and (iv) this Agreement.
- 1.6 This Agreement is structured so that individual Order Forms may be entered into by the Parties. Order Forms are governed by and subject to this Agreement.
- 1.7 A signed Order Form constitutes an offer by the Customer to take the Services from Foreshore in accordance with this Agreement.
- 1.8 An Order Form shall be deemed to be accepted on the earlier of:
- (a) Foreshore issuing written acceptance of the Order Form; or
 - (b) any act by Foreshore consistent with fulfilling the Order,
- at which point and on which date the Order Form shall be subject to this Agreement.
- 1.9 Any obligation not to do an act or thing includes an obligation not to agree, allow, permit or acquiesce to that act or thing being done.

- 1.10 Unless the context requires otherwise, words in the singular shall include the plural and vice versa and words importing the masculine include the feminine and vice versa.
- 1.11 Any reference to a **"person"** includes individuals, firms, partnerships, companies, corporations, associations, organisations, trusts, statutory bodies or foundations (whether or not having separate legal personality).
- 1.12 The words **"including"**, **"other"**, **"in particular"**, **"for example"** and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "without limitation".
- 1.13 The Foreshore and the Customer agree that the Agreement shall apply to the exclusion of any other terms (including any terms set out in any quotation that may be provided by Foreshore or purchase order that may be provided by the Customer from time to time).

2. THE SERVICES

- 2.1 Provided the Customer complies with its obligations under this Agreement, from the Commencement Date and until the termination date of the relevant Order Form, Foreshore hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit Authorised Users to access and use the Services within the Territory solely for the Customer's own internal business use on the terms and conditions of this Agreement.
- 2.2 The Customer acknowledges and agrees that in relation to the Services:
- (a) it is being granted a right to permit access to and use of the Services and that the Services (nor any part of either of them) are being sold to the Customer; and
 - (b) there is no right to have access to the Services (or any part of it) in object or source code form.
- 2.3 Subject to Condition 2.6, Foreshore will use reasonable endeavours to make the Services available in accordance with the Service Level, except for when Scheduled Maintenance is carried out.
- 2.4 Foreshore will use reasonable endeavours to carry out emergency and unplanned maintenance and other emergency operations outside Business Hours and Foreshore will use reasonable endeavours to give the Customer at least 2 Business Hours' notice in advance of the same. However, the Customer acknowledges that, depending on the circumstances, Foreshore may not be able to give that or any notice of emergency or unplanned maintenance. Foreshore will give notice of Scheduled Maintenance to one of the Designated Contacts by e-mail.
- 2.5 Foreshore will provide the Customer with the Support Services and, if any Additional Services are listed in the Service Specific Terms or Order Form, subject to receiving payment from the Customer for those services, Foreshore will provide the Customer with the Additional Services (as the case may be).
- 2.6 Foreshore may suspend access to Services without liability to the Customer if:
- (a) there is an immediate threat to life or limb;
 - (b) there is an emergency and Foreshore considers it necessary or appropriate (in its absolute discretion) to provide or safeguard service to a hospital or to the emergency or other essential services (as may be determined by Foreshore from time to time in its absolute discretion);
 - (c) there is receipt of instruction, or under the direction, of a government body, the emergency services, a regulatory body or a competent court;

- (d) there is a threat of violation to or harm to any person, the Foreshore telecommunications network or Foreshore's IT Infrastructure;
 - (e) there is a breach of the terms of this Agreement by the Customer including the Acceptable Use Policy;
 - (f) has been, or if Foreshore 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 by the Customer or by any other person;
 - (g) Foreshore knows or suspects that a Harmful Element has been introduced into the Services, or Foreshore's IT Infrastructure, or the system of any other person where that may affect the Services or the Customer's System, or the system of any other Foreshore customer;
 - (h) Foreshore knows or suspects that any Customer 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 or threatening legal proceedings against anyone;
 - (i) there is a Denial of Service Attack that affects the Services, Foreshore's Equipment, or the systems of or the services provided to any other Foreshore customer;
 - (j) the Customer changes, adds to or deletes any public IP address or MAC address allocated to it by Foreshore without first obtaining Foreshore's written permission.
- 2.7 Suspension of the Service, or any part thereof, shall not exclude Foreshore from terminating the relevant Agreement or an Order Form in the event of such right arising and shall not exclude any other rights or remedies available to Foreshore.
- 2.8 Suspension of the Service as a result of the acts or omissions of the Customer, its users or its sub-contractors shall not entitle the Customer to any remedies pursuant to this Agreement.
- 2.9 During the period of suspension, the Customer shall remain liable for all Charges due in respect of the Service.
- 2.10 Foreshore will restore the Service as soon as reasonably possible after the suspension.
- 2.11 Foreshore will have the sole discretion and control over, and may modify at any time (with or without notice to the Customer), the functionality, performance, configuration, appearance and content of any Services provided that, in each case such modifications do not result in a material reduction to, or loss of, functionality, performance, content and/or accuracy of the Services.

3. USE OF THE SERVICES

- 3.1 The Customer will comply with the Acceptable Use Policy in effect at the time when the Services are provided. Foreshore may amend the Acceptable Use Policy from time to time as it sees fit. Foreshore reserves the right, without liability to the Customer, to disable the Customer's access to the Service and to suspend any Foreshore Associated Service if the Customer breaches the Acceptable Use Policy.
- 3.2 If Foreshore supplies any Software to the Customer as part of the Services, the Customer will comply with the Software Terms for that Software in effect at the time when the Service is provided, and Foreshore reserves the right, without liability to the Customer, to disable the Customer's access to the Service and any Foreshore Associated Service if the Customer breaches those Software Terms.
- 3.3 If the Customer uses the Services to process payment account data and is subject to the requirements of the PCI DSS or the Customer is otherwise subject to the requirements of the PCI DSS, the Customer is responsible for ensuring that the Services meets any of the requirements of the PCI DSS applicable to the Customer.

3.4 The Customer will not:

- (a) except to the extent expressly permitted under this Agreement, copy, modify, duplicate, create derivative works from, frame, mirror, publish, download, display, transmit, or distribute the Services in any form or media or by any means, and not to attempt to do any of the above;
- (b) 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;
- (c) use the Services to create, promote or supply a product or service which competes with the Services;
- (d) use the Services to provide any service to any third party or share the use of the Services with any third party;
- (e) license, sell, rent, lease, transfer, assign, distribute, display, disclose, exploit, make the Services available to any third party;
- (f) remove or alter any trade mark, product identification, proprietary, copyright or other notice or proprietary device that be incorporated into any Services;
- (g) use the Services in any application or situation where the Services failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage;
- (h) assist or allow any third party to do any of the acts prohibited by Conditions 2.4(a) to 2.4.(f) (inclusive); or
- (i) not change, add or delete any public IP address or MAC address allocated to it by Foreshore without first obtaining Foreshore's permission in writing.

3.5 The Customer will:

- (a) use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services (or any of them). The Customer will notify Foreshore immediately if the Customer becomes aware of any such unauthorised access;
- (b) comply with, and ensure that its staff comply with any rules, regulations, standards, protocols and procedures issued by Foreshore to the Customer from time to time in connection with the use or security of the Services ;
- (c) comply with, and assist Foreshore with, all reasonable requests for information in respect of customer verification, compliance with this Agreement or other information as may be required in order to provide the Service, as and when required by Foreshore; and
- (d) notify Foreshore as soon as the Customer becomes aware of, or suspects, any unauthorised use of or breach of security in relation to the Services .

4. THE CUSTOMER DATA

- 4.1 The Customer will own all rights (including Intellectual Property Rights), title and interest in the Customer Data.

- 4.2 The Customer hereby grants to Foreshore a fully paid-up, worldwide, non-exclusive, royalty free, transferable, licence to use the Customer Data to the extent necessary for Foreshore to provide the Services and perform its other obligations under the Agreement. Subject to Schedule 4 (Data Protection) and the Service Specific Terms, such licence includes the right for Foreshore to grant to its subcontractors) from time to time the right to use Customer Data on the same terms providing that nothing in this Condition 4.2 shall affect Foreshore's obligations under Schedule 4 (Data Protection).
- 4.3 Foreshore is not responsible for the content of any of the Customer Data. The Customer will ensure that the Customer Data does not include any Harmful Elements.
- 4.4 Foreshore may, but is not obliged to, monitor the activities of the Customer or any other person. Foreshore may, in order to avail itself of any defence allowed to it by law, or to reduce its liability to any third party, remove from the Services, or block, any Customer Data at any time.
- 4.5 The Customer is responsible for setting the controls so that particular Customer Data are accessible only by, and may be changed only by, those people whom the Customer intends to have access to or to be able to change them.
- 4.6 Foreshore will not be responsible for any degradation, loss, destruction, alteration or disclosure of any of the Customer Data caused by any third party outside Foreshore's control.
- 4.7 Whilst during the provision of the Services any Customer Data are in transit between the Customer's System and Foreshore's IT Infrastructure, they are at the Customer's risk, and Foreshore will not be liable for any degradation, loss, destruction or corruption of any of the Customer Data while in transit.
- 4.8 The Customer acknowledges and agrees that Foreshore may process anonymised, aggregated data relating to the Services and/or performance of its obligations under the Agreement (including data derived from Personal Data and data about access to and use of Service(s)) ("**Service Data**") for the purposes of:
- (a) research, insight and product and service development; and
 - (b) monitoring access to and use of Service(s) for compliance with the Agreement.
- 4.9 The Parties shall comply with the terms of Schedule 4 (Data Protection).

5. THIRD PARTY PROVIDERS

- 5.1 The Services may allow the Customer to access and use software and operating systems provided by third parties. If the Customer does so, it does so at the Customer's (and not Foreshore's) risk.
- 5.2 Foreshore 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 Customer with any third party, or in relation to any transaction or contract entered into between the Customer and any third party. The Customer shall agree to any third-party terms and conditions and/or end user license agreements specified in Schedule 5 and any other Service Specific Terms.

6. WARRANTIES

- 6.1 Foreshore warrants that the Services provided to the Customer (i) will be provided with reasonable skill; and care and (ii) will substantially comply with the Service Specific Terms relating to them.

- 6.2 Subject to Conditions 6.3 and 6.4, if the Services provided to the Customer does not comply with the warranty in Condition 6.1, Foreshore will use reasonable endeavours to re-perform the Services, or will endeavour to provide the Customer with an alternative means of carrying out the task which it was carrying out using the Services. That re-performance or the provision of the alternative means is the Customer's sole and exclusive remedy for any breach of the warranty in Condition 6.1.
- 6.3 Foreshore 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:
- (a) the Customer or any Authorised User not having complied with this Agreement; any negligent or unlawful act or omission of the Customer, any user or any employee, contractor, agent or supplier of the Customer; the misuse of the Services, or the use of, the Services by the Customer or any Authorised User contrary to Foreshore's instructions; any delay or failure on the part of the Customer in providing any information or data to Foreshore; any delay or failure on the part of the Customer to notify Foreshore of any error in the Customer Data or of any actual or suspected Defect or of any failure of, or fault, error or bug in, any equipment, software, network or telecommunications system; any other act or omission on the part of the Customer; any act or omission of any third party;
 - (b) the Customer 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 Customer'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;
 - (c) the failure of any firewall (whether supplied by Foreshore or by any third party);
 - (d) the modification or alteration of the Services by anyone except Foreshore or Foreshore's suppliers; or
 - (e) any failure by the Customer to keep full and up-to-date security copies of the software forming part of the Customer's System and of the Customer's Applications in accordance with best computing practice, and of the Customer Data which it supplies to Foreshore or processes using the Services.
- 6.4 Notwithstanding Condition 6.1 or any other provision of this Agreement:
- (a) to the maximum extent permitted by law, all Services are made available "as-is";
 - (b) because of the nature of Software, information systems, telecommunications systems and the internet, Foreshore 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 Customer through the use of the Services will meet the Customer's requirements;
 - (c) Foreshore 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, including (without limitation) the Customer's network connections or telecommunications links and the internet, and the Customer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications networks and facilities;
 - (d) Foreshore will not be liable if the Services do not provide a facility or feature not set out in the Service Specific Terms or Order Form;

- (e) Foreshore will not be liable for any fault or defect in any of the Customer'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 Customer's Applications; and
 - (f) Foreshore will not be liable for any error or incompleteness in the Customer Data.
- 6.5 The Customer acknowledges that the benefits of using the Services are dependent on the Customer exercising proper skill, care and judgement in inputting and maintaining the Customer Data and in interpreting the information and data received via the Services. Foreshore does not warrant that any such data will be complete, accurate or up to date, and Foreshore will not be liable for the consequences of any decision taken by the Customer or any other person, on the basis of that information or data.
- 6.6 The express undertakings and warranties given by Foreshore in this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations on the part of Foreshore, 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.
- 6.7 The Customer warrants that:
- (a) it has not been induced to enter into this Agreement by any representation or warranty except those specifically set out in this Agreement. The Customer waives all claims for breach of any warranty and all claims for any misrepresentation, (negligent or any other kind, unless made by Foreshore fraudulently) which is not specifically set out in this Agreement; and
 - (b) the Customer has, and will have, the necessary licences, consents and permissions to provide the Customer's Applications, Customer Data and any information, other software, data, materials and facilities which it provides to Foreshore and, in doing so, the Customer will not be in breach of any obligation to any third party or infringing any third party Intellectual Property Rights.

