

On Direct General Terms and Conditions (Version 11.4)

This document describes the General Terms and Conditions for On Direct Business Services Limited, trading as "Cloud Direct". It contains the following sections.

General Terms and Conditions

Schedule 1 – Data Processing Agreement

Annex 1 to Schedule 1

Annex 2 to Schedule 1

Schedule 2 – Service Appendices

Service Appendix 1 – Microsoft Azure Subscriptions

Service Appendix 2 – Microsoft Modern Work/365 Subscriptions

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Service Appendix 4 – Professional Services

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Service Appendix 6 – Connectivity Services

Service Appendix 7 – OneTime (Hardware and Other Software Licensing)

Service Appendix 8 – All other Services

Service Appendix 9 – Provide Platform

Version 11.4

Version 11.4, released in August 2023, supersedes Version 11.3.

This latest version includes an additional appendix, Service Appendix 9 – Provide Platform.

General Terms and Conditions

These General Terms and Conditions, the Schedules, the Service Agreement(s) and Service Appendices (together, the "Contract") govern your access to and use of the Services (as defined below). These General Terms and Conditions may be updated from time to time and the latest version will be available on our website at clouddirect.net.

1. Definitions

The following definitions apply to these General Terms and Conditions:

Expression	Meaning...
"Affiliate"	means an entity that controls, is controlled by, or is under common control with a party. "Control" means direct or indirect ownership of more than 50% of the voting interests of the subject entity.
"Billing Commencement Date"	means the date on which the Services become chargeable, as set out in the relevant Service Appendix.
"Billing Frequency"	means the invoice frequency of any Service (monthly, annually, etc.), as set out in the relevant Service Agreement and/or Service Appendix.
"Confidential Information"	means the terms of the Contract and all commercial or proprietary information of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one party to the other party including information relating to such party's know-how, trade secrets and business affairs, whether disclosed before or after the Contract is entered into.
"Content"	means any information, files, data, or material uploaded by you including any text.
"Hardware"	means any hardware provided by us to you as part of providing any Service.
"Initial Term"	means the agreed minimum term for each Service as set out in the relevant Service Appendix.
"IPR"	means all copyright and related rights, rights in computer software, design rights, trademarks, database rights, patents, trade secrets, know-how, rights in confidential information and all other intellectual property rights.
"Service Agreement"	means the document addressed to you setting out the Service Fees and appending these General

	Terms and Conditions and one or more Service Appendix/Appendices.
"Service Appendix"	means an appendix to the Service Agreement setting out the Services, the Initial Term, any Service Levels, and any Special Terms.
"Service Fee"	means the fee payable by you to us for the Services as set out in the relevant Service Agreement, which is made up of the Subscription Fee and any applicable Usage Fee.
"Service Levels"	means the service levels setting out information about the expected performance of the Services, as set out in the Service Appendix.
"Services"	means the Hardware and other products and services to be provided by us to you under the Contract, as detailed in the Service Appendix.
"Special Terms"	means any changes to these General Terms and Conditions, if any, as set out in the Service Agreement.
"Subscription Fee"	means the regular part of the Service Fee.
"Suppliers"	means any third party we engage to provide the Services to you.
"Usage Fee"	means the variable part of the Service Fee based on actual Usage during a specific period.
"we", "our" or "us"	means On Direct Business Services Limited (company number 04631034) trading as "Cloud Direct" whose registered office is at 1 London Street, Reading, Berkshire RG1 4QW and whose trading address is The Vaults, 1 Bartlett St, Bath BA1 2QZ (VAT registration number GB 801 3192 74).
"you" or "your", "Customer"	means the customer named in the Service Agreement.

2.Our Obligations

2.1 In accordance with the relevant Service Appendix, we agree to:

2.1.1 assist you in the set-up of the Services;

2.1.2 provide the Services to you, to the Service Levels where set out in the relevant Service Appendix; and

2.1.3 provide technical assistance and training (which may incur a reasonable additional charge depending on requirements) for the set-up and provision of the Services when reasonably requested to do so.

2.1.4 If the Services include any project work that is charged on a time and materials basis, we will use reasonable endeavours to meet agreed estimated dates for delivery and any associated estimated charges subject to clause 3.5.

2.2 Notwithstanding clause 2.1, we reserve the right to suspend or vary the Services at any time to carry out maintenance and upgrades or to deal with any problem or error. We will endeavour to provide reasonable notice of such maintenance or upgrades, where possible.

3. Your Obligations

3.1 You agree to:

3.1.1 maintain and comply with all necessary licences, consents and permissions necessary for you to perform your obligations under the Contract;

3.1.2 follow our reasonable instructions for the use of the Services which we may send to you from time to time;

3.1.3 notify us immediately if you become aware of any problem with the Services;

3.1.4 make the following available to us as we may reasonably require in order to provide the Services and verify your compliance with the Contract:

3.1.4.1 employees with appropriate skills, knowledge and authority in connection with the Services;

3.1.4.2 access to your site(s) and facilities at your site(s);
and

3.1.4.3 relevant information and materials;

3.1.5 comply with all applicable laws, legislation and regulations relating to the Services;

3.1.6 provide us with up-to-date and accurate contact information in order to enable us to manage your account effectively and provide you with technical notifications regarding the Services;

3.1.7 provide us with all necessary co-operation in relation to the Services and the Contract;

3.1.8 inform us without undue delay of any changes to your infrastructure or environment relating to the Services that might affect the performance of the Services;

3.1.9 maintain the Hardware in satisfactory condition and insure any rented or loaned Hardware against all risks for its full price on our behalf from the date of delivery of the Hardware;

3.1.10 notify us as soon as reasonably practicable of any loss of or damage to rented or loaned Hardware other than reasonable wear and tear and, on request, reimburse us for such loss or damage at a cost to be determined by us, acting reasonably;

3.1.11 be responsible for monitoring your usage of the Service, and subsequent Usage Fees (and possible overage charges), incurred for the Services we provide, where relevant;

3.1.12 ensure that all Content (including any description, date or information relating to the Content but excluding any backup data) uploaded by you or by us on your behalf is accurate and up-to-date;

3.1.13 maintain adequate internal security measures for your access to and use of the Services including ensuring the confidentiality and safe storage of all login details, usernames and passwords and requiring passwords to be updated regularly; and

3.1.14 use the Services for your internal business purposes only. The Services are personal to you and may not be assigned, sublicensed, sold, resold, transferred, distributed or otherwise disposed of or commercially exploited in any way;

3.2 You will not access, store, or transmit any viruses, or use the Services for any unlawful purpose, including (without limitation):

3.2.1 in any way which will or is likely to infringe the IPR of a third party;

3.2.2 for the transmission, display, downloading or uploading of any Content which is or is likely to be construed as defamatory,

threatening, offensive, abusive, obscene or which will or is likely to cause unnecessary anxiety or inconvenience to a third party or which is otherwise unlawful;

3.2.3 to attempt to gain unauthorised access to the Services;

3.2.4 to attempt to modify, distribute, reverse engineer or otherwise attempt to decipher any code in connection with the Services and/or any other aspect of our technology;

3.2.5 in any way that will or is likely to cause damage or adversely affect the operation of our Services or interfere with or disrupt our website, other websites, servers, or networks; or

3.2.6 in any way that will or is likely to interfere with the use and enjoyment of the Services for other users.

