

CLOUDCOVER LOCAL APPLIANCE: ADDITIONAL CONTRACT TERMS

1. General

These Additional Contract Terms shall apply to and be incorporated into any Agreement between virtualDCS and a Customer for the provision of on-premise backup services, in addition to the relevant Order Form (pursuant to which these Services were ordered), any Statement of Work annexed thereto, and virtualDCS's General Terms. The order of priority between such documents in the event of conflict is described in clause 1 of the General Terms.

2. Interpretation

2.1 Save only where expressly stated otherwise in this clause 2, the terms defined in the General Terms shall apply in these Additional Contract Terms. The following definitions shall also apply in these Additional Contract Terms:

<i>CloudCover Local Appliance Service(s)</i>	<i>means virtualDCS's On Premises-as-a-Service Hardware Appliance Services;</i>
<i>Customer Site (or Site)</i>	<i>means the Customer's data center or premises (under Customer's full control as detailed in the Order), in which the Designated Hardware is installed;</i>
<i>Designated Hardware</i>	<i>"Designated Hardware" means the hardware specified in Customer's Order with respect to the CloudCover Local Appliance Services to be installed at the Customer Site, as updated in writing from time to time;</i>
<i>Hours of Cover</i>	<i>means the times during which a customer can expect virtualDCS to perform Support relating to their contract (as set out or referred to in the Order Form);</i>
<i>Monitoring</i>	<i>means activity checking that the CloudCover Local Appliance Service is operational;</i>
<i>Remote Hands</i>	<i>means the technical support to be performed by Customer's staff, which includes diagnose, troubleshoot, installation and repair of the Designated Hardware at any time of day or night, including weekends and holidays;</i>
<i>Service Level</i>	<i>means the level of CloudCover Local Appliance Service selected by the Customer in respect of the CloudCover Local Appliance Services which is set out in the Order Form and further described at Schedule 2 (including the manner of delivery of which is described in outline in our proposal as amended or varied by virtualDCS from time to time);</i>
<i>Software</i>	<i>means data, operating and application software used or provided by the Customer essential for the correct operation of the CloudCover Local Appliance Services;</i>
<i>Support</i>	<i>means functions including maintenance and configuration of CloudCover Local Appliances, within the Customer Site;</i>
<i>Virtual Server/Virtualisation</i>	<i>Is a server provisioned by partitioning a physical server computer into multiple servers such that each has the appearance and capabilities of running on its own dedicated machine. Each virtual server can run its own full-fledged operating system, and each server can be independently rebooted.</i>

3. Services

- 3.1 In consideration of the Fees payable by the Customer to virtualDCS, virtualDCS shall make available to the Customer on the terms and conditions of this Agreement the CloudCover Local Appliance Service in accordance with the applicable Service Level.
- 3.2 virtualDCS shall be under no obligation to provide Services in respect of problems arising out of (a) tampering, modification, alteration or addition to the hardware or Software, which is undertaken maliciously or otherwise by persons outside of the control of virtualDCS or its authorised representatives or (b) programs or hardware supplied by the Customer (c) resolution of problems or server 'clean up' arising out of (i) compromise of server attributed to any script or code created or loaded by the Customer; or (ii) compromise of server attributed to any user password guessed or cracked and used to access the server. Where such services are required these will be charged for at the virtualDCS emergency hourly rate in force at the time the service is required (and the Customer shall pay such charges within 14 days of invoice). Any time spent by virtualDCS investigating such faults will be chargeable at the same rates.

