

CONTRACTING PARTIES

1	CloudClevr Principal	means [insert relevant CloudClevr MFA contracting entity's company name] a company registered in England with number [insert relevant CloudClevr entity's company number] and whose registered office is at [insert relevant CloudClevr entity's registered office address] (" CloudClevr Principal ")
2	Customer	means [insert Customer entity's company name] a company registered in England with number [insert customer company number] and whose registered office is at [insert customer registered office address] (the " Customer ")
	Customer Email Address for Notices:	[insert Customer email address to which notices given under this MFA will be sent (see Clause 20).]

COMMENCEMENT

CloudClevr MFA reference:	[insert unique MFA reference number]
MFA Effective Date:	[insert date from which MFA is to be effective]

SIGNATURES

This MFA is effective from the MFA Effective Date upon signature by the parties below.

Signed for and on behalf of CloudClevr Principal by:	Signed for and on behalf of Customer by:
Signatory Name:	Signatory Name:
Signature:	Signature:
Signatory Position:	Signatory Position:
Date:	Date:

1. Definitions and Interpretation

1.1. In these MFA Terms, the following definitions apply:

"Additional Term" has the meaning given to it at Clause 4.3 (*Order Term and Renewal*);

"AUP" means the CloudClevr Acceptable Use Policy set out at <https://cloudclevr.com/terms-and-policies/>, as updated from time to time.

"Affiliate" means any corporation, firm, partnership or other entity that directly or indirectly Controls, or is Controlled by, or is under common Control with the relevant party;

"Business Day" means any day, other than a Saturday, Sunday or public holiday, when banks in England are open for business;

"Charges" means any and all monies (excluding interest or penalties) payable to CloudClevr by the Customer under an Order or this MFA;

"CloudClevr" means any member of CloudClevr Group that enters into Orders with the Customer pursuant to Clause 3 (*Ordering Process*).

In these MFA Terms, where rights and obligations are specified for 'CloudClevr' that relate to an Order, such rights and obligations apply only to the CloudClevr entity identified in the relevant Order form, further to Clause 2.3(d) and Clause 3.4. ;

"CloudClevr Equipment" means the equipment (if any) owned by CloudClevr or its suppliers and provided to the Customer for use at Customer Premises to enable Customer to receive the Service(s);

"CloudClevr Group" means CloudClevr Principal and its Affiliates;

"CloudClevr Principal" means the entity identified as such on page 1 of this MFA;

"Cloud Services" has the meaning set out in Schedule 5 (*Software, Cloud Services and Managed Services*);

"Commencement Date" means, in respect of an Order for Products or Software, the Order Date, and in respect of Services, the date on which the relevant Services commence;

"Connectivity Services" has the meaning set out in Schedule 3 (*Connectivity Services*);

"Confidential Information" means all confidential information disclosed by a party (to this MFA or an Order) or by its employees, consultants, officers, representatives, advisers, agents or sub-contractors, involved in the administration of Orders or the provision or receipt of the Products, Software and/or Services (together, its **"Representatives"**) to the other party (to the MFA or an Order, as applicable) or that party's Representatives in connection with this MFA or an Order where such information is either labelled as confidential or could reasonably be considered as confidential because of its nature and the manner of its disclosure;

"Control" means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares or power, ability to appoint directors, by contract or otherwise) and **"Controls"** and **"Controlled"** shall be interpreted accordingly;

"Customer" means the entity identified as such on page 1 of this MFA;

"Customer Premises" means any premises of Customer where it receives any Services and/or at which CloudClevr Equipment, Products and/or Software may be used or delivered;

"Data Processor" has the meaning given to it in the Data Protection Legislation;

"Data Protection Legislation" has the meaning given to it in the DPA;

"DPA" means the CloudClevr Data Processing Agreement set out at <https://cloudclevr.com/terms-and-policies/>, as updated from time to time;

"Device as a Service" means the provision of Financed Products as defined in Schedule 2 (*Device as a Service*);

"Early Termination Charges" means any costs and/or fees payable for early termination of a Service or Software licence, as specified in these MFA Terms and/or the applicable Schedule;

"Financed Products" means any Products hired to the Customer as detailed on a relevant Order (whether such hire is described as Financed Products, Device as a Service or otherwise), such hire being subject to the terms and conditions set out in Schedule 2 (*Device as a Service*) and includes each part and any additions, replacements and renewals of such Products, and all related manuals, packaging, operating instructions and documents;

"Fair Usage Policy" means the fair usage policies of CloudClevr and its suppliers, defining fair usage for relevant Services, as updated from time to time and notified to the Customer by any means such as notice on CloudClevr's website and/or a relevant supplier's website, by email, or otherwise;

"Force Majeure Event" means an event beyond the control of any relevant member of CloudClevr Group including but not limited an act of God; an act of war; civil unrest; terrorism; riot; epidemic/pandemic; fire; explosion or accidental damage; extreme weather conditions (including but not limited to: flood, storm, or other disaster); an act of government; industrial action or lockouts; and failure of the world wide web;

"Good Industry Practice" means the standard reasonably expected from an experienced and skilled provider of the same or similar Products, Services and/or Software under the same or similar circumstances.

"Initial Term" has the meaning set out at Clause 4 (*Order Term and Renewal*);

"Insolvency Event" means in respect of a party to this MFA or an Order (a) other than for the purposes of a bona fide reconstruction or amalgamation, such party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that party being otherwise dissolved; (b) the appointment of an administrator of, or the making of an administration order in relation to such party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of the entity's undertaking, assets, rights or revenue; (c) that party entering into or beginning negotiations to enter into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; (d) that party is unable or admits its inability to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of section 123 of the Insolvency Act 1986; (e) that party suspends or threatens to suspend making payments of any of its debts or (f) any event occurs, or proceeding is taken, with respect to that party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the foregoing events;

"Intellectual Property Rights" means copyrights and related rights, design rights, database rights, patents, rights in undisclosed or confidential information such as rights to inventions, know-how or trade secrets (whether patentable or not), trade and domain and business names, logos and devices, trade and service marks, moral rights, utility models, semiconductor topography rights, rights of passing off and in unfair competition, and other similar or equivalent intellectual property rights (whether registered or unregistered and wherever in the world enforceable) together with any extensions, revivals or renewals thereof, and all pending applications therefor and rights to apply for any of the foregoing in each case as may now or in the future exist anywhere in the world;

"Managed Services" has the meaning set out in Schedule 5 (*Software, Cloud Services and Managed Services*);

"MFA" means this Master Framework Agreement as detailed on page 1 of this document, including these MFA Terms and all of the Schedules attached to or referenced therein, as amended from time to time in accordance with these MFA Terms;

"MFA Effective Date" means the date identified as such in the Commencement table at page 1 of this MFA;

"MFA Terms" means the terms and conditions set out in Clauses 1 to 21 (inclusive) of this MFA;

"Order" means an order placed in accordance with this MFA, incorporating these MFA Terms, for the delivery of Products, Services and/or Software, by or through any member of the CloudClevr Group;

"Order Date" means the date on which an Order becomes binding in accordance with Clause 3 (*Orders*);

"Order Year" means the period of twelve (12) months commencing on the Service Commencement Date and each anniversary thereafter;

"Product" means equipment (e.g. hardware, devices or peripherals) listed in an Order;

"Professional Services" means non-recurring professional services (e.g. installation, configuration, planning, training or consulting services) as further described in Schedule 6 (*Professional Services*);

"Renewing Supplies" means items provided under an Order for which the term of supply (whether service or software) renews automatically, comprising Connectivity Services, Support Services, Software, Cloud Services and/or Managed Services (as the context requires);

"Schedule" means any Schedule attached to, or referenced to within, these MFA Terms;

"Service Commencement Date" means the date(s) for commencement of an Order for applicable Services or Software, as specified in the relevant Order or (if not so specified) as notified to the Customer by CloudClevr;

"Service Credits" means any service credits specified in a relevant Schedule which are calculated in accordance with the applicable provisions of that Schedule where CloudClevr fails to achieve the Service Levels;

"Service Levels" means the service levels for a given Service (if any), where set out in the relevant Schedule;

"Services" means the services that may be delivered by or through CloudClevr to the Customer under relevant Order(s) which may comprise Cloud Services, Connectivity Services, Device as a Service, Managed Services, Professional Services and/or Support Services.

"Services Notice Period" means ninety (90) days unless specified otherwise in the relevant Schedule;

"Service Description" means, where applicable, the service description document describing the scope of specific Services, which may be updated by CloudClevr from time to time;

"Software" means computer software in executable or object code form owned and/or developed by CloudClevr, its licensors and/or reselling partners, listed in or provided pursuant to an Order, and licensed under or pursuant to such Order;

"Statement of Work" or **"SOW"** means a document completed by CloudClevr for the Customer and attached to an Order (or explicitly referred to within it) which describes the scope of specific Professional Services;

"Support Services" means support and/or maintenance services relating to Software, Products and/or Services as explicitly set out on an Order Form and as further described in Schedule 4 (*Support Services*);

"Supported Equipment" means, where applicable to an Order, any equipment or software detailed on the Order or in a relevant Schedule or Service Description as 'Supported Equipment', 'Supported Product', supported 'IT Product' or supported 'Cyber Product';

"Term" has the meaning given to it at Clause 4.3 (*Order Term and Renewal*);

"UK GDPR" has the meaning given to it in the DPA;

"Working Hours" means 09:00–17:30 on a Business Day; and

1.2. The following rules of interpretation apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) CloudClevr Principal and the Customer are each a **"party"** and together the **"parties"** to this MFA; and for each Order the Customer and the relevant CloudClevr Group entity serving as the 'CloudClevr' Order contracting party are each a **"party"** and together the **"parties"** to such Order;
- (c) a reference to a party includes its personal representatives, successors or permitted assigns;
- (d) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (e) any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (f) a reference to writing or written includes e-mails;
- (g) the Schedules form part of this MFA and each relevant Order and all Schedules shall have effect as if set out in full in these MFA Terms;
- (h) references to Clauses are to the clauses within these MFA Terms;
- (i) references to paragraphs are to paragraphs in the Schedules;
- (j) headings are for ease of reference only and shall not affect the construction or interpretation of the MFA Terms or Schedule; and
- (k) in each Schedule and all documents referenced therein, references to 'CloudClevr' shall be interpreted as references to the CloudClevr Group entity serving as the 'CloudClevr' Order contracting party for any Order to which that Schedule applies under Clause 2.3(c).

1.3. To the extent there is any inconsistency between the provisions of these MFA Terms, the Schedules and any Order then to the extent required to resolve such the inconsistency the following order of precedence shall apply, ranked from first precedence to last:

- (a) the Schedules;
- (b) any 'Special Terms' expressly identified as such on any Order Form;
- (c) these MFA Terms;
- (d) the Order Form (except for 'Special Terms' as described at Clause 1.3(b) above).

2. MFA Scope, Commencement and Duration

Scope

2.1. This MFA:

- (a) governs the overall relationship of the Customer and CloudClevr Group in connection with the provision of the Products, Services and/or Software to Customer from time to time; and
- (b) sets out the terms and conditions applying to any such provision to Customer by or through any member of CloudClevr Group.

2.2. During the term of this MFA, Customer and any member of CloudClevr Group may enter into Orders for Products, Services and/or Software as set out at Clause 3.

2.3. Each Order made under this MFA:

- (a) is subject to the MFA Terms;
- (b) is subject to any Special Terms explicitly described as such on the face of the Order;

- (c) is subject to the applicable Schedules where the Order includes Products, Services and/or Software to which relevant Schedules relate; for example:
 - (1) an Order including Professional Services is subject to Schedule 6 (*Professional Services*) in respect of the Professional Services encompassed in that Order; and
 - (2) an Order including Connectivity Services is subject to Schedule 3 (*Connectivity Services*) in respect of Connectivity Services encompassed in that Order; and
 - (d) shall constitute a separate contract made between the Customer and only the specific CloudClevr Group entity that countersigns such Order (as 'CloudClevr') pursuant to the ordering process set out at Clause 3.
- 2.4. These MFA Terms apply to and are incorporated into all Orders and prevail over any inconsistent terms or conditions contained or referred to in any Customer purchase order, order confirmation or specification, or implied by law, trade custom, practice or course of dealing.
- 2.5. Any amendment to this MFA must be agreed in writing in accordance with clause 21.1. Any such amendment shall apply to all Orders placed on or after the effective date of such amendment unless expressly provided otherwise in such amendment.

Commencement and Duration

- 2.6. This MFA is effective as of the MFA Effective Date and, subject to earlier termination in accordance with these MFA Terms, shall continue in full force and effect:
- (a) for an initial period of three (3) years; and
 - (b) thereafter for as long as any Order made under this MFA remains in full force and effect.

3. Orders

Ordering Process

- 3.1. When, from time to time, the Customer wishes to receive Products, Services and/or Software from or through any member of CloudClevr Group, Customer shall make a corresponding request to CloudClevr Group.
- 3.2. On receipt of a Customer request for Products, Services and/or Software, to the extent any member of CloudClevr Group is able and willing to supply the relevant item(s), it shall prepare a draft Order for such items, for the Customer's review and approval.
- 3.3. Any quotation or draft Order given by any member of CloudClevr Group shall not constitute an offer to contract, and is only valid for a period of fourteen (14) days (or such other period set out on such Order) following its date of issue.
- 3.4. The submission by the Customer of a signed Order constitutes an offer by it to purchase the Products, Services and/or Software described in such Order, subject to this MFA. An Order shall become binding when the relevant member of CloudClevr Group confirms its acceptance by countersigning the Order. The CloudClevr Group entity that countersigns an Order shall be the 'CloudClevr' party for that Order and accordingly shall have the rights and obligations assigned to 'CloudClevr' under this MFA for the purpose of that Order.
- 3.5. Customer is responsible for checking and confirming, prior to submitting a signed Order, the quantity, quality, description and any specification for Product, Software and/or Services as stated in that Order.
- 3.6. Following acceptance of an Order, CloudClevr shall supply (or arrange the supply) to the Customer of the Products, Services and/or Software detailed in the Order, subject to the terms and conditions of this MFA and in particular the provisions of Clause 2.3. All supplies include Support from CloudClevr only if and to the extent that such Support is expressly indicated on the face of the relevant Order.

Status of Orders

- 3.7. Each accepted Order constitutes a separate contract. Each such contract is:
- (a) effective between the relevant two contracting parties as specified at Clause 2.3(d) and Clause 3.4 above; and
 - (b) made under these MFA Terms and particularly Clause 2.3 above.
- 3.8. Any Order containing multiple line items constitutes multiple Orders for all purposes under this MFA. For example, where a CloudClevr order form contains two line items such as a two-year Managed Services order and a one-year Office 365 subscription:
- (a) each of those line items is a separate Order under this MFA; and
 - (b) each such Order is subject to the Schedules relevant to that Order and to the relevant stated minimum term.
- 3.9. The quantity, quality, description and any specification for Products, Software and/or Services shall be as stated in an Order. All samples, drawings, descriptive matter, specifications and advertising issued by CloudClevr Group, and any descriptions or illustrations contained in CloudClevr Group's catalogues, proposals or brochures are illustrative only and shall not form part of this MFA or any Order.
- 3.10. For each accepted Order, in accordance with Clause 2.3, Customer and CloudClevr shall comply with each Schedule applicable to such Order.
- 3.11. Except as expressly set out in this MFA, once an Order has been accepted it may not be cancelled.

Order Changes and Cancellation by CloudClevr

- 3.12. CloudClevr may make changes to the specification of Products, Software and/or Services:
- (a) to the extent compelled by any legal or regulatory requirement, so as to ensure compliance with such requirement; and/or
 - (b) which do not materially affect their quality or performance.
- 3.13. CloudClevr may cancel an Order in whole or in part without liability:
- (a) where the Products, Services and/or Software in an Order are to be sourced from third party suppliers and are no longer readily available or not available on reasonable commercial terms;
 - (b) (for Services) at any time prior to the Service Commencement Date being notified by CloudClevr (where notice is applicable); and/or
 - (c) (for Services) at any time prior to the Service Commencement Date,
- and all such cases the Early Termination Charges shall not apply.

Order Fulfilment

- 3.14. Customer shall, on a timely basis, provide CloudClevr with all necessary information needed to deliver each Order.
- 3.15. Any CloudClevr delay or failure to supply Products, Software and/or Services shall not entitle Customer to terminate any Order for other Products, Software and/or Services.