3.3 Unless we have appointed you as our partner or reseller (in which event you shall be entitled to exercise the rights granted to you set out in the associated partner or reseller agreement between you and us) you will not market, offer to sell or resell the Services to any third party.

3.4 If the Services include any third party services, you agree to be bound by the third party terms and conditions applicable to such services, as indicated in the relevant Service Appendix. If and to the extent that the Contract conflicts with any third party terms and conditions, the Contract shall prevail.

3.5 You agree to carry out your obligations under the Contract in a timely and efficient manner. In the event of any delay that is directly or indirectly caused by any act or omission by you, we may adjust any timetable or delivery schedule as is reasonably necessary and/or charge you for the effects of such a delay on a time and materials basis at our standard published day billing rates.

3.6 Subject to any relevant third party licence restrictions, you may enable your Affiliates to use the Services. When an Affiliate uses the Services, all references to "you" or "Customer" in the Contract relating to access or use of, or restrictions or limitations on access or use of, the Services refer to the Affiliate. Only an entity specified in a Service Agreement may take any action to enforce such entity's rights and obligations arising from the Contract.

3.7 You agree that during this agreement and for a period of one year after the termination of this agreement, you shall not directly or indirectly

solicit, recruit, hire or attempt to hire any of our employees, contractors, or consultants without our prior written consent. In the event that this clause is breached, we shall be entitled to seek injunctive relief and/or damages for any harm caused by such violation. This clause shall survive the termination of this agreement for any reason.

4.Prices and Payment

4.1 In return for us agreeing to provide you the non-exclusive, non-transferable right for you to access and use the Services, you agree to pay us the Service Fee.

4.2 Where the Subscription Fee element of the Service Fee is charged in advance, you must pay the Subscription Fee before you can access the Services.

4.3 If you allow additional users to access the Services, we reserve the right to charge Subscription Fees and Usage Fees based on such additional usage. This will be charged at the rate set out in the Service Agreement or, if no rate is specified, at our standard list price. It is your responsibility to request rates information.

4.4 Subject to clause 4.3, we will not increase the Service Fees during the first 12 months of the Contract except to the extent that third party licensors (such as Microsoft) increase or pass on their charges to us, in which event we will increase the Service Fees by an amount equal to the passed on charges.

4.5 For support or managed service packages, we reserve the right to increase the price on an annual basis with effect from each anniversary of the Billing Commencement Date by up to five per cent (5%) or in line with the increase in the Retail Price Index published by the Office for National Statistics (or its successor), whichever is higher. The first such increase shall take effect at the beginning of second year.

4.6 In the event of a Service Fee increase, should the annual percentage increase be more than 5 percentage points above the corresponding increase in the Retail Price Index published by the Office for National Statistics (or its successor) for the 12-month period preceding the Service Fee increase, and the increase is not acceptable to you, you may terminate the affected Service by giving us written notice within 30 days of the Service Fee increase or such longer period as may be specified in the relevant Service Appendix.

4.7 Where the Services include training and consultancy services, we reserve the right to charge a flat-rate of £150 per day for expenses to include domestic travel, any required accommodation and general subsistence. Other expenses such as flights or any significant additional costs must be calculated and agreed between us prior to being incurred.

4.8 All Service Fees and other charges are exclusive of value added tax (VAT), which will be charged at the current rate at the time of invoice. All Service Fees must be paid by Direct Debit, unless otherwise agreed between us.

4.9 You must pay all invoices in full without deduction or withholding, except as required by law, within 30 days of the date of the invoice (the "**Invoice Due Date**"). If you fail to pay an undisputed invoice by the Invoice Due Date, we may, without any prejudice to any other rights and remedies available to us, charge you interest at the rate of 4% per annum above the then published base rate of Santander UK Plc on a daily basis from the date of the invoice until the actual date of payment of the overdue amount, whether before or after judgment.

5.Data Protection and Contact Details

5.1 Each party shall comply with:

5.1.1 the provisions of the UK Data Protection Act 2018 and any related legislation so far as they relate to the Services; and

5.1.2 [Schedule 1](#) to these General Terms and Conditions (Data Processing Agreement).

5.2 You acknowledge that we may provide the Suppliers with your contact details for the purpose of delivering the Services.

6.Warranties

6.1 We warrant that the Services will be carried out substantially in accordance with the Service Appendix and with reasonable care and skill by personnel whose qualifications and experience will be appropriate for the tasks which are allocated to them.

6.2 The warranty at clause 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to our instructions, or modification or alteration of the Services by any party other than us or our duly authorised contractors or agents. If the Services do not conform with the foregoing warranty, we will use all

reasonable commercial endeavours to correct any such non-conformance promptly or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the warranty set out in clause 6.1.

6.3 We do not warrant that the Services will be error free or uninterrupted, and we are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet. You acknowledge that the Services may be subject to limitations, delays, and other problems inherent in the use of such communications facilities.

6.4 Except as set out in this clause 6, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

7.Limitation of Liability

7.1 Nothing in the Contract shall exclude or limit either party's liability for:

7.1.1 death or personal injury resulting from negligence;

7.1.2 fraud or fraudulent misrepresentation; and

7.1.3 any other matter for which it would be unlawful for either party to exclude or limit or attempt to exclude or limit its liability.

7.2 Subject to clause 7.1:

7.2.1 we will not be liable for:

7.2.1.1 any indirect, consequential or special loss;

7.2.1.2 any loss of profits, depletion of goodwill, loss of business or loss of data; or

7.2.1.3 any loss resulting from corruption of data due to the introduction of a virus or arising as a result of a problem with the internet unless you can demonstrate to our satisfaction that such loss or corruption was due to our negligence or default;

7.2.2 our total liability to you in respect of direct damage to your physical property shall not exceed £2,000,000; and

7.2.3 our total liability to you in respect of all other losses arising under or in connection with the Contract shall not exceed the total Service Fees payable by you (i) during the first 12 months of the Contract, if the event giving rise to the liability occurs during the first 12 months of the Contract; or (ii) during the 12 months immediately preceding the date on which the event giving rise to the claim occurred, if such event occurs after the 12 month anniversary of the effective date of the Contract.

