Supplementary terms and conditions for the supply of Hosted Cloud Services

The terms and conditions detailed in this Service Schedule are specific to the products and services as recommended by Eloquent Technologies and detailed on the appropriate quotation and subsequent Order. This Service Schedule is designed to work in conjunction with our Master Service Agreement (MSA) and/or General Terms & Conditions, and shall be provided for review where applicable

All definitions set out in either our Master Service Agreement (MSA) or General Terms and Conditions shall, unless otherwise specified below, have the same meaning when used in this Supplement.

1. SUPPLEMENTARY DEFINITIONS

1.1   'Data Centre' means the relevant Eloquent facility built to securely house IT computing systems including the Private Cloud Platform.

1.2   'Downtime' means any period during which the Service or component thereof is not available.

1.3   'Emergency Maintenance' means any period of maintenance for which, due to reasons beyond its reasonable control, Eloquent is unable to provide prior notice of.

1.4   'End User' means a user of the Services subscribed to by the Client.

1.5   'Helpdesk Services' means the helpdesk services described in the Schedule.

1.6   'Host Server' means a physical server that hosts multiple Virtual Servers.

1.7   'Line of Business Application' means software which is installed on the Platform and provided by the Client.

1.8   'Planned Maintenance' means any period of maintenance for which Eloquent has provided prior notice.

1.9   'Private Cloud Platform' ('Platform') means the infrastructure, including physical and virtual servers, storage systems, communications and network devices.

1.10   'Hosted Cloud Services' means the services set out on the Order and described in the Schedule.

1.11   'Probe' means Software which is installed on the IT Equipment by Eloquent which enables system performance reporting.

1.12   'Public Internet' means the world-wide collection of private and public router-based networks that are interconnected via gateways and exchange points.

1.13   'Respond' means to make a Response.

1.14   'Response' means Eloquent's initial response to a Support Call, but not necessarily a final fix to the associated Incident.

1.15   'Response Time' means the Eloquent's target time to make a Response to a Service Call.

1.16   'Services' means Hosted Cloud Services and Helpdesk Services.

1.17   'Service Component' means an individual component of the Services which is separately itemised on the Schedule.

1.18   'Service Limitations' means the Service Limitations set out in the Order.

1.19   'Service Request' means the requesting of a change, information or system-administration activity by the Client.

1.20   'Support Call' means the reporting of an Incident to Eloquent by the Client.

1.21   'Virtual Server' means a software implementation of a physical server that executes software programs which simulates the functions of a physical server. A Virtual Server is hosted within a Data Centre.

2. TERM

2.1 This Agreement will be deemed to come into effect on the date of the Client's Order and shall run until the RFS Date (the 'Run-Up Period') and following the RFS Date for the Minimum Term as set out in the Order.

2.2 Eloquent shall, not less than ninety days prior to the end of the Minimum Term or any anniversary thereof, notify the Client of changes to charges and any other changes to the terms of this Agreement. In the event that:

2.2.1 The Client serves notice to terminate this Agreement in accordance with clause 11 of the General Terms and Conditions or clause 9 hereof, this Agreement shall terminate at the end of the Minimum Term or the end of any calendar month thereafter;

2.2.2 The Client notifies Eloquent of acceptance of changes, the Agreement shall continue in force until terminated at the end of any calendar month thereafter;

2.2.3 The Client fails to notify Eloquent of acceptance of changes and fails to serve notice to terminate, such failures to notify Eloquent shall imply that the changes have been accepted and the Agreement shall continue in force until terminated at the end of any calendar month thereafter.

3. PROVISION OF SERVICES

3.1 Hosted Cloud Services is an Infrastructure-as-a-Service (IaaS) service that is provided by Eloquent, which is accessed by the Client using independently supplied network services, which for the avoidance of doubt, are not covered by the terms of this Agreement. The Hosted Cloud Services may include any of the following:

3.1.1 Provision of hosted Virtual Servers;

3.1.2 Liaison with third party service suppliers;

3.1.3 Backup services;

3.1.4 Disaster Recovery services;

3.1.5 Monitoring services;

3.1.6 User Administration;

3.1.7 Patch Management;

3.1.8 End Point Security;

3.1.9 Helpdesk Services.

3.1.10 Virtual Firewall (Fortigate Platform)

The Service Components to be provided under the terms of this Agreement are set out in the Order and are fully described in the Schedule.

3.2 Eloquent shall use reasonable endeavours to provide each of the Services set out in the Order and described in the Schedule to the Client, from the RFS Date. Eloquent shall use reasonable endeavours to provide the Services twenty-four hours per day, subject to the limitations expressed in this Agreement.

3.3 The Client acknowledges that the RFS Date shall not be dependent on any planned migration onto the relevant Services or when the Client commences using the Services.

3.4 During the term of this Agreement, Eloquent shall be entitled to:

3.4.1   Change the technical specification of the Services for operational reasons, statutory or regulatory requirements PROVIDED THAT such changes do not materially adversely affect the quality or performance of the Services;

3.4.2   Make alterations to the Services. Such alterations may result in temporary disruption to the Services and Eloquent will use reasonable endeavours to minimise such disruption and will provide as much notice as possible.