4. Order Term and Renewal

- 4.1. Each Order shall be effective from the applicable Order Date and, unless otherwise set out in that Order or an applicable Schedule, shall continue for the period up to the Commencement Date and thereafter, subject to this Clause 4 and any applicable Schedule, for thirty-six (36) months (the "**Initial Term**").

Non-renewing supplies

- 4.2. For each relevant Order, CloudClevr shall, from the relevant Commencement Date, as applicable:
- (a) sell Products, subject to Schedule 1 (*Products*);

- (b) provide Financed Products, subject to Schedule 2 (*Device as a Service*), for the Initial Term only (unless otherwise agreed in writing); and/or
- (c) provide Professional Services as specified in the Order and/or SOW (if any), subject to Schedule 6 (*Professional Services*), for the period specified in the Order and/or SOW, and 'Initial Term' shall be construed accordingly.

Auto-renewing supplies

- 4.3. At the end of the Initial Term, each Order for a Renewing Supply shall, save to the extent otherwise provided in that Order or an applicable Schedule, automatically renew for successive twelve (12) month periods unless and until terminated in accordance with this MFA pursuant to Clause 17 (*Termination*) (each an "**Additional Term**" and the Initial Term plus any Additional Terms shall be the "**Term**"). Where such Order or Schedule specifies a renewal period different to the foregoing twelve (12) month default, the specific renewal period shall apply and the expressions 'Additional Term' and 'Renewal Term' for that Order shall be interpreted accordingly.
- 4.4. Notwithstanding Clause 4.3 above, for Ofcom regulated Connectivity Services only, where the Customer is a 'Small Business Customer' as defined in s52(6) of The Communications Act 2003, after the Initial Term the Connectivity Services shall continue on a rolling thirty (30) day basis. All other Renewing Supplies shall automatically renew as set out at Clause 4.3 above.

5. Delivery

Products, Financed Products and Software

- 5.1. Where Products are included in an Order, Schedule 1 (*Products*) applies and includes provisions detailing delivery and other terms relating to Products such as how risk and title will transfer.
- 5.2. Where Financed Products are included in an Order, Schedule 2 (*Device as a Service*) applies and includes provisions detailing delivery, insurance obligations, and other matters relating to Financed Products.
- 5.3. Where Software is included in an Order, Schedule 5 (*Software, Cloud Services and Managed Services*) applies and includes provisions in relation to delivery of Software, and other matters relating to Software.

Professional Services

- 5.4. Where Professional Services are included in an Order, Schedule 6 (*Professional Services*) applies and, along with the applicable SOW (if any) details the relevant Professional Services.

Connectivity Services, Cloud Services and Managed Services

- 5.5. Where Connectivity Services are included in an Order, Schedule 3 (*Connectivity Services*) applies and includes provisions in relation to delivery, installation and other terms relating to Connectivity Services.
- 5.6. Where Cloud Services and/or Managed Services are included in an Order, Schedule 5 (*Software, Cloud Services and Managed Services*) applies and includes provision in relation to delivery and other matters relating to such Services.

Support Services

- 5.7. Where Support Services are included in an Order, Schedule 4 (*Support Services*) applies and Customer will have access to the support services specified in that Schedule for the relevant item(s) for which support is explicitly identified as being in scope in the Order.

6. Additional Services and Working Hours

- 6.1. CloudClevr Group has no obligation to perform any services not defined in accepted Orders. CloudClevr may agree to provide additional services subject to Customer paying Charges for those additional services at CloudClevr's then current rates, unless such additional services are set out in an Order or change request together with the applicable Charges and executed in accordance with Clause 3 of this MFA.
- 6.2. Except where otherwise expressly provided, Services will be delivered during Working Hours. Customer may request CloudClevr to work or arrange for work in connection with the provision of the Services to take place outside Working Hours. If CloudClevr agrees to such request then Customer shall then pay the prevailing rates and charges for complying with such request.

7. Customer Obligations

- 7.1. Customer has sole responsibility for maintaining its own computing environment for the access to and use of the Products, Software and/or Services, and shall ensure such environment meets all requirements from time to time for the applicable Product, Software and/or Services. For example, Customer shall provide:
 - (a) secure accommodation, assistance, facilities and environmental conditions, including protection from weather and appropriate heating and ventilation; and
 - (b) all necessary electrical power supplies (including back-up) and other installations and fittings for the commissioning and provision of the Products, Services and/or Supported Equipment, and the Customer shall at its own cost ensure that (i) such preparation and provision is effected before the Products, Services and/or Supported Equipment are installed, in accordance with any reasonable specifications provided by CloudClevr; and (ii) any restoration and re-decorating at the Customer site is performed;
- 7.2. The Customer shall:
 - (a) provide all necessary information, access (including to Customer Premises), workspace, computing resources, and other services and support materials as reasonably required by CloudClevr to perform its duties in a timely manner;
 - (b) obtain and maintain all necessary licences, consents and permissions necessary for CloudClevr, its contractors and its agents to perform their obligations under the MFA and/or Order;
 - (c) be, to the extent permitted by law and except as otherwise expressly provided in this MFA, solely responsible for procuring, maintaining and securing adequate network connections and telecommunications required to use Product, Software and/or Services, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the internet;
 - (d) comply with any additional obligations as set out in the applicable Schedules;
 - (e) nominate an appropriately skilled and knowledgeable contact person or project manager (where appropriate) who shall be available to liaise with and respond to queries from CloudClevr, and shall provide all necessary personnel as reasonably required by CloudClevr to perform its duties in a timely manner;
 - (f) comply with all applicable laws and regulations including health and safety laws and Data Protection Legislation
 - (g) use the Product, Software and/or Services in compliance with the AUP and relevant Fair Usage Policies from time to time and shall not:
 - (1) send, communicate, knowingly receive, upload, download or use any material or make any calls or communications that are offensive, abusive, indecent, defamatory, obscene, menacing, cause annoyance, inconvenience, needless anxiety or are intended to deceive;
 - (2) violate or infringe the rights or property of any person; including rights of copyright and any other Intellectual Property Rights;

- (3) intentionally impair or attempt to impair, without authorisation, the operation of any computer, prevent or hinder access to any program or data held in any computer or to impair the operation of any such program or the reliability of any such data; or
 - (4) artificially inflate traffic, send, communicate, knowingly receive, upload or download data or make calls or send texts or other messages in such a way or in such amount that Customer knows or ought reasonably to know will have a material adverse effect on the underlying infrastructure or affect other customers;
 - (5) download, possess or transmit in any way, illegal material;
 - (6) engage in criminal, illegal or unlawful activities;
 - (h) (where applicable) keep confidential any passwords, logon codes and other access methods. CloudClevr Group shall not be liable for any disclosure by the Customer of the same, whether intentional or otherwise;
 - (i) carry out all reasonable instructions of CloudClevr and/or its suppliers including by accepting and installing all necessary updates, patches and/or upgrades to Software and/or Cloud Services as required from time to time.
 - (j) ensure that the Customer's users of the Services use the Services in accordance with the terms and conditions of this MFA and the applicable Order, and Customer shall be responsible for any breach of this MFA and/or the applicable Order by such users;
 - (k) shall notify CloudClevr Principal in writing if it undergoes a change of Control within fourteen (14) days of the change of Control;
 - (l) through the use of the Services will provide CloudClevr with information and data, title to which shall remain vested in the Customer (or its licensors), and the Customer warrants, represents and undertakes that it has all necessary rights and licences to use and transmit over the internet or other media to CloudClevr all information and data which will be subject to the Services and hereby grants CloudClevr a non-exclusive licence to use such information and data for the purposes of performing the Services;
- 7.3. Where CloudClevr's delivery of Product, Software and/or Services, or performance of installation is delayed, prevented or rendered more difficult by any act or omission of the Customer, a person acting on behalf of Customer, or any third party not acting on behalf of CloudClevr:
- (a) this shall not be deemed a breach of the applicable Order by CloudClevr or a breach of this MFA by CloudClevr Principal;
 - (b) CloudClevr may adjust any agreed timetable or delivery schedule as is reasonably necessary;
 - (c) the Customer shall reimburse CloudClevr for all costs and losses (including idle time or supplier costs and charges) incurred by CloudClevr resulting therefrom;
 - (d) this shall not relieve the Customer of its obligations to pay Charges, and where an agreed milestone is the completion of delivery and/or installation (in whole or in part), this milestone shall be deemed triggered at the point where these circumstances arise; and
 - (e) CloudClevr shall not be liable for any costs, charges or losses whatsoever sustained or incurred by the Customer that arise therefrom.
- 7.4. Unless such Services are expressly stated as being the responsibility of CloudClevr in the relevant Order, the Customer shall be solely responsible for the performance and management of its data back-up and data recovery and CloudClevr Group shall have no liability whatsoever for the back-up or recovery of the Customer's data.
- 7.5. CloudClevr maintains title and the Customer shall bear the risk of loss or damage (unless such loss or damage is caused by CloudClevr or its personnel) to any (a) CloudClevr Equipment, unless otherwise agreed in writing between the parties; or (b) loan units, if provided at CloudClevr's discretion as part of the Services or warranty services and such loan units will be returned to CloudClevr without lien or encumbrance at the end of the loan period. The foregoing does not apply in relation to Financed Products which are subject to Schedule 2 (*Device as a Service*).
- 7.6. The Customer shall not charge, mortgage or otherwise deal with any of the equipment referred to in Clause 7.5 and shall use all reasonable efforts to prevent third parties from asserting rights in relation to such equipment.
- 7.7. The Customer shall maintain comprehensive insurance cover, and provide evidence of such insurance upon request from any member of CloudClevr Group, including general liability insurance covering public liability, employer's liability, professional indemnity, personal injury or death and property damage insurance with a combined single limit of at least two million pounds sterling (£2,000,000) per occurrence.
- 7.8. If an Order includes Supported Equipment then the provisions of paragraph 2 of Schedule 4 (*Support Services*) shall apply.
- 7.9. Unauthorised use of a Customer's network, phone system and/or equipment is the sole responsibility of the Customer. This includes incidences such as toll fraud, cyber security breaches and hacking. Customer shall employ appropriate policies and security to mitigate such unauthorised access of their network, phone system and/or equipment. CloudClevr Group is not liable for any costs incurred by the Customer as a result or in connection with such unauthorised access.
- 8. Charges and payment**
- 8.1. The Customer shall pay CloudClevr the Charges as and when they fall due for payment, as specified in each Order, relevant Schedules, any SOW and/or these MFA Terms.
- 8.2. Unless otherwise specified in a relevant Schedule, the Charges shall be payable from the date that the relevant Service, Software or Product (as applicable) is first made available to the Customer or upon installation in the case of Products installed by CloudClevr (where applicable).
- 8.3. Unless agreed otherwise in writing the Customer shall pay the Charges by direct debit.
- 8.4. CloudClevr shall invoice the Customer for the Charges monthly or as otherwise set out in the Order, a relevant Schedule, any SOW and/or these MFA Terms.
- 8.5. Unless otherwise specified in a relevant Schedule, where the Customer does not pay the Charges by direct debit it shall pay each invoice submitted by CloudClevr:
- (a) within fourteen (14) days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by CloudClevr.
- 8.6. Time is of the essence with regard to payment of Charges.
- 8.7. All amounts payable by the Customer are (i) payable in UK pounds Sterling (unless otherwise indicated in the Order or a relevant Schedule) and (ii) stated exclusive of amounts in respect of value added tax chargeable for the time being ("**VAT**") and any other applicable taxes, which shall be added at the prevailing rate as applicable and paid by the Customer following delivery of a valid VAT invoice.
- 8.8. If Customer reasonably and in good faith disputes an invoice or part of it, Customer shall notify CloudClevr of such dispute within fourteen (14) days of receipt of the invoice, providing details of why the invoiced amount is incorrect and, if possible, how much Customer considers is due.
- 8.9. If the Customer makes payment of the Charges by direct debit and the relevant direct debit is dishonoured or cancelled for any reason, then, without prejudice to any other remedies available to CloudClevr, CloudClevr may charge the Customer an administration fee of fifty pounds (£50) and a further monthly administration fee of fifty pounds (£50) for each month in which the direct debit is dishonoured or not reinstated following cancellation. In addition, the Customer shall pay all costs and expenses (including reasonable legal costs) reasonably incurred by CloudClevr or any of its suppliers in enforcing payment of the Charges.

- 8.10. If any sum payable under this MFA or any Order is not paid within ten (10) days of the due date for payment then (without prejudice to CloudClevr's other rights and remedies) it reserves the right to charge interest on that sum on a daily compounded basis (before as well as after any judgment) at the annual rate of five per cent (5%) above the higher of the prevailing Bank of England base rate or zero calculated from the due date to the date of payment, provided that at no time shall the Customer be required to pay interest at an effective rate higher than legally permissible.
- 8.11. CloudClevr may vary the Charges at any time upon giving the Customer written notice if there are any changes in CloudClevr's arrangements with a supplier or as a result of any legal, regulatory or reasonable business requirements.
- 8.12. CloudClevr may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by CloudClevr to the Customer.
- 8.13. The Customer shall pay all amounts due under this MFA and/or any Order in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). If any withholding or deduction is required under applicable laws, Customer shall, when making payment of the Charges to which the withholding or deduction relates, pay to CloudClevr such additional amount as will ensure that CloudClevr receives the same total amount of the Charges that it would have received if no such withholding or deduction had been required.
- 8.14. Any Charges that are periodical Charges shall be properly due and payable by the Customer for the whole period, even if the Services to which they relate were only provided for part of that period, and Customer shall not be entitled to any pro-rata reduction.
- 8.15. CloudClevr and/or CloudClevr Principal may, by notice, with effect from 1 April each calendar year, apply an increase to any and/or all of the Charges in line with the percentage increase in the Consumer Prices Index in the preceding 12-month period plus three point nine per cent (3.9%).
- 8.16. CloudClevr shall be entitled to increase the Charges at any time with immediate effect where it can reasonably demonstrate that such an increase is due to an increased cost of providing the Service caused by a third party supplier, including without limitation, third party network operators, carriers, service providers and vendors.
- 8.17. CloudClevr may, by notice to the Customer at any time increase the price of Products, Services and/or Software to reflect any increase in the cost to CloudClevr due to any circumstances beyond the control of CloudClevr including the price charged by its suppliers; a change in applicable laws; any foreign exchange fluctuation; an alteration of duties or tariffs; an increase in CloudClevr's cost of funds, an increase in the cost of labour, materials, or other costs of manufacturers.
- 8.18. CloudClevr may also amend Charges for any Service, Product or Software in accordance with any specific provisions set out to that effect in a relevant Schedule.
- 8.19. Pursuant to Clause 3.4, all obligations in this Clause 8 to pay 'CloudClevr' are obligations to pay the CloudClevr Group entity that is party to the relevant Order.
- 9. Credit limit/Security payment**
- 9.1. CloudClevr and/or CloudClevr Principal shall be entitled to perform a credit check on the Customer at any time. Further CloudClevr may in its sole discretion and at any time impose a Credit Limit on the Customer's account. Any Credit Limit imposed can be amended by CloudClevr without prior notice to the Customer. If the Customer exceeds such Credit Limit, CloudClevr shall be entitled to demand immediate payment of the Charges and/or suspend the Service, Product supply or Software supply (as applicable).
- 9.2. Upon demand by CloudClevr, CloudClevr may require the Customer to pay CloudClevr a security deposit as a condition of providing the Services, Products and/or Software. CloudClevr may suspend provision of the Services, Products and/or Software until it receives payment of the security deposit. CloudClevr may hold the security deposit until the Customer has paid all sums due to CloudClevr under all Orders. CloudClevr will refund to the Customer any security deposit it is still holding on request upon termination of the relevant Order(s) if all amounts due and payable by the Customer have been paid or at CloudClevr's discretion after twelve (12) months of continuous on time bill payments. No interest shall be payable on any security deposit held by CloudClevr.
- 10. Warranties**
- Mutual Warranties relating to Orders
- 10.1. For each Order, each Order contracting party (as determined under Clause 2.3(d) and Clause 3.4) warrants under such Order, to the other such party, that:
- (a) it has the legal authority and capacity to enter into such Order;
 - (b) no authorisation or approval from any third party is required in connection with its execution of such Order; and
 - (c) it shall comply with all applicable laws in connection with the performance of its obligations under such Order.
- CloudClevr Warranties
- 10.2. Subject to Clause 10.4, each CloudClevr Group entity warrants, under each Order to which it is a party, that the Services under that Order will be performed with reasonable skill and care and in accordance with Good Industry Practice.
- 10.3. Any Customer allegation of CloudClevr breach of the CloudClevr warranty at Clause 10.2 must be notified to CloudClevr within fourteen (14) days of the date of performance of the relevant Services. CloudClevr's sole liability and the Customer's exclusive remedy shall be for CloudClevr, at its sole option and expense, to either re-perform the Services within a reasonable time to cure the alleged breach or to refund to the Customer fees paid in respect of the breaching Services.
- 10.4. Clause 10.2 shall not apply to any beta, pilot, trial subscriptions, demonstrations, non-production environments, or other form of proof of concept, each of which are provided 'as is' and without warranty of any kind.
- Customer Warranties
- 10.5. The Customer warrants that it shall:
- (a) at all times comply with all applicable laws and regulations with respect to its activities under this MFA and all Orders and in connection with any aspect of the Software and/or Services;
 - (b) take all reasonable steps not to introduce any virus or vulnerability to the Software, Services or to CloudClevr Group's network and information systems;
 - (c) own and/or has and shall maintain the necessary rights and consents to use any Supported Equipment for the purposes of receiving the Services; and
 - (d) has and shall maintain the necessary rights and consents to permit CloudClevr to perform the relevant Services and use the Customer Intellectual Property.
- Mutual Warranties relating to this MFA
- 10.6. Each party to this MFA warrants to the other that:

- (a) it has the legal authority and capacity to enter into this MFA;
- (b) no authorisation or approval from any third party is required in connection with its execution of this MFA; and
- (c) it shall comply with all applicable laws in connection with the performance of its obligations under this MFA.