7. THE CUSTOMER'S OBLIGATIONS

- 7.1 The Customer will:
- (a) before the Commencement Date, procure the Customer's Applications and all internal computer equipment, terminals, peripheral equipment, software, telecommunications systems and network connections necessary for it to receive the Services;
 - (b) keep the Customer's Applications and the Customer's System in good working order until the termination date of the Agreement;
 - (c) before the Commencement Date, obtain and afterwards, until the termination date of the relevant Order Form, maintain all licences of the Customer's Applications and any other third party software, data and materials used or processed by the Customer and any consents necessary for the disclosure and use of the Customer's Applications and that software, data and materials to or by Foreshore; and
 - (d) ensure that any of the operating systems or Customer'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.
 - (e) only allow the permitted number of licensed users (either shown in the Order Form or as otherwise notified by Foreshore) to access and use the Services and to immediately notify Foreshore if additional licensing is required.

- 7.2 The Customer will co-operate fully and will ensure that its staff co-operate fully with Foreshore as required by Foreshore from time to time and will provide and will ensure that its staff provide Foreshore with all information reasonably required by Foreshore in connection with the provision of the Services . Where Foreshore needs the Customer to provide information or materials, or to take a decision, the Customer will do so promptly and so as not to cause any delay.
- 7.3 The Customer will make available to Foreshore, free of charge, all information, facilities and services reasonably required by Foreshore to allow it to provide the Services.
- 7.4 When using the Services the Customer 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 (or any of them) to commit, or to assist in the commission of, any fraud or other criminal or unlawful activity.
- 7.5 The Customer shall be solely responsible for determining the fitness of the Service, for its purposes and requirements, including compliance with any laws or regulatory requirements applicable to, or requirements of, the Customer and its business.
- 7.6 The Customer will not introduce any Harmful Element into the Services . The Customer will keep the Customer's System, Virtual Machines, operating systems and applications free from infection by Harmful Elements and 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.
- 7.7 The Customer will ensure that all Authorised Users only access and use the Services in accordance with the Agreement and comply with the Agreement as if the Authorised User were the Customer, and shall be responsible for all Authorised User's acts and omissions as if they were the Customer's own acts and omissions.
- 7.8 The Customer will use reasonable endeavours and in any event take all steps consistent with good industry practice to try to prevent any unauthorised access to, or use of, any Services and, if the Customer discovers, or is made aware of, any such access or use, immediately notify Foreshore of such unauthorised access or use.
- 7.9 The Customer will:
- (a) in accordance with the Customer Procedures, appoint at least one Designated Contact who will act as the Customer's Primary Contact and who will have authority to take decisions and act on behalf of the Customer in relation to the Services and this Agreement. (The Customer agrees that Foreshore may act on any request, notification or claim made in accordance with the Customer Procedures.); and
 - (b) unless stated to the contrary in the Service Specific Terms, nominate up to three Designated Contacts who are authorised to place calls to Foreshore's help desk, notify Foreshore immediately of any changes in the details of those individuals and ensure that no one except those individuals contacts Foreshore's help desk.
- 7.10 The Customer 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 Customer, Foreshore may adjust any agreed timetable or delivery schedule as reasonably necessary.

8. CHARGES AND PAYMENT

- 8.1 Unless agreed otherwise in the relevant Service Specific Terms or Order Form, Foreshore shall be entitled to invoice the Customer the Charges for each Service, starting from the Service Delivery Date for such Service and at the intervals specified in the relevant Order Form, Service Specific Terms or as otherwise agreed in writing between the Parties. Where no such interval is specified, Foreshore shall invoice the Customer on a monthly basis.
- 8.2 All Charges duly invoiced shall be payable within thirty (30) days after the date of the invoice (being the "Due Date" for payment) and the Customer undertakes to pay (or procure the payment of) all undisputed Charges by BACS to Foreshore or such other method of payment as may be agreed by the Parties from time to time. Billing for partial months is prorated and the Customer is responsible for all charges in respect of the Service, even if incurred as a result of unauthorised use.
- 8.3 The Customer shall make payments to Foreshore by way of direct debit or in cleared funds at Foreshore's discretion.
- 8.4 In the event Foreshore has not received any sums payable under this Agreement by the Due Date, without prejudice to any other right or remedy under this Agreement, without liability to the Customer;
- (a) Foreshore reserves the right to charge a late payment fee at the rates specified at:
[What happens when a bill is not paid – Sure](#)
 - (b) Foreshore reserves the right to charge interest on a daily basis on any balances which remain unpaid from the Due Date until payment is made in full both before and after any judgment at the rate of four per cent (4%) above the Bank of England base rate and Foreshore shall be entitled to invoice such interest at any time in arrears;
 - (c) should these sums remain unpaid after twenty-one (21) days from the Due Date, Foreshore may terminate this Agreement upon provision of notice in writing without requiring the remedy of such default; and/or
 - (d) should these sums remain unpaid after twenty-one (21) days from the Due Date Foreshore may suspend the provision of the Services upon notice in writing while any amounts remain unpaid.
- 8.5 All payments will be made and all credits given in pounds sterling.
- 8.6 Any Service Credits owed to the Customer shall be paid by Foreshore in accordance with the procedure set out in the relevant Service Specific Terms or as otherwise agreed in writing.
- 8.7 All Charges are exclusive of any withholdings or deductions which the Customer is required to make by law and in the event that Foreshore is required to levy any such withholdings or deductions, the gross amount of the Charges shall be increased to cover any addition amount to ensure that the net amount received by Foreshore is the amount of the Charges which would have been receivable by Foreshore without any such withholding or deduction.
- 8.8 The Customer must raise a dispute in relation to an invoice within fourteen (14) days of the date of the relevant invoice by notifying Foreshore in writing setting out the reasons for the dispute and the disputed amount contained within the invoice provided always that any part of a disputed invoice that is itself not disputed remains payable by the Due Date. The Parties shall negotiate in good faith to resolve the dispute promptly.
- 8.9 Provided always that any sums found by Foreshore to be erroneous or not in compliance with the Order Form (or any agreed charges) shall be adjusted accordingly and if paid in accordance with Condition 8.2, shall be refunded along with any late payment fees applied pursuant to condition 8.4(b). For the avoidance of doubt, no refunds of monies or interest in respect of late

payments shall be refunded in the event that the dispute is not upheld. If the dispute is resolved against the Customer, the Customer shall pay such amounts plus interest from the date originally due.

- 8.10 All payments made by the Customer under this Agreement shall be made in full without any set-off, restriction or condition and without any deductions for or on account of any counterclaim.
- 8.11 All fees, charges and expenses payable under this Agreement are inclusive of GST but exclusive of VAT, any sales tax or other tax payable in connection with the supply of the Services. Where such tax is chargeable, the Customer will pay it in addition to the fees, charges and expenses payable under this Agreement. The Customer shall indemnify Foreshore on demand against any taxes or duties levied in respect of the Services for which Foreshore is liable pursuant to or by reference to the Customer's use of the Services or Foreshore's delivery of the Services.
- 8.12 Foreshore may increase the Charges with effect from each anniversary of the Commencement Date by giving the Customer not less than 30 days' notice. Any such increase(s) shall be deemed to be accepted by the Customer and the applicable Order Form shall be deemed amended accordingly, unless the Customer gives to Foreshore written notice to terminate the relevant Order Form in respect of the relevant Service in which case the relevant Order Form shall terminate in respect of the relevant Service on the anniversary of the Commencement Date..
- 8.13 The Customer shall provide a security deposit in an the amount to be specified by Foreshore to serve as security for the performance of the obligations of the Customer to Foreshore provided always that such amount shall not exceed the total cost of the Services for a period of three (3) months.
- 8.14 Foreshore shall return such security deposit within three (3) months of the date of termination of the Agreement provided that the Customer has paid all outstanding sums due to Foreshore and in the event that any sums are still owing at the end of such three (3) month period, Foreshore shall have the right to set-off such amounts owing against the security deposit provided pursuant to this Agreement and the Customer shall be liable to pay any remaining balance following the set-off. The Customer shall not be entitled to the return of such security deposit in the event of early termination of the Agreement other than in the event of a material breach by Foreshore or in the event that Foreshore is subject to an insolvency event.
- 8.15 Foreshore reserves the right to require the Customer to make payments in advance or receipt of the Services in such sums and at such periods as Foreshore in its sole discretion shall determine. Any payments made in advance shall be credited to the account of the Customer and applied against future Charges subsequently incurred by the Customer in respect of the Services.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 The Customer acknowledges and agrees that Foreshore or its licensors own Foreshore IP.. Except as expressly stated in this Agreement, this Agreement does not grant the Customer any rights in respect of the Service or any Foreshore Associated Service.
- 9.2 To the extent, at any time, that by operation of law any Foreshore IP does not vest in Foreshore or its licensors, the Customer hereby irrevocably assigns to Foreshore (by way of present and future assignment) with full title guarantee all Foreshore IP (or, if applicable, shall procure such an assignment to the Foreshore).
- 9.3 The Customer shall not act in a way which is inconsistent with or undermines Foreshore or its licensors' (as the case may be) right of ownership or diminishes any Foreshore IP or calls any Foreshore IP into question.

10. CONFIDENTIALITY

- 10.1 Foreshore and the Customer each agrees:
- (a) to keep the other's Confidential Information confidential and, except as permitted elsewhere in this Agreement, not disclose that information to any other person, or use it for any purpose except the exercise of its rights, or the performance of its obligations, under this Agreement; and
 - (b) to disclose the other's Confidential Information only to those of its employees, suppliers and contractors or any member of its Group who need to know the same to allow it to exercise its rights or perform its obligations under this Agreement, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the receiving party.
- 10.2 Confidential information shall not include, and neither party shall have any responsibility hereunder to hold in confidence, any information that:
- (a) prior to its disclosure by the disclosing party is already lawfully and rightfully known by or available to the receiving party without obligations of confidence as evidenced by prior written records or other documents in possession of the receiving party;
 - (b) through no wrongful act, fault or negligence on the part of the receiving party is or hereafter becomes part of the public domain;
 - (c) is lawfully received by the receiving party from a third party without restriction and without breach of this Agreement or any other agreement;
 - (d) is approved for public release or use by written authorisation of the disclosing party; or
 - (e) is disclosed pursuant to the requirement or request of a regulatory body, recognised stock exchange, governmental agency or court of competent jurisdiction to the extent such disclosure is required by a valid law, regulation or court order and, to the extent legally permitted, sufficient notice is given by the receiving party to the disclosing party of any such requirement or request in order to permit the disclosing party to seek an appropriate protective order or exemption from such requirement or request.
- 10.3 Each party will immediately notify the other if it becomes aware of any breach of confidence in relation to the other's Confidential Information, and it will give the other any assistance reasonably required in connection with any action or proceedings which the other may institute against any third party for breach of confidence.
- 10.4 Neither party will be liable for any loss, destruction, alteration or disclosure of the other's Confidential Information caused by any third party.

11. INDEMNITIES

- 11.1 The Customer shall indemnify and hold harmless Foreshore and its officers, directors and employees against any all liabilities, costs, expenses (including reasonable legal fees), losses and damages incurred by them arising out of, resulting from, relating to or in connection with any:
- (a) third party claim that the Customer Data or their use by Foreshore or any of its subcontractors infringes any third party rights (including Intellectual Property Rights);
 - (b) breach by the Customer of Conditions 7.1(d), 7.4, 7.6 and 10; and
 - (c) of the circumstances or matters listed in Condition 12.4.