3.5   Eloquent cannot guarantee and does not warrant that the Services will be free from interruptions, including interruption of the Services for operational reasons and temporary degradation of the quality of the Services.

4.   ACCEPTABLE USE

4.1   The Client agrees to use the Services in accordance with the provisions of this Agreement, any relevant Service literature and all other reasonable instructions issued by Eloquent from time to time.

4.2   The Client agrees to ensure that the Services are not used by its End Users to:

4.2.1   Post, download, upload or otherwise transmit materials or data which is abusive, defamatory, obscene, indecent, menacing or disruptive;

4.2.2   Post, download, upload or otherwise transmit materials or data uploads or make other communications in breach of the rights of third parties, including but not limited to those of quiet enjoyment, privacy and copyright;

4.2.3   Send or knowingly receive data in such a way or amount so as to adversely affect the network (or any part thereof) which underpins the Services, its suppliers or third parties;

4.2.4   Carry out any fraudulent, criminal or otherwise illegal activity;

4.2.5   Obtain access to restricted areas of the network, data, systems or services;

4.2.6   In any manner which in Eloquent's reasonable opinion brings Eloquent's name into disrepute;

4.2.7   Knowingly make available or upload file that contain viruses, malware or otherwise corrupt data;

4.2.8   Falsify true ownership of software or data contained in a file that the Client or End User makes available via the Services;

4.2.9   Falsify user information or forge addresses;

4.2.10   Act in any way which threatens the security or integrity of any computer system;

4.2.11   Violate general standards of internet use, including denial of service attacks, web page defacement and port or number scanning;

4.2.12   Connect to the Services insecure machines or services able to be exploited by others to carry out actions which constitute a breach of this Agreement including the transmission of unsolicited bulk mail or email containing infected attachments or attempts to disrupt websites and/or connectivity or any other attempts to compromise the security of other users of our network or any other third party system;

4.2.13   Send email to anyone who does not wish to receive it.

4.2.14   Operate, host, provide hosting facilities to or assist in any way any web site, email address, or any other online service which is advertised or promoted by means of unsolicited bulk email (whether commercial or informational), any mass messaging facility or any other form of abusive electronic communication. This prohibition applies whether the abusive communication takes place using Eloquent's Services, or otherwise. the Clients who are hosting providers in

particular should take care to ensure that their own acceptable use policy includes a prohibition of services advertising to unsolicited email recipients, since Eloquent shall be entitled to demand immediate suspension of access to Services advertising to unsolicited email recipients, once such services are drawn to its attention.

4.3   The Client acknowledges that it responsible for all data and/or traffic originating from the machines and/or networks that it has connected to the Services.

4.4   The Client agrees to immediately disconnect (and subsequently secure prior to reconnection) machines generating data and/or traffic which contravenes this Agreement upon becoming aware of the same and/or once notified of such activity by Eloquent.

4.5   The Client acknowledges that it is solely responsible for its / its End User's use of the Internet and any web pages owned and/or operated by the Client or anyone the Client permits to use the Services and that are connected to the Services.

5.   CLIENT'S OBLIGATIONS

During the term of this Agreement, and subject to the performance by Eloquent of its obligations hereunder, the Client shall:

5.1   Pay all additional charges levied by Eloquent, including but not limited to those arising from usage-based components of the service.

5.2   Ensure that user-names, passwords and personal identification numbers are kept secure and:

   5.2.1   On a regular basis, change access passwords for all Equipment that in the Client's reasonable opinion, may be liable to access by unauthorised persons.

5.3   In the event that Eloquent receives notification of a copyright infringement report, a request to provide a copyright infringement list, an order to impose a technical restriction or any other notice, request or order, the Client will do everything reasonably required by Eloquent to ensure that Eloquent will be in compliance with their respective obligations in respect of the provision of the Services.

5.4   Agree that in all instances where it attaches Equipment that has not been provided by Eloquent to the Services that such Equipment shall be technically compatible and conforms to any instruction issued by Eloquent in relation thereto.

5.5   Accept that in the event that it attaches Equipment that does not comply with the provisions of sub-clause 5.4 and such Equipment in the reasonable opinion of Eloquent is causing disruption to the Services, Eloquent shall be entitled to suspend the provision of the Services forthwith.

5.6   Accept that is the Client's sole responsibility to take all reasonable steps to prevent the introduction of viruses into the Services via the Client's Equipment or Software.

5.7   Inform Eloquent of the location the data files and directories to be backed up.

5.8   In the event that a backup fails and such failure is caused by the Client's own applications or the Client-managed third-party applications the Client shall assist Eloquent in the resolution of the issue.

5.9   If Eloquent has, at the request of the Client, applied patches or security updates to Line of Business Software, the Client shall test the Line of Business Software once the patch has been applied to ensure it has not impacted the Services. If the application of a patch has an adverse effect on the Line of Business Software, Eloquent will where possible remove the patch, in agreement with the Client.

5.10   Be solely responsible for ensuring compliance with the terms of licence of any software that it supplies for use with the Services.