11. Intellectual property rights

- 11.1. The Customer shall retain all Intellectual Property Rights in any proprietary materials it provides to CloudClevr Group for the purposes of any member of CloudClevr Group performing its obligations under this MFA and/or any Order (the "**Customer Intellectual Property**"). CloudClevr Group shall have no title to or interest in any Customer Intellectual Property.
- 11.2. The Customer grants CloudClevr a non-exclusive, royalty-free, sub-licensable, worldwide licence to use the Customer Intellectual Property during the term of each Order to use, exploit, copy, reproduce, manufacture, sub-license, modify, improve, enhance and make derivative works of the Customer's Intellectual Property Rights for the purpose of performing its obligations under such Orders.
- 11.3. The Customer acknowledges and agrees that, as between the parties, CloudClevr, its licensors and/or reselling partners own all Intellectual Property Rights in the Products, Software and/or Services and in all other materials connected with the Software and/or Services developed or produced in connection with this MFA or any Order by CloudClevr, its officers, employees, sub-contractors or agents. Except as expressly stated in this MFA or an Order, this MFA and any Order shall not grant the Customer any rights to such Intellectual Property Rights.
- 11.4. CloudClevr grants to the Customer for the term of the applicable Order a personal, non-transferable, non-exclusive, licence to use CloudClevr's Intellectual Property Rights as incorporated by CloudClevr into the Software and/or Services solely in connection with the Customer's use of the Software and the Services in accordance with this MFA.
- 11.5. The Customer shall use reasonable endeavours to prevent any infringement of CloudClevr's Intellectual Property Rights in the Software and Services and shall promptly report to CloudClevr any such infringement that comes to its attention.
- 11.6. It is the Customer's sole responsibility at its sole cost to comply with any terms and conditions of any licence, terms of use or other terms and conditions attaching to the Software supplied or made available by CloudClevr or included with a Product. The Customer's failure to comply with any such terms could result in the Customer being refused a software licence or having it revoked by the owner of the Intellectual Property Rights, notwithstanding other remedies included in the relevant licence or by law.
- 11.7. The Customer agrees that any liability regarding breach of Intellectual Property Rights in the Products, Software and/or Services originating from a third party shall be subject solely to the terms offered by such third party and that CloudClevr shall have no liability to the Customer for third party Intellectual Property Rights infringement claims in respect of such Products, Software and/or Services.
- 11.8. CloudClevr shall have no liability for Professional Services performed in relation to Software in accordance with the Customer's specific instructions. Further, in the event of a third party claim being made or alleged against CloudClevr or the Customer, CloudClevr shall have the right at its sole option and expense to either:
 - (a) modify or re-perform the Services so that they are non-infringing; or
 - (b) terminate the Customer's right to use the relevant Services and refund the prorated fees paid in respect thereof.
- 11.9. This clause 11 states CloudClevr Group's sole obligations and the Customer's sole remedies with respect to Intellectual Property Rights infringement claims against the Customer.

12. Indemnity

- 12.1. Customer shall indemnify CloudClevr Group, its assignees and their respective officers, directors, agents and employees (the "**Indemnified Persons**") on demand at all times against each and every liability (whether civil or criminal), tax, loss, charge, claim, proceeding, damage, judgment, enforcement penalty, fine, fee, cost (including legal costs) and expense of whatsoever nature suffered or incurred by or imposed on any Indemnified Person from time to time in connection with:
 - (a) any Customer failure to comply with:
 - (1) the provisions of clauses 7.1 and/or 7.2 (*Customer Obligations*);
 - (2) the provisions of clause 10.5 (*Customer Warranties*);
 - (3) the provisions of clause 11 (*Intellectual Property Rights*); and/or
 - (b) any third party allegation or claim that its Intellectual Property Rights are infringed as a result of use of materials by any member of CloudClevr Group where such materials were provided to it by Customer for the purposes of such member performing its obligations under this MFA or any Order.

13. Confidentiality

- 13.1. Each party to this MFA and each party to each Order undertakes that it shall not at any time disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 13.2.
- 13.2. Each party to this MFA and each party to each Order may disclose the other party's Confidential Information:
 - (a) to its Representatives who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this MFA or an Order. Each Party shall ensure that such Representatives to whom it discloses the other Party's Confidential Information comply with this clause 13;
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3. No party to this MFA or any Order shall use the other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this MFA or such Order (as applicable).

14. Data Protection

- 14.1. CloudClevr, Customer and CloudClevr Principal shall each comply with all applicable requirements of the Data Protection Legislation.
- 14.2. Where, in the context of delivering services CloudClevr is a Data Processor for the Customer, then CloudClevr shall Process such Customer Personal Data in accordance with the DPA.

15. Liability

- 15.1. This Clause 15 sets out the total liability of CloudClevr Principal, Customer and each CloudClevr Group entity that is an Order contracting party, in respect of or in connection with their respective obligations under this MFA and each Order.
- 15.2. Nothing in this MFA or any Order shall limit or exclude:
 - (a) liability for death or personal injury caused by negligence;
 - (b) liability for fraud or fraudulent misrepresentation;
 - (c) Customer's liability under an indemnity; or
 - (d) any liability that, by law, cannot be limited or excluded.

- 15.3. Nothing in this MFA or any Order shall operate to exclude or limit the Customer's liability to any member of CloudClevr Group for any Charges which are properly due and owing under an Order and/or this MFA including any Early Termination Charges.
- 15.4. Subject at all times to Clauses 15.2, 15.3 and 15.5, and any other exclusion or limitation of liability that may be stated in this MFA and/or an applicable Schedule:
- (a) the total liability to the Customer of each CloudClevr Group entity serving as the 'CloudClevr' party to an Order, arising under or in connection with each such Order in any Order Year, whether in contract, tort (including negligence) or otherwise, shall not exceed one hundred per cent (100%) of the total Charges paid to such entity under that Order in that Order Year; and
 - (b) the total aggregate liability to the Customer of CloudClevr Principal under or in connection with this MFA, whether in contract, tort (including negligence) or otherwise, shall not exceed fifty thousand pounds (£50,000).
- 15.5. Subject to Clause 15.2, in no event shall CloudClevr be liable, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise in connection with this MFA or an Order for any:
- (a) loss of profits, loss of business, loss of revenue, loss of contract, loss of goodwill, loss of anticipated earnings or savings, loss of or corruption to data, in each case whether direct or indirect; or
 - (b) indirect, special or consequential loss or damage, howsoever arising.
- 15.6. Except as expressly and specifically provided in this MFA and any Order, all warranties, conditions and other terms implied by law or otherwise are, to the fullest extent permitted by law, excluded from this MFA and each Order.
- 15.7. Notwithstanding any other provision in this MFA, but without prejudice to Clause 21.12:
- (a) each CloudClevr Group entity shall be liable only for its own performance under Orders where it is identified as 'CloudClevr' in the relevant Order Form;
 - (b) CloudClevr Principal shall have no liability for any Order where it is not identified as 'CloudClevr' in the relevant Order Form;
 - (c) no CloudClevr Principal Affiliate shall have liability for any Order where CloudClevr Principal or another CloudClevr Principal Affiliate is identified as 'CloudClevr' in the Order Form; and
 - (d) no CloudClevr Group entity other than CloudClevr Principal is a party to this MFA or liable to the Customer under it.
- 16. Suspension**
- 16.1. Without prejudice to its other rights or remedies hereunder or generally at law, any CloudClevr Group entity may at its sole discretion immediately limit or suspend provision of Products, Software and/or Services or any part thereof without liability to the Customer if:
- (a) any CloudClevr Group entity has a right to terminate an Order, irrespective of whether it has exercised such right;
 - (b) CloudClevr Principal has a right to terminate this MFA, irrespective of whether it has exercised such right;
 - (c) the Customer fails to pay on its due date any sum under this MFA or any Order;
 - (d) in the reasonable opinion of any CloudClevr Group entity, the Customer is using any Services for a fraudulent or other illegal purpose, or if the supply or use of the Products, Software and/or Services is likely to become illegal or unlawful;
 - (e) the Customer breaches:
 - (1) the Acceptable Use Policy,
 - (2) any applicable Fair Usage Policy; and/or
 - (3) any applicable end user licence agreement or terms of use;
 - (f) in the reasonable opinion of any CloudClevr Group entity, the provision of Product, Software and/or Services is likely to cause death or personal injury or damage to property;
 - (g) the suspension circumstances set out in an applicable Schedule apply; or
 - (h) the Customer consumes any Services in an amount that materially exceeds the applicable credit limit;
- Such suspension will not entitle the Customer to terminate the MFA or Order and will not suspend or alleviate any of the Customer's obligations including the obligation to pay the Charges for the suspended Service.
- 17. Termination**
- MFA – Termination for Cause
- 17.1. Either party to this MFA may immediately terminate this MFA by giving notice in writing to the other party:
- (a) if the other party is affected by an Insolvency Event; or
 - (b) if the other party is in material breach of the MFA which:
 - (1) is incapable of remedy; or
 - (2) is capable of remedy, but the other party has failed to remedy such breach within thirty (30) days of receipt of the written notice requiring it to do so.
- 17.2. CloudClevr Principal may immediately terminate this MFA, and any CloudClevr Group entity may immediately terminate any or all Orders to which it is a party, in each case by giving notice in writing to the Customer, if:
- (a) any CloudClevr Group entities that are parties to any Orders collectively have the right at any time to terminate more than one Order in accordance with the provisions of Clause 17.3;
 - (b) the Customer undergoes a change of Control (save for the purpose of a solvent voluntary reconstruction or amalgamation).
- Orders – Termination for Cause
- 17.3. Either party to an Order may immediately terminate that Order by giving notice in writing to the other party to that Order, if such other party:
- (a) is affected by an Insolvency Event; or
 - (b) commits a material breach of the Order which is:
 - (1) incapable of remedy; or
 - (2) capable of remedy, but fails to remedy it or persists in such breach after thirty (30) days of having been required in writing to remedy or desist.
- Orders – Customer Cancellation
- 17.4. The Customer may terminate an Order for Software and/or Services:
- (a) for convenience, at any time during the current Term of such Order, by notice to CloudClevr including clear cancellation instructions that identify the applicable Order including the relevant Software and/or Service details, subject to the payment of the Early Termination Charges; or
 - (b) with effect from the end of the current Term of such Order, by:
 - (1) giving written notice to CloudClevr, at least ninety (90) days prior to the end of such current Term, of Customer's intention not to renew; and

- (2) including within such notice clear cancellation instructions that identify the applicable Order including the relevant Software and/or Service details.

Orders – CloudClevr Cancellation

- 17.5. CloudClevr may terminate an Order in whole or in part:
- (a) immediately on giving written notice to the Customer if:
 - (1) the Customer fails to pay on its due date any sum due under this MFA or such Order;
 - (b) immediately on giving written notice to the Customer if the Customer breaches:
 - (1) the Acceptable Use Policy,
 - (2) any applicable Fair Usage Policy; and/or
 - (3) any applicable end user licence agreement or terms of use;
 - (c) immediately on giving written notice to the Customer if CloudClevr or its supplier(s) is ordered by any government, regulatory or other competent authority to cease providing the Services, or has any required licence, permit or approval revoked;
 - (d) with effect from the end of the current Term of that Order by giving thirty (30) days' written notice to the Customer of its intention not to renew prior to the renewal date for an Additional Term;
 - (e) for convenience at any time on ninety (90) days' prior written notice, in which event the Customer shall be liable to pay Charges up to the date of such termination.
- 17.6. Pursuant to Clause 3.4, the right and obligations of 'CloudClevr' in this Clause 17 that relate to an Order attach only to the CloudClevr Group entity that is party to the relevant Order.

18. Consequences of termination

Termination of MFA

- 18.1. Subject to Clause 17.2(a), termination of this MFA shall not terminate any Order then in force, unless the Parties agree otherwise in writing at the relevant time.
- 18.2. On termination of this MFA for any reason whatsoever:
- (a) no further Orders shall be entered into;
 - (b) Clauses 7 (*Customer Obligations*), Clause 8 (*Charges and Payment*), Clause 9 (*Credit/limit/Security Payment*), Clause 11 (*Intellectual Property Rights*), Clause 12 (*Indemnity*), Clause 13 (*Confidentiality*), Clause 15 (*Liability*), Clause 17 (*Termination*), Clause 18 (*Consequences of Termination*), Clause 19 (*Force Majeure*) and Clause 21 (*General*) shall continue in full force and effect; and
 - (c) any indemnities given under the Schedules, and any other provisions which expressly or by implication are intended to come into or remain in force on or after termination, shall continue in full force and effect.
- 18.3. Termination of an Order in whole or part shall not affect any other Order or this MFA.

Termination of Orders

- 18.4. On termination of an Order:
- (a) subject to Clause 18.4(b), each party to such Order shall immediately return to the other party (or, if the other party so requests by notice in writing, destroy) all of the other party's property in its possession at the date of termination, including all of its Confidential Information, together with all copies of such Confidential Information, and shall make no further use of such Confidential Information;
 - (b) if a party to such Order is required by any law, regulation or government or regulatory body to retain any documents or materials which it would otherwise be required to return or destroy by Clause 18.4(a), it shall notify the other party in writing of such retention, giving details of the documents or materials that it must retain;
 - (c) where CloudClevr is providing Services under such Order, the Customer shall cease to make use of the relevant Services and shall promptly return to CloudClevr any CloudClevr Equipment used to receive such Services;
 - (d) where CloudClevr is providing Device as a Service under such Order, Customer shall cease to use and shall return the Financed Products in accordance with Schedule 2 (*Device as a Service*);
 - (e) if the Customer does not return CloudClevr Equipment or Financed Products in accordance with Clause 18.4(c) or Clause 18.4(d) (as applicable) it shall permit CloudClevr or any nominated representative of CloudClevr to enter the Customer Premises during any Business Day, upon reasonable notice, for the purpose of removing any such equipment;
 - (f) all sums payable to CloudClevr under the relevant Order shall become due and payable immediately on receipt of CloudClevr's invoice and CloudClevr may submit invoices for any Services, Products or Software supplied but for which no invoice has previously been submitted, and the Customer shall pay these invoices immediately on receipt; and
 - (g) prior to the end of its current Term, without prejudice to clause 18.4(f) above, the Customer shall pay all applicable Early Termination Charges.
- 18.5. Reference to termination of an Order in part in this Clause 18 means termination of the Services or Software under one or more Schedules or termination of the supply of Products. If an Order party elects to terminate an Order in part then such termination shall not affect the provision of the Services or Software that have not been terminated except that CloudClevr may adjust the Charges payable under the Order(s) that have not been terminated.
- 18.6. Termination of this MFA or an Order in whole or part shall be without prejudice to the rights and remedies of relevant parties which may have accrued up to the date of termination of this MFA or the Order (as applicable).