7.3 You confirm that you have read and understood this clause and have adequate insurance, or other financial means, to cover for any losses beyond those set out in this clause.

7.4 If you require us to take on any additional liability beyond what is set out in this clause 7, we will consider doing so upon agreement of an increase in the Service Fees to reflect such additional liability. Any such agreement must be set out in writing.

8. Confidentiality and Intellectual Property

8.1 The existence of the Service Agreement and/or Service Appendix between the parties and the Services being supplied may be disclosed to third parties provided that:

8.1.1 details of the individual Services can only be disclosed with prior written agreement between the parties;

8.1.2 on successful commencement or delivery of the Services, the parties will agree a case study that both parties can publish and disclose to third parties.

8.2 Each party undertakes that it shall not disclose to any person any Confidential Information, except as permitted under this clause 8.

8.3 Confidential Information shall not include information that is:

8.3.1 trivial or obvious;

8.3.2 already in the possession of the receiving party other than as a result of a breach of this clause;

8.3.3 in the public domain other than as a result of a breach of this clause;

8.3.4 disclosed or used in accordance with the other party's prior written approval;

8.3.5 required to be disclosed by law, court order or any governmental or regulatory authority.

8.4 Each party may disclose the other party's Confidential Information:

8.4.1 to its employees, agents or advisers who need to know such information for the purposes of carrying out such party's obligations under the Contract. Each party shall ensure that the recipients of Confidential Information are made aware of and comply with the obligations of confidentiality under the Contract as if they were a party to the Contract; and

8.4.2 as may be required by law, court order or any governmental or regulatory authority.

8.5 Nothing in the Contract will transfer to you any IPR in the software, materials, documents, or items we prepare, produce or supply in connection with the Services.

8.6 All IPR in the Services belong to us or our respective licensors and you have no right, title, or interest in or to such IPR other than as expressly set out in the Contract or as permitted by law.

8.7 You shall indemnify and hold us harmless against any cost, losses, liabilities, and expenses, including reasonable legal costs arising from any claim relating to or resulting directly or indirectly from your use of the Services including the infringement of any third party IPR or right of confidentiality, provided that, in the case of a third party claim:

8.7.1 we give prompt notice of any such claim;

8.7.2 we provide, at your expense, reasonable cooperation in the defence and settlement of the claim; and

8.7.3 you have sole control of the defence and settlement of the claim.

8.8 We will defend, or at our option settle, any claim or suit brought against you that the Services infringe any third party's IPR or right of confidentiality and we shall indemnify you against any award amounts awarded against you in judgement or settlement of such claims provided that:

8.8.1 you give us prompt notice of any such claim;

8.8.2 you do not make any admission, or otherwise attempt to compromise or settle the claim and provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and

8.8.3 we have sole control of the defence and settlement of the claim.

8.9 In defence or settlement of any claim we may procure the right for you to continue using the Services or replace or modify them so that they become non-infringing or, if such remedies are not reasonably available, terminate this agreement and provide a pro-rata refund of Service Fees that have been paid in advance for the remainder of the duration of the applicable Service Agreement (beginning on the date of termination).

8.10 In no event shall we, our employees, agents, or sub-contractors be liable to you to the extent that the alleged infringement is based on:

8.10.1 a modification of the Services by anyone other than us; or

8.10.2 your use of the Services in a manner contrary to the instructions given to you; or

8.10.3 your use of the Services after notice of the alleged or actual infringement from us or any appropriate authority.

8.11 This clause 8 will survive the termination or expiry of the Contract howsoever caused.

9.Free Accounts

9.1 Where you use a free account or trial account, we allow you to use the Service free of charge up to the limitations specified on the package on offer. We reserve the right to terminate the account at any time, with or without notice.

9.2 It is important to note that NCE (New Commerce Experience) Trial Licences will auto-renew as paid services at the end of the trial period. Failure to cancel a trial within the first 7-days, or to contact Cloud Direct to switch off auto-renew, will result in charges once the trial ends.

10. Term and Termination

10.1 The Service Fees will become chargeable from the Billing Commencement Date.

10.2 Following the Initial Term and unless otherwise stated in the relevant Service Appendix:

10.2.1 either party may serve notice to terminate any Service with a monthly Billing Frequency such that the relevant Service will be terminated at the end of the calendar month following the month in which the notice was served; or

10.2.2 any Service with an annual Billing Frequency shall be automatically extended for a period of 12 months ("Extended Term") and again at the end of each Extended Term, unless and until either party gives written notice to the other party, not later than 60 days before the end of the Initial term or the relevant Extended Term, to terminate such Service at the end of the Initial Term or the relevant Extended Term, as the case may be.

10.3 We may terminate or suspend the Services immediately by giving written notice if:

10.3.1 you fail to pay any amount due by the Invoice Due Date;

10.3.2 your use of the Services is materially adversely affecting the operation of the Services for other users; or

10.3.3 a technical emergency occurs (in which case we will let you know by telephone or e-mail if possible).

You will continue to be responsible for the Service Fees during any period of suspension.

10.4 Either party may terminate the Contract immediately by giving written notice if the other party:

10.4.1 commits any material breach of or repeatedly breaches the Contract and (in the case of a breach capable of being remedied) fails to remedy it within 30 days of a written request to do so;

10.4.2 has an encumbrancer takes possession or a receiver (or similar office holder) is appointed over any of its property or assets, makes any voluntary (or similar) arrangement with its creditors, has

an administrator appointed or is subject to insolvency proceedings in any jurisdiction;

10.4.3 goes into liquidation (except for the purposes of an amalgamation, reconstruction, or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on that other party under the Contract); or

10.4.4 ceases, or threatens to cease, to carry on business.

10.5 Termination of any individual Service Agreement will not affect the continuation of any other Service Agreement.

10.6 On termination of the Contract or a Service Agreement:

10.6.1 all licences granted under the Contract or the terminated Service Agreement (as the case may be) shall immediately terminate and you shall immediately cease to use the Services described in the relevant Service Appendix or Service Appendices, as the case may be, and deliver to us all software, Hardware (in good working order), materials, documentation and items provided under such Service Appendix or Service Appendices at your own cost; and

10.6.2 data within the relevant Service(s) will be unavailable to you and will be deleted.

10.7 Should you transition to a new service provider upon termination or expiry of this Agreement, you shall reimburse us for any reasonable costs we incur in supporting such transition. You will continue to be responsible for the Service Fees during any period of transition.