- 11.2 Subject to Condition 11.3, Foreshore shall indemnify and hold harmless the Customer and its officers, directors and employees against any all liabilities, costs, expenses (including reasonable legal fees), losses and damages (in each case, to the extent awarded by a court of competent jurisdiction or otherwise agreed by Foreshore in settlement of a claim) incurred by the Customer as a result of a third party claim that the Customer's or an Authorised User's access to and use of the Services in accordance with the Agreement infringes any Intellectual Property Rights, provided that:
- (a) Foreshore is given prompt notice of any such claim (and in any event is given notice within five (5) Business Days of becoming aware of, or being notified of, the claim);
 - (b) the Customer provides reasonable co-operation to Foreshore in the defence and settlement of such claim;
 - (c) Foreshore is given sole authority to defend or settle the claim;
 - (d) the Customer shall not make any admission of fault or liability, agreement or compromise in respect of the claim without Foreshore's prior written consent;
 - (e) the Customer shall take all reasonable and timely action necessary to mitigate all liabilities, costs, expenses (including legal fees), losses and damages incurred by Customer as a result of the claim (including such reasonable actions as Foreshore may request to avoid, dispute, resist, appeal, compromise or defend the claim).
- 11.3 In the defence or settlement of any claim under Condition 11.2, Foreshore may procure the right for the Customer to continue using the Product, replace or modify the Services so that it becomes non-infringing or, if such remedies are not reasonably available, terminate the Agreement in relation to the Services on notice to the Customer without any additional liability to the Customer.
- 11.4 In no event shall Foreshore or its employees, agents and subcontractors be liable to the Customer to the extent that the alleged infringement is based on:
- (a) access to or use of the Services contrary to Foreshore's instructions;
 - (b) modification or alteration of the Services by any party other than Foreshore or its subcontractors;
 - (c) the Customer's or Authorised User's access to or use of the Services or other act or omission in breach of the Agreement;
 - (d) any negligence or misconduct, except for the negligence or misconduct of Foreshore or any person acting on its behalf; or
 - (e) any software and operating systems provided by third parties.
- 11.5 Condition 11.2 sets out the Customer's sole and exclusive rights and remedies, and Foreshore's (including Foreshore's employees', agents' and subcontractors') entire obligations and liability for infringement of any third party rights (including Intellectual Property Rights).

12. LIMITATION OF LIABILITY

- 12.1 Nothing in this Agreement limits or excludes:
- (a) the Customer's obligation to pay the Charges;
 - (b) either party's liability under Condition 11; or

- (c) either party's liability for death or personal injury caused by negligence, or for fraud or fraudulent misrepresentation, or for any other liability which the law does not allow Foreshore to limit or exclude.
- 12.2 Subject to Conditions 12.1, 12.3 and 12.4, each Party's total aggregate liability under this Agreement, whether in contract, or tort (including negligence and for breach of statutory duty), misrepresentation, restitution or arising in any other way, will not exceed, in aggregate, the greater of £5,000 or the total Charges paid by the Customer to Foreshore during the 12 months immediately preceding the date on which the events giving rise to the claim arose.
- 12.3 Subject to Condition 12.1, but otherwise despite anything else contained in this Agreement, neither Party will be liable to the other for any loss of profits (except for the Charges), loss of savings, loss of use, loss of business, loss of opportunity, loss or damage to reputation or goodwill, loss or damage to property, loss of use of any property, loss of contracts (whether direct or indirect), loss or corruption of data or information or for any indirect, special or consequential loss or damage, whether in contract, or tort (including negligence and for breach of statutory duty), misrepresentation, restitution or arising in any other way, even if Foreshore had been advised of, or knew of, the likelihood of that loss or type of loss arising.
- 12.4 Subject to Condition 12.1, but without prejudice to the other terms of the Agreement, Foreshore shall have no liability under the Agreement to the extent such liability is caused by:
- (a) access of use of the Services contrary to Foreshore's instructions;
- (b) modification or alteration of any Service by any party other than Foreshore and its subcontractors;
- (c) failure to implement any security and/or encryption techniques which may be requested by Foreshore from time to time; or
- (d) the Customer's access to or use of any Service or other act or omission that is in breach of this Agreement.
- 12.5 Subject to Condition 12.1, the Customer's entitlement to the Service Credits in accordance with the Service Specific Terms is Foreshore's sole liability and the Customers' sole remedy in relation to any failure to provide the Services in accordance with the Service Level relating to the same.

13. DURATION AND TERMINATION

- 13.1 This Agreement shall come into force on the Commencement Date of the first Order Form and shall continue until expiry or termination of each Order Form, unless terminated earlier in accordance with this Agreement.
- 13.2 Except to the extent that the parties may agree otherwise in the relevant Order Form and unless and until terminated earlier in accordance with the Agreement, each Order Form shall commence on the Commencement Date and continue for each applicable Initial Term.
- 13.3 In relation to a Service, on each anniversary of the first day of the Initial Term, the term shall automatically be extended for successive periods of twelve (12) months (each a "**Renewal Term**").
- 13.4 After the expiry of the Initial Term, the Customer may terminate a Service by providing Foreshore not less than 30 days written notice.
- 13.5 Foreshore may terminate this Agreement or a Service by giving the Customer not less than three (3) months' written notice, that notice to expire at the end of the initial Term or any Renewal Term.

- 13.6 Either Foreshore or the Customer may terminate this Agreement immediately on giving written notice to the other if:
- (a) the other commits any material breach of this Agreement and (in the case of a breach which is capable of being remedied) has failed to remedy that breach within 30 days after receiving notice requiring it to remedy that breach;
 - (b) the other party breaches Condition 14;
 - (c) in accordance with Conditions 8.4(a) and 11.3;
 - (d) the other has a receiver or administrative receiver appointed over it or over any part of its undertaking or assets, or it passes a resolution for winding-up (except for the purpose of a bona fide scheme of solvent amalgamation or reconstruction), or if a court of competent jurisdiction makes an order to that effect, or if it becomes subject to an administration order, or if it enters into any voluntary arrangement with its creditors, or if any similar process to any of the above is begun in any jurisdiction, or if it ceases or threatens to cease to carry on business; or
 - (e) in the case of Foreshore, it is no longer authorised or licensed to use or resell underlying software or hardware which are integral to the delivery of the Services.
- 13.7 On the termination date or expiry of the Agreement:
- (a) subject to Condition 13.9, all rights granted to the Customer under this Agreement shall immediately terminate and the Customer shall (and shall procure that all Authorised Users shall) immediately cease using the Services;
 - (b) the Customer will comply with its obligations on termination set out in the Service Specific Terms;
 - (c) each party shall each return or (if the other requests) destroy all Confidential Information of the other (and all copies of the same) provided or made available in connection with the Agreement and certify that return or destruction to the other in writing, provided that Foreshore shall be entitled to retain the Customer's Confidential Information to the extent that and for as long as applicable laws require foreshore to do so; and
 - (d) all unpaid Charges and / or other sums due in respect of Services provided and/or the period before the effective date of termination shall become immediately due and payable to Foreshore and Foreshore shall have the right to issue invoices in respect of such Charges and/or other sums not yet invoiced.
- 13.8 The Customer shall pay the balance of all Charges that would have been payable: (i) in the case of termination of the Agreement, had the Agreement not been terminated before the Initial Term or Renewal Term of all applicable Order Forms; or (ii) in the case of termination of an Order Form only, had the Order Form not been terminated before the end of the Initial Term or the Renewal Term of the applicable Order Form to Foreshore if:
- (a) the Customer purports to terminate this Agreement or the Order Form prior to the expiry of the Initial Term or a Renewal Term (if any); or
 - (b) Foreshore terminates this Agreement or the Order Form in accordance with Condition 13.6.
- 13.9 Provisions relating to termination and return of Customer Data are set out in Schedule 5.

- 13.10 The termination of the 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.
- 13.11 Any provision of the Agreement that by its very nature should or is intended to survive termination of the Agreement shall survive any termination of the Agreement, including Conditions 1, 4.1, 4.3, 4.6, 5, 6 (except 6.1), 8.5 to 8.7 8.10, 8.11, 9, 10, 11, 12, 13.7 to 13.10 and 15.

14. BRIBERY

- 14.1 Foreshore or the Customer will not, and nor will any of their officers, employees, shareholders, representatives or agents ("Associated Parties"), directly or indirectly, either in private business dealings or in dealings with the public sector, offer, give or agree to offer or give (either itself or in agreement with others) any payment, gift or other advantage (whether or not by using any payments under this Agreement or any Order Form) with respect to Order Form which (i) would violate any anti-corruption laws or regulations applicable to Foreshore, the Customer and the Customer's Group, (ii) is intended to, or does, influence any person to act or reward any person for acting in breach of an expectation of good faith, impartiality or trust, or which it would otherwise be improper for the recipient to accept, (iii) is made to or for a public official with the intention of influencing them and obtaining or retaining an advantage in the conduct of business, or (iv) which a reasonable person would otherwise consider to be unethical, illegal or improper ("Corrupt Act").

15. GENERAL

- 15.1 This Agreement supersedes all earlier agreements, arrangements and understandings between the parties in respect of its subject matter and constitutes the complete agreement between the parties relating to that subject matter.
- 15.2 Foreshore may revise this Agreement, at any time in our sole discretion by posting such revised terms at <https://web.sure.com/jersey/terms-and-conditions>, or otherwise notifying the Customer in accordance with Clause 15.3. Such revised terms shall be effective to the Customer upon posting or other notice, unless otherwise explicitly stated by Sure. If the Customer does not agree with any terms as they may be amended from time to time, Sure may in its sole discretion consider any proposed amendments.

- 15.3 Except where any other method of giving any notice or request is specified elsewhere in this Agreement, all notices and requests to be given or made under this Agreement must be in writing and be delivered personally (including by courier), or sent by first class pre-paid letter or by email to the geographical or email address for notices of the intended recipient set out below or to such other geographical or email address as may from time to time be designated by notice given in accordance with this Condition, and will be deemed to have been served: if by hand, when delivered; if by first class post, 48 hours after posting; and if sent by email 1 hour after being sent. Foreshore may give notice to any Designated Contact in accordance with the Customer Notification Policy:

Addresses for notices:

Foreshore:

Address: Foreshore Limited

PO Box 3

Centenary House

La Vrangue

St Peter Port

Guernsey, GY1 3AB

With a copy to: Legal and Regulatory Director

E-mail: chris.durnell@sure.com

The Customer:

Address: its registered office

E-mail: email address to be provided to Foreshore by the Customer.

- 15.4 Despite anything else contained in this Agreement, Foreshore will not be liable for any delay in performing or failure to perform its obligations caused by circumstances beyond its control (including (without limitation) any act or omission of the Customer or of any third party, any strike, lock-out or other industrial dispute (whether involving the workforce of Foreshore or any other person), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, epidemic, pandemic, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or act or omission of suppliers or sub-contractors). In those circumstances Foreshore will be granted a reasonable extension of time for the performance of its obligations, the reasonableness of that extension to be assessed not only in the context of this Agreement but also in the context of Foreshore's other commitments.
- 15.5 Except as permitted by this Condition, Foreshore may not assign this Agreement or any of its rights or obligations under it, whether in whole or in part without first obtaining the Customer's written consent. Foreshore may assign this Agreement to any undertaking: (i) that, directly or indirectly Controls, is directly or indirectly Controlled by, or is under common Control with Foreshore; or (ii) to a third party purchaser, in connection with the sale of all or substantially all of Foreshore's assets or shares to that third party purchaser. The Customer may not assign this Agreement or any of its rights or obligations under it, whether in whole or in part, without first obtaining Foreshore's written consent. In each case that consent will not be unreasonably withheld or delayed.