19. Force Majeure

- 19.1. No member of CloudClevr Group shall be liable for any delay or failure in performing duties arising under this MFA or any Order (as applicable) caused by any circumstances beyond its reasonable control including any Force Majeure Event. In the event of such a Force Majeure Event, the time for performance or cure shall be extended for a period equal to the greater of the duration of the Force Majeure Event or one (1) month.

20. Notices

- 20.1. Any notice or other communication given to a party under or in connection with this MFA and/or an Order shall be in writing and shall be delivered by email. Any notice or communication shall specify both the contract to which it relates and the relevant parties to such contract, and shall be deemed to have been received immediately if delivered by email.
- 20.2. Unless otherwise notified by the relevant party, the addresses for service of notice by email are:
- (a) to any CloudClevr Group entity: by email to contracts@cloudclevr.com; and

- (b) to Customer: by email to the email address for notices identified on page 1 of this MFA, which address shall apply for notices under this MFA and/or under any Order.

21. General

- 21.1. Except as otherwise set out in these MFA Terms, no variation to this MFA or any Order shall be effective unless it is agreed in writing and signed by an authorised representative of each party (to the MFA, or Order, as applicable).
- 21.2. If any provision of this MFA or any Order is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any such modification to or deletion of a provision or part-provision shall not affect the validity and enforceability of the rest of the this MFA or any Order.
- 21.3. Except where a shorter period is relevant, the Customer must bring any legal proceedings against a CloudClevr Group entity arising under or in connection with this MFA and/or any Order within twelve (12) calendar months from the date the Customer first became aware (as can be evidenced by reasonable record) of the facts giving rise to the liability or alleged liability.
- 21.4. The parties to this MFA and to each Order are independent contractors. Neither this MFA nor any Order creates a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the relevant parties.
- 21.5. No delay, neglect or forbearance by a party to this MFA or any Order in enforcing its rights under such contract(s) shall be a waiver of or prejudice those rights.
- 21.6. This MFA and any Order may be executed in any number of counterparts and by each of the relevant parties on separate counterparts each of which when executed and delivered shall be deemed to be an original, but all the counterparts together shall constitute one and the same agreement.
- 21.7. CloudClevr Principal may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this MFA. Each CloudClevr Group entity serving as the 'CloudClevr' contracting party to an Order may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under such Order. A CloudClevr Group entity may disclose Confidential Information or information about this MFA, the Customer and/or its performance under this MFA or an Order to any person to which such entity assigns this MFA or an Order (as applicable).
- 21.8. Customer shall not, without the written consent of the applicable CloudClevr Group contract counterparty, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under this MFA or any Order.
- 21.9. This MFA and each Order, including any Schedules and documents referred to therein, respectively constitute the entire agreement between the relevant parties regarding their subject matter, and in each case supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between the relevant parties, whether written or oral, relating to the relevant subject matter. The relationship between this MFA and all Orders made under it is further detailed at Clause 2.3, Clause 3.4 and Clause 15.7.
- 21.10. Each party acknowledges that in entering into the MFA and any Order it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the MFA or Order (as applicable). Each party shall have no claim for innocent or negligent misrepresentation based on any statement in the MFA or an Order.
- 21.11. Customer agrees that CloudClevr Principal and any CloudClevr Group entity that is party to an Order may identify the Customer as a customer of CloudClevr Group and create and make available a case study or similar of the work that any member of CloudClevr Group has done for the Customer. Other marketing activities will be agreed between the Parties.
- 21.12. CloudClevr Principal has entered into this MFA for the benefit of itself and each of its Affiliates. Any CloudClevr Principal Affiliate may enforce this MFA and any Orders, and may execute new Orders with the Customer under this MFA as the 'CloudClevr' Order contracting party. Except as otherwise provided elsewhere in this MFA or any Order, this MFA and any Order shall not be enforceable by any party who is not a party to the MFA or Order (as applicable) under the Contracts (Rights of Third Parties) Act 1999..
- 21.13. This MFA and all Orders shall be governed by and construed in accordance with English law and the courts of England shall have exclusive jurisdiction to settle any disputes or claims which may arise out of or in connection with them or their subject matter or formation.

Schedule 1 – Products

1. Scope

- 1.1. This Schedule:
- (a) supplements the MFA Terms by detailing additional specific terms and conditions applying to the sale of Products to the Customer; and
 - (b) also details, at paragraph 8, arrangements relating to CloudClevr Equipment supplied to the Customer.

2. Pricing and Payment

- 2.1. For the purpose of Clause 8 (Charges and Payment), the Charges for a Product:
- (a) are due and payable upon delivery of that Product.
 - (b) include delivery costs to the UK delivery address stated in the relevant Order, unless otherwise specifically stated in that Order.

3. Delivery

- 3.1. CloudClevr shall endeavour to deliver Products on the agreed delivery date and in any event delivery shall be within a reasonable time of acceptance of the Order. The Customer agrees to accept delivery at any time during Working Hours. CloudClevr shall not be liable for any delay in delivery of Products however caused and time shall not be of the essence for delivery.
- 3.2. CloudClevr may deliver Products by instalments, which shall be invoiced and paid for separately. The Customer may not cancel an instalment because of any delay in delivery or defect in another instalment.
- 3.3. The Customer shall notify CloudClevr in writing:
- (a) within twenty four (24) hours of delivery if Product arrives that is damaged;
 - (b) within five (5) Business Days of delivery if:
 - (i) Product arrives that does not operate (i.e., dead on arrival); or
 - (ii) the Order has otherwise been incorrectly fulfilled; and
 - (c) within ten (10) Business Days of confirmation of CloudClevr's order acceptance if the Customer does not receive the Product.
- Time shall be of the essence for each of the above notification obligations to enable CloudClevr to raise issues with its suppliers within the time limits allowed by them. Following any such notification, as appropriate, and subject to investigation where appropriate, CloudClevr may as soon as reasonably practicable replace lost, DOA or damaged Products free of charge. The Customer shall be deemed to have accepted the Product if no such written notices are given within the above timeframes.
- 3.4. If ten (10) Business Days after the day on which CloudClevr attempted to make delivery of Products the Customer has failed to take delivery of the Product, CloudClevr may resell part or all of the Product and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Products, or charge the Customer for any shortfall below the price of the Products.
- 3.5. The Customer shall be responsible (at its own cost) for preparing the delivery address to accept the delivery of Products, including but not limited to, providing the necessary access and facilities required to deliver the Product.
- 3.6. Delays in the delivery of an Order shall not entitle the Customer to:
- (a) refuse to take delivery of the Order;
 - (b) claim damages; or
 - (c) terminate the Order, subject always to clause 17 (Termination).
- 3.7. CloudClevr shall have no liability for any failure or delay in delivering an Order to the extent that any failure or delay is caused by the Customer's failure to comply with its obligations under the MFA and/or such Order.

4. Risk and Returns

- 4.1. CloudClevr shall bear the risk of loss or damage to Products until delivery to the Customer.
- 4.2. Subject to paragraph 5.4, the Customer shall bear the risk of loss or damage to Products from the time delivery is made and the delivery note or system is signed. The Customer does not have the right to return any Product unless there is a proven fault with it. CloudClevr is unable to exchange Products once delivery has been accepted.

5. Title

- 5.1. Title to Products shall only pass to the Customer once CloudClevr receives payment in full (in cleared funds).
- 5.2. Until title to the Product has passed to the Customer, the Customer shall
- (a) not remove, deface or obscure any identifying mark or packaging on or relating to the Product
 - (b) maintain the Product in satisfactory condition and keep it insured against all risks for its full price from the date of delivery; and
 - (c) give CloudClevr such information relating to the Product as CloudClevr may require from time to time.
- 5.3. CloudClevr may recover Products to which title has not passed to the Customer. The Customer irrevocably licenses CloudClevr, its officers, employees and agents, to enter any premises of the Customer (including with vehicles) in order to satisfy itself that the Customer is complying with the obligations in paragraph 5.2 above or to recover any Product to which title has not passed to the Customer. An administration fee of £300 may be levied in such circumstances.
- 5.4. To the extent that there is any Software or any other software in or supplied with the Product, such title in that Software or other software shall not pass to the Customer but remains with CloudClevr or its licensors. Risk in any Software or other software passes on delivery to the Customer.

6. Warranties

- 6.1. CloudClevr does not manufacture the Product and except as expressly set out in this Schedule and the MFA Terms it excludes, to the fullest extent permissible at law, all warranties, terms or conditions in relation to the Product, including without limitation its quality or fitness for purposes, whether implied by law or otherwise. CloudClevr shall, to the extent it is able to do so, pass on the benefit of any warranties that it obtains from the manufacturer of any Product supplied to the Customer by CloudClevr. However, on expiry of such warranties, any commitment that CloudClevr has to liaise with the manufacturer in respect of any warranty shall cease.
- 6.2. Where Product supplied to the Customer by CloudClevr becomes faulty for reasons other than through the Customer's acts, omissions or misuse within the manufacturer's warranty period, the Customer shall return such Product to CloudClevr at the Customer's cost and CloudClevr shall replace the Product in accordance with CloudClevr's returns policy as applicable at the time. The returns policy may vary depending on the Product and some Product is completely excluded from CloudClevr's returns' policy. If the Product cannot be returned or replaced, CloudClevr shall set this out in the relevant Order. Any out-of-warranty replacements shall be at the prevailing cost applicable at the time. Should CloudClevr agree to a repair or a replacement, the Customer must ensure that it backs-up or otherwise stores separately

- any of its information or other data on the Product which the Customer may require, as this will be lost during the repair or replacement process. CloudClevr is not responsible for any information or data which may be lost during the repair or replacement process.
- 6.3. All replacement Product shall be subject to stock availability and CloudClevr reserves the right to supply replacement Product of a similar specification where necessary.
- 6.4. CloudClevr reserves the right to levy a reasonable administration charge in respect of returns.
- 6.5. CloudClevr shall not be liable to the Customer for any failure of Products due to:
- (a) use in a manner which is not in accordance with the manufacturer's or CloudClevr's instructions or recommendations, other failure to follow CloudClevr's instructions, repair other than by CloudClevr or use of parts or accessories not authorised by CloudClevr;
 - (b) any failure or defective working of the Product due to any fault, failure or change in the electricity supply service and/or other service providers' equipment and/or host PBX systems;
 - (c) failure or fluctuations of electric power, air conditioning, humidity control or other environmental conditions; or
 - (d) accident, neglect, misuse, negligent use, wilful abuse, or default of the Customer, its employees or agents, or any third party.
- 6.6. The provisions of paragraphs 6.1 to 6.5 above are subject to Clause 15.2 of the MFA Terms.
- 7. Installation**
- 7.1. Where explicitly set out in an Order, CloudClevr may provide basic installation of Products at Customer Premises. Complex installations may be dealt with as an Order for Professional Services.
- 7.2. Where installation is included in an Order:
- (a) the Customer shall nominate an appropriately skilled and knowledgeable contact person who shall be available to liaise with and respond to queries from CloudClevr and to accompany CloudClevr whilst on Customer Premises; and
 - (b) the Customer shall prepare the Customer Premises for delivery or installation of Product at its own expense and provide such environmental and operational conditions as CloudClevr shall reasonably request;
 - (c) CloudClevr shall install the Product at the Customer Premises (or other specified location) on or as soon as reasonably practicable after delivery;
 - (d) it may be necessary (in CloudClevr's reasonable opinion) to remove or otherwise disconnect any of the Customer's existing equipment then the Customer shall ensure back-ups of any data are completed and Customer shall permit and obtain all necessary consents for such removal and/or disconnection and shall give CloudClevr all necessary assistance for the same to be carried out or if so required by CloudClevr the Customer shall do so itself;
 - (e) the Customer shall make available to CloudClevr such programs, operating manuals and information as may be necessary to enable CloudClevr to perform its obligations hereunder and shall if requested by CloudClevr provide staff familiar with the Customer's programs and operations and who shall co-operate fully with CloudClevr;
 - (f) the Customer shall provide such telecommunication facilities as are reasonably required by CloudClevr for testing and diagnostic purposes or for any other reasonable purpose at the Customer's expense;
 - (g) once the Product has in the opinion of CloudClevr successfully passed its installation tests the Product shall be deemed accepted by the Customer;
 - (h) the Customer shall not be entitled to delay acceptance of Product (or to delay payment or commencement of any lease or finance agreement in relation to Product) in the event that any third party fails for any reason to supply or install any line, service or equipment for use with the Product; and
 - (i) if the Customer connects the Product to any telecommunication or other system the Customer shall be responsible for obtaining the consent of the owner of that system (if necessary) to such connection and for complying with all conditions relating thereto.
- 7.3. In the event the Customer cancels, postpones, or reschedules scheduled installation, CloudClevr may, to the extent CloudClevr cannot reschedule its applicable resources, charge Customer a rescheduling or cancellation fee.
- 8. CloudClevr Equipment**
- 8.1. Where CloudClevr Equipment is installed in Customer Premises as a component part of the delivery of Services, this will not be considered Product sold or Financed Product leased to the Customer, and instead, for the duration of such Services, the Customer is responsible for risk to any such CloudClevr Equipment. The CloudClevr Equipment is and shall remain the property of CloudClevr at all times and the Customer agrees to return all CloudClevr Equipment in good working order (fair wear and tear excepted) within ten (10) Business Days of the date of termination of the Services for any reason. The Customer agrees to pay CloudClevr for any CloudClevr Equipment not returned based on the replacement cost, or the non-return charge levied by a third-party supplier, plus an administration charge of three hundred pounds (£300).
- 9. Hardware Funds**
- 9.1. A "Hardware Fund" means any money that CloudClevr, at its sole discretion, decides to invest in the Customer's account to fully or partially subsidise the cost of any Product, thereby reducing the Charges the Customer would pay to CloudClevr under the relevant Product Order. The foregoing places no obligation on CloudClevr to provide a Hardware Fund.
- 9.2. Where the Customer is offered a Hardware Fund in connection with another CloudClevr Service (for example a mobile tariff), such Hardware Fund shall only be available for the duration of the relevant Initial Term. The Customer's Hardware Fund may only be used to purchase Products from CloudClevr. If provided with a Hardware Fund, the Customer shall be entitled to offset the cost of all Products against the balance of the Customer's Hardware Fund from time to time. No other charges, costs or interest may be offset against the balance of the Hardware Fund. Any remaining balance of the Hardware Fund will be forfeited upon the expiry of the Initial Term. Any fund previously provided by CloudClevr or any other member of the CloudClevr Group shall be deemed to expire on the Service Commencement Date. For the avoidance of doubt, CloudClevr shall (in its absolute discretion) specify the terms on which the Hardware Fund shall be operated, including, without limitation, CloudClevr's right to determine that only a fixed or pro rata amount of the Hardware Fund balance can be offset on a monthly basis against the cost of such Product during the Committed Period. Such additional terms shall be specified in the Order.
- 9.3. Any Hardware Fund CloudClevr offers to the Customer in connection with another CloudClevr Service will be subject to the Customer paying all amounts due under the relevant Order for such Service over the whole of the relevant Initial Term.

Schedule 2 – Device as a Service

1. Scope and Overview

- 1.1. This Schedule supplements the MFA Terms by detailing additional specific terms and conditions applying to the hire of the Financed Products.
- 1.2. This Schedule and the MFA into which it is incorporated together set out the terms and conditions on which CloudClevr has agreed to hire and the Customer has agreed to take on hire of the Financed Products described in any relevant Order.
- 1.3. The MFA Terms, this Schedule and any Charges described in the Charges section of an Order as “Financed Receivables” set out the terms and conditions for the provision of the applicable Financed Products by CloudClevr to the Customer noting that CloudClevr may collect payments from the Customer on behalf of a third party finance company that has paid CloudClevr for the Financed Products concerned up-front and that the associated “**Financed Receivables**” specified in such Order (a “**Financed Order**”) must therefore be paid by the Customer on and subject to the terms of the Financed Order.
- 1.4. The Financed Products comprised in a Financed Order shall be provided in accordance with this Schedule and the MFA into which it is incorporated.