4. CloudCover Local Appliance Service

- 4.1 CloudCover Local Appliance Services include the provision of the CloudCover Local Appliance Services through Designated Hardware located at the Customer Site, payment of Minimum Subscription Fee and Minimum Subscription Period, as described below. These terms are a contract for services and not a sale of goods. Other than the rights specifically granted by these terms and/or the Agreement, Customer has no right to the Designated Hardware or the CloudCover Local Appliance Services. Customer shall not remove the Designated Hardware from the Customer Site without virtualDCS's prior written consent and subject to clause 5.12 below.
- 4.2 virtualDCS shall be entitled on not less than 30 (thirty) days notice to the Customer to change the nature of the Services, the CloudCover Local Appliance Service and/or the equipment and/or other resources used and/or the benefits provided (including but not limited to the Fees and/or the terms of this Agreement) in or as part of the CloudCover Local Appliance Service. virtualDCS shall not be required to notify the Customer of changes to the equipment or resources used that are routine, arise through remedial maintenance, involve standard upgrades to equipment, software or services or are otherwise not material. In the event of any notification of a change of equipment or resources or any alteration to the CloudCover Local Appliance Service and/or to the terms and conditions of this Agreement that would materially and adversely affect the Customer's use of the CloudCover Local Appliance Service, the Customer shall be entitled at any time within 15 (fifteen) days after the date of virtualDCS's notice to elect to terminate this Agreement with immediate effect, any such termination being within 60 days or mutually agreeable timeframe, and without liability to virtualDCS but not otherwise affecting the parties' then accrued rights and obligations. In the event that the Customer does not terminate this Agreement then any change notified to it by virtualDCS under this clause 4.1 shall take effect following expiry of 30 (thirty) days following notification in accordance with this clause.
- 4.3 In the circumstances of this Agreement, the Customer agrees with virtualDCS that the following provisions are reasonable:
- 4.3.1 virtualDCS shall use its reasonable endeavour to deliver Designated Hardware by the date stated upon the relevant acceptance of any Order but failure to do so shall not constitute a breach of this contract. Any dates quoted or mentioned by virtualDCS for delivery of the Products or the provision of the Services whether verbally or otherwise are estimates only and whilst virtualDCS will use reasonable endeavours to meet such dates it cannot guarantee to do so;
- 4.3.2 virtualDCS shall deliver the Designated Hardware to such address or addresses as notified by the Customer to virtualDCS for each order, subject to prior agreement with the Customer. virtualDCS shall be entitled to make partial deliveries of the Products or deliveries of the same by instalments. A signed delivery note shall be satisfactory proof that delivery has taken place;
- 4.3.3 virtualDCS will use reasonable endeavours to provide the CloudCover Local Appliance Service in accordance with the Service Level applicable to it, and will use reasonable skill and care in the provision of the CloudCover Local Appliance Service and the Services generally. However the Customer acknowledges that the Services cannot be provided fault free and that virtualDCS cannot warrant error free or uninterrupted use of the Services;

- 4.3.4 virtualDCS will use reasonable endeavours to provide the Services and the CloudCover Local Appliance Service for use by the Customer from the Commencement Date unless otherwise specifically agreed in writing or unless it is unable to do so as a result of a failure by the Customer to fulfil their obligations under this Agreement or by any delay caused by any third party including but not limited to network service providers;
- 4.3.5 virtualDCS do not guarantee 100% availability of any part of the Services and/or CloudCover Local Appliance Service and the Customer acknowledges that virtualDCS may be dependent on third parties including but not limited to network service providers, data centres, software and hardware manufacturers in order to provide the CloudCover Local Appliance Service, and therefore makes provision with the attached service level agreement in Schedule 2 to detail specific service availability targets and associated service credits if applicable;
- 4.3.6 virtualDCS undertakes to take reasonable measures to maintain in good working order all computer hardware and software that it uses in the supply of the Services but virtualDCS does not represent or make any commitment that the operation of any such hardware or software shall be uninterrupted or error-free;
- 4.3.7 virtualDCS does not give any warranties or guarantees in relation to Third Party Products, Software or Services but shall make reasonable efforts to pass to the Customer the benefit of any warranty or guarantee provided by the third party manufacturer or supplier, to the extent that it is permitted to do so;
- 4.3.8 virtualDCS will provide support and maintenance services with respect to the Designated Hardware but these shall not afford any additional warranty to the Customer over that provided by the manufacturer unless otherwise specified in the Contract;
- 4.3.9 The warranty of the manufacturer or supplier is in lieu of all other terms or conditions whether express or implied concerning the quality or fitness for purpose of Designated Hardware and all such other terms and conditions are hereby excluded;
- 4.3.10 This Agreement will not prevent virtualDCS from entering into any similar agreement(s) with one or more third parties;
- 4.3.11 virtualDCS shall be entitled to reject any unsuitable media and shall have no responsibility or legal liability whatsoever for any of the things in clause 5 for which the Customer has agreed that it alone has responsibility.