- 15.6 If any part of this Agreement is held by any competent authority to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of this Agreement will not be affected.
- 15.7 No failure or delay by any party in enforcing its rights will prejudice or restrict those rights. No waiver of any right will operate as a waiver of any other right or breach. Any waiver shall only be effective if in writing signed by a duly authorised representative on behalf of the party claimed to have waived. Except where stated to the contrary in this Agreement, no right, power or remedy conferred on, or reserved to, either party is exclusive of any other right, power or remedy available to it, and each of those rights, powers, and remedies is cumulative.
- 15.8 This Agreement and its validity are governed by, and this Agreement is to be construed in accordance with, the laws of Jersey. Each party agrees to submit to the non-exclusive jurisdiction of the Jersey Courts.
- 15.9 Nothing in this Agreement creates any partnership or joint venture between any of the parties, or the relationship between them of principal and agent.
- 15.10 Neither party will have any right or authority to enter into any contract, make any representation, give any warranty, incur any liability, assume any obligation, (whether express or implied) of any kind on behalf of the other party or bind the other party in any way.
- 15.11 No third party (except, where applicable, the permitted assign of a party to this Agreement) is entitled to the benefit of this Agreement.
- 15.12 No variation of the Agreement shall be effective unless it is in writing.
- 15.13 Subject to Schedule 4 (Data Protection), Foreshore may subcontract any of its rights or obligations under the Agreement without the Customer's prior written consent, provided that Foreshore shall remain liable for the acts and omissions of its subcontractors.

Schedule 1

Acceptable Use Policy

Contents

1. The Purpose of this Acceptable Use Policy and the Consequences of Breaching it
2. Monitoring
3. Offensive and Unlawful Material
4. Email
5. Other Prohibited Activities
6. Changes to this Acceptable Use Policy

1. The Purpose of this Acceptable Use Policy and the consequences of breaching it:

- 1.1. This Acceptable Use Policy sets out the rules which apply when the Customer uses any Service.
- 1.2. This Acceptable Use Policy is designed to help protect Foreshore, its suppliers and its customer base as a whole from the consequences of irresponsible, illegal and unlawful activities.
- 1.3. If Foreshore determines, in its sole discretion, that the Customer's use of any Service involves, or may involve, any illegal or unlawful activity, it may report that activity to the appropriate authorities.
- 1.4. If any third party alleges that the Customer's use of any Service is, or involves, any illegal or unlawful activity, Foreshore may co-operate with any investigation into that activity and may disclose any information to any law enforcement or regulatory authority and to any other interested party.
- 1.5. Foreshore 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 Acceptable Use Policy. In particular, Foreshore reserves the right immediately to remove or disable access to any material on its systems which:
 - 1.5.1 Foreshore deems to be defamatory or potentially defamatory;
 - 1.5.2 is, or is alleged to be, an infringement of Intellectual Property Rights;
 - 1.5.3 is, or is alleged to be, obscene or pornographic; or
 - 1.5.4 is, or Foreshore suspects is, infected with a Harmful Element or which might infect or corrupt Foreshore's data or systems or the data or systems of any other person.
- 1.6. Each Customer must ensure that its Authorised Users comply with this Acceptable Use Policy.

2. Monitoring

Foreshore may, but is not obliged to, monitor the Customer's or any other person's use of any Service. Foreshore may operate systems to monitor compliance with this Acceptable Use Policy and the Agreement.

3. Offensive and Unlawful Material

3.1. The Customer must not, and must not permit its Authorised Users to, when using any Service, store, publish or transmit any material which:

3.1.1 is defamatory, a malicious falsehood or a seditious libel;

3.1.2 is obscene, indecent, lewd, pornographic, or sexually explicit;

3.1.3 is violent, abusive, offensive, threatening, menacing or harassing;

3.1.4 facilitates or encourages any activity or conduct which is or may be defamatory, or a malicious falsehood or a seditious libel, obscene, indecent, lewd, pornographic, violent, abusive, offensive, threatening, menacing or harassing;

3.1.5 involves terrorism, theft, fraud, drug-trafficking or money laundering;

3.1.6 is, or is likely to be understood as, encouragement or other inducement to prepare, instigate or commit any act of terrorism;

3.1.7 is an invasion of privacy or a breach of any data protection principle or legislation;

3.1.8 is discriminatory in any way, including by way of sex, race, or age discrimination, or is likely to incite or capable of inciting racial hatred, sadism or cruelty;

3.1.9 infringes another person's Intellectual Property Right;

3.1.10 is intended to assist others in defeating any technical copyright protection;

3.1.11 improperly discloses any trade secrets or other confidential information of another person;

3.1.12 is blasphemous;

3.1.13 contains any virus, corrupted data, Trojan horse or anything else which might damage, destroy or render inaccessible any data or files on any system or any network; or

3.1.14 is in some other way unlawful or illegal or encourages any unlawful or illegal act or omission under any law which applies to the Customer or to Foreshore or to any of Foreshore's suppliers.

4. E-Mail

4.1. The Customer and its Authorised Users must not use any Service to:

4.1.1 send any email which is intended to harass, inconvenience or annoy anyone, or cause them needless anxiety; or

4.1.2 send any email if its content breaches section 3 of this Acceptable Use Policy.

4.2. The Customer must ensure that all marketing and other commercial emails comply with all laws and regulations which apply to its activities.

5. Other Prohibited Activities

5.1. The Customer and its Authorised Users may not use any Service to do or attempt to do any of the following:

- 5.1.1 obtain unauthorised access to, or the use of, any data, service, system or network, unless the Customer has the permission of the owner of the data, service, system or network;
 - 5.1.2 probe, scan or test the vulnerability of any system or network or breach any security, verification or authentication measures (including those of Foreshore) unless the Customer has the permission of the owner of the system or network;
 - 5.1.3 monitor data or traffic on any network or system unless the Customer has the permission of the owner of the system or network;
 - 5.1.4 interfere with the provision of any service (including a Service) to any other person, system or network, or adversely affect the operation of any service, system or network (including those of Foreshore), whether by mail bombing, flooding, overloading any system or network, broadcast attack, transmissions causing a system or network crash, or in any other way;
 - 5.1.5 use an account or an IT system unless the Customer has the owner's permission to do so;
 - 5.1.6 collect information by deceit (including, without limitation, internet scamming password theft, phishing, security hole scanning, and port scanning);
 - 5.1.7 distribute software which covertly gathers information about a user or covertly transmits information about a user; or
 - 5.1.8 carry out any other unlawful or illegal activity.
- 5.2. The Customer must not omit, remove, falsify or misrepresent any transmission information, including but not limited to any:
- 5.2.1 TCP-IP packet header;
 - 5.2.2 message header; or
 - 5.2.3 IP address.
- If the Customer is using any shared Service, the Customer must not use it in a way which
- 5.3. interferes with the normal operation of that Service;
6. Changes to this Acceptable Use 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 Foreshore reserves the right to update or modify this Acceptable Use Policy from time to time without prior notice by publishing the revised version of this Acceptable Use Policy on its website.

Schedule 2

Customer Notification Policy

Contents

1. The Purpose of this Customer Notification Policy
2. Notifications
3. Changes to this Customer Notification Policy

1. The Purpose of this Customer Notification Policy:

- 1.1. This Customer Notification Policy sets out how Foreshore may contact the Customer in various circumstances.
- 1.2. This Customer Notification Policy does not cover formal notices and requests made under Condition 15.3 of the Agreement.
- 1.3. A Designated Contact who has opted out of receiving notifications from Foreshore will not receive communications as described in this Customer Notification Policy.

2. Notifications

2.1. Scheduled Maintenance

2.1.1. Foreshore may notify the Customer of any Scheduled Maintenance by sending an email to a contact within the service notification group (if any).

2.1.2. Foreshore may notify the Customer of any planned maintenance to any network or core infrastructure by sending an email to a contact within the service notification group (if any).

2.1.3. Foreshore may notify the Customer of any planned maintenance to a specific service by sending an email to a contact within the service notification group (if any).

2.2. Emergency Maintenance

2.2.1. Foreshore may notify the Customer of any emergency maintenance by sending an email to a contact within the service notification group (if any).

2.2.2. Foreshore may notify the Customer of any emergency maintenance to any network or core infrastructure by sending an email to a contact within the service notification group (if any).

2.2.3. Foreshore may notify the Customer of any emergency maintenance to a specific service by sending an email to a contact within the service notification group (if any).

2.3. Performance

2.3.1. Foreshore may notify the Customer of any suspected performance degradation by sending an email to contact within the service notification group (if any).

2.3.2. Foreshore may notify the Customer of any network or core infrastructure related suspected performance degradation by sending an email to a contact within the service notification group (if any).

2.3.3. Foreshore may notify the Customer of any service specific suspected performance degradation by sending an email to a contact within the service notification group (if any).

2.4. Service Updates

2.4.1. Foreshore may notify the Customer of any service update (e.g. a new software release) or provide the Customer with general service information by sending an email to a contact within the service notification group (if any).

2.4.2. Foreshore may notify the Customer of any network or core infrastructure related update notifications or provide the Customer with general information about any network or core infrastructure by sending an email to a contact within the service notification group (if any).

2.4.3. Foreshore may notify the Customer of any service specific update or provide the Customer with general information about that service by sending an email to a contact within the service notification group (if any).

2.5. Primary Contact

2.5.1 Foreshore may send any notification under this Policy to the Customer's Primary Contact by email.

3. **Changes to this Customer Notification Policy**

3.1. Foreshore reserves the right to update or modify this Customer Notification Policy from time to time without prior notice by publishing the revised version of this Customer Notification Policy on its website.

Schedule 3

Customer Procedures

Contents

1. The Purpose of these Customer Procedures and the Consequences of Not Following them
2. Service Requests (including Support and Changes to Existing Services)
3. Deliveries to Foreshore
4. Requests to Calculate Availability and Notification of Outages
5. Claims for Service Credits
6. Appointing or Changing the Customer's Primary Contacts, Admin Contact(s) or Contact(s)
7. Non-authorized Requests and Changes to Other Designated Contacts
8. Changes to these Customer Procedures

1. The Purpose of these Customer Procedures and the Consequences of Not Following them

- 1.1. These Customer Procedures set out the steps to be followed when the Customer wishes to request Foreshore to provide or change an existing Service, or wishes Foreshore to calculate Availability, or to notify Foreshore of an Outage or claim a Service Credit.
- 1.2. In order to protect both Foreshore and the Customer, these Customer Procedures are designed to help ensure that only the appropriate Designated Contacts request Services or a change to an existing Service, notify Outages or make claims for Service Credits.
- 1.3. Failure to follow these Customer Procedures may mean that Foreshore does not comply with the Customer's request. If the Customer is making a claim for a Service Credit, no Service Credit will be payable unless the claim is made in accordance with section 5 below.
- 1.4. The Customer must ensure that each of its Designated Contacts is familiar with and follows these Customer Procedures.
- 1.5. Foreshore will be entitled to assume that any request made by a Designated Contact is authorised by the Customer without the need for Foreshore to check the identity of the person making the request.

2. Service Requests (including Support and Changes to any Existing Service)

- 2.1. Service requests must be made by the Designated Contact for that Service by sending an email to serviceoperations@sure.com (the preferred method of logging a service request). Any ticket or other reference in any response must be used by the Customer in all further correspondence about that request and whenever contact is made with Foreshore about that request.
- 2.2. Service requests may also be made by the Designated Contact for that Service by telephoning the Service Operations Centre on +44 1534 752310 in the event that email is unavailable. Additional authentication may, at Foreshore's option, be required in the case of requests made by telephone.

- 2.3. If a Service request is made by somebody who is not the Designated Contact for that Service, they will be advised of this fact and Foreshore will not action the request. Unless section 2.4 applies, the Customer must arrange for the Designated Contact for that Service to make the request.
- 2.4. If there is no Designated Contact for that Service available to make the request, one of the Customer's Primary Contacts or Admin Contacts must send an email to serviceoperations@sure.com, respectively making that request and the procedure set out in section 7 must be followed.

3. Deliveries to Foreshore

- 3.1. If the Customer wishes to arrange a shipment of equipment to Foreshore it must email serviceoperations@sure.com at least 24 hours in advance of the delivery with the following details:
- 1) Shipping company and Customer details;
 - 2) Quantity of boxes;
 - 3) Consignment number;
 - 4) Estimated delivery date;
 - 5) Brief description of contents; and
 - 6) Special handling requirements.
- 3.2. Foreshore reserves the right to reject any deliveries not notified to at least 24 hours in advance in accordance with paragraph 3.1.
- 3.3. The Customer agrees that Foreshore is not responsible for checking any items delivered or the number of items delivered, and will not be liable for the consequences of signing any delivery or other note if requested to do so by the person making the delivery.
- 3.4. In the event the Customer does not install the equipment in Foreshore's datacentre within 30 days of delivery, Foreshore may charge the Customer for storage at rates which are available to the Customer upon request.
- 3.5. Foreshore shall have no liability in relation to loss or damage to the Customer's equipment which is delivered to and stored at any Foreshore premises (or any premises of a Group company). The Customer remains fully liable for any loss or damage to the equipment and must have appropriate insurance cover in place.