10.8 Clauses which expressly or by implication have effect after termination of this agreement shall continue in full force and effect.

11. Dispute resolution

11.1 If you have a complaint you should initially follow our 'What to do if you have a complaint' guide which is available on our website at the following link: <https://www.clouddirect.net/legal/what-to-do-if-you-have-a-complaint/>.

11.2 A more comprehensive overview of our customer complaints code of practice is also available from our website or as a pdf download at the following link: <https://www.clouddirect.net/legal/customer-complaints-code-of-practice/>

11.3 We are registered with Ombudsman Services, which is an OfCom-approved alternative dispute resolution body. Ombudsman Services will review your complaint and decide if it is justified. We will act on the Ombudsman Services decision and put things right for you. Ombudsman Services complaint submissions are free of charge. Ombudsman Services contact details are as follows:

Ombudsman Services

The Brew House

Wilderspool Park

Greenall's Avenue

Warrington

WA4 6HL

12.General

12.1 If there is any conflict between these General Terms and Conditions and any Service Agreement, the Service Agreement shall take precedence.

12.2 Neither party may assign or transfer or purport to assign or transfer the Contract or any Service Agreement or Service Appendix without the prior written consent of the other party, which shall not be unreasonably withheld or delayed.

12.3 The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.

12.4 The failure by either party to exercise or delay in exercising a right or remedy under the Contract shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. No waiver by either party in respect of a breach of the Contract will operate as a waiver in respect of any subsequent breach.

12.5 If any provision of the Contract is declared by any judicial or any other competent authority to be void, voidable, illegal, or otherwise

unenforceable, it shall be limited or eliminated to the minimum extent necessary, so the Contract shall otherwise remain in full force and effect and enforceable.

12.6 Any notice or other information required, or permitted to be given, under the Contract shall be validly given if served personally on that party or if sent by first class pre-paid post or email to the last known address of that party:

12.6.1 If sent by first class pre-paid post, the notice will be treated as received 2 days after the date of posting; and

12.6.2 If sent by email, the notice will be treated as received on the same day if sent during normal working hours, or on the next working day when sent outside such hours (provided in it is supported by a valid server delivery receipt).

13. Governing law and jurisdiction

The Contract and any non-contractual obligations arising out of it shall be governed by and construed in accordance with English law and the parties agree that the English courts shall have exclusive jurisdiction to settle any dispute or claim arising out of the Contract.

14. Relationship of parties and subcontractors

14.1 We shall act at all times as an independent contractor. Nothing in the Contract shall be deemed to create or constitute a partnership, agency relationship or joint venture between the parties.

14.2 We may use sub-contractors to perform services under the Contract. We will remain responsible to you for any acts, defaults, or neglects of our sub-contractors in the performance of the Services.

15. Force Majeure

15.1 Neither party shall be liable for any loss suffered by the other party or deemed to be in default for any delays or failures in performance hereunder (other than in relation to payment) resulting from acts or causes beyond its reasonable control including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of

plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the affected party notifies the other party of such an event and its expected duration.

Schedule 1 – Data Processing Agreement

The following definitions apply to this Schedule:

Expression	Meaning...
"Appropriate Technical and Organisational Measures"	has the meaning given to it under Privacy Laws.
"Customer Personal Data"	means any Personal Data the Processing of which is subject to Privacy Laws, that is controlled by the Customer and its customers (where applicable) which the Processor Processes in the course of providing the Services under the Agreement, wherever the Processing takes place.
"Data Controller"	has the meaning given to it under Privacy Laws.
"Data Processor"	has the meaning given to it under Privacy Laws.
"Data Subject"	has the meaning given to it under Privacy Laws.
"EU Data Protection Law"	means all applicable EU data protection and privacy laws, including: (i) prior to 25 May 2018, the EU Data Protection Directive 95/46/EC and, on and after 25 May 2018, the General Data Protection Regulation 2016/679; (ii) the Privacy and Electronic Communications Directive 2002/58/ED; and (iii) any other European Union or EU Member State laws made under or pursuant to (i) or (ii), in each case as such laws may be amended or superseded from time to time.
"GDPR"	means the General Data Protection Regulation (EU) 2016/679.
"Personal Data"	has the meaning given to it under Privacy Laws.
"Personal Data Breach"	has the meaning given to it under Privacy Laws.
"Privacy Laws"	means applicable laws serving to ensure the protection of Personal Data (including in connection with the Processing of Personal Data),

	and the protection of the rights and freedoms (in particular, their right to privacy) of Data Subjects relating to their Personal Data, including EU Data Protection Law and UK Data Protection Law, in each case as such laws may be amended or superseded from time to time.
"Processing"	has the meaning given to it under Privacy Laws (and "Process" shall be construed accordingly).
"UK Data Protection Law"	means all applicable UK data protection and privacy laws including any UK law which replaces EU Data Protection Law, or which implements or transposes EU Data Protection Law into UK domestic law.

Processing customer personal data

1.1 The parties agree that, in relation to the Customer Personal Data, the Customer is the Data Controller and On Direct Business Services Limited is the Data Processor.

1.2 When the Data Processor processes Customer Personal Data while providing the Services, the Data Processor shall:

1.2.1 Process the Customer Personal Data only in accordance with [Annex 1 to this Schedule 1](#) and the Data Controller's written instructions, including with regard to transfers of Customer Personal Data to a third country or international organisation, except where required to do so by law. If the Processor is required by law to Process the Customer Personal Data for any other purpose, the Data Processor will inform the Customer of this requirement before the Processing, unless that law prohibits this on important grounds of public interest. If the Customer issues a direction to the Data Processor which requires the Data Processor to do something that is inconsistent with the terms of [Annex 1 to this Schedule 1](#), the Data Processor may wish to make a reasonable charge, in which case that charge will be as agreed in writing between the parties;

1.2.2 take reasonable steps to ensure the reliability and competence of the Data Processor personnel who have access to the Customer Personal Data;

1.2.3 ensure that the personnel required to Process the Customer Personal Data:

(a) are informed of the confidential nature of the Customer Personal Data;

(b) are subject to appropriate obligations of confidentiality; and

(c) do not publish, disclose or divulge any of the Customer Personal Data to any third party unless directed in writing to do so by the Customer;

1.2.4 implement and maintain appropriate Technical and Organisational Measures to protect the Customer Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, theft, alteration or disclosure;

1.2.5 assist the Customer, at the Customer's cost, in ensuring compliance with Customer's obligations as a Data Controller in relation to:

(a) requests from Data Subjects exercising their rights under Privacy Laws; and

(b) security of Processing, Personal Data Breach notifications, impact assessments, and consultations with supervisory authorities or regulators,