5. Customer's obligations

- 5.1 While using the CloudCover Local Appliance Service, the Customer will, and will ensure that all relevant personnel and contractors of the Customer will, comply with virtualDCS's guidelines, policies and procedures relating to the CloudCover Local Appliance Service or any part or parts of the same.
- 5.2 The Customer will:
 - 5.2.1 use and operate the CloudCover Local Appliance Service in a proper, professional and responsible manner and in the ordinary course of its business;
 - 5.2.2 ensure that only by properly trained and skilled personnel use the CloudCover Local Appliance Service; and
 - 5.2.3 take good care of any hardware or software equipment or resources offered or supplied to it by virtualDCS as part of the CloudCover Local Appliance Service or in connection with the CloudCover Local Appliance Service at all times while using the CloudCover Local Appliance Service and at the end of use return any and all such items to virtualDCS in the same condition they were in before the Customer's use of the CloudCover Local Appliance Service commenced. Without prejudice to any other rights of virtualDCS, the Customer will within thirty days pay any invoice from virtualDCS in respect of restoration to such condition. Any hardware or software provided by virtualDCS as part of or in connection with the CloudCover Local Appliance Service unless purchased by the Customer will remain the property of virtualDCS, and will be returned following any such termination of this Agreement. Any such hardware or software provided shall only be used by or on behalf of the Customer for the purpose of the CloudCover Local Appliance Service.
- 5.3 The Customer alone is responsible in relation to its use of the CloudCover Local Appliance Services for:

- 5.3.1 the adequacy, accuracy and security of all storage media and data it processes, generates and/or uses;
 - 5.3.2 all software and other proprietary materials that do not form part of the supply by virtualDCS of the CloudCover Local Appliance Service (including ensuring that they are appropriately licensed);
 - 5.3.3 ensuring that virtualDCS is aware of all Software licenced as part of the CloudCover Local Appliance Service and that it matches that specified on the Order Form;
 - 5.3.4 the supply, operation, control and support of all other resources not included within the CloudCover Local Appliance Service;
 - 5.3.5 risk of loss of or damage to any such data, storage media, software, proprietary materials or other resources in any way in connection with the CloudCover Local Appliance Service;
- 5.4 The Customer will be responsible for ensuring any network connectivity not managed by virtualDCS is functioning properly.
- 5.5 virtualDCS shall ship the Designated Hardware to the Customer Site, according to the terms specified in the Order. Customer shall bear the shipping costs, insurance costs and applicable taxes. The Customer will install the Designated Hardware at the Site upon delivery, at Customer's sole expense unless otherwise agreed in writing. Customer will provide, at its own expense, the space and the infrastructure required for the installation of the Designated Hardware at the Customer Site, including power supply and cooling systems and all other necessary environmental conditions as customary and as recommended by virtualDCS, and including expansion of such space and infrastructure if and when required. Customer shall prepare the Site for installation and will also provide, at its own expense, racks, networking connectivity, IP addresses, WAN communication and Remote Hands. Customer is responsible for any special interface equipment or facilities necessary to ensure compatibility between the Designated Hardware and other equipment of the Customer. The Designated Hardware will be used by Customer exclusively in connection with the Services, and not for any other purpose.
- 5.6 Customer will be responsible for the physical security and the safekeeping of the Customer Site and the Designated Hardware. Customer may not affix or install any accessory, addition, upgrade, equipment of device on the Designated Hardware, unless expressly approved in writing by virtualDCS. Whenever required by virtualDCS, Customer shall allow and assist virtualDCS's representatives to enter the Customer Site and to inspect and handle the Designated Hardware. Customer will allow access to the Designated Hardware solely to its trained and competent required personnel, who shall handle the Designated Hardware according to customary practices and applicable Documentation provided by virtualDCS or the OEM.
- 5.7 As between the parties, title and ownership in the Designated Hardware remains solely with virtualDCS at all times. Customer shall mark the Designated Hardware with appropriate legends identifying the Designated Hardware as virtualDCS's property. Customer shall not remove or alter such legends or any other legends placed by virtualDCS. Customer shall not grant any security interest in or otherwise encumber any of the Designated Hardware, shall not cause any of the Designated Hardware, or any interest therein, to become subject to any lien, other than any lien required by virtualDCS. Upon request of virtualDCS, Customer shall execute any instrument or document required to perfect virtualDCS's security interest in the Designated Hardware.
- 5.8 Without prejudice to the foregoing statement, Customer bears all risks of loss and damage related to or arising from the Designated Hardware upon delivery and shall indemnify virtualDCS for any damage or loss caused to the Designated Hardware. Customer shall keep the Designated Hardware in good repair, appearance and condition, subject to normal wear and tear. Customer shall insure the Designated Hardware for its full replacement value with an insurance company of repute and if required by virtualDCS, shall provide it with an evidence of the insurance and endorsement of the interest of virtualDCS on such insurance policy. Customer's obligations to pay the fees in respect of the Designated Hardware is absolute and continues notwithstanding its loss, destruction or damage.
- 5.9 Upon termination of these terms and the Agreement, notwithstanding any other rights under the Agreement, the Customer shall remove the Designated Hardware from the Customer Site and return it to virtualDCS at its own cost, no later than ten (10) days of the termination date, according to shipping instructions received from virtualDCS. Should the Designated Hardware not be received by virtualDCS within such ten (10) days, Customer shall be invoiced for the Service Fee due until the Designated Hardware is received without derogating from virtualDCS's right to repossess the Designated Hardware.