4. Requests to Calculate Availability and Notification of Outages

- 4.1. Notification of a suspected outage and a request to calculate the Outages in a calendar month must be made by one of the Customer's Primary Contacts or Admin Contacts by email to serviceoperations@sure.com.

5. Claims for Service Credits

- 5.1. Claims for a Service Credit must be made by one of the Customer's Primary Contacts or Admin Contacts by email to serviceoperations@sure.com.
6. Appointing or Changing the Customer's Primary Contacts or Admin Contact(s) or Contact(s)
- 6.1. The Customer will appoint one Primary Contact and at least one Admin Contacts at the time the initial Order Form for a Service is placed by the Customer.

- 6.2. If the Customer wishes to change its Primary contact, one of the Customer's Contacts must send an email to serviceoperations@sure.com, giving details of the Primary Contact to be changed and details of the new Primary Contact.
- 6.3. If the Customer wishes to change one of its Admin Contacts, another of the Customer's Admin Contacts must login to the My Sure Business portal to make the change.
- 6.4. If the Customer wishes to change one of its Contacts, one of the Customer's Admin Contacts must login to the My Sure Business portal to make the change.
- 6.5. To request a change to one of the Customer's Primary Contact, Admin Contacts or Contacts when no authorised person is available to make that change, the Customer must send an e-mail to serviceoperations@sure.com containing:
- 1) A scanned letter on headed paper signed by the Managing Director or, Chief Executive Officer, Managing Partner or Senior Partner of the Customer or a member of the Customer's board of directors;
 - 2) A scanned copy of photographic ID (e.g. passport or driving licence) of the person who has signed the letter; and
 - 3) Full details of the change being requested.
- 6.6. Only after validation of those documents has been completed to Foreshore's satisfaction will the requested change be made.
- 7. Changes to these Customer Procedures**
- 7.1. Foreshore reserves the right to update or modify these Customer Procedures from time to time without prior notice by publishing the revised version of these Customer Procedures on its website.

Schedule 4

Data Protection

Part 1– requirements

1.1. In the event that Personal Data is processed by Foreshore under this Agreement, the provisions of this Part A of Schedule 4 shall apply and the following definitions shall apply:

“Data Protection Laws” means all applicable privacy and data protection laws applicable to the performance of Foreshore obligations under this Agreement, including the Data Protection (Jersey) Law 2018, Data Protection (Application of the GDPR) Order 2018, the General Data Protection Regulation ((EU) 2016/679) and any applicable national implementing laws, regulations and secondary legislation in England and Wales and/or the Territory relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426);

“Personal Data” means any information relating to an identified or identifiable natural person as defined by the applicable Data Protection Laws in the Territory.

“Territory” means Jersey.

In this Part A of Schedule 4, the terms “Process”, and “Processing” shall be understood in their meanings as assigned by the applicable Data Protection Laws.

1.2. The Parties acknowledge that for the purpose of the Data Protection Laws:

1.2.1 Customer is the controller and Foreshore is the processor in respect of the Personal Data; and

1.2.2 Customer retains control of the Personal Data and remains responsible for its compliance obligations under the applicable Data Protection Legislation, including providing any required notices and obtaining any required consents, and for the processing instructions it gives to Foreshore; and

1.2.3 Part B of this Schedule 4 sets out the scope, subject matter, duration, nature and purpose of the Processing of Personal Data carried out by Foreshore under this Agreement.

1.3. Both Parties warrant that they will duly observe all their obligations under the Data Protection Laws on the protection of individuals with regard to the Processing of Personal Data and on the free movement of such Personal Data. Both Parties shall also duly observe and follow the relevant and applicable Data Protection Laws.

1.4. Without limiting clause 1.2 of Part A of Schedule 4, if Customer passes to Foreshore, or otherwise gives Foreshore access to, Personal Data under this Agreement, Foreshore:

1.4.1 will not Process Personal Data held by it under this Agreement except in accordance with this Agreement or otherwise on the written instructions of Customer, unless required to do otherwise by applicable laws (in which event, Foreshore shall inform the Customer of the legal requirement before processing the Personal Data other than in accordance with the Customer’s instructions, unless the same law prohibits Foreshore from doing so on important grounds of public interest) ;

1.4.2 will acquire no rights or interest in the Personal Data and will return such Personal Data to the Customer on demand and in accordance with the Service Specific Terms;

- 1.4.3 will ensure that its employees will maintain proper records of the Processing of any Personal Data received from the Customer or from a third party on behalf of the Customer;
 - 1.4.4 ensure that all personnel who have access to and/or Process Personal Data are obliged to keep the Personal Data confidential;
 - 1.4.5 shall as soon as is reasonably practicable notify the Customer if it receives a subject access request in respect of the Personal Data Processed under this Agreement or any complaint, notice or communication which relates directly or indirectly to the Processing of the Personal Data or to either Party's compliance with the Data Protection Laws and it shall provide the Customer with reasonable co-operation and assistance in relation to any such request, complaint, notice or communication;
 - 1.4.6 will only transfer any Personal Data received from or on behalf of the Customer under this Agreement outside of the Territory or the European Economic Area where (i) there are appropriate safeguards in place (such as Standard Contractual Clauses) for the purposes of such transfer; (ii) such transfer is to a country, territory or sector within a country that ensures an adequate level of protection of personal data; or (iii) another alternative compliance standard for the lawful transfer of personal data applies in respect of such transfer.
- 1.5. Foreshore shall ensure that the Personal Data is kept secure, and shall use all reasonable security practices and systems applicable to the use of the Personal Data to prevent, and take prompt and proper remedial action against, unauthorised access, copying, modification, storage, reproduction, display or distribution of the Personal Data.
- 1.6. Foreshore shall take reasonable precautions to preserve the integrity of any Personal Data processed by it and to prevent any corruption or loss of such Personal Data.
- 1.7. Foreshore shall:
 - 1.7.1 only make copies of the Personal Data to the extent reasonably necessary for the provision of the Services under this Agreement (which, for clarity, includes back-up, mirroring (and similar availability enhancement techniques), security, disaster recovery and testing of the Personal Data); and
 - 1.7.2 not extract, re-utilise, use, exploit, redistribute, re-disseminate, copy or store the Personal Data other than for the provision of the Services.
- 1.8. Foreshore shall use the technical and organisational measures set out at <https://www.sure.com/assets/Uploads/terms-conditions/Security-Controls-Cloud-Services-V1.pdf> from time to time to protect Personal Data against unauthorised and unlawful processing and against accidental loss, destruction, disclosure, damage or alteration. The Customer agrees that it is solely responsible for determining whether such technical and organisational measures ensure a level of security appropriate to the risk (including the harm that might result from unauthorised or unlawful processing or accidental loss, destruction, disclosure, damage or alteration of Personal Data), taking into account the nature, scope, context and purposes of the processing.
- 1.9. Foreshore shall keep detailed, accurate and up-to-date records relating to the Processing by it of Personal Data provided by the Customer and to the measures taken under clause 1.5 of Part A of schedule 4, including the permissioning and control of the Personal Data, and books of account ("Records").
- 1.10. Foreshore shall make available to the Customer and its third-party representatives, all information necessary to demonstrate compliance with its obligations in this Clause 1 and allow and contribute to audits when requested in writing by the Customer (provided such requests relate to the Customer's Personal Data only). Reasonable notice must be given to Foreshore in respect of such audits which may only be exercised on Business Days, once in any calendar

year during the term of this Agreement. Such audits shall be carried out at the expense of the Customer.

- 1.11. Foreshore shall give all necessary assistance as required by the applicable law to the conduct of such audits during the term of this Agreement.
- 1.12. Audit access by any third party representative of the Customer shall be subject to such representative agreeing confidentiality obligations equivalent to those in this Agreement in respect of the information obtained, provided that all information obtained may be disclosed to the Customer.
- 1.13. If either party:
 - 1.13.1 becomes aware of any unauthorised or unlawful Processing of the Personal Data or that any such Personal Data is lost or destroyed or has become damaged, corrupted or unusable;
 - 1.13.2 becomes aware of any security breach affecting, or potentially affecting, the Personal Data; or
 - 1.13.3 learns or suspects that any security feature has been revealed to or obtained by any unauthorised person,that Party shall, at its own expense, promptly notify the other Party and fully co-operate with the other Party to remedy the issue as soon as reasonably practicable.
- 1.14. Foreshore shall notify the Customer in the event that it is subject to any data protection action or investigation by a data protection supervisory authority which may affect the Processing of Personal Data under this Agreement.
- 1.15. Foreshore must, at no additional cost promptly provide such information to the Customer as the Customer may reasonably require, to enable the Customer to comply with:
 - 1.15.1 the rights of Data Subjects (as defined in the Data Protection Laws) under the Data Protection Laws, including subject access rights, the rights to rectify and erase Personal Data, object to the Processing and automated processing of Personal Data, and restrict the processing of Personal Data; and
 - 1.15.2 information or assessment notices served on the Customer by any supervisory authority under the Data Protection Laws.
- 1.16. Foreshore must notify the Customer:
 - 1.16.1 as soon as is reasonably practicable if it receives any complaint, notice or communication that relates directly or indirectly to the Processing of the Personal Data or to either Party's compliance with the Data Protection Legislation; and
 - 1.16.2 as soon as is reasonably practicable if it receives a request from a Data Subject for access to their Personal Data or to exercise any of their related rights under the Data Protection Laws.
- 1.17. Foreshore shall give the Customer all necessary assistance as required by the applicable law.
- 1.18. The Customer hereby consents to Foreshore engaging the subprocessors listed at <https://www.sure.com/assets/Uploads/terms-conditions/List-of-Subcontractors-v3.pdf> (the "List") to Process the Personal Data on its behalf, provided that:

- 1.18.1 Foreshore shall ensure that all subprocessors are subject to data processing obligations which are consistent with those imposed on foreshore under this Schedule 4 (Data Protection); and
 - 1.18.2 Foreshore shall be responsible for the acts and omissions of any subprocessor with respect to the data processing obligations referenced in section 1.18.1, as if they were the Foreshore's own acts and omission.
- 1.19. The Customer authorises Foreshore to add, from time-to-time, additional subprocessors to this List, provided that:
 - 1.19.1 Foreshore shall give notice of any new subprocessor to the Customer by updating the List at least thirty (30) days in advance of Foreshore providing that subprocessor with access to the Personal Data. The Customer acknowledges and agrees that it is responsible for monitoring the List;
 - 1.19.2 the Customer shall have the right to object to any new subprocessor prior to the end of the notice period as referenced in section 1.19.1 by contacting Foreshore in writing with reasons for its objection; and
 - 1.19.3 if the Customer, acting reasonably, objects to a new subprocessor and Foreshore cannot reasonably avoid use of the subprocessor in its continued provision of the Services, the Customer may terminate the Order Form(s) under which the relevant Services are provided at the end of the notice period as referenced in section 1.19.1 on written notice to Foreshore.
- 1.20. In the event of changes to the Data Protection Laws that affect the provisions of this Agreement, the Parties shall use reasonable endeavours to agree any required amendments to reflect applicable legislative requirements.
- 1.21. The Customer shall:
 - 1.21.1 ensure that it and all Authorised Users are lawfully entitled to provide the Personal Data to Foreshore so that Foreshore may lawfully Process the Personal Data in accordance with the Agreement; and
 - 1.21.2 ensure that the relevant third parties (including Authorised Users) have been informed of, and where necessary, have given their consent to the Processing of Personal Data in accordance with the Agreement as required by Data Protection Laws and any applicable data protection and privacy laws in its jurisdiction with respect to Personal Data.

Part 2– DATA PROCESSING

Data Processing by Foreshore:

Subject matter: all personal data processed by Foreshore for Customer as is necessary for the purposes of the provision of cloud and network services, support of such services and billing thereof as set out in this Agreement and as further instructed by Foreshore in relation to its use of the Services.

Nature: the processing consists of the following activities: storage of Customer's data in the provision of cloud services, usage data in relation to cloud and network services, billing and service management with associated reporting. In order for Foreshore to provide the Service, Foreshore rely on hardware and software vendor support contracts in order to maintain a supported platform. This may result in metadata associated with the Customer tenant being shared. Typically, this data is used to monitor performance and usage, as well as provide hardware and software assistance and escalation on support calls.