2. Additional Definitions

- 2.1. Words and expressions defined in the MFA Terms shall have the same meaning when used in this Schedule. In addition:
 - “**Condition**” shall have the meaning given to it in paragraph 9.2;
 - “**Encumbrance**” means any mortgage, charge, assignment or any other form of security, right or trust arrangement, which creates a security or security interest of any kind, and any agreement, whether conditional or otherwise, to create or grant any of the same;
 - “**Restricted Entity**” means a person that is: (a) listed on, or owned or controlled by a person listed on, a Sanctions list, or a person acting on behalf of such a person; (b) located in or organised under the laws of a country or territory that is the subject of country or territory wide Sanctions, or an entity who is owned or controlled by, or acting on behalf of such a person (c) otherwise a subject of Sanctions;
 - “**Sanctions**” means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority;
 - “**Sanctions Authority**” means the Security Council of the United Nations, the United States of America, the European Union or any member state thereof and/or United Kingdom, and in each case their official institutions or agencies;
 - “**Total Loss**” in relation to any Product such Product being lost, stolen, confiscated, seized, declared a total loss by the insurers of the Product or as otherwise adjudged, or damaged beyond repair or damaged to an extent which is uneconomic to repair in the reasonable opinion of CloudClevr acting in good faith.

3. Delivery of Financed Products and Period of Hire

- 3.1. The Customer has selected the Financed Products and will inspect and test the Financed Products on delivery.
- 3.2. Where:
 - (a) CloudClevr is installing any Financed Products, the Customer shall inspect and accept all Financed Products when they are installed by CloudClevr; or:
 - (b) CloudClevr is not installing the Financed Products, the Customer will inspect and accept the Financed Products within five (5) Business Days of delivery of such Financed Products to the Customer, and

in each case, if the Financed Products are not satisfactory the Customer shall notify CloudClevr within five (5) Business Days of delivery. If the Customer fails to notify CloudClevr in accordance with this paragraph, all such Financed Products will be deemed to be in good working order and satisfactory in every way and accepted by the Customer.
- 3.3. The hiring of the Financed Products shall begin on the Service Commencement Date and continue until the last day of the Initial Term, unless terminated in accordance with the MFA or this Schedule.

4. Title

- 4.1. Title to any Financed Products will at all times remain the property of CloudClevr (or the relevant third party owner) and the Customer will have no right, title or interest in or to any such Financed Products (save the right to possess and use such Financed Products subject to the terms and conditions of the relevant Order).

5. Charges

- 5.1. The Customer will pay CloudClevr the Financed Receivables specified in the Financed Order on each payment date defined in such Financed Order (each such date, a “**Payment Date**”) during the Initial Term in respect of each month (or part thereof). The first Financed Receivable shall be due on the first Payment Date after the Service Commencement Date.
- 5.2. The Customer shall pay the Financed Receivables and all other sums due under each Financed Order in full and in cleared funds without prior demand, notice or invoice and otherwise in accordance with clause 8.13 of the MFA.
- 5.3. If any payment falls due from the Customer under a Financed Order on a day which is not a Business Day, payment shall be made on the preceding Business Day.
- 5.4. The Customer acknowledges that CloudClevr’s role under each Financed Order is limited to that of supplying and financing the hiring of the Products comprised within the Financed Products (irrespective of whether title in the Products comprised within the Financed Products and/or Services is vested in CloudClevr). Accordingly, and notwithstanding any problems with the Services provided by CloudClevr pursuant to the MFA or any of the Products comprised within the Financed Products not meeting the Customer’s requirements in connection with their compatibility, condition, correspondence with description, quality, performance, merchantability and/or fitness for a particular purpose and/or any other non-performance (each a “**Relevant Event**”) shall be without prejudice to and shall not affect (i) the hiring of the Products comprised within the Financed Products, and (ii) the Customer obligation to pay the Financed Receivables, and the Customer liability therefor (a) shall not be released nor otherwise reduced as a result of such Relevant Event, and (b) shall continue as though such Relevant Event had not occurred.

6. Insurance

- 6.1. The risk of any accidental/deliberate damage, loss, destruction in any Financed Product will pass to the Customer on delivery of such Financed Product and will remain at the sole risk of the Customer until such time as it is returned to CloudClevr;
- 6.2. The Customer will, at its own expense, insure any Financed Product with a reputable insurer for not less than its full replacement value comprehensively against all usual risks and will provide evidence of such insurance to CloudClevr on request;

- 6.3. No loss, theft, damage, or destruction of any Financed Product will relieve the Customer from its obligation to pay the Financed Receivables or to perform any other obligation under a Financed Order; and
- 6.4. The Customer will notify CloudClevr in writing within five (5) days of the occurrence of any event of accident or damage to any Financed Product and/or of any Total Loss.
- 6.5. If the Financed Product sustains loss or damage not amounting to a Total Loss, the Customer will make good such damage (all repairs to be carried out by professional repairers approved by the manufacturer and/or CloudClevr) and apply all insurance monies payable in making good such damage and at CloudClevr's request, assign to CloudClevr all the Customer's rights, benefits and claims under any relevant policy of insurance.
- 6.6. Upon the occurrence of a Total Loss, the Customer will, at CloudClevr's option either:
 - (a) replace the Financed Product with unencumbered hardware ("**Replacement Product**") of the same model, type and configuration, in which case the title in such Replacement Product will automatically vest in CloudClevr (or its nominee) and following such replacement, the Replacement Product will constitute the Financed Product under such affected Order and the relevant Order will continue for full force and effect; or
 - (b) pay to CloudClevr within thirty (30) days of the occurrence of a Total Loss (or on such later date as CloudClevr may agree) an amount equal to:
 - (i) all arrears of the Financed Receivables under the affected Financed Order and all other amounts accrued due and unpaid under the affected Financed Order, together with any applicable interest on the same;
 - (ii) the present value as determined by CloudClevr as an amount that but for the occurrence of the Total Loss would have been payable as the remaining Financed Receivables during the Initial Term; and
 - (iii) the amount assumed by CloudClevr when calculating the Financed Receivables to be the value of the Financed Product at the end of the Initial Term.

The hiring of the relevant Financed Products will terminate upon payment by the Customer in full of such amount.

7. **Customer Obligations**

- 7.1. The Customer will:
 - (a) be responsible for and will ensure that any programs or data stored on any Financed Products are virus free and full back up copies of all such programs and data are made and retained by the Customer;
 - (b) ensure that any Financed Product is kept and operated in a suitable environment, used only for the purposes for which it is designed and operated in a proper manner in accordance with any applicable operating/manufacturing instructions;
 - (c) take such steps as may be necessary to ensure, so far as is reasonably practicable, that any Financed Product is at all times safe and without risk to the health of any person;
 - (d) shall not make any changes to or use the Financed Products in any manner which would invalidate the manufacturer's warranty and all replacement parts and additions affixed to any Financed Product shall on replacement or affixation become the property of CloudClevr free of all claims and Encumbrances;
 - (e) maintain at its own expense any Financed Product in good and substantial repair in order to keep it in as good an operating condition as it was on the relevant Service Commencement Date (fair wear and tear only excepted) and will make good any damage to such Financed Product;
 - (f) shall within five (5) days of CloudClevr request notify CloudClevr of the location of each Product comprised within the Financed Products;
 - (g) permit CloudClevr or its duly authorised representative to inspect any Financed Product at all reasonable times and for such purpose to enter upon the site or any premises at such Financed Product may be located, and will grant (or procure that CloudClevr are granted) access and facilities for such inspection;
 - (h) not, without the prior written consent of CloudClevr, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend any Financed Product or allow the creation of any Encumbrance over it;
 - (i) not do or permit to be done any act or thing which will or may jeopardise the right, title and/or interest of CloudClevr (or any third party owner) in any Financed Products;
 - (j) not suffer or permit any Financed Product to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if any Financed Product is so confiscated, seized or taken, the Customer will promptly notify CloudClevr and the Customer will at its sole expense use all reasonable endeavours to procure an immediate release of such Financed Product; and
 - (k) not do or permit to be done anything which could invalidate the insurances referred to in paragraph 6.

8. **Termination**

CloudClevr may in addition to its rights under Clause 17 (*Termination*) of the MFA terminate the hiring of the Financed Products under a Financed Order if:

- (a) the Customer fails to pay the Financed Receivables and any other amount due under such Financed Order in full within three (3) Business Days of its due date; or
- (b) the Customer fails to insure any Financed Product in accordance with paragraph 6 (Insurance); or
- (c) there is a default under (or the Customer, or any of its Affiliates, is in breach of) any other agreement, guarantee or other obligation the Customer, or any of its Affiliates, has with CloudClevr or any other creditor; or
- (d) any Sanctions are imposed in relation to the Customer or any of its Affiliates, or the Customer or any of its Affiliates become a Restricted Entity; or
- (e) the Customer is convicted of any offence relating to money laundering, terrorist financing, bribery and corruption and/or fraud or the Customer is found by any relevant authority to have breached any anti-money laundering, anti-bribery and corruption and/or anti-terrorist financing laws or regulations; or
- (f) the Customer fails to deliver to CloudClevr such information in respect of the Customer as CloudClevr may require from time to time or the Customer otherwise fails to satisfy and/or comply with any of CloudClevr's "know your customer", "know your business" or other similar checks or policies in place from time to time.

9. **Return of Products on Termination or Expiry of Hiring**

- 9.1. Upon termination or expiry of the hiring of the Financed Products under a Financed Order for any reason (including without limitation the termination by the Customer of an Order in accordance with Clause 17.3), the Customer will in addition to its obligations under Clause 18 (*Consequences of termination*) of the MFA:

- (a) pay to CloudClevr on demand an amount equal to the aggregate of:
 - (i) all arrears of the Financed Receivables under such affected Financed Order and all other amounts accrued due and unpaid under such affected Financed Order plus any applicable interest on the same; and
 - (ii) all Financed Receivables which would, but for such termination, have become due and payable under the affected Financed Order from the date of termination of the affected Financed Order up to the end of the Initial Term (less a discount for early payment at the rate specified in the relevant Order from the date of termination to the end of the Initial Term); and
 - (iii) any additional and reasonable costs and expenses incurred by CloudClevr in recovering any Financed Product pursuant to CloudClevr exercising its rights under clause 18.4(e) of the MFA;
 - (iv) where CloudClevr is unable to recover possession of any Financed Product (in whole or in part) for any reason, the amount assumed by CloudClevr when calculating the Financed Receivables to be the value of the Financed Product at the end of the Initial Term; and
 - (v) all costs, expenses and losses incurred by CloudClevr in liquidating or redeploying the proceeds of any funding or other financial arrangement CloudClevr have entered into for the purposes of funding its investment in the Products;
 - (b) cease to use the Financed Products and at its sole cost and expense: (a) immediately return the Financed Products (along with all service records, operating manuals, keys and other ancillary items) to CloudClevr or to such place as CloudClevr may direct, by delivering the same to such place in the Condition. If the Customer fails to do so CloudClevr or its duly appointed agents will have the right to enter the premises where Financed Product may be and take possession of it.
- 9.2. Without limiting the generality of this paragraph 9, the Customer must at its own expense ensure all Financed Product (that has not been the subject of a Total Loss) shall be in the following condition:
 - (a) complete and with no missing parts;
 - (b) thoroughly clean and restored to the original finish;
 - (c) free from all damage and deficiencies;
 - (d) free from all stains and any substance that may be to the detriment or the appearance or the functioning of the Financed Product;
 - (e) all displays, switches, buttons, keyboards and other like items must be complete, in full working order and must have all grime and dirt removed; all legends, labels and engravings must be intact, clean and legible;
 - (f) all remedial and repair work must have been carried out to a professional standard that does not impair the appearance or performance of the Financed Product; only parts and materials supplied by the manufacturer of the Financed Product or recommended by it should be used in any such work;
 - (g) any software supplied with or incorporated in the Financed Product must not be corrupted and must be upgraded to the latest version issued by the manufacturer;
 - (h) all of the Customer's data (including without limitation any personal data) must have been irretrievably deleted from the Financed Product;
 - (i) free from any passwords or device registration locks (including bios passwords or activation locks or mobile device management);
 - (j) in the case of any Financed Product originating from Apple Inc the "Apple ID" must be deleted and "Find My Phone" function must be disabled; and
 - (k) in a condition which qualifies for a standard maintenance agreement programme with the manufacturer and/or other supplier of the Financed Product, as notified to the Customer from time to time at standard rates without any re-conditioning, initial set-up or re-licensing charges,

(all the foregoing being the "**Condition**") which shall also apply to all ancillary equipment that was supplied with the Financed Product.
- 9.3. On termination or expiry of the hiring of the Financed Products, CloudClevr or its agent will inspect the Financed Product and the Customer will, on demand, pay to CloudClevr all charges and costs CloudClevr incurs in putting the Financed Product into the Condition.
- 9.4. For the purpose of Clause 18.4(g) of the MFA Terms, the sums payable under paragraph 9.1 above constitute the 'Early Termination Charges' in respect of Financed Products. If the Customer pays the Early Termination Charge in full CloudClevr or its assignee shall transfer such title to the Products as it has to the Customer on an as is where is basis without any representation or warranty (express or implied) and the Customer shall not be obliged to return the Financed Products in accordance with this paragraph 9 or clause 18 of the MFA Terms.
10. **Warranties and Exclusion of Liability**
- 10.1. The Customer has selected the Financed Products using its own skill and judgement. It is expressly agreed and acknowledged that the Customer shall assume the risk that the Financed Products may not perform as expected or may not be satisfactory. No term, condition, warranty or representation of any kind is or has been given by or on behalf of CloudClevr in respect of any of the Financed Products.
- 10.2. All implied terms, conditions, warranties and representations (whether statutory, collateral or otherwise) relating to the Financed Products, their specification, age, quality, description or as to their fitness for any purpose are excluded.
- 10.3. CloudClevr undertakes that, to the extent possible, at the request and expense of the Customer, it will assign to the Customer all such rights (whether contractual, statutory or otherwise) as CloudClevr may have against the manufacturer or supplier.
11. **Indemnity**
- 11.1. Customer shall indemnify CloudClevr, its assignees and their respective officers, directors, agents and employees (the "**Indemnified Persons**") on demand at all times against each and every liability (whether civil or criminal), tax, loss, charge, claim, proceeding, damage, judgment, enforcement penalty, fine, fee, cost (including legal costs) and expense of whatsoever nature suffered or incurred by or imposed on any Indemnified Person from time to time in connection with a Financed Order or the Financed Products or the transactions contemplated by such Financed Order or any other document entered into in connection with or pursuant to a Financed Order including those arising directly or indirectly:
 - (a) in any manner out of the acquisition, insurance, ownership, possession, management or operation of the Financed Products or the hiring, removal, transportation, repossession, sale or disposal of them by an Indemnified Person, or any person acting as and Indemnified Person's agent, whether attributable to any defect in the Financed Products or the design, manufacture, testing or use of them, or in relation to any product or strict liability relating to the Finance Products; or
 - (b) from any maintenance, repair or overhaul of the Financed Products; or
 - (c) arising from infringement or alleged infringement of intellectual property or other rights; or
 - (d) in preventing or attempting to prevent the confiscation, seizure, taking in execution, requisition, impounding or forfeiture of any Financed Product, or in securing the release of any Financed Product.
- 11.2. This paragraph 11 survives termination of the MFA and any Order.

Schedule 3 – Connectivity Services

1. Scope and Overview

- 1.1. This Schedule supplements the MFA Terms by detailing specific additional terms and conditions applying to Connectivity Services.
- 1.2. Connectivity Services include the provision of connectivity services as specified in an Order and described in relevant third party supplier documentation, and may include mobile telephony, internet connectivity including broadband and leased line (wired and wireless), wide area network (WAN), SD-WAN, call routing, line rental and/or other connectivity services.
- 1.3. Connectivity Services may be delivered in conjunction with Software, Cloud Services or Managed Services in which case the relevant provisions of Schedule 5 (*Software, Cloud Services and Managed Services*) shall apply.
- 1.4. CloudClevr will provide Support in relation to Connectivity Services if and to the extent that Support is explicitly specified as being in scope on the relevant Order. Any such Support is subject to the relevant provisions of Schedule 4 (*Support Services*).
- 1.5. CloudClevr may sell Products to Customer in connection with an Order for Connectivity Services in which case the relevant provisions of Schedule 1 (*Products*) shall apply.
- 1.6. CloudClevr may provide Financed Products to Customer in connection with an Order for Connectivity Services in which case the relevant provisions of Schedule 2 (*Device as a Service*) shall apply.