(c) and the Customer shall notify the Integrated Management Systems Team by email (ims@clouddirect.net) of any requests from Data Subjects;

1.2.6 on expiry or termination of a Service Agreement, at the Customer's option, either delete or return to the Customer all the Customer Personal Data (unless the Data Processor is required to retain it by law). If the Customer requires the Data Processor to delete the Customer Personal Data in any other circumstances, the Data Processor may make a reasonable charge for doing so;

1.2.7 make available to the Customer all information necessary to demonstrate its compliance with its obligations in this Data Processing Agreement and allow the Customer and its auditors or authorised agents to conduct audits and inspections during the term of the Service Agreement (and provide reasonable assistance in connection therewith) for the purpose of verifying that the Processor is Processing Customer Personal Data in accordance with the Processor's obligations under this Data Processing Agreement, the

Service Agreement, the Service Appendix and applicable Privacy Laws; and

1.2.8 not give access to or transfer any Customer Personal Data to any third party (including any group companies or sub-contractors) without the prior written consent of the Customer. Where the Customer does consent to the Data Processor engaging a sub-contractor to carry out any part of the Services, the Processor must ensure the reliability and competence of the third party, its employees and agents who may have access to the Customer Personal Data and must include in any contract with the third party, provisions in favour of the Customer which are equivalent to those in this clause and as are required by applicable Privacy Laws. For the avoidance of doubt, where a third party fails to fulfil its obligations under any sub-Processing agreement or any applicable Privacy Laws, the Processor will remain fully liable to the Customer for the fulfilment of the Processor's obligations under this agreement, the Service Agreement, and the Service Appendix.

1.3 The Data Processor shall notify the Customer without undue delay if, in the Data Processor's opinion, an instruction for the Processing of Customer Personal Data given by the Customer infringes applicable Privacy Laws.

1.4 If the Data Processor becomes aware of a Personal Data Breach affecting Customer Personal Data, the Processor will:

1.4.1 notify the Customer by email without undue delay after becoming aware of such Personal Data Breach. The email shall be sent to the Customer's primary contact (as shown in the Processor's customer relationship management (CRM) system) and the Customer is responsible for ensuring this information is kept up to date;

1.4.2 provide the Customer with reasonable assistance to facilitate the handling of such Personal Data Breach by the Customer in an expeditious and compliant manner.

1.5 The Customer acknowledges and agrees that the Data Processor may transfer Customer Personal Data outside the UK in order to provide the Services. Where the Data Processor transfers Personal Data from the UK to a country in respect of which a valid adequacy decision has not been issued by the European Commission (a "Third Country"), such transfer and the Processing carried out in the Third Country shall be performed in accordance with [Annex 2](#) (the "Standard Contractual Clauses").

Annex 1 to Schedule 1

Description of Processing

Expression	Meaning...
"Subject matter of the Processing:"	The Data Processor will Process Customer Personal Data in the course of the provision of the Services to the Data Controller.
"Nature and purpose of the Processing:"	<p>The Data Processor may carry out the following Processing activities on behalf of the Data Controller:</p> <ul style="list-style-type: none">- providing customer support services;- customer account management such as billing, notifications, updated and upgrades;- monitoring and testing system use and performance;- marketing activities, such as communicating with Customer in relation to upcoming events, new products or services and company news;- IT security activities including incident management and maintenance and performance of technical support systems and IT infrastructure;- onboarding, migration, implementation, configuration, and performance testing.
"Types of Personal Data:"	Personal data may include, among other information, personal contact information such as name, address, telephone or mobile number, fax number, email address; employment details including employer name, job title and function and business contact details; IP addresses, usernames and passwords, and any other data the Data Controller may elect to provide to the Data Processor in the course of the provision of the Services.
"Categories of Data Subject:"	Data Subjects may include the Customer's representatives, such as employees, contractors, collaborators, and partners of the Customer.

Annex 2 to Schedule 1

Standard Contractual Clauses

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection.

- **Data exporting organisation:** Customer
- **Address:** as set out in the relevant Service Agreement (the data exporter)

And

- **Name of the data importing organisation:** On Direct Business Services Limited, t/a "Cloud Direct"
- **Address:** 1 London Street, Reading, Berkshire RG1 4QW and whose trading address is The Vaults, 1 Bartlett St, Bath BA1 2QZ (the data importer)

each a 'party'; together 'the parties',

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in [Appendix 1](#).

Clause 1 - Definitions

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) 'the data exporter' means the controller who transfers the personal data;

(c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) 'the sub-processor' means any processor engaged by the data importer or by any other sub-processor of the data importer who agrees to receive from the data importer or from any other sub-processor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2 - Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in [Appendix 1](#) which forms an integral part of the Clauses.

Clause 3 - Third-party beneficiary clause

(a) The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(a) and (b), Clause 7, Clause 8(b), and Clauses 9 to 12 as third-party beneficiary.

(b) The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(b), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor

entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

(c) The data subject can enforce against the sub-processor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(b), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

(d) The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4 - Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in [Appendix 2](#) to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect

personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any sub-processor pursuant to Clause 5(b) and Clause 8(c) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of [Appendix 2](#), and a summary description of the security measures, as well as a copy of any contract for sub-processing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of sub-processing, the processing activity is carried out in accordance with Clause 11 by a sub-processor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5 - Obligations of the data importer

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to

inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in [Appendix 2](#) before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(ii) any accidental or unauthorised access; and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

- (g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for sub-processing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of [Appendix 2](#) which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;
- (h) that, in the event of sub-processing, it has previously informed the data exporter and obtained its prior written consent;
- (i) that the processing services by the sub-processor will be carried out in accordance with Clause 11;
- (j) to send promptly a copy of any sub-processor agreement it concludes under the Clauses to the data exporter.

Clause 6 - Liability

- (a) The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or sub-processor is entitled to receive compensation from the data exporter for the damage suffered.
- (b) If a data subject is not able to bring a claim for compensation in accordance with paragraph (a) against the data exporter, arising out of a breach by the data importer or his sub-processor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a sub-processor of its obligations in order to avoid its own liabilities.

- (c) If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs (a) and (b), arising out of a breach by the sub-processor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or

ceased to exist in law or have become insolvent, the sub-processor agrees that the data subject may issue a claim against the data sub-processor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the sub-processor shall be limited to its own processing operations under the Clauses.

Clause 7 - Mediation and jurisdiction

(a) The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

- (i) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
- (ii) to refer the dispute to the courts in the Member State in which the data exporter is established.