Purpose of processing: the data is processed for the following purpose: for the purpose of the provision of the Services by Foreshore to Customer, as set out in this Agreement.

Duration of the processing: the term of the Agreement.

Types of Personal Data: Names of certain customer's employees, job titles, contact details, copies of signatures on contracts. For Authentication Services, the Customers and Users (as defined in Schedule 6) names. IP addresses, User ID's and any other category of data that Foreshore may process by virtue of supplying the cloud platform to the Customer.

Categories of data subject: Customer employees, contractors and their agents and in relation to Authentication Services, the Customers and Users (as defined in Schedule 6). Any other category of data subject that the Customer holds data on within the cloud service.

Schedule 5

Foreshore Cloud Services

This Schedule 5 sets out the Foreshore Cloud Service Description for the Services applicable to a Customer as set out in the Order Form.

Part A - Definitions:

The following definitions shall apply to this Schedule.

Change means any remotely implemented modification to a device or system's configuration, typically an addition, modification, movement or deletion.

Cloud Resources means the category of Services to include compute and network resources; including virtual CPUs, virtual RAM, virtual network interfaces, and disk storage.

Continuous Data Protection Journal used in Recovery as a Service is a protection mechanism that allows the Customer to continuously track data modifications.

Incident means anything that takes place which is not part of the standard operation of a Service and which causes or may cause disruption to or a reduction in the quality of Services and Customer productivity.

Initial Response means a ticket has been opened within Foreshore's IT Service Management platform, and an email acknowledgement has been sent to the Customer.

Internet Bandwidth means a subscription service providing a form of connectivity outside the hosted environment, specifically using Internet Protocol as the network layer, and routed with a limited throughput rate.

A **Cloud Pod** means a module of network, compute, storage, and application components that work together to deliver Cloud Resources from a single location.

Normal Operation means that, once configured to do so, one or more VMs within a Cloud Pod are: powered on, CPU processing, accessing RAM, reading and writing to disk, and reachable via a network.

An **Outage** is the period of time from when Normal Operation ceases, to when it resumes.

Problem is a contributing factor in existing or potential Incidents. Problems may sometimes be identified because multiple Incidents have exhibited common symptoms. Problems can also be identified from a single significant Incident, indicative of a single error, for which the cause is unknown. Occasionally Problems will be identified well before any related Incidents occur.

Priority or Priorities has the meanings given in section 1 below.

Recovery Point Objective means the age of the data that must be recovered for normal operations to resume.

Resolve Time means the time from Foreshore's Initial Response, to when the Incident or Change request has been assigned a state of Resolved.

Response Time means the time from either:

- (a) an alert, alarm, notification, or monitoring event received by one of the default monitors set up by Foreshore as part of this managed service; *or*
- (b) submission of an Incident or Change request to Foreshore's service desk, until such time when an Initial Response has been provided.



Virtual Replication means the replication of virtualised Cloud infrastructure.


Part B - Foreshore Service Management and Support:

1. Service Support Levels

Incident Management Priority Definitions

The Customer must specify one of the following Priorities when submitting an Incident in order for any Response Time SLA to apply. Where no Priority is specified Foreshore will use its discretion to assign a Priority based on the descriptions below, defaulting to the lowest Priority (P4).

Priority	Description	Mutual Commitment	Service Specific Examples, but not limited to:-
 P1 / Critical	Ongoing complete loss of service on services that have protection or redundancy configured. Incidents that (due to their large impact on the business) requires continuous corrective actions, or would constitute the invocation of a business continuity plan.	Both Parties will commit full-time resources, 24x7, to restore Services to satisfactory levels.	<ul style="list-style-type: none"> Connectivity: No IP routes available; Volumetric DDoS attack vCloud: Loss of remote access to VMs; Hypervisor unable to contact storage, boot or run VMs. S3 Cloud Solution Services Loss of access to S3 Buckets.
 P2 / High	High risk to Service is ongoing or a high degradation to normal service (with business impact) is ongoing.	Both Parties will commit full-time resources, 9x6 in their local time-zone, to restore Services to satisfactory levels.	<ul style="list-style-type: none"> Connectivity: Severe degradation of performance due to saturation vCloud: Severe resource contention affecting performance S3 Cloud Solution Services

<p> P3 / Medium</p>	<p>Minor degradation to service (with minimal business impact) is ongoing, or a risk of a more severe degradation exists.</p>	<p>Both Parties are willing to commit resources, 9x5 in their local time-zone, to restore Services to satisfactory levels.</p>	<ul style="list-style-type: none"> • vCloud: Unable to provision a new VM or virtual IP; cluster member fails, individual disk in RAID array fails • S3 Cloud Solution Services Individual disk in RAID array fails
<p>P4 / Low</p>	<p>No impact or degradation to Services likely but is a fault that requires attention before it becomes a risk.</p>	<p>Both Parties are willing to provide resources, 9x5 in their local time-zone.</p>	<ul style="list-style-type: none"> • S3 Cloud Solution Services and vCloud: Documentation errors

2. Service Management

As a means of delivering continuous service improvement, Foreshore will provide an overarching Service Management facility to the customer.

Requirement	Target Deliverable	
Outage Report	Preliminary report to be issued within 7 days of an Outage event's cessation	
Service Management Report	A monthly report outlining achieved metrics against agreed SLAs and KPIs. This report is to be delivered to the Customer by email, before the 5 th working day of each calendar month.	
Service Management Review	An optional monthly face-to-face meeting or conference call to review the latest Service Management Report.	

3. Support Service Level










3.1 Foreshore will provide a help desk to receive requests for support in relation to Incidents and Problems encountered by the Customer in using the Services.



3.2 Requests for support must be made in accordance with the Customer Procedures.

3.3 Foreshore shall use all commercially reasonable endeavours:

- to maintain the availability of the Cloud Resources providing the Customers virtual environment and/or Virtual Machines if applicable; and
- to maintain the availability of the Internet bandwidth.

3.4 Foreshore shall use commercially reasonable endeavours to manage all Incidents within the SLA parameters set out below:

Incident Management SLA				
Item	Priority	Target Metric	KPIs	Service Credits
Initial Response Time	 P1	15 Mins (24/7)	95% within target, 98% within 30 minutes	Maximum 20% of MRC
	 P2	1 hour (24/7)	95% within target	
	 P3	4 Working Hours		
	 P4	1 Working Day		
Target Communication Frequency	 P1	At least once every hour (24/7)	Unmeasured	None
	 P2	At least once every 2 hours (24/7), or as mutually agreed		
	 P3	At least once every 8 business hours, or as mutually agreed		
	 P4	As mutually agreed		
Target Resolve Time	 P1	3 hours (24/7)	100% within target	None
	 P2	9 hours (24/7)		

	 P3	8 working hours		
	 P4	5 working days		

3.5 Support for the operating system and for any software installed on a Customer's Virtual Machine is not included in the Support Services. The Customer may at its own expense make arrangements with third party suppliers for additional support.

Part C - Foreshore Cloud Services:

The Foreshore Cloud Services deliver Cloud IaaS from the Sure vCloud in the Sure Guernsey and Jersey Data Centres. Sure Backup provides a service to deliver backup of data within the Sure vCloud within Sure Data Centres. The RaaS Service provides near real-time replication of data from the Customer's own Cloud and Sure Cloud into Foreshore's RaaS Cloud tenant.

1. Availability Service Level

- 1.1 Foreshore shall use commercially reasonable endeavours to make Cloud Resources and Internet Bandwidth available to the Customer for 100% of each month.
- 1.2 At the Customer's request made in accordance with the Customer Procedures, Foreshore shall calculate and notify any Outage(s) for the Customer in any calendar month. All Outages shall be reported in the monthly service management report.
- 1.3 The Cloud Resources and the Internet Bandwidth availabilities set out in this Schedule apply to the virtual infrastructure and Internet Bandwidth being provided to the Customer by Foreshore which shall be monitored and reported on in the monthly service management report. Notwithstanding any other provision of this Agreement, an Outage will not constitute or contribute to a failure to meet the relevant Service Level if it arises from:
- (a) the suspension of the Services in accordance with this Agreement; or
 - (b) carrying out Scheduled Maintenance; or
 - (c) carrying out emergency or unplanned repair, maintenance, upgrade, update, support, testing or implementation of any system as a result of any of the following: (i) the Customer's breach of this Agreement; (ii) the Customer's misuse of the Services; (iii) any negligent or unlawful act or omission of the Customer, any employee, contractor, agent or supplier of the Customer; or
 - (d) the period of time it takes a Virtual Machine to reboot and restart on different physical ESXi host server through the use of VMware High Availability in the event of a failure of the physical ESXi host server that the Virtual Machine was originally running on; or
 - (e) the Customer's breach of this Agreement; the Customer's misuse of the Services (or any part of any of them); any negligent or unlawful act or omission of the Customer, or any employee, contractor, agent or supplier of the Customer; or
 - (f) problems with the Customer's domain name; or
 - (g) problems with the Customer's Systems or the Customer's Applications or the Customer's own configuration of their virtual environment or disabling their Virtual Machines, load balancers, firewalls or other virtual appliance.

Whether any of the above is the cause of a failure to meet the relevant Service Level will be determined by Foreshore, in good faith supported by records, data and other evidence.

2. Security Service Level

2.1 Foreshore shall use commercially reasonable endeavours to maintain a standard of security across its shared cloud environment as follows:

Requirement	Target Deliverable
Vulnerability Assessment	<p>An automated scan for known threats, vulnerabilities and sub-optimal configurations will be performed using internal tools, at least quarterly.</p> <p>The scope will be limited to multi-tenant aspects of the environment</p> <p>A scan will also be performed following any change which Foreshore deems to be significant, such as:</p> <ul style="list-style-type: none"> • Patches for any Internet facing services • Major release upgrades for any internal/DMZ services • Introduction of new equipment, services or features within an existing configuration <p>Scans will only be evidenced by Foreshore via a written attestation, results will not be published.</p>
Penetration Test	<p>An independent penetration test, conducted by a CREST approved tester, will be conducted at Foreshore’s cost at least annually.</p> <p>The scope will be limited to multi-tenant aspects of the environment.</p> <p>Tests will be evidenced by providing the statement of undertaking along with the scope, but not the output report. For the avoidance of doubt Foreshore shall provide a written attestation to confirm any follow up actions have been completed and any high severity items have been re-tested.</p>
ISO/IEC 27001:2013	<p>Foreshore will maintain the certification of its business’ information security practices as ‘ISO 27001 compliant’ for the duration of this Agreement.</p>

	<p>Audit scope:</p> <p>The provision of an ISMS supporting Internet services (ISP) and the management of a secure data centre including (secure hosting, Cloud Services, Mail Services, and Backup and Recovery Services).</p> <p>If, during renewal of this certification, deficiencies are discovered, Foreshore will be afforded 6 months to rectify and arrange a follow up audit or audits.</p>
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2.2 Any configuration deficiencies highlighted in an audit or automated report, which are deemed by Foreshore or its independent auditors, to have a high impact on the security of its services will be subject to Problem Management processes.

2.3 Foreshore shall use commercially reasonable endeavours to maintain controls that protect customer data to the following standard:

Requirement	Deliverable
Virtual Machine storage repositories	<p>All data held at rest, within a Vmware VM disk storage repository, will be encrypted using AES-256 ciphers at the storage provider layer. Foreshore will exercise change control around this configuration parameter.</p> <p>Customers may elect to implement 3rd party VM encryption solutions which allow for more advanced remote key management.</p>
Virtual Machine Backup Storage Repositories	<p>All data at rest will be encrypted to AES-256 at the backup software application layer.</p>
“Data in motion”	<p>All customer network traffic within the multi-tenant cloud environment is segmented using IEEE 802.1Q VLANs or other proprietary technologies.</p> <p>Customers may elect to implement VPNs or other means of encryption to further protect data in motion.</p>

3. Service Credits

3.1 Where the Customer believes that Foreshore has failed to meet any SLA targets set out in this Agreement, this will be determined by Foreshore at its discretion in good faith, supported by records, data and other evidence.