2. Additional Definitions:

- 2.1. Words and expressions defined in the MFA Terms shall have the same meaning when used in this Schedule. In addition:
 - “Carrier”** means the telecommunications network operator providing to the Customer, on CloudClevr’s behalf, a physical telephone line and/or access to a telecommunications network;
 - “Emergency Organisation”** means in respect of any locality: (a) the relevant public police, fire, ambulance and coastguard services for that locality, and (b) any other organisation providing a vital service relating to safety of life in emergencies;
 - “Fixed Line Network”** means an electronic communications wired network over which CloudClevr provides Connectivity Services;
 - “Inbound and NGN Services”** has the meaning given to it at paragraph 18.1 of this Schedule 3;
 - “Internet Connectivity Solution”** has the meaning given to it at paragraph 11.1 of this Schedule 3;
 - “Mobility Services”** means Connectivity Services comprising mobile airtime services such as (a) mobile voice, messaging and/or data connectivity (including mobile broadband) to end users or (b) SIM-based connectivity for digital devices in the Internet of Things (“IoT”), in either each case over public mobile telecoms network infrastructure;
 - “Network Operator”** means an electronic communications network supplier used by CloudClevr or its partners from time to time ;
 - “PBX”** means private branch exchange;
 - “SIP”** means session initial protocol;
 - “Third Party Operator”** means an operator of any communications network or system over which CloudClevr may provide the Services including without limitation a Network Operator and a general supplier;
 - “User”** means any personnel of Customer, including all employees, directors, agents and consultants, who access the Connectivity Services made available to the Customer under any Order;
 - “WAN”** means wide area network;

3. General Customer Obligations

- 3.1. Customer is responsible for the proper use of Connectivity Services in accordance with all applicable laws and shall:
 - (a) where applicable, not connect to and use the Connectivity Services other than by means of equipment approved for connection under the Telecommunications Act 1984 as amended from time to time (the “Act”);
 - (b) use the Connectivity Services solely in accordance with the Act; and
 - (c) not contravene the Act or any other relevant legislation, regulation or licence from time to time.
- 3.2. The Customer shall:
 - (a) cooperate with and assist CloudClevr, Carrier and Third-Party Operator, without delay, to:
 - (i) answer any request received from any governmental authority in relation to the use of the Connectivity Services;
 - (ii) prevent or eliminate fraudulent, abusive or unlawful use of the Connectivity Services.
 - (b) use the Connectivity Services:
 - (i) only for its own internal business use
 - (ii) in accordance with all applicable Carrier and/or Third-Party Operators terms of use and/or licence agreements from time to time;
 - (c) maintain all customer account information as to Service users, including all authorised Users, up to date from time to time ;
 - (d) not resell or attempt to resell the Connectivity Services or any associated supplies (e.g. Software) to anyone else;
 - (e) not use the Services in breach of any licence applicable to the Customer or that is in any way unlawful or fraudulent or has any unlawful or fraudulent purpose or effect;
 - (f) ensure all Users comply with this Schedule 3 in use of the Connectivity Services.
- 3.3. The Customer agrees that the actions of any users of the Customer’s Services (including all Users) shall be deemed to be actions by the Customer and accordingly any breach of the MFA and/or this Schedule 3 by such users shall be deemed to be a breach by the Customer.
- 3.4. CloudClevr records information relating to the Customer’s use of the Connectivity Services including volumes of usage, timings, call records, and other relevant information having regard to the Services. The Customer acknowledges and agrees that CloudClevr’s data records shall save in the case of demonstrable error constitute proof of usage without further detail of any of Customer’s activity relating to such usage.

4. Service Availability, Performance and Maintenance

- 4.1. Due to the nature of telecommunications and connectivity, CloudClevr cannot guarantee a fault free service. Quality and availability of services may be affected by factors outside CloudClevr’s control such as physical obstructions, faults in public or private telecommunications networks, atmospheric conditions, disruptions to the internet, radio interference (e.g. caused by hills, tunnels or other physical obstructions).
- 4.2. The Customer acknowledges that the speed and availability of Connectivity Services may depend on a number of factors including, distance from the exchange or radio access network, local availability and line capability. CloudClevr shall have no liability to the Customer if the Customer’s line does not produce a top speed of the maximum speed advertised. The Customer further acknowledges that download speeds or other measurements will be highest at the point of delivery into the Customer Premises, and speeds may degrade depending on local area network configuration and/or the local environment.

- 4.3. Unless otherwise set out in an Order, CloudClevr will use reasonable endeavours to deliver Connectivity Services 24 hours per day, 7 days per week, excluding any Scheduled Downtime, where “**Scheduled Downtime**” means any downtime scheduled to perform system maintenance, backup, upgrade, migration or other functions for the Connectivity Services, any other downtime incurred as a result of the Customer’s request and unscheduled maintenance performed outside Working Hours, provided that CloudClevr has used reasonable endeavours to give the Customer notice in advance (“**Emergency Maintenance**”).
- 4.4. CloudClevr may limit or temporarily suspend access to any or all Connectivity Services for the purpose of Scheduled Downtime or Emergency Maintenance. Where reasonably possible, CloudClevr will give the Customer prior notice of such Scheduled Downtime during off-peak hours or Emergency Maintenance. Where CloudClevr suspends the Services in connection with the MFA Terms, such suspension periods for Scheduled Downtime and Emergency Maintenance shall not count towards any calculation of downtime.
- 4.5. Provided there is no material degradation in the Connectivity Services, CloudClevr may update or amend such Connectivity Services from time-to-time, and CloudClevr may, upon reasonable notice, migrate the Customer to an alternative service which provides substantially similar functionality.
- 4.6. Connectivity Services may be conditional on a satisfactory survey and, where applicable, agreement of a site wayleave by the site owner and/or any additional costs identified by the survey. Any of the foregoing may result in a change to the lead time. An Order for Connectivity Services may be cancelled by CloudClevr without liability to the Customer if the results of any survey are in CloudClevr’s reasonable opinion unsatisfactory, the site wayleave is not agreed, or the Customer does not agree to pay any applicable additional costs.
- 5. Set Up and Installation**
- 5.1. The Customer acknowledges that any set-up and installation services may require the Customer to co-operate with one or more third parties over whom CloudClevr has no control and that considerable time may be involved in such services. The Customer agrees to co-operate in full with all reasonable requests regarding set-up and installation.
- 5.2. The Customer shall obtain any relevant consents and approvals for the installation and use of any equipment with the Services. CloudClevr shall have no liability under this MFA for failure to comply with its obligations in any case where the Customer does not comply with any laws or regulations or does not obtain such consents or approvals and if CloudClevr incurs any costs, either in connection with a liability to a person or in any other way, arising out of any such omission by the Customer then the Customer shall promptly reimburse such amounts to CloudClevr.
- 5.3. Where CloudClevr installs any hardware at the Customer Premises as part of the Services, for example routers or modems, paragraph 8 of Schedule 1 (*Product*) shall apply.
- 6. Service Commencement**
- 6.1. CloudClevr will commence delivery of the Connectivity Services from the applicable Service Commencement Date. Customer shall have three (3) Business Days from the Service Commencement Date (the “**Review Period**”) in which to notify CloudClevr of any material non-conformity of the Connectivity Services with the MFA. If the Customer has not served a notice of material non-conformity within the Review Period, the Connectivity Services shall be deemed to be accepted. If the Customer serves a notice of material non-conformity in the Review Period then CloudClevr shall remedy the applicable defect in the Connectivity Services as soon as reasonably possible and re-submit the applicable Connectivity Services to the Customer for further review. CloudClevr shall have the right, but not the obligation, to be present during the carrying out of any review of the Connectivity Services.
- 7. Telephony: General**
- 7.1. CloudClevr may change any telephone numbers allocated to the Customer after giving reasonable notice to the Customer where such change is necessary in order for CloudClevr to comply with a law or regulation or for operational reasons.
- 7.2. Where the Customer uses any caller line identification (“**CLI**”) functionality as part of the Connectivity Services, the Customer shall ensure:
- (a) the number requested for use as a presentation number (“**PN**”) is either allocated to the Customer and the Customer does not require the permission of anyone else in relation to that number or the requested PN is not allocated to the Customer but consent from the allocated owner for its use as a PN has been obtained and has not been withdrawn;
 - (b) the PN connects when dialled;
 - (c) the PN is not connecting to a revenue sharing number that generates excessive or unexpected call charges; and
 - (d) any presentation of either PNs or network numbers (“**NNs**”) complies in all respects with all regulatory requirements and guidelines in all territories and jurisdictions globally and both PNs and NNs are generated in accordance with the relevant technical standards including but not limited to NICC Standard ND1016 and any subsequent revisions thereof.
- 7.3. The Customer shall indemnify CloudClevr, its assignees and their respective officers, directors, agents and employees (the “**Indemnified Persons**”) on demand at all times against each and every liability (whether civil or criminal), tax, loss, charge, claim, proceeding, damage, judgment, enforcement penalty, fine, fee, cost (including legal costs) and expense of whatsoever nature suffered or incurred by or imposed on any Indemnified Person from time to time in connection with any breach by the Customer of the provisions of paragraph 7.2.
- 7.4. The Customer acknowledges that use of telephony services may be governed by various regulatory requirements and Customer warrants that:
- (a) it will comply with all laws and regulatory requirements in relation to the use of the Service;
 - (b) obtain a licence under the PRS licence requirements where required for any audio that is used in conjunction with the Service, and the Customer indemnifies CloudClevr against any claim arising from its use of Customer’s own audio;
 - (c) it will not play ringing sounds to a caller once the call has been connected without playing audio that lets the caller know the call has been connected and is being charged for; and
 - (d) where the Customer uses any dialler facility, the Customer will comply with all Ofcom (or other non-UK regulator) regulations, product supplier requirements and network operator requirements relating to dialler services.
- 7.5. Directory Listings. If the Customer has any pre-existing telephone directory entries related to any telephone numbers prior to placing any Order with CloudClevr which involves the porting or transfer of such number(s), then the Customer is advised that such directory entries will follow the porting of the Customer’s number and continue to be billed to the Customer as and when it is billed by the directory entry provider to CloudClevr. It is the Customer’s responsibility to opt-out of any directory entries prior to porting and prior to the next publication of the relevant directory if the Customer no longer wishes to retain that directory listing.
- 7.6. Porting Fees. Porting of telephone numbers, either in as part of an Order, or out as part of a cancellation or migration of Services, may incur additional porting fees, and will be charged at the then-current rate.

- 7.7. **Number Presentation.** If a Service offers outbound calling number presentation options, CloudClevr cannot provide consistent presentation of the intended number for calls made to mobile or international carriers as successful presentation of the number is entirely dependent on the carriers' use of these numbers. CloudClevr shall have no liability to the Customer should its nominated number fail to present at any time.
8. **IP-based Telephony Services (excluding Inbound and NGN Services)**
- 8.1. Where an IP telephony service is to be used principally in a fixed location, the Customer must register that address with CloudClevr prior to activation. If an IP telephony service may be used in multiple locations, CloudClevr recommends that the Customer updates the location information associated with it whenever accessing the IP telephony service from a new location. The Customer should update this information either using the portal or by notifying CloudClevr of any change in address. It is the Customer's responsibility to maintain an accurate record of this address information so that CloudClevr can supply the information to the Emergency Organisation(s) if needed. CloudClevr is not liable for any consequences of the Customer's failure to do this.
- 8.2. Where call routing utilises IP, the Customer acknowledges that call quality and availability can be subject to factors outside of CloudClevr's control e.g. bandwidth contention or quality of service (QoS). CloudClevr shall not be liable to the Customer in respect of such issues.
- 8.3. Where the Customer takes an international IP Service, the Customer agrees to comply with any in country regulatory obligations that may be applicable to the Customer's use of the service.
9. **Cloud Telephony**
- 9.1. In respect of cloud telephony, the Customer acknowledges that:
- (a) the Services may not offer all the features, quality or resilience the Customer may expect from a conventional phone line;
 - (b) the Services may sometimes be limited, unavailable or disrupted due to events beyond CloudClevr's control e.g. power disruptions, failures or the quality of any connection;
 - (c) the bandwidth allocated to the cloud telephony service should only be used for making and receiving cloud telephony calls, and where the Customer shares the bandwidth for any other purpose, it is likely that the quality and availability of the cloud telephony services shall be materially reduced; and
 - (d) the Customer must ensure that for Cloud telephony the Customer has alternative facilities to make emergency calls and that end users are aware of how to make an emergency call. CloudClevr does not accept any liability for damages and claims arising from the (i) failure of an emergency call being made as the result of the Services not being available at the Customer's Premises, (ii) failure to identify the location from where the emergency call is made; or (iii) failure by the Customer to comply with the relevant local and/or national regulations and/or guidance related to proving access to emergency organisations. Where emergency service calls are possible, these are dependent on mains power, internet connectivity, and the Customer providing the then-current location of the caller.
10. **Mobility Services**
- 10.1. In relation to Mobility Services, as set out in an Order, CloudClevr may either:
- (a) provide Mobility Services directly to the Customer ("**Direct Mobile**") or
 - (b) introduce the Customer to a mobile network operator ("**MNO**") and the Customer will enter into a separate airtime/data agreement with its chosen MNO, which shall be on the MNO's standard terms and conditions (the "**MNO Agreement**") ("**Indirect Mobile**").
- Direct Mobile
- 10.2. Where an Order is for Direct Mobile, the provisions of the Supplementary Schedule re: Direct Mobile Services at <https://cloudclevr.com/terms-and-policies/> shall apply.
- 10.3. Where an Order for Direct Mobile shows a value for a "Hardware Fund", the provisions of paragraph 9 (*Hardware Funds*) of Schedule 1 (*Products*) shall apply, and the rights of the Customer under such paragraph 9 are subject to Customer complying in full with the terms of the relevant Order for Direct Mobile including any commitments as to minimum spend, minimum number of connections, or similar.
- Indirect Mobile
- 10.4. In relation to Indirect Mobile, for as long as the Customer maintains CloudClevr as its appointed MNO dealer with the MNO, the Services that CloudClevr will make available to the Customer are:
- (a) management of the Customer's account under the MNO Agreement so the Customer has an appropriate tariff from those available; and
 - (b) support of the Customer's mobile service including liaising with (i) the MNO on the Customer's behalf to seek resolution of network issues; and (ii) with Product suppliers regarding hardware problems.
- 10.5. All charges arising under the MNO Agreement are payable directly to the MNO pursuant to the terms of the MNO Agreement.
- 10.6. The MNO requires CloudClevr to inform the Customer, and the Customer agrees that:
- (a) all charges are calculated on the basis of payment by direct debit. Payment by other methods will incur an additional fee;
 - (b) all price plans come with free online itemised billing as standard. Paper itemised billing can be requested and will be charged at the then-current rates;
 - (c) all pricing and charges are subject to the addition of VAT at the then-applicable rate; and
 - (d) all orders are payable in GBP sterling.
- 10.7. The Customer agrees that CloudClevr is not an agent of the MNO and does not accept liability for any defective performance of the MNO.
11. **Internet Connectivity Solutions**
- 11.1. Where detailed in an Order, CloudClevr may provide Customer with Connectivity Services that include one or more of the following:
- (a) Broadband services – providing internet connectivity using copper or fibre access technology such as ADSL, FTTC, FTTP and SOGEA, typically provided as contended, shared-bandwidth connections suitable for general internet access and basic business applications ("**Broadband Services**");
 - (b) Leased line services – providing dedicated, uncontended connectivity over fibre or wireless infrastructure, offering symmetrical bandwidth and higher availability for business-critical applications ("**Leased Line Services**");
 - (c) Backup connectivity services – providing secondary connection for basic network or internet access during outages or degradation of a primary connection, delivered via fixed line broadband, fibre circuits or wireless solutions such as 4G/5G ("**Backup Services**");
 - (d) MPLS/IPVPN services – providing MPLS (Multiprotocol Label Switching) or IPVPN (Internet Protocol Virtual Private Network) services for secure, private and managed connectivity between multiple customer sites over a service provider's core network infrastructure ("**MPLS/IPVPN Services**");
 - (e) SD/WAN services – which offer intelligent routing and traffic management services across multiple internet and private connections using software-defined policies ("**SD-WAN**")
- (each an "**Internet Connectivity Solution**").