- 5.10 Customer shall ensure the ability of virtualDCS and its agents to remote access the CloudCover Local Appliance Services, for the purpose of troubleshooting and management of the CloudCover Local Appliance Services. If virtualDCS diagnoses a defect that requires a Designated Hardware replacement or repair, or if Customer notifies virtualDCS of such defect, virtualDCS will provide the replacement part to Customer. The Customer may be asked to provide Remote Hands services to virtualDCS and the actual on-site hardware replacement may be performed either by the Customer or an agent of virtualDCS. The defective part will be returned to virtualDCS by the Customer within ten (10) working days from the date the Customer received the replacement part. virtualDCS shall bear the shipping costs of the replacement part, provided that the defect is covered under virtualDCS's support obligations, as detailed herein.
- 5.11 Customer must provide virtualDCS with an IP connectivity for the purpose of virtualDCS's support and management. The support will be provided by virtualDCS in English in accordance with virtualDCS's then existing Technical Support guidelines. virtualDCS's support obligations are conditioned upon Customer providing Remote Hands support and Customer will appoint designated personnel, to liaise with virtualDCS to provide the Remote Hands support. Without derogating from the above and from the provisions of the SLA, virtualDCS shall not be liable for any failure or unavailability of the CloudCover Local Appliance Services, and no SLA credits (as defined in the SLA) shall be provided, if Customer fails to provide virtualDCS the Remote Hands services or if Customer's designated personnel fail to adhere to virtualDCS's instructions. The CloudCover Local Appliance Services do not include customization, on-site assistance/support and installation of the Designated Hardware. Support or assistance required as a result of (i) fault or negligence of the Customer, (ii) repairs or modifications made by parties not authorized by virtualDCS, or (iii) causes external to the Services, may be provided by virtualDCS to the Customer subject to additional service fee.
- 5.12 The Customer acknowledges that elements of the Designated Hardware may be subject to export controls imposed by United Kingdom or other Governments and undertakes to apply for and obtain any necessary licences or other consents that may be necessary to export or take any product (or any part thereof) out of the United Kingdom, and only with express written permission from virtualDCS.

Schedule One - Customer License Terms Regarding Use of Microsoft Software

This Schedule governs the use of Microsoft software, which may include associated media, printed materials, and “online” or electronic documentation (individually and collectively, “Licensed Products”) provided by virtualDCS (hereinafter referred to as “Company”). Company does not own the Licensed Products and the use thereof is subject to certain rights and limitations of which Company must inform you. Your right to use the Licensed Products is subject to the terms of your agreement with Company, and to your understanding of, compliance with, and consent to the following terms and conditions, which Company does not have authority to vary, alter, or amend.

1. DEFINITIONS.

“Client Software” means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

“Device” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone,” server or other electronic device.

“Server Software” means software that provides services or functionality on a computer acting as a server.

“Software Documentation” means any end user document included with server software.

“Redistribution Software” means the software described in Paragraph 4 (“Use of Redistribution Software”) below.