3.2 Provided the Customer claims a credit in accordance with the credit claim process set out in this Schedule, following 5 Business Days after the submission of the monthly service management Report, Service Credits may be awarded as follows:

Availability SLA			
Availability*	Cumulative Downtime	Service Credit Rate (% of MRC)	Total Service Credits **
≥ 99.179 %	≤ 360 mins (≤6 hours)	3.28% (1 days charges) per hour	up to 19.7%
≥ 98.357 %	≤ 720 mins (≤12 hours)	3.75% (1.14 days) per hour	up to 45%
≥ 96.715 %	≤ 1440 mins (≤24 hours)	4.2% (1.28 days) per hour	up to 100%
< 96.715 %	over 24 hours	100%	

* Availability percentage calculations are based on a 730.5 hour month ((365.25 days/12 months) x 24 hours).

** Calculated on the MRC of services running on the affected Cloud Pod

3.3 For the avoidance of doubt:

(a) where a single availability zone has been affected by an Outage, Service Credits will be awarded only in respect of the monthly charges incurred at that individual availability zone. Unaffected services operating in other locations shall not be included in the calculation of Service Credits; and

(b) no Service Credit(s) may be claimed by the Customer upon the resolution of an Incident.

In addition:

(c) Service Credits will be provided only following the Customer's claim which must be received within five (5) Business Days after the issuance of the Monthly Service Report to the Customer.

To claim a Service Credit the Customer must make a formal written claim to Foreshore.

Claims for Service Credits must be made in accordance with the Customer Procedures.

Under no circumstances will the total Service Credit granted to the Customer for any month exceed the aggregate Charges paid or payable by the Customer for that month.

4. Additional Services

4.1 Recovery as a Service

(a) Where the Customer has purchased Recovery as a Service, this service utilises Virtual Replication to provide the replication of Virtual Machines in virtual replication groups. This can be between the Customer's vSphere environment into Foreshore's vCloud environment in the "To-Cloud" variant of the service, or between two of Foreshore's vCloud environments in different datacentres in the "In-Cloud" variant of the service.

(b) The Customer must ensure they are within one version release of Foreshore's Zerto software, to ensure compatibility. Foreshore cannot guarantee that the Recovery as a Service will run within specification where this is not the case. Foreshore reserves the right to update the Zerto software in line with vendor specifications.

- (c) Where Foreshore provides the service to the Customer to address on premise replication, the Customer should check the Zerto compatibility matrix to ensure that the hardware and software on premise is compatible with Zerto software through time.
- (d) As data is written to production disks of Virtual Machines within Virtual Replication Groups, it is replicated to a Foreshore vCloud environment. The Zerto software records resource utilisation every hour and this is used to calculate the protected resources for the month including, but not limited to, protected Virtual Machines, vCPU, memory, disk storage and journal storage.
- (e) For pre-purchased protected resources the figures are used to confirm they are within the purchased limits. Should the protected resources used be in excess of the pre-purchased amount the client will have the opportunity to reduce the protected resources or will otherwise be automatically upgraded to provide sufficiently protected resources for the following month.
- (f) The Customer may define the target Recovery Point Objective and recovery Continuous Data Protection journal history time and maximum journal size and may receive email alerts when either of these exceeds their target SLA and when they then meet their SLA again.
- (g) Significant data change rates on the protected Virtual Machines or network congestion between the protected Virtual Machine and the recovery site may cause the Recovery Point Objective to exceed its target SLA settings for periods of time.
- (h) Protected Storage includes the storage associates with the Virtual Machine and also the storage associated with the recovery journal for that Virtual machine.
- (i) Where a client takes the "To-Cloud" variant of the service, the customer is responsible for ensuring that they have sufficient bandwidth capacity between their vSphere environment and Foreshore's vCloud environment to meet the required Recovery Point Objective.
- (j) The Customer may create, modify or delete virtual replication groups, and fail over for testing or production purposes. Alternatively, the customer may request Foreshore to do this on their behalf provided that they have taken the recovery management service.
- (k) RaaS Pay As You Go (PAYG) resources used for VMs that have been failed over, either for test or invocation will be billed as used and measured in minute intervals.
- (l) RaaS PAYG resources can only be used for protected virtual replication groups and no other type of workload.

4.2 Online Back Up

- (a) Where the Customer has purchased Foreshore Veeam Back-Up Services Foreshore will use Veeam Backup and Replication software to perform an image level backup of each Virtual Machine that has had a Foreshore Veeam Backup-Service purchased for it. Snapshot image backups of each covered machine will be scheduled to run each night and the data will be stored in compressed and de-duplicated format on an encrypted drive. The retention period for these backups will be configured for 7 days unless specified otherwise in the service description.
- (b) The backups are taken at the hypervisor level and will only provide, as default, a crash consistent backup.
- (c) If VMware tools are installed in the guest operating system of the Virtual Machine and it is supported, then, at the request of the Customer, the VMware Tools Quiescence option in the backup job will be selected enabling the freezing of the file-system for proper snapshot creation. Veeam recommend using Application-Aware image

processing as opposed to VMware Tools Quiescence for Windows systems that support Windows Virtual Shadow Copy Service.

- (d) At the request of the Customer, and providing the Customer provides Foreshore with the credentials of an account with administrator access to the guest operating system, Foreshore will enable the Application-Aware Image Processing option in the backup job so the Veeam Backup and Replication utilizes the Windows Volume Shadow Copy Service to ensure consistent backup of Virtual Shadow Copy Service aware applications running within virtual machines (domain controllers, databases and other applications) without shutting them down.
- (e) Backups are image level backups only and Foreshore will provide image level restores at the request of the Customer as defined in the Additional Services.
- (f) Additional charges shall be payable in accordance with this Agreement if the Customer requests Services that are not included in the Support Services by raising a support ticket (or Foreshore raising one on behalf of the Customer at the Customer's request). Provided Foreshore is able to satisfy that request, it will be treated as a chargeable support ticket at the agreed support rates in accordance with this Agreement.

5. Back-Up Policy

- 5.1 Where the Customer has purchased Foreshore Veeam Back-Up Services, the Customer may use Veeam Backup and Replication software to perform an image level backup of each Virtual Machine that has had a Foreshore Veeam Backup-Service purchased for it.
- 5.2 Veeam backups are taken at the hypervisor level and will only provide, as default, a crash consistent backup.
- 5.3 The backup repository (sized in a minimum of 500GB increments) can be located in the same data centre in which the virtual server resides, or can be provisioned in a geographically disparate data centre.

6. Self-Service Backups

- 6.1 A crash consistent, or optionally an application consistent, backup job shall be configured and managed by the Customer.
- 6.2 The following unmanaged backup service options are available:

RPO	Retention Period	RTO	Recovery Method	Backup Repository Location	File Level Restore
Configurable	Unlimited	Configurable	Self Service	Single Data Centre	Yes

- "Configurable" RPO means that the Customer configures the backup schedule via the Veeam administration console.
- "Configurable" RTO refers to the Veeam application's backup job configuration options; and the restore actions are taken by the Customer.
- "Unlimited" Retention Period means that Foreshore provides repository space only, in 500GB increments. The Customer can purchase as much space as needed to accommodate their unlimited ability to retain backups based on their need. The customer can configure alerts or access reports to indicate when additional space is required, and request Foreshore to provision additional storage.

7. Third Party Terms and Service Specific Terms

- 7.1 Where Foreshore supplies or licenses any third-party software to the Customer, including but not limited to Microsoft Operating Systems and Applications, the Customer must comply with all license conditions and requirements including the Microsoft End User License Terms available at [Microsoft License Terms](#).
- 7.2 By entering into this Agreement, the Customer is confirming that it has read, understood and agrees to the terms of the VMware EULA which is available at www.vmware.com/download/eula
- 7.3 The Customer shall comply with the terms of any Service Specific Terms attached to this Agreement (including in Schedules 5 and 6) and any Service Specific Terms attached to or incorporated by reference to an Order Form.

8. Termination of the Services and off-boarding data

- 8.1 Where the Customer has purchased vCloud Services, prior to the date of termination or expiry of the Agreement or an applicable Order Form, the Customer may download the Virtual Machines and Customer Data in OVF format containing the Customer Data using the vCloud Director Portal for Virtual Machines accessible through the vCloud Portal. Virtual Desktops cannot be downloaded by the Customer, so the Customer should copy any Customer Data it wants to download to a Virtual Machine prior to downloading it. Following the date of termination of the Agreement, Foreshore may destroy or otherwise dispose of any or all of the Customer Data in its possession unless Foreshore receives, with the Customer's notice of termination or (in the case of Foreshore giving notice of termination) no later than three Business Days after the date of the relevant notice of termination, a written request for the delivery to the Customer the Customer Data in a format to be agreed (such as OVF or VMDK files). In that case, Foreshore will use reasonable endeavours to deliver that Customer Data to the Customer within 10 Business Days after the date of termination of the Agreement, provided that the Customer has, at that time, paid all fees and charges outstanding at and all fees and charges resulting from the termination of the Agreement (whether or not due at the date of termination) and the Customer pays the then applicable charge for Foreshore to export the Customer Data per Virtual Machine in advance, or, in the event of many Virtual Machines shall pay Foreshore's reasonable costs in advance. Should the volume of data, or the Customer requirements, make it impracticable to do this within 10 Business Days after the date of termination of the agreement, then Foreshore may, at its discretion, charge pro-rated rates for the vCloud resources or Virtual Desktops still consumed by Customer Virtual Machines. Foreshore shall seek a written confirmation (including email) from the Customer that they require a back-up copy of the Customer Data. If Foreshore does not receive a response within twenty (20) Business Days, then Foreshore may destroy or otherwise dispose of the Customer Data in its possession following expiry of this twenty (20) Business Day period.
- 8.2 Where the Customer has purchased Veeam Back-Up Services, on termination of the Agreement or an applicable Order Form, Foreshore may destroy or otherwise dispose of any or all of the backups of the Customer Data in its possession unless Foreshore receives, with the Customer's notice of termination or (in the case of Foreshore giving notice of termination) no later than twenty (20) Business Days after the date of Foreshore's notice of termination, a written request for the delivery to the Customer, the backups of the Customer Data. In that case, Foreshore will use reasonable endeavours to deliver that data to the Customer within 10 Business days after the date of termination of the Agreement or an applicable Order Form, provided that the Customer has, at that time, paid all agreed fees and charges outstanding at and all fees and charges resulting from the termination of the Agreement or an applicable Order Form (whether or not due at the date of termination) and the Customer pays Foreshore's reasonable costs. The backup data will be provided in its native format with instructions on how this can be accessed using Veeam Server software.

- 8.3 Except as provided for in clauses 8.1 to 8.2 and subject to compliance with Schedule 4 (Data Protection), Foreshore will not be obliged to store or allow the Customer access to any of the Customer Data after the date of termination of this Agreement.
- 8.4 Subject to compliance with Schedule 4 (Data Protection), Foreshore may, despite the termination of the Agreement, retain copies of any of the Customer Data for the purposes of complying with any legal, insurance or regulatory requirement.

Part D - S3 Cloud Solution Services:

The S3 Cloud Solution Service enables Customers to connect their S3 enable applications to the S3 repositories in the Sure Guernsey and Jersey Data Centres.

Foreshore will work with the Customer to test compatibility of the Service.

The S3 Cloud Solution Service is accessible through contended IP connectivity over the Public Internet. Optionally, Foreshore can offer dedicated IP connectivity and private connectivity which are subject to separate terms and conditions.

1. Availability Service Level

- 1.1 Foreshore shall use commercially reasonable endeavours to make Resources and Internet Bandwidth available to the Customer for 100% of each month.
- 1.2 At the Customer's request made in accordance with the Customer Procedures, Foreshore shall calculate and notify any Outage(s) for the Customer in any calendar month. All Outages shall be reported in the monthly service management report.
- 1.3 The S3 storage resources and the Internet Bandwidth availabilities set out in this Schedule apply to the S3 infrastructure and Internet Bandwidth being provided to the Customer by Foreshore which shall be monitored and reported on in the monthly service management report. Notwithstanding any other provision of this Agreement, an Outage will not constitute or contribute to a failure to meet the relevant Service Level if it arises from:
- 1.3.1 the suspension of the Services in accordance with this Agreement; or
 - 1.3.2 carrying out Scheduled Maintenance; or
 - 1.3.3 carrying out emergency or unplanned repair, maintenance, upgrade, update, support, testing or implementation of any system as a result of any of the following: (i) the Customer's breach of this Agreement; (ii) the Customer's misuse of the Services; (iii) any negligent or unlawful act or omission of the Customer, any employee, contractor, agent or supplier of the Customer; or
 - 1.3.4 the Customer's breach of this Agreement; the Customer's misuse of the Services (or any part of any of them); any negligent or unlawful act or omission of the Customer, or any employee, contractor, agent or supplier of the Customer; or
 - 1.3.5 problems with the Customer's domain name; or
 - 1.3.6 problems with the Customer's Applications or the Customer's own configuration of their Applications communicating with the S3 Cloud Solution Service.