- 11.2. Where an Order includes an Internet Connectivity Solution, the provisions of the Supplementary Schedule re: Internet Connectivity Solutions located at <https://cloudclevr.com/terms-and-policies/> shall apply to that Order.
12. **Changing Carrier or Third Party Operator**
- 12.1. If CloudClevr's agreement with a relevant Third Party Operator or Carrier is or may be terminated, CloudClevr will contact the Customer to discuss the assignment of its Order to an alternative supplier. If the Customer elects for its Order/s to be so assigned, CloudClevr shall assign it. Where such assignment is not possible, or the Customer does not make such election, then CloudClevr shall either:
- (a) terminate such Customer Order; or
 - (b) subject to Third Party Operator or Carrier approval (as applicable), continue such Customer Order until expiration of the applicable Term.
13. **Early Termination Charges**
- 13.1. Early Termination Charges for Connectivity Services are calculated based on the following items, to the extent each is applicable, and summing each applicable item where relevant:
- (a) for any Connectivity Service (including Direct Mobile):
 - (i) any set-up costs that CloudClevr may have incurred in relation to installation and/or commencement of the relevant Service, including but not limited to engineering, installation, site preparation and the cost of diallers; and
 - (ii) all lost revenues and Charges payable for the remainder of the current Term of the relevant Order, based on the Customer's average call billing levels and agreed line rental charges invoiced to the Customer from the relevant Service Commencement Date up to the effective date of the early termination, together with an administration fee calculated at 5% of such amount.
 - (b) call routing: when line rental Services are initially priced, a discount is built into the charges for customers who choose to also route all their calls with CloudClevr. As a consequence, should call routing be cancelled for any reason then the ongoing line rental charges will be increased by 20% to reflect the actual costs CloudClevr has and will incur in providing the Services and also in monitoring and managing faults on another carrier's network; and
 - (c) mobile: in the event that the Customer wishes to terminate the MNO Agreement or request a change in dealer authority prior to expiry of the minimum term of the MNO Agreement then the Customer shall reimburse CloudClevr on a pro-rata basis for the unexpired portion of such minimum term for any account credits, Hardware Funds or discounts provided by CloudClevr to the Customer in connection with the applicable Order. This includes the cost of any Products previously purchased by CloudClevr for supply to the Customer on a 'free of charge' basis.
14. **Charges and Call Rates**
- 14.1. Unless otherwise agreed in an Order, call usage and other Connectivity Service Charges will be at CloudClevr's current list price as updated on its website from time to time or otherwise by notice to the Customer. Monthly charges for line rentals (when and where applicable) will be as set out in an Order.
- 14.2. Call rates for outbound calls to UK non-geographic numbers are charged according to the banding used by the Carrier and/or Network Operator. If Carrier and/or Third-Party Operator changes their charging structure, call types and associated charging may change by notice.
- 14.3. If the Customer takes any bundled service, it shall pay for all chargeable items which are excluded from or exceed the allowance of the bundle.
- 14.4. Unless otherwise agreed, all call costs in CloudClevr's tariffs are in pence per minute. All billing is per second. Call durations are measured up to the whole second and call Charges rounded up to a penny.
- 14.5. Inbound bundles include calls which terminate to UK landline numbers only, unless specified otherwise in writing. If the Customer terminates its calls to a mobile, a non-geographic or an international number then the prevailing CloudClevr standard call Charges will apply.
- 14.6. Call charges will be invoiced in arrears. CloudClevr will calculate the Charges for calls using the details recorded by the Carrier. Rental charges will be billed in advance.
- 14.7. CloudClevr will bill the Customer for all calls that routed via the Carrier or Third-Party Operator. Any calls that are routed by other means for any reason beyond CloudClevr's control and for which the Customer is invoiced by another provider will remain the Customer's responsibility.
- 14.8. CloudClevr may offset any inbound rebates which may be due to the Customer against any amounts the Customer may owe to CloudClevr.
- 14.9. CloudClevr may change the billing and payment frequency, process and/or system from time to time by notice to the Customer.
- 14.10. Unless otherwise agreed by CloudClevr in writing, any discount specified shall only apply during the applicable Initial Term and shall not apply to subsequent periods.
- 14.11. All Charges are based on the call data and/or other Customer data usage. If the Customer's actual usage materially differs from the data or any agreed maximum usage, CloudClevr may make a reasonable and proportionate adjustment to the Charges.
- 14.12. Voice agents may receive an inclusive call allowance. Any usage that exceeds this allowance or calls outside the inclusive allowance will be charged at the Customer's agreed voice tariff.
- 14.13. In relation to SIP and all cloud telephony Connectivity Services (including MS Teams Voice Services):
- (a) call bundles are detailed in applicable service documentation; and
 - (b) the Customer will be notified if any call bundle volume is exceeded after end of the calendar month in which the excess occurred, in which event CloudClevr may charge Customer for all calls made in that month at the prevailing CloudClevr rate.
- 14.14. If Connectivity Services are suspended in accordance with the MFA, a re-connection charge may be payable by Customer.
15. **Unauthorised Use**
- 15.1. Connectivity Services are not immune from fraudulent intrusion or unauthorised use and CloudClevr will not be liable for any loss, damage, cost or expense directly or indirectly occasioned thereby. CloudClevr shall not be liable for any loss, damage or expense suffered by the Customer in the event of telephone fraud, system hacking or any other type of abuse of the system, software or equipment experienced by the Customer, howsoever this may occur, and whether perpetrated by the Customer's staff or other third parties.
- 15.2. The Customer shall be responsible for all charges incurred in connection with any use of the Services, whether or not it has authorised such use, and for ensuring that the Services are not used for the sending of any defamatory, offensive, abusive, fraudulent, obscene or menacing material or in a manner which infringes the rights of any person (including rights of copyright or confidentiality). If CloudClevr incurs any losses or costs, either in connection with liability to a person or in any other way, arising out of any such use then the Customer shall promptly reimburse such amounts to CloudClevr on a full indemnity basis.
- 15.3. Where the Services expressly include a telephone fraud services add-on, the benefits and limitations of that service shall be as set out in the applicable Service Description.

16. Security

16.1. The Customer will protect all Service end points using security measures that comply with Good Industry Practice.

16.2. The Customer shall:

- (a) monitor use of the Services for possible unlawful or fraudulent use; and
- (b) notify CloudClevr immediately if the Customer becomes aware or has reason to believe that the Services are being used fraudulently or without authorisation by any User or third party.

Failure to notify CloudClevr under paragraph 16.2 may result in the suspension or termination of the Services.

17. Line Services

17.1. If the Customer wishes to connect equipment to the Fixed Line Network other than using a main phone socket, the Customer must obtain CloudClevr's prior written consent and acknowledges that CloudClevr may have to request permission from the relevant Carrier prior to granting any consent which shall be at CloudClevr's sole discretion.

17.2. The Customer will not connect any equipment to the Fixed Line Network that may harm the Fixed Line Network or the equipment of other users of the Fixed Line Network.

18. Inbound and Non Geographic Number Services

18.1. Where detailed in an Order, CloudClevr may provide Customer with Connectivity Services that include one or more Inbound and Non-Geographic Number services as follows:

- (a) provision and management of telephone numbers, including both geographic numbers (associated with specific UK area codes) and non-geographic numbers (such as 03, 08, or 09 numbers not tied to a geographic location);
- (b) enabling receipt of inbound calls and routing of those calls to one or more fixed or mobile destinations, whether within or outside the United Kingdom. Inbound and Non-Geographic Number Services;
- (c) enabling features such as call forwarding, time-of-day routing, location-based routing, call queuing, voicemail-to-email, call recording, interactive voice response (IVR), disaster recovery routing, and call reporting or analytics.
- (d) delivering the above via traditional telephony networks, SIP, hosted telephony platforms, or other internet-based communications services.

(the "Inbound and NGN Services").

18.2. Where any Inbound and NGN Services are provided, the provisions of the Supplementary Schedule re: Inbound and NGN Services at <https://cloudclevr.com/terms-and-policies/> shall apply.

19. Third Party Supplies

19.1. Where any Connectivity Service is delivered using the products or services of any of the suppliers listed at paragraph 8.2 of Schedule 5 (*Software, Cloud Services and Managed Services*) then the provisions of paragraph 8 and 9 of Schedule 5 (*Software, Cloud Services and Managed Services*) shall apply to such Connectivity Services in respect of such supplier's products or services.

Schedule 4 – Support Services

1. Scope and Overview

- 1.1. This Schedule supplements the MFA Terms by detailing specific additional terms and conditions applying to Support Services.
- 1.2. Support Services may be delivered in conjunction with other items such as Connectivity Services, Professional Services or Software in which case the relevant provisions of the relevant Schedule(s) shall apply.
- 1.3. This Schedule details the specific terms and conditions that apply to the provision of General Support Desk Support Services by CloudClevr to the Customer. This Schedule does not detail support for Managed Services which is provided on the basis set out in the relevant Managed Services Service Descriptions, as a component part of those Managed Services.
- 1.4. This Schedule also details responsibilities in relation to Supported Equipment.

2. Support Services (General Support Desk)

- 2.1. Support Services are provided at the support level specified on an Order as further particularised in the Service Description for General Support Desk located at <https://cloudclevr.com/terms-and-policies/>. Customer shall at all times comply with its obligations under such Service Description.

3. Supported Equipment

- 3.1. If an Order includes Supported Equipment, then the Customer shall:
 - (a) ensure that any programs or data stored on the Supported Equipment are virus free and that full back up copies of all such programs and data are made and retained by the Customer;
 - (b) connect Supported Equipment with cables or connectors that are compatible with the Supported Equipment and, where relevant, interface with CloudClevr's equipment and which are in accordance with CloudClevr's and/or its suppliers' instructions;
 - (c) ensure that all equipment connected to a Service is connected to and used with CloudClevr's and/or its suppliers' instructions and any safety and security procedures notified to the Customer;
 - (d) maintain details relating to Supported Equipment, including the location, serial numbers and any third party vendor-designated system identifiers and labels for such Supported Equipment;
 - (e) maintain all Supported Equipment at the latest specified configuration and revision levels;
 - (f) ensure that where employees use the Supported Equipment, such employees are competently trained to do so;
 - (g) promptly notify CloudClevr of any faults in the operation of the Supported Equipment and give CloudClevr a minimum of ten (10) Business Days' prior written notice of any modification to the Supported Equipment prior to such Modification being carried out. CloudClevr shall:
 - (i) acknowledge the modification in writing; and
 - (ii) notify the Customer of any proposed alteration to the Charges due to such Modification or if such Modification is accepted (such acceptance not being unreasonably withheld or delayed), and
 - (iii) any modification should be made in accordance with industry standards and the Customer shall only use products and parts approved by the relevant CloudClevr or the relevant third party vendor.
 - (h) ensure the external surfaces of the Supported Equipment are kept clean and in good condition;
 - (i) only use consumables recommended by CloudClevr or the relevant third party vendor;
 - (j) not request, permit or authorise any third party other than CloudClevr or the relevant third party vendor to carry out any modifications, adjustments, repairs or maintenance to the Supported Equipment (or any part of it) without the prior consent of CloudClevr or the relevant third party vendor; and
 - (k) save for mobile hardware, not move the Supported Equipment or any part of it to another site without providing CloudClevr with a minimum of thirty (30) calendar days' prior written notification of any such move of Supported Equipment to another Customer site. In such event, the Customer accepts movement of Supported Equipment to a new Customer Site may result in changes to the Service Levels and/or Charges for any Service relevant to that Supported Equipment.

4. Charges

- 4.1. The relevant Order form for Support Services will detail any applicable Charges.
- 4.2. The Early Termination Charges for Support Services are 100% of the Charges payable for the remainder of the current Term of the relevant Order.

Schedule 5 – Software, Cloud Services and Managed Services**1. Scope and Overview**

- 1.1. This Schedule supplements the MFA Terms by detailing specific additional terms and conditions applying to Software, Cloud Services (as defined below) and Managed Services (as defined below).
- 1.2. Software, Cloud Services and/or Managed Services may be delivered in conjunction with other items such as Connectivity Services, Professional Services or Support Services in which case the relevant provisions of the relevant Schedule(s) shall apply.
- 1.3. CloudClevr will provide Support Services for Software and/or Cloud Services if and to the extent that such Support Services are explicitly specified as in scope:
 - (a) on the relevant Order or
 - (b) in an applicable Service Description.
- 1.4. Support for Managed Services is defined in the relevant service description as further described below.

2. Additional Definitions:

- 2.1. Words and expressions defined in the MFA Terms shall have the same meaning when used in this Schedule. In addition:

"Clevr360" means the CloudClevr's software as a service platform aimed at helping customers maximise value from their cloud, IT and communications investments, as described in the Clevr360 Service Description;

"Clevr360 Service Description" means CloudClevr's service description for Clevr360, located on CloudClevr's website, as updated from time to time;

"Cloud Services" means cloud services which may include, to the extent specified in an Order, Clevr360 and/or Third Party Cloud;

"Concurrent Licence" means a licence for the use of Cloud Services configured for use by multiple users but never more than one user at any time;

"General Managed Services" means CloudClevr's managed services providing Move/Add/Change/Delete service requests, as described in the GMS Service Description;

"GMS Service Description" means the [Service Description for General Managed Services](https://cloudclevr.com/terms-and-policies/) located at <https://cloudclevr.com/terms-and-policies/>;

"ITMS Service Description" means the [Service Description for Managed IT Services](https://cloudclevr.com/terms-and-policies/) located at <https://cloudclevr.com/terms-and-policies/>;

"ITSS Service Description" means the [Service Description for Managed Cyber Security](https://cloudclevr.com/terms-and-policies/) located at <https://cloudclevr.com/terms-and-policies/>;

"Managed Cyber Security Services" means CloudClevr's managed services focused on cyber security, as described in the ITSS Service Description;

"Managed IT Services" means CloudClevr's managed services relating to the operational management of IT infrastructure, as described in the ITMS Service Description;

"Managed Services" means any managed services delivered by CloudClevr which may include, to the extent specified in an Order, Managed IT Services, Managed Cyber Security Services and/or General Managed Services;

"Named User Licence" means a licence for the use of Cloud Services per user;

"Third Party Cloud" means third party cloud services delivered by a CloudClevr supplier or reselling partner and may include hosting, infrastructure as a service, data storage, back-ups, disaster recovery, software as a service or other cloud services.

3. Software

- 3.1. Unless otherwise set out in an Order, in relation to Software:
 - (a) delivery shall occur when CloudClevr or its third party supplier makes the Software available for download and/or provides any applicable licence keys;
 - (b) Software is non-transferable, non-sublicensable, non-exclusive, and limited to the total use rights granted in the Order (based on named users) for Customer's internal business purposes only;
 - (c) the Software licence shall be for the Initial Term, thereafter auto-renewing in accordance with Clause 4 of the MFA Terms (*Order Term and Renewal*), subject to any product specific provisions in any product-specific Schedule or supplier terms (e.g. in relation to Microsoft);
 - (d) Software may only be used by the Customer, and express permission is required prior to any use by Customer Affiliates, which may require additional Charges;
 - (e) the Customer must adhere to the applicable end user licence agreement including any relevant Third Party Terms as described at paragraph 8 (*End User Licence Agreements*) below; and
 - (f) provided the Customer subscribes to support and maintenance in respect of the Software, CloudClevr shall provide associated Support which may include updates and upgrades in relation to the Software.
- 3.2. Where an order for Products includes Software attaching thereto, and for which there are no distinct Software Charges, the Customer's licence to use such Software, including the end user licence agreement, shall be as provided as part of the Product.
- 3.3. The Customer shall not, and shall not permit any other party to:
 - (a) disassemble, decompile, decrypt, or reverse engineer, or in any way attempt to discover or reproduce source code for, any part of the products or services including the Software; adapt, modify, or prepare derivative works based on any of the Intellectual Property Rights; or use any of the Intellectual Property Rights to create any computer program or other material that performs, replicates, or utilises the same or substantially similar functions as the products and services provided hereunder;
 - (b) disclose the products or services including the Software or its operation to third parties, or use any of them in a service bureau or time-sharing environment;
 - (c) alter, remove, or suppress any copyright, confidentiality, or other proprietary notices, marks or any legends placed on, embedded or otherwise appearing in or on any Intellectual Property Rights and/or Software; or fail to ensure that all such notices and legends appear on all full or partial copies of Intellectual Property Rights and/or Software or any related material;
 - (d) sell, sublicense, lease, assign, delegate, transfer, distribute, encumber or otherwise transform any Intellectual Property Rights or Software or any of the rights or obligations granted to or imposed on the Customer hereunder.