2. OWNERSHIP OF LICENSED PRODUCTS.

The Licensed Products are licensed to Company from an affiliate of the Microsoft Corporation (collectively “Microsoft”). All title and intellectual property rights in and to the Licensed Products (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the Licensed Products) are owned by Microsoft or its suppliers. The Licensed Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Licensed Products does not transfer any ownership of the Licensed Products or any intellectual property rights to you.

3. USE OF CLIENT SOFTWARE.

You may use the Client Software installed on your Devices by Company only in accordance with the instructions, and only in connection with the services, provided to you by Company. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during your use of the Client Software.

4. USE OF REDISTRIBUTION SOFTWARE.

In connection with the services provided to you by Company, you may have access to certain “sample,” “redistributable” and/or software development (“SDK”) software code and tools (individually and collectively “Redistribution Software”). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS (“SPUR”) APPLICABLE TO COMPANY, WHICH TERMS MUST BE PROVIDED TO YOU BY COMPANY.** Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by Company.

5. COPIES.

You may not make any copies of the Licensed Products; provided, however, that you may (a) make one copy of Client Software on your Device as expressly authorized by Company; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Company, upon notice from Company or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Licensed Products.

6. LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.

You may not reverse engineer, decompile, or disassemble the Licensed Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

7. NO RENTAL.

You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Licensed Products to any third party, and may not permit any third party to have access to and/or use the functionality of the Licensed Products except for the sole purpose of accessing the functionality of the Licensed Products in the form of software services in accordance with the terms of this agreement and any agreement between you and Company.

8. TERMINATION.

Without prejudice to any other rights, Company may terminate your rights to use the Licensed Products if you fail to comply with these terms and conditions. In the event of termination or cancellation of your agreement with Company or Company’s agreement with Microsoft under which the Licensed Products are licensed, you must stop using and/or accessing the Licensed Products, and destroy all copies of the Licensed Products and all of its component parts.

9. NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT. ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY COMPANY AND NOT BY MICROSOFT, ITS AFFILIATES OR SUBSIDIARIES.

10. PRODUCT SUPPORT.

Any support for the Licensed Products is provided to you by Company and is not provided by Microsoft, its affiliates or subsidiaries.

11. NOT FAULT TOLERANT.

THE LICENSED PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE LICENSED PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

12. EXPORT RESTRICTIONS.

The Licensed Products are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and U.S. laws that apply to the Licensed Products, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by the U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.

13. LIABILITY FOR BREACH.

In addition to any liability you may have to Company, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

Schedule Two - Service Level Agreement

1.0 DEFINITIONS

"Resolution Delivery Time"	<i>means the time to be taken by virtualDCS to resolve a call from the time virtualDCS first becomes aware of the problem, by recommending a workaround, or by supplying a solution, or resolving a query to the customers reasonable satisfaction.</i>
"virtualDCS Service Desk"	<i>means the desk operated by virtualDCS to provide initial contact to the customer in relation to all and any events relating to the use or access of the Hosted Services.</i>
"Appliance Service(s)"	<i>Means the hardware and software managed by virtualDCS defined in the Schedule 2 of this agreement.</i>
"Response Time"	<i>means the period from when an event is logged by the virtualDCS Service Desk to the time when virtualDCS processes the call in accordance with the Support Service Response Level as defined in schedule 3.</i>
"Scheduled Downtime"	<i>scheduled maintenance of equipment or software (including operating systems patches and updates) where no less than two (2) days notice has been given to the Customer.</i>
"Emergency Maintenance"	<i>Emergency maintenance i.e. unscheduled maintenance necessitated by unforeseen circumstances (including (without limitation) software failure).</i>
"Force Majeure Event"	<i>events, omissions or accidents beyond the affected parties reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (other than involving the workforce of the affected party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm provided that the other party is notified of such an event and its expected duration.</i>
"Service Hours"	<i>Means 24hours per day, seven days per week including all UK and Statutory Bank Holidays.</i>
"Platform"	<i>Means the set of computer equipment which the Services are managed from.</i>
"Working Hours"	<i>Means 9.00am to 5:30pm Monday to Friday excluding all UK and Statutory Bank Holidays.</i>
"System Outage"	<i>means the unavailability of the Service during the Service Hours.</i>
"Virtual Server/Virtualisation"	<i>Is a server provisioned by partitioning a physical server computer into multiple servers such that each has the appearance and capabilities of running on its own dedicated machine. Each virtual server can run its own full-fledged operating system, and each server can be independently rebooted.</i>