Whether any of the above is the cause of a failure to meet the relevant Service Level will be determined by Foreshore, in good faith supported by records, data and other evidence.

2. Security Service Level

2.1 Foreshore shall use commercially reasonable endeavours to maintain a standard of security across its shared cloud environment as follows:

Requirement	Target Deliverable
Vulnerability Assessment	<p>An automated scan for known threats, vulnerabilities and sub-optimal configurations will be performed using internal tools, at least quarterly.</p> <p>The scope will be limited to multi-tenant aspects of the environment</p> <p>A scan will also be performed following any change which Foreshore deems to be significant, such as:</p> <ul style="list-style-type: none"> • Patches for any Internet facing services • Major release upgrades for any internal/DMZ services • Introduction of new equipment, services or features within an existing configuration <p>Scans will only be evidenced by Foreshore via a written attestation, results will not be published.</p>
Penetration Test	<p>An independent penetration test, conducted by a CREST approved tester, will be conducted at Foreshore's cost at least annually.</p> <p>The scope will be limited to multi-tenant aspects of the environment.</p> <p>Tests will be evidenced by providing the statement of undertaking along with the scope, but not the output report. For the avoidance of doubt Foreshore shall provide a written attestation to confirm any follow up actions have been completed and any high severity items have been re-tested.</p>
ISO/IEC 27001:2013	<p>Foreshore will maintain the certification of its business' information security practices as 'ISO 27001 compliant' for the duration of this Agreement.</p> <p>Audit scope:</p> <p>The provision of an ISMS supporting Internet services (ISP) and the management of a secure data centre including (secure hosting, Cloud Services, Mail Services, and Backup and Recovery Services).</p> <p>If, during renewal of this certification, deficiencies are discovered, Foreshore will be afforded 6 months to rectify and arrange a follow up audit or audits.</p>

2.2 Any configuration deficiencies highlighted in an audit or automated report, which are deemed by Foreshore or its independent auditors, to have a high impact on the security of its services will be subject to Problem Management processes.

2.3 Foreshore shall use commercially reasonable endeavours to maintain controls that protect customer data to the following standard:

Requirement	Deliverable
S3 Cloud Solution Service	The Customer may at its own election, carry out encryption using applications connecting to the S3 Cloud Solution Service, or request encryption is enabled by Sure within the S3 Cloud Solution Service storage repositories. Where the Customer chooses to encrypt using the S3 storage repositories, Customer Data will be encrypted at AES-128.

3. Service Credits

3.1 Where the Customer believes that Foreshore has failed to meet any SLA targets set out in this Agreement, this will be determined by Foreshore at its discretion in good faith, supported by records, data and other evidence.

3.2 Provided the Customer claims a credit in accordance with the credit claim process set out in this Schedule, following 5 Business Days after the submission of the monthly service management Report, Service Credits may be awarded as follows:

Availability SLA			
Availability*	Cumulative Downtime	Service Credit Rate (% of MRC)	Total Service Credits **
≥ 99.179 %	≤ 360 mins (≤6 hours)	3.28% (1 days charges) per hour	up to 19.7%
≥ 98.357 %	≤ 720 mins (≤12 hours)	3.75% (1.14 days) per hour	up to 45%
≥ 96.715 %	≤ 1440 mins (≤24 hours)	4.2% (1.28 days) per hour	up to 100%
< 96.715 %	over 24 hours	100%	

* Availability percentage calculations are based on a 730.5-hour month ((365.25 days/12 months) x 24 hours).

** Calculated on the MRC of services running on the affected S3 availability zone

3.3 For the avoidance of doubt:

(a) where a single availability zone has been affected by an Outage, Service Credits will be awarded only in respect of the monthly charges incurred at that individual availability zone. Unaffected services operating in other locations shall not be included in the calculation of Service Credits; and

(b) no Service Credit(s) may be claimed by the Customer upon the resolution of an Incident.

In addition:

(c) Service Credits will be provided only following the Customer's claim which must be received within five (5) Business Days after the issuance of the Monthly Service Report to the Customer.

To claim a Service Credit the Customer must make a formal written claim to Foreshore.

Claims for Service Credits must be made in accordance with the Customer Procedures.

Under no circumstances will the total Service Credit granted to the Customer for any month exceed the aggregate Charges paid or payable by the Customer for that month.

4. Customer Responsibilities

The Customer is responsible for selecting the immutability timeframe which applies to the S3 Cloud Solution Services. Once selected, it is not technically possible to change this timeframe and it is the Customer's responsibility to ensure that they have selected a time-period which meets its business needs and legal and regulatory obligations.

5. Termination of the Services and off-boarding data

Where the Customer has purchased S3 Cloud Solution Services, prior to the date of termination or expiry of the Agreement or an applicable Order Form, the Customer is responsible for extracting all Customer Data from the S3 Buckets. If it is impractical for the Customer to extract the Customer Data, due to the length of time it takes to copy the data or lack of means to store the retrieved data for example, Foreshore may upon request, assist with the data extraction subject to payment of professional service Charges which will be agreed with the customer based on data volume and the data storage medium. Details of the professional service Charges are available from Foreshore. If the Customer does not extract the data within twenty (20) days of the termination or expiry of the Agreement, Foreshore may destroy or otherwise dispose of the Customer Data in its possession following expiry of this twenty (20) Business Day period.

Subject to compliance with Schedule 4 (Data Protection), Foreshore may, despite the termination of the Agreement, retain copies of any of the Customer Data for the purposes of complying with any legal, insurance or regulatory requirement.

Schedule 6

Two-Factor Authentication

Foreshore has been appointed as a managed service provider by Duo Security, Inc. with offices at 123 North Ashley Street, Suite #200, Ann Arbor, MI 48104 ("**Duo Security**") to sell a subscription service for two-factor authentication (the "**Authentication Services**") provided by Duo Security.

This Schedule governs the use of the Authentication Services as described further in the Order Form. The Authentication Services shall fall within the definition of Services referenced in Clause 1 of the Agreement and the following terms apply to the Customer in addition to those set out in the remainder of the Agreement.

Definitions:

"**Data Protection Laws**" has the meaning given to that term in Schedule 4 (Data Protection).

"**Documentation**" has the meaning given to that term in the Duo Terms.

"**Hardware Tokens**" mean hardware security tokens ordered by Customer.

"**Software**" has the meaning given to that term in the Duo Terms.

"**User**" means any user of the Authentication Services whom a Customer (or Foreshore, as authorised by Customer) may authorise to enrol to use the Authentication Services under the terms of this Agreement.

1. Applicable Terms

By accessing the Authentication Services, you agree to be bound by this Agreement, this Schedule 6 and the terms of Duo Security's terms and conditions (the "**Duo Terms**") governing the use of and access to the Authentication Services which are located at: <https://duo.com/legal/pass-through-terms>

2. Licence

Subject to and conditional on Customer's payment of the Charges and full compliance with all other terms and conditions of this Agreement (including the Duo Terms), Foreshore grants Customer a non-exclusive, non-sublicensable, non-transferable license to use the Authentication Services for the Customers' and its associated Users' internal business use.

3. Information and Consents

3.1. Customer shall provide any information and assistance reasonably requested by Foreshore with respect to the Authentication Service and authorises Foreshore to provide such information to Duo Security (where reasonably requested to do so).

3.2. Customer acknowledges that the Authentication Services will require Users to share with Duo Security and Foreshore certain information which may include personal information regarding Users (such as usernames, Duo Admin Panel passwords, email address and/or phone number) solely for the purposes of providing and improving the Services. By accepting this Agreement and the terms and conditions of this Schedule 6, you agree to obtain the consent of each User in accordance with applicable law, to the use of his/her information by Duo Security and Foreshore. Use of the information is described in Duo Security's Services Privacy Notice, located at <https://duo.com/legal/privacy-notice-services> and in Foreshore's Privacy Notice, located at <https://www.sure.com/guernsey/privacy-policy>

4. **SLA**

Subject to full compliance with the terms and conditions of this Agreement, Duo Security will provide support to Customer as described in the service level agreement located at <https://duo.com/legal/sla>, which is subject to change from time to time in Duo Security's sole discretion. Foreshore shall provide second line support in relation to issues with Foreshore's IT Infrastructure in accordance with the Service Level as set out in Schedule 5.

5. **Liability of Duo Security**

5.1. It is acknowledged by the Customer that to the fullest extent permitted by law, Duo Security shall have no liability for matters arising out of or related to the Authentication Services pursuant to the terms of this Agreement. Any claims relating to the Authentication Services brought by the Customer (or a third party using the Authentication Services) under the terms of this Agreement, shall be brought against Foreshore as managed service provider.

5.2. The parties agree that notwithstanding clause 14.11 of the main Agreement, the terms of this Schedule 6 in so far as it relates to the Authentication Services, may where the Customer has permitted a breach in relation to the Authentication Services, be enforced by Duo Security to the fullest extent permitted by law as if it were a party to this Schedule 6.

6. **Indemnification**

6.1. The Customer shall indemnify and hold harmless Foreshore against all resulting liabilities, losses, damages, costs and expenses (including reasonable legal fees) incurred by Foreshore in relation to the use of the Authentication Services by the Customer (or a User) and from any claim related to Customer's breach of Clause 8 "Restrictions," Clause 7 "Intellectual Property Rights or Clause 10 "Data Protection."

7. **Intellectual Property Rights**

7.1. The Customer shall not provide any infringing, offensive, fraudulent or illegal content in connection with the Authentication Services, and the Customer represents and warrants that any content it provides will not violate any Intellectual Property Rights of any third party. Under the Duo Terms, Duo Security reserves the right, in its sole discretion, to delete or disable any content submitted by Customer, or any User, that may be infringing, offensive, fraudulent or illegal. To view Duo Security's complete copyright dispute policy and learn how to report potentially infringing content, please visit: <https://duo.com/legal/copyright>.

8. **Restrictions**

Customer will not, and will not permit any Users nor any third party to: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of the Authentication Services, Software, Hardware Tokens or any data related to the Authentication Services (except to the extent such prohibition is contrary to applicable law that cannot be excluded by the agreement of the parties); modify, translate, or create derivative works based on the Authentication Services or Software; share, rent, lease, loan, resell, sublicense, distribute, use or otherwise transfer the Authentication Services or Software for timesharing or service bureau purposes or for any purpose not explicitly permitted by this Agreement; remove, replace, modify or obscure any Duo Security or third party trademarks, trade names, copyright notices or other proprietary marks or notices within the Authentication Services or Documentation; or use the Services or Software other than in accordance with this Agreement and the Duo Terms and Conditions, and in compliance with applicable law.

9. **Representations and Warranties**

Foreshore makes no representations or warranties concerning the Authentication Services. Any representations and warranties in relation to the Authentication Service are set out in the Duo Terms.

10. Data Protection

- 10.1. In this Section 10, the terms "personal data," "data processor," "data sub processor," "data subject," "process and processing" and "data controller" shall be as defined in the applicable Data Protection Laws.
- 10.2. For the purposes of the Data Protection Laws, Customer agrees that Duo Security is a data processor (or sub processor, as applicable) and not the data controller of any personal data related to Customer's use of the Authentication Services. Solely if and to the extent Duo Security is processing personal data, as defined in the relevant Data Protection Laws, on Customer's behalf, then the terms of the data processing agreement available at <https://duo.com/legal/gdpr-data-protection-addendum> shall apply to such processing.
- 10.3. To the extent Foreshore processes any of the Customer's personal data in relation to the Authentication Services the provisions of Schedule 4 of this Agreement shall apply.

11. Change in Pricing

Foreshore reserves the right to pass on any increase in fees from Duo Security to the Customer and will give the Customer sixty (60) days' prior written notice of any change in pricing. If the Customer does not agree to the fee increase, it may terminate the Authentication Service with two (2) months written notice to Foreshore.

12. Termination

The termination provisions in Condition 12 of this Agreement and clause 9 of the Duo Terms shall apply. In addition, Foreshore may terminate the Authentication Services with immediate effect by giving written notice to the Customer, if for any reason Foreshore is no longer authorised to act as a managed service provider and its contractual relationship with Duo Security is terminated or notice is given of such termination.