(b) The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8 - Cooperation with supervisory authorities

(a) The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

(b) The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any sub-processor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

(c) The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any sub-processor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph (b). In such a case the

data exporter shall be entitled to take the measures foreseen in Clause 5(b).

Clause 9 - Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely the laws of England and Wales.

Clause 10 - Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11 - Sub-processing

(a) The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the sub-processor which imposes the same obligations on the sub-processor as are imposed on the data importer under the Clauses. Where the sub-processor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the sub-processor's obligations under such agreement.

(b) The prior written contract between the data importer and the sub-processor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph (a) of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the sub-processor shall be limited to its own processing operations under the Clauses.

(c) The provisions relating to data protection aspects for sub-processing of the contract referred to in paragraph (a) shall be governed by the law of the Member State in which the data exporter is established, namely the laws of England and Wales.

(d) The data exporter shall keep a list of sub-processing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12 - Obligation after the termination of personal data-processing services

(a) The parties agree that on the termination of the provision of data-processing services, the data importer and the sub-processor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

(b) The data importer and the sub-processor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph (a).

Appendix 1 to the Standard Contractual Clauses

The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

Expression	Meaning
Data Exporter	The data exporter is a customer of the data importer.
Data Importer	The data importer is a provider of IT design, implementation and support services.
Data Subjects	<p>The personal data transferred concerns the following categories of data subjects (please specify):</p> <p>As set out in Annex 1 of the Data Processing Agreement.</p>
Categories of data	<p>The personal data transferred concerns the following categories of data (please specify):</p> <p>As set out in Annex 1 of the Data Processing Agreement.</p>

Special categories of data (if appropriate)	<p>The personal data transferred concerns the following special categories of data (please specify):</p> <p>No special categories of data will be transferred to the data importer.</p>
Processing operations	<p>The personal data transferred will be subject to the following basic processing activities (please specify):</p> <p>As set out in Annex 1 of the Data Processing Agreement.</p>

Appendix 2 to the Standard Contractual Clauses

Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

The Data Importer operates an Integrated Management System that is audited and certified against ISO20000 and ISO27001 standards.

Schedule 2 – Service Appendices

Service Appendix 1 – Microsoft Azure Subscriptions

Contract Particulars

Billing Commencement Date

- Billing commences with the start of chargeable activity in your subscription – this may include the deployment of initial templates, monitoring and test environments before your subscription goes into live production.

Initial Term

- Monthly recurring Azure fees are not subject to any Initial Term and will be charged in full until each service is either transferred to an alternative provider or decommissioned.
- Reserved Instances have a Fixed Term (typically of 12 or 36 months) as defined by the relevant offer.

- Azure Savings plans have a Fixed Term of 12 months or 36 months, as defined by the relevant offer.
- The Initial Term of Marketplace subscriptions will be defined in the relevant Marketplace offer.

Service Fees

- Fees for Azure resources are charged according to Microsoft's current price book as varied from time to time.
- In the case of Azure Reserved Instances, Azure Savings plans, and Marketplace subscriptions we add 5% to the Microsoft price book to cover support services and administration.

Billing Frequency

- Standard – Monthly in arrears following our receipt and validation of Microsoft usage data.
- Reserved Instances – May be paid upfront or monthly. (Billing frequency is set at point of purchase).
- Azure Savings plans – May be paid upfront or monthly. (Billing frequency is set at point of purchase).

Other Terms

Payment Terms

- Payment for all subscription invoices is due within 14 days and is collected by direct debit.
- Where we agree to BACS payment, payment is due within 30 days of invoice and is subject to a 2.5% uplift.

Notice

- On standard recurring fees, notice can be given at any time to take effect on either the transfer of the subscription to an alternative provider or the decommissioning of the relevant service.
- In relation to Reserved Instances/Marketplace, notice can be given at any time to take effect at the end of the relevant commitment period. Note, cancellation fees may apply. Cloud Direct will confirm this at the point of cancellation.
- Azure Savings plans cannot be cancelled, refunded, or exchanged after purchase and will run for the duration of the term.

Third Party Terms & Conditions

- Azure Services are provided under the terms of the [Microsoft Customer Agreement \(the "MCA"\)](#). You agree to be bound by the terms of the MCA.
- In the event that you have not signed the MCA in advance of the provision of services, by signing our General Terms & Conditions, you authorise us to sign the MCA on your behalf.

Microsoft Association

- Subject to us providing appropriate instruction, you agree to associate us with all relevant workloads in any subscription that you procure from us.

Service Levels

- Azure Services are supplied in accordance with the [Service Levels offered by Microsoft](#).

Service Appendix 2 – Microsoft Modern Work/365 Subscriptions

Contract Particulars

Billing Commencement Date

- Billing commences on the start of chargeable activity in your subscription or provisioning of licences and covers consumption from the point of first usage – this may include the deployment of initial templates, monitoring and test environments before your subscription goes into live production.

Initial Term

- Other monthly recurring Modern Work/365 fees are not subject to any Initial Term and will be charged in full until each service is either transferred to an alternative provider or decommissioned.
- The Initial Term of Marketplace subscriptions will be defined in the relevant Marketplace offer.

Service Fees

- Fees for Modern Work/365 resources are charged according to Microsoft's current price book as varied from time to time.
- In the case of Marketplace subscriptions, we add 5% to the Microsoft price book to cover basic support services and administration.

Billing Frequency

- Standard – Monthly in arrears following our receipt and validation of Microsoft usage data.

Other Terms

Payment Terms

- Payment for all subscription invoices is due within 14 days and is collected by direct debit.
- Where we agree to BACS payment, payment is due within 30 days of invoice and is subject to a 2.5% uplift.

Onboarding

- Where you are transferring subscriptions to us from an alternative provider, we will agree a date for the go-live of those subscriptions. Licensing under this Agreement will commence on that date. It is your responsibility to ensure that the licence from your previous provider has ceased by such date.

Notice

- On standard recurring fees, notice can be given at any time to take effect at the end of the calendar month following the month in which notice is given.
- In relation to Marketplace subscriptions, notice can be given at any time to take effect at the end of the relevant commitment period.

Effect of Termination

- We will remove all subscriptions from your account immediately following the effective date of your termination notice. This may result in service interruption and/or data loss, and you acknowledge that it is your sole responsibility to ensure data transfer and alternative subscription enablement in advance of that date.

Third Party Terms & Conditions

- Microsoft Modern Work/365 Services are provided under the terms of the [Microsoft Customer Agreement \(the "MCA"\)](#). You agree to be bound by the terms of the MCA.
- In the event that you have not signed the MCA in advance of the provision of services, by signing our General Terms & Conditions, you authorise us to sign the MCA on your behalf.