4. General

- 4.1. **Early Termination Charges.** The Early Termination Charges for Software (including Software maintenance), Cloud Services and/or Managed Services shall be 100% of the Charges payable for the remainder of the current Term of the relevant Order.

- 4.2. Service Commencement Date. Unless otherwise clearly set out in the Order, Software and/or Cloud Services shall be deemed to commence at the point at which the Software and/or Cloud Services is initially available, which may be prior to any configuration, porting, or other Professional Services, and this may be before the date on which the Customer actually begins to use the Software and/or Cloud Services.
- 4.3. Service Levels. Where applicable, Service Levels for Cloud Services and/or Managed Services, will be specified in the applicable Service Description. Service Levels do not apply to any beta, pilot, trial, demonstration, non-production environment or any other form of proof of concept.
- 4.4. Except as set out at paragraph 4.5 below, the Customer is responsible for ensuring it has sufficient connectivity (including local and wide area networks) to consume, access or otherwise use the Cloud Services and/or Managed Services. CloudClevr shall not be responsible for any claim arising related to the Customer's failure to maintain sufficient connectivity.
- 4.5. Where the Cloud Services and/or Managed Services are provided together with Connectivity Services, CloudClevr shall not have any liability arising from any claims relating to connectivity issues described in paragraph 4 of Schedule 3 (*Connectivity Services*) which the Customer accepts may materially impact upon the delivery of the Cloud Services and/or Managed Services from time-to-time.
- 4.6. Provided there is no material degradation in the Cloud Services and/or Managed Services, CloudClevr and/or its suppliers may update or amend such Services from time-to-time and may, on reasonable notice, migrate the Customer to an alternative service providing substantially similar functionality.
- 4.7. Where CloudClevr provides CloudClevr Equipment at Customer Premises in connection with the Services, paragraph 8.1 of Schedule 1 (*Products*) shall apply.
- 4.8. Where any Cloud Services and/or Managed Services include Customer use of caller line identification functionality, whether or not as part of Connectivity Services Ordered, the Customer shall comply with paragraphs 7.2 and 7.3 of Schedule 3 (*Connectivity Services*).
- 4.9. Where Professional Services are set out in an Order related to Software, Cloud Services and/or Managed Services, Schedule 6 (*Professional Services*) shall apply.
- 4.10. CloudClevr records information relating to the Customer's use of the Software, Cloud Services and/or Managed Services including volumes of usage, timings, call records, and other relevant information having regard to the Services. The Customer acknowledges and agrees that CloudClevr's data records shall, save in the case of demonstrable error, constitute proof of usage without further detail of any of Customer's activity relating to such usage.
5. **Cloud Services and Managed Services: general provisions**
- 5.1. Unless otherwise set out in an Order or applicable Schedule, CloudClevr will use reasonable endeavours to deliver Cloud Services and/or Managed Services (except for Managed Services delivered during Working Hours) 24 hours per day, 7 days per week, excluding any Scheduled Downtime, where "**Scheduled Downtime**" means any downtime scheduled to perform system maintenance, backup, upgrade, migration or other functions for the Connectivity Services, any other downtime incurred as a result of a Customer request and unscheduled maintenance performed outside Working Hours, provided that CloudClevr has used reasonable endeavours to give the Customer notice in advance ("**Emergency Maintenance**").
- 5.2. CloudClevr may limit or temporarily suspend access to any or all Cloud Services and/or Managed Services for the purpose of Scheduled Downtime or Emergency Maintenance. Where reasonably possible, CloudClevr will give Customer prior notice of such Scheduled Downtime during off-peak hours and Emergency Maintenance. Where CloudClevr suspends the Services in connection with this MFA and/or the applicable Order, such suspension periods for Scheduled Downtime and Emergency Maintenance shall not count towards any calculation of downtime.
- 5.3. The use of Cloud Services and/or Managed Services by the Customer, its personnel or any other party authorised hereunder, shall at no time exceed the total use rights granted in the Order. Where the Cloud Services and/or Managed Services enable the Customer to exceed the total use rights, CloudClevr shall invoice the Customer for such overuse in arrears in accordance with CloudClevr's or its supplier's then-current rates, which may include an uplift not to exceed twenty percent (20%) to reflect the overuse.
- 5.4. Where Cloud Services and/or Managed Services include the provision of cloud telephony, the applicable provisions of Schedule 3 (*Connectivity Services*) shall also apply.
- 5.5. Where specified in the applicable Order or Service Description, Managed Services may include, for the duration of the Managed Services:
- (a) provision of on-premise components such as CloudClevr Equipment;
 - (b) installation of Software on endpoints;
 - (c) provision of Third Party Cloud; and/or
 - (d) deployment of Clevr360.
- Such provisions are subject to the relevant terms and conditions of this MFA and the applicable Schedules.
- 5.6. Notwithstanding anything to the contrary in this MFA, CloudClevr may monitor, collect, use and store anonymous and aggregate statistics and/or data regarding use of the Services solely for CloudClevr and its suppliers' internal business purposes (including, but not limited to, improving the Services and creating new features). Such anonymised and aggregate statistics and/or data shall not constitute the property of Customer nor its Confidential Information.
6. **Managed Services: specific provisions**
- Service Descriptions
- 6.1. Where an Order includes Managed IT Services, CloudClevr shall use reasonable endeavours to provide such services in accordance with the ITMS Service Description and the Customer shall comply with its obligations set forth in the the ITMS Service Description.
- 6.2. Where an Order includes Managed Cyber Security Services, CloudClevr shall use reasonable endeavours to provide such services in accordance with the ITSS Service Description and the Customer shall comply with its obligations set forth in the ITSS Service Description.
- 6.3. Where an Order includes General Managed Services, CloudClevr shall use reasonable endeavours to provide such services in accordance with the GMS Service Description and the Customer shall comply with its obligations set forth in the GMS Service Description.
- Related IT Supplies
- 6.4. Subject to paragraph 6.5 below, for all Managed Services requiring CloudClevr support, configuration, deployment or other use of third party hardware, connectivity, software or services within the IT estate of the Customer's business (each, a "**Required Supply**"), it is the responsibility of the Customer to:
- (a) purchase all such Required Supplies from relevant third parties;
 - (b) hold all required licences, consents and agreements with relevant third parties;
 - (c) comply with all relevant licences, consents and agreements (as applicable); and

- (d) maintain rights for CloudClevr to so use such Required Supplies pursuant to its delivery of the Managed Services and to interact with such third parties on behalf of the Customer.
- 6.5. If, in connection with Managed Services, the Customer and CloudClevr agree that certain Required Supplies may be purchased via CloudClevr, then the parties shall execute a corresponding Order for the relevant Products, Connectivity Services, Software and/or Cloud Services (as the case may be), in which event:
- the applicable MFA Terms and Schedules shall apply to such Order;
 - CloudClevr will supply or arrange supply of such items in accordance with the Order, the MFA Terms and applicable Schedules; and
 - for the avoidance of doubt, such supplies via CloudClevr are not, under this MFA, supplies of Managed Services, but are instead are supplies of Products, Connectivity Services, Software and/or Cloud Services (as relevant).
- 6.6. Customer acknowledges that any termination of the Required Supplies will:
- prevent the Customer from making use of such Required Supplies; and
 - may prevent the Customer from receiving connected aspects of Managed Services;
- however any such termination shall not entitle the Customer to terminate and/or to receive any refund under relevant Orders.
7. **Cloud Services: specific provisions**
- 7.1. Where an Order includes Clevr360, CloudClevr shall use reasonable endeavours to provide such services in accordance with the Clevr360 Service Description and Customer shall comply with its obligations set forth in the the Clevr360 Service Description.
- 7.2. Where an Order includes Third Party Cloud:
- the Third Party Cloud vendor, product name and key volumetrics (such as licensed user numbers) will be defined in the Order Form;
 - the service description will be set out in the customer facing documents of the relevant third party vendor (typically located on that vendor's website), as updated by that vendor from time to time; and
 - the Customer shall comply with paragraph 8 (*End User Licence Agreements*) of this Schedule 5.
- 7.3. Any monthly charges for Concurrent Licences are billed as daily units, pro rata for the number of days in any given calendar month. The Charges for Named User Licences are billed as monthly units and where applicable are subject to the relevant Fair Usage Policy. If a Named User Licence exceeds the relevant Fair Usage Policy in any month, the difference between the actual usage and the Fair Usage Policy shall be billed monthly in arrears based on rates applicable at the time. Unless otherwise specified in writing, all licences will be provided as Named User Licences.
- 7.4. The number of licences on the Customer's Order shall be its minimum licence commitment. The Customer can add additional licences at any time.
- 7.5. Where CloudClevr provides the Customer with portal access to manage its own account and it adds any additional licences or features the Customer agrees to pay the associated Charges for those licences or features from the date they were added. Some licences or features may be subject to a minimum billing period.
8. **End User Licence Agreements**
- 8.1. Where an Order includes third-party Software or Services ("**Third Party Supplies**") with specific End User Licence Agreements (EULAs), data processing agreements, terms of use, acceptable use policies and/or any other terms of use (together, "**Third Party Terms**"), such Third Party Terms, as updated from time to time, shall apply to the Customer's use of all such Third Party Supplies in addition to the MFA. The Customer shall at all times comply in full with all such Third Party Terms.
- 8.2. Without prejudice to the generality of paragraph 8.1 above, in relation to any Customer purchase or use, pursuant to an Order, of any products or services of the following suppliers, Customer specifically agrees to the relevant Third Party Terms of such suppliers from time to time including all those in the public domain and/or listed on any of their websites including the websites referenced below:
- Mitel: <https://www.mitel.com/en-gb/legal> (EULA) and <https://www.mitel.com/en-gb/legal/mitel-cloud-services-terms-and-conditions>
 - Avaya: <https://www.avaya.com/en/legal/> and <https://www.avaya.com/en/legal-license-terms/>
 - RingCentral: <https://www.ringcentral.com/gb/en/legal.html>
 - Zoom: <https://zoom.us/legal>, <https://zoom.us/docs/en-us/EULA-terms-of-service.html> and <https://explore.zoom.us/docs/doc/Zoom-Phone-Numbering-Policy.pdf>
 - 8x8: <https://www.8x8.com/terms-and-conditions>
 - Intermedia: <https://www.intermedia.com/legal/emea/uk/agreements>
 - Puzzle: <https://www.puzzle.com/neighbourhood/trust-centre/>
 - Luware: <https://luware.com>
 - Talkative: <https://gettalkative.com/terms>
 - Webex: <https://www.cisco.com>
 - Acronis: <https://www.acronis.com/en-eu/support/eula/> and <https://www.acronis.com/en-gb/support/platform-terms-conditions/>
 - Lastpass: <https://www.lastpass.com/legal-center>
 - Smoothwall/Qoria: <https://www.smoothwall.com/legal>, <https://www.smoothwall.com/education/support-agreement/> and <https://qoria.com/legal>
 - Huntress: <https://support.huntress.io/hc/en-us/categories/14691882119187-Legal-Documentation>
 - Barracuda: https://assets.barracuda.com/assets/docs/dms/Barracuda_Networks_Legal_Terms_and_Conditions.pdf
 - Veeam: <https://www.veeam.com/legal/eula.html> and <https://www.veeam.com/legal/data-processing-addendum.html>
 - Kaseya: <https://www.kaseya.com/legal/kaseya-master-agreement/> and <https://www.kaseya.com/legal/>
- 8.3. The Customer shall regularly check the above vendors' websites including at the above links for any changes or updates that may affect the Customer's, CloudClevr's and/or the relevant vendors' obligations. Failure to do so will not in any way diminish the binding nature of such changes or updates on the Customer.
- Microsoft products – specific provisions
- 8.4. CloudClevr, either directly or as a customer of a Microsoft appointed reseller from time to time, is authorised via the Microsoft Partner programme to facilitate the purchasing of certain Microsoft products by CloudClevr customers from time to time.
- 8.5. To the extent the Customer places Orders for Third Party Supplies including Microsoft products and services:
- The Customer does so via the above Partner Programme framework;
 - The provisions of the Supplementary Schedule re: Microsoft Products at <https://cloudclevr.com/terms-and-policies/> (the "**Microsoft Schedule**") shall apply; and
 - The Customer shall at all times comply with the Microsoft Schedule in relation to all such Orders.

9. **Indemnification**

- 9.1. Customer shall indemnify CloudClevr, its assignees and their respective officers, directors, agents and employees (the “**Indemnified Persons**”) on demand at all times against each and every liability (whether civil or criminal), tax, loss, charge, claim, proceeding, damage, judgment, enforcement penalty, fine, fee, cost (including legal costs) and expense of whatsoever nature suffered or incurred by or imposed on any Indemnified Person from time to time in connection with any failure by the Customer to comply with its obligations set out at paragraphs 3, 6, 7 and/or 8 of this Schedule 5. This paragraph 9 survives termination of the MFA and any Order.

Schedule 6 – Professional Services

1. Scope and Overview

- 1.1. This Schedule supplements the MFA Terms by detailing specific additional terms and conditions applying to the provision of Professional Services by CloudClevr to the Customer.

2. Professional Services

- 2.1. Where set out in an Order, Professional Services shall include the provision of suitably trained personnel to provide services, in each case as may be specified in a SOW attached to and forming part of the Order.
- 2.2. The Customer is responsible for ensuring it has fully reviewed the SOW prior to placing the Order and that the SOW meets the Customer's requirements.
- 2.3. Professional Services scheduling is dependent upon the allocation and availability of CloudClevr resources.
- 2.4. All Professional Services provided on a time and material basis are priced per person unless otherwise specified, and charged hourly or daily as indicated for each person.
- 2.5. Professional Services will be performed remotely wherever it is reasonable and practicable to do so. The Customer shall provide all reasonable co-operation and facilities to enable such remote performance at the Customer's own cost.
- 2.6. CloudClevr will use reasonable endeavours to provide or procure the provision of the Professional Services detailed in the Order during Working Hours. The Customer agrees to pay CloudClevr additional charges at CloudClevr's then-current rates for Professional Services performed outside Working Hours and CloudClevr will use reasonable efforts to seek the Customer's agreement to such charges in advance.
- 2.7. Where Professional Services are performed at Customer Premises, the Customer shall:
 - (a) afford CloudClevr prompt, full and safe access, with adequate working space and such other facilities as CloudClevr may reasonably require;
 - (b) ensure and be responsible for the health and safety of CloudClevr personnel;
 - (c) ensure it has adequate insurance in place to cover any reasonable loss of property by or injury to CloudClevr personnel whilst they are at Customer Premises in accordance with this MFA and/or any Order; and
 - (d) inform CloudClevr personnel of any applicable health and safety or other policies relevant to Customer Premises.
- 2.8. Any Professional Services are provided subject to
 - (a) the Customer's performance of its obligations in the MFA, the applicable Order and the relevant SOW, and
 - (b) where applicable, the terms of a mutually agreeable implementation plan.
- 2.9. If the Customer reschedules or cancels scheduled Professional Services, CloudClevr may, to the extent CloudClevr cannot reschedule its applicable resources, charge the Customer a rescheduling or cancellation fee.
- 2.10. Once the Professional Services have, in the opinion of CloudClevr, successfully passed any installation or similar tests (where applicable) the Professional Services shall be deemed accepted by the Customer.
- 2.11. Subject to Clause 15.2 of this MFA (*Liability*), CloudClevr shall have no liability for any claim resulting from Professional Services performed in accordance with the Customer's specific instructions.

3. Charges

- 3.1. The Charges for Professional Services are as set out on the Order Form and/or SOW.
- 3.2. The Early Termination Charges for an Order for Professional Services are 100% of the Charges payable for all the professional services that would, but for such termination, have been deliverable as a result of CloudClevr's fulfilment of the relevant Order.