2. SERVICE LEVEL DEFINITION

- 2.1 virtualDCS shall ensure that the Appliance Services will be available during the Service Hours in accordance with this Agreement.
- 2.2 Measurement of service levels will be based on the ability of the Appliance Service to be accessed by the customer during the Service Hours subject to any Scheduled Downtime or Service Level Exclusions as detailed below.

3. SCHEDULED DOWNTIME

3.1 virtualDCS shall notify the customer in advance, usually no less than one week and in any event no less than 48 hours, by email of any Scheduled Downtime.

4. SERVICE AVAILABILITY

4.1 The following equation will be used to calculate Service Availability. References to hours are to the number of hours (rounded to the nearest hour) in the applicable Monthly Review Period Based on a 30 day Month: $((\text{Total hours} - \text{Total hours Unavailable}) / \text{Total hours}) \times 100$, subject to any Scheduled Downtime or Service Level Exclusions.

4.2 Service Availability consists of virtualDCS cloud Platform issues, impacting provision of the Services.

Service Availability during Monthly Review Period	Service Credits as % of Monthly Rental Charge
<99.95%-99.8%	0%
99.79%-99.5%	5%
99.49%-99.0%	10%
98.9%-98.0%	15%
<98%	20%

5 CALCULATION OF SERVICE CREDITS

- 5.1 Where a Monthly Review Period incorporates part of a month, any service credit will apply to a pro-rated monthly Rental Charge.
- 5.2 Service credits will be calculated monthly, aggregated and credited to the Customer on a quarterly basis.
- 5.3 If a Service is cancelled during a Monthly Review Period, no service credit will be payable in respect of that service for that Monthly Review Period.
- 5.4 The Customer must claim any service credit due to a failure to meet the Service Levels, in writing, within twenty one (21) Business Days of the date at which the Customer could reasonably be expected to become aware of such failure, otherwise no service credits shall be payable. The Customer shall not be entitled to any service credits in respect of a claim unless and until virtualDCS has received notice of the claim in writing in accordance with the above. Should virtualDCS require additional information from the Customer, the Customer shall assist, and shall not be entitled to any service credits until virtualDCS has received all the information it has reasonably requested.
- 5.5 Service credits relate to the part of the service that has failed not the whole service.
- 5.6 Reports above those available through the service can be made available on request with 48 hours notice.

6 SERVICE LEVEL EXCLUSIONS

- 6.1 The Service shall not be deemed unavailable in the event of any failure caused by the following:
 - (i) communication links and network infrastructure of the customer (including Internet connections);
 - (ii) (removed);
 - (iii) failure by customer to meet any of its obligations under the Agreement;
 - (iv) Scheduled Maintenance where no less than two (2) days notice has been given to the Customer; and
 - (v) emergency maintenance i.e. unscheduled maintenance necessitated by unforeseen circumstances (including (without limitation) software failure) provided that such Emergency Maintenance continues for a period of less than 2 hours.

Schedule Three - Acceptable Use Policy

1. Introduction

All Customers who utilise the CloudCover Local Appliance Service are bound to comply with this Acceptable Use Policy (AUP). virtualDCS reserves the right to change this policy according to changes in law, company policy or Internet standards from time to time. Should changes be made they will be posted on the company web site, at the following url: www.virtualdcs.co.uk/downloads. Customers are advised that they must actively consult this page regularly to ensure that they are fully aware of any changes.

2. Illegal Use

Any virtualDCS Services must only be used with lawful intention. This means that Customers must not send or receive any material that would be considered offensive, abusive, indecent, obscene, pornographic, fraudulent, libellous, defamatory, menacing, criminal or likely to cause stress or annoyance.

3. Reports Of Abuse

Once a formal concern has been raised with virtualDCS, virtualDCS reserve the right to investigate the matter, gaining information from the concerned Customer and any other Customer involved. virtualDCS reserves the right to terminate or suspend all or part of the Customers services with immediate effect.