Microsoft Association

- Subject to us providing appropriate instruction, you agree to associate us with all relevant workloads in any subscription that you procure from us.

Service Levels

- Microsoft Modern Work/365 Services are supplied in accordance with the [Service Levels offered by Microsoft](#).

Service Appendix 3 – Microsoft Modern Work/365 New Commerce Experience Subscriptions

Contract Particulars

Billing Commencement Date

- The date of licence purchase – this may include the deployment of initial templates, monitoring and test environments before your subscription goes into live production.

Initial Term

- New Commerce Experience ("NCE") Licences are available with an Initial Term of 1, 12 or 36 months and are priced accordingly.
- When you select a commitment term (either 12 or 36 months for certain products) you are committing to transact both the relevant Microsoft licensing and any associated Cloud Direct services with us for the whole of that term. Pricing for Microsoft licensing will be fixed (subject to any non-GBP exchange differences if you are invoiced in an alternate currency) for the duration of that term. Cloud Direct service prices may vary in line with our standard General Terms and Conditions.

- When you select the flexibility of a monthly commitment term (for which Microsoft charges a premium), pricing on each monthly invoice will vary in line with Microsoft's then current price. The commitment length to any associated Cloud Direct services will be as defined in your Service Agreement.

Service Fees

- Fees for NCE Modern Work/365 resources are charged according to Microsoft's current price book as varied from time to time, subject to fixed periods detailed above.

Billing Frequency

- Billing will either be monthly or annually in advance depending upon your selected licence type.

Other Terms

Trial Licences

- NCE Trial Licences will auto-renew as paid services at the end of the trial period. Failure to cancel a trial within the first 7-days, or to contact Cloud Direct to switch off auto-renew, will result in charges once the trial ends.

Payment Terms

- Payment terms in respect of NCE subscriptions and associated Cloud Direct Services are either monthly by Direct Debit or annually in advance by invoice.
- If monthly payment is selected and a collection fails for any reason, the full remaining balance of the subscription term will become due.
- Where an original subscription has been paid annually in advance, any licence additions will be invoiced in advance up to the renewal date of the main subscription.
- In the event of non-payment, in addition to other remedies in our General Terms and Conditions, we may suspend your subscription, at which point you would lose access, but would remain liable in full for the charges during suspension.

Onboarding

- Where you are transferring subscriptions to us from an alternative provider, we will agree a date for the go-live of those subscriptions.

Licensing under this Agreement will commence on that date. It is your responsibility to ensure that the licence from your previous provider has ceased by such date.

Notice and cancellation

- Once a subscription has been created there is a 72-hour (including weekends) window to cancel the order with Microsoft. If you wish to cancel an order you should notify us within 48 hours after creation by sending an email to ncecancel@clouddirect.net. If you notify us later than 48 hours after creation, or by any other means, we will use our reasonable endeavours to cancel the order, but if we are unable to do so, you will remain liable for the subscription. On a successful cancellation you are liable for the pro-rata charges between the subscription start and the cancellation date.
- During the commitment term, the number of licences cannot be reduced and will be charged in full, regardless of whether those licences are assigned to active users or not. Upgrades to higher licence types during the commitment term are permitted and will co-terminate with the existing subscription. When additional seats are added to a subscription they will co-terminate with the existing subscription.
- You can give notice to reduce licence numbers at any time up to 30 days before the end of the commitment term, such notice to take effect at the expiry of the commitment term. In the event that such notice is not received, the licences will renew for a further period equal to the length of the preceding commitment term.

Effect of Termination

- We will remove all subscriptions from your account immediately following the date that notice takes effect. This may result in service interruption and/or data loss, and you acknowledge that it is your sole responsibility to ensure data transfer and alternative subscription enablement in advance of that date.

Third Party Terms & Conditions

- Microsoft Modern Work/365 Services are provided under the terms of the [Microsoft Customer Agreement \(the "MCA"\)](#). You agree to be bound by the terms of the MCA.
- In the event that you have not signed the MCA in advance of the provision of services, by signing our General Terms & Conditions, you authorise us to sign the MCA on your behalf.

Microsoft Association

- Subject to us providing appropriate instruction, you agree to associate us with all relevant workloads in any subscription that you procure from us.

Service Levels

- Microsoft Modern Work/365 Services are supplied in accordance with the [Service Levels offered by Microsoft](#).

Service Appendix 4 – Professional Services

Contract Particulars

Billing Commencement Date

- The date of signature of the Service Agreement.

Initial term

- Not applicable to Professional Services.

Service Fees

- The fees are set out in the Service Agreement.

Billing Frequency

- Fixed Price Projects
 - We will issue a Deposit Invoice of 50% of the project value on receipt of order.
 - We invoice each week for any milestones achieved in the period.

Time & Materials

- We will issue a Deposit Invoice of 50% of the forecast project value on order.
 - We invoice for time delivered on a fortnightly basis.

Other Terms

Payment Terms

- Deposit Invoices are due upon receipt. Firm bookings of resources will not be made until receipt of payment.
- All subsequent Professional Services invoices are due by BACS within 30 days.
- If you elect to pay by Direct Debit, invoices are due within 14 days, and will attract a 2.5% discount.

Vendor Funding

- In certain circumstances we may be able to secure funding from relevant third-party partners to cover all or part of the cost of a Professional Services project. Such funding is typically subject to meeting certain criteria, including hitting certain milestone dates, infrastructure volumes consumption levels, etc. You acknowledge that in the event that such criteria are not achieved for any reason you will pay any shortfall in funding in relation to our services.

Cancelled Bookings

- Should you elect to cancel a firm resource booking with less than 5 clear working days' notice, the charges for such cancelled days will be invoiced in full. For the avoidance of doubt, in a Fixed Price project, such charges shall be in addition to the agreed Fixed Price and will be charged at the rate of £900 per day.

Notice & Termination

- Should you give notice to terminate this Agreement in accordance with the terms above, such notice shall not take effect before completion of the scope of works in place at the time the notice is given.

Service Appendix 5 – Managed Services & Support

Contract Particulars

Billing Commencement Date

- The date of commencement of the onboarding of the relevant Services.

Initial Term

- The Initial Term for all Managed Services or Support is 12 months.

Service Fees

- Service Fees are set out in the Service Agreement
- Where such fees are calculated on a "per user" basis, any addition of user licences will increase the Managed Service or Support fees pro-rata.
- Where user numbers are reduced, the relevant Managed Service or Support fees will reduce pro-rata provided that the Initial Term has expired.

Billing Frequency

As specified in the Service Agreement.