6. ELOQUENT'S OBLIGATIONS

During the term of this Agreement, and subject to the performance by the Client of its obligations hereunder, Eloquent shall:

6.1   Provide the Services set out in the Schedule to this Supplement, subject to any Service Limitations set out in the Order or this Supplement and its Schedule.

6.2   Respond to Incident reports made by the Client and make reasonable endeavours to repair any fault that is within the Services or directly caused by Eloquent, its employees, agents, subcontractors or suppliers:

6.3   Notify the Client when it becomes aware of the RFS Date, and shall immediately notify the Client of any subsequent change thereto.

6.4   Make reasonable endeavours to provide the Services by the RFS Date.

6.5   Make reasonable endeavours to provide reasonable notice of any bona fide restriction which, for operational reasons Eloquent may place on the Services.

6.6   On a weekly basis, apply operating system patches and security updates.

7. INDEMNITIES

7.1   The Client agrees to indemnify, defend and hold harmless Eloquent from and against any liabilities, actions, losses damages, judgements, costs, fines, claims or expenses incurred by Eloquent or legal proceedings which are brought or threatened against Eloquent by a third party in the event of:

7.1.1   The Services being used in breach of the acceptable uses set out in clause 4 hereof;

7.1.2   Any fraud except by Eloquent;

7.1.3   All claims made by third parties arising from faults in the Services.

7.2   In the event that a party becomes aware of any claim as set out in sub-clause 7.1 it shall:

7.2.1   As soon as reasonably practical, notify the indemnifying party of such claim;

7.2.2   Make no admission relating to such claim or legal proceedings without agreement of the indemnifying party, such agreement not to be unreasonably delayed or withheld;

7.2.3   Consult with the indemnifying party regarding the conduct of any action and have due regard for that party's representations and not agree any settlement, legal proceedings or make any payment by way of liquidated damages without the prior written agreement of the indemnifying party, such agreement not to be unreasonably delayed or withheld.

7.3   Subject to the limitations in clause 10 of the General Terms and Conditions, each party (the first party) to this Agreement will fully indemnify and hold harmless the other from any claim or liability whatsoever from a third party arising directly or indirectly from the failure of one of the first parties to obtain or maintain any of the licences, approvals, authorisations or consents as set out in sub-clauses 5.3 and 6.15 of the General Terms and Conditions.

7.4   Eloquent agrees to indemnify, defend and hold harmless the Client from and against any liabilities, actions, losses damages, judgements, costs, fines, claims or expenses incurred by Client or legal proceedings which are brought or threatened against the Client by a third party in the event of:

7.4.1   Any fraud by Eloquent;

7.4.2   Any negligent act or omission by Eloquent in relation to the Services.

7.5   Eloquent will indemnify the Client against all claims and proceedings arising from infringement of any intellectual property rights by reason of Eloquent's provision of the Services to the Client, PROVIDED

always that such claims or proceedings are not caused by the Client using the Services otherwise than in accordance with the terms of this Agreement.

7.6 Nothing in this Clause 7 shall restrict or limit the indemnified party's obligation in law to mitigate any loss which it may incur as a result of a matter giving rise to a claim.

8. GENERAL

8.1 The backup window typically runs between 1800hrs and 0700hrs daily. However, it is not possible to guarantee that the backup will complete within this window. Eloquent shall be entitled to terminate the backup at its sole discretion in the event that it overruns this window.

8.2 Eloquent understands there will always be unforeseen growth in the amount of data to be backed up and the rate of change may vary over time. It is the Client's responsibility to inform Eloquent as soon as it becomes aware that a large increase in the amount of backup storage will be required.

8.3 In the first instance Eloquent will always endeavour to complete a backup, but in the event of an unexpected large increase in storage requirement, Eloquent shall be entitled not to execute the backup Service. In such a case the Client will be informed at the earliest opportunity.

8.4 Eloquent's supplied antivirus software cannot guarantee a 100% detection and protection rate. Therefore, Eloquent can accept no liability for any damage or loss resulting directly or indirectly from any failure of the Service to detect a virus, or wrongly identifying a virus as suspected to be a virus which subsequently proves not to be so.

8.5 In the event that the Client requires installation of Line of Business Applications, Eloquent shall be entitled to perform an acceptance test on any application prior to installation:

8.5.1 If the software passes the acceptance test, Eloquent will then install and configure the application on guidance from the software vendor;

8.5.2 The Client shall be responsible for providing full installation instructions including any configuration details to Eloquent in advance;

8.5.3 Eloquent shall charge the Client for acceptance test and installation at its prevailing rates;

8.5.4 The Client shall be responsible for fully testing any Line of Business Applications once installed by Eloquent.

8.6 Eloquent may perform Planned Maintenance that may limit the availability of the Hosted Cloud Services. Planned Maintenance will be scheduled weekly (the 'Maintenance Window'), outside of the Working Day.

8.7 Private Cloud software updates and patches will be installed during the Maintenance Window except in cases where such updates are deemed to be Emergency Maintenance.

8.8 Backup Storage