- Monthly Recurring – billing is monthly for services delivered in that month.
- Annual Billing – billing is annual in advance. Any increase in charges (such as the addition of users) will be billed in the month following the addition covering the period from the addition to the anniversary date of the existing service.

Other Terms

Payment Terms

- Payment for all Managed Services or Support invoices is due within 14 days and is collected by Direct Debit.
- Where we agree to BACS payment, payment is due within 30 days of invoice and is subject to a 2.5% uplift.

Notice & Termination

- Monthly billing – you can give notice to terminate the whole or part of a Service at any point, such notice to take place at the end of the month following notice, or at the expiry of the Initial Term if later.
- Annual Billing – you can give notice to terminate the whole or part of a Service at any point up to 60 days before the expiry of the current Annual Period, such notice to take place at the end of the current

Annual Period, or at the expiry of the Initial Term if later. If notice is received within 60 days of the renewal, such notice will be accepted as applying to the end of the subsequent Annual Period.

Third Parties and Termination

- Where a third party is engaged in the Managed Services or Support, we will use reasonable efforts to co-terminate any service with the date that your notice becomes effective. Should any services extend beyond the date of termination, we will invoice you on termination for the remaining periods to the earliest point of termination for the relevant third party and use reasonable efforts to ensure that you can continue to benefit from that service.

Service Appendix 6 – Connectivity Services

Contract Particulars

Billing Commencement Date

- The date of commencement of billing from the network provider, which may be before the date on which you make use of the relevant circuit.

Initial Term

- The Initial Term for Connectivity Services varies by type of Service. If not stated separately in the Special Terms, the following Initial Terms shall apply:
 - Ethernet & Leased Lines – 36 months
 - Broadband/ FTTC – 12 months
 - Mobile Broadband / SIMS – 12 months
 - All other services – 12 months.
- For the avoidance of doubt, the Initial Term for any Service commences upon the initiation by the network provider and billing of that circuit/service, irrespective of whether you are making active use of that service. If parallel running is required for project risk purposes, both circuits will be chargeable.

Service Fees

- Services Fees are as set out in the Service Agreement.
- Indexation of Fees will be passed on at the level and timing of any such indexation by the network provider.

Billing Frequency

As specified in the Service Agreement.

- Monthly Recurring – billing is monthly for services delivered in that month, and additional charges such as overages is billed monthly in arrears.
- OneTime charges, including ECC are invoiced on receipt of the relevant charge from the network provider.

Other Terms

Payment Terms

- Payment for all Connectivity invoices is due within 14 days and is collected by Direct Debit.
- Where we agree to BACS payment, payment is due within 30 days of invoice and is subject to a 2.5% uplift.

Excess Construction Charges ("ECC")

- All Circuit orders are subject to the satisfactory completion of a survey by the network provider and may be subject to Excess Construction Charges if the network provider deems additional works to be necessary. You will be notified of any ECC in excess of £500 and have the right to cancel the order within 5 working days of such notification.

Notice and termination

- You may give notice at any point to take effect at the end of the second month following the month in which you give notice, provided always that that date is later than the expiry of the Initial Term for the relevant service.
- On receipt of your notice, we will give notice to the relevant network provider to cancel the service on the date that your notice becomes effective. You acknowledge that any such cancellation may be irreversible and that we shall not be liable for any resulting business interruption, loss of data, or any other impact. Should you subsequently withdraw your cancellation we will use reasonable endeavours to have the service restarted and you will be responsible

for any additional charges levied by the network provider, and subject to any revised Initial Term.

Overages

- Certain Connectivity Services are subject to data or capacity limits. Once such limits are exceeded, the rates for excess usage are potentially very significant. You acknowledge that are solely responsible for any such overage. We will on request give reasonable assistance to apply usage caps or provide capacity data to allow you to prevent such overages.

Service Appendix 7 – OneTime (Hardware and Other Software Licensing)

Contract Particulars

Billing Commencement Date

Billing commences on order.

- Orders < £1,000 – orders are invoiced in full on order
- Orders >£1,000
 - 50% invoiced on order ("Deposit Invoice")
 - 50% invoiced on shipment.

Initial Term

- Orders placed are binding and not cancellable.
- In the event that the Service Agreement includes a call-off contract, the Initial Term shall last until completion of the call off.

Service Fees

- Service Fees are set out in the Service Agreement.

Billing Frequency

- Orders will be invoiced as above.

Other Terms

Payment Terms

- Payment for any Deposit Invoice is due by return. We will not place relevant orders on our suppliers until payment is received.
- Payment for all OneTime invoices is due within 30 days.

Timing

- You acknowledge that any stock availability or lead time is an estimate and we will not be liable for any delay outside our reasonable control.
- We will use our reasonable efforts to minimise lead times, but you acknowledge that any OneTime order placed is final and cannot be cancelled once confirmed.

Warranty

- Unless otherwise agreed, where we supply hardware with an attached manufacturer warranty, the use of that warranty cover is via your direct engagement with the relevant manufacturer.

Service Appendix 8 – All other Services

Contract Particulars

Billing Commencement Date:

- Billing commences on initiation of the service.

Initial Term

- Unless otherwise stated in the Service Agreement the Initial Term is 12 months.

Service Fees

- Service Fees are set out in the Service Agreement.

Billing Frequency:

- Services will be invoiced monthly in arrears.

Other Terms

Notice Period

- Where Other Services include the resale by us of a service provided by a 3rd party, the notice period from the 3rd party to us shall apply unless otherwise stated.

Payment Terms

- Payment for Other Services is due within 14 days and is collected by Direct Debit.
- Where we agree to BACS payment, payment is due within 30 days of invoice and is subject to a 2.5% uplift.

Service Appendix 9 – Provide Platform

This Service Appendix governs your access to Provide, our self-management platform (the “Platform”). The Platform enables Customers to manage their use of the Services, including monitoring spend, raising and tracking support tickets and managing licences, quotations and invoices.

Contract Particulars

Initial Term

- This Service Appendix shall commence on the Billing Commencement Date of the first Service Appendix entered into between you and Cloud Direct and remain in force until all Service Appendices have expired or been terminated.

Service Fees

- Access to the Platform is free of charge.

Other Terms

- Your access to the Platform may enable you to permit other users such as other employees of your organisation or external parties such as your IT Partner (“Your Users”) to access and update information on your behalf. You accept full responsibility for managing these extended access rights and any actions Your Users may take.
- You shall procure that Your Users comply at all times with the Provide Platform User Terms, available at <https://www.clouddirect.net/legal/provide-portal-terms-and-condition/>

- We do not warrant the completeness or accuracy of the information published on the Platform; nor do we commit to ensuring that the Platform remains available or that the material on the Platform is kept up-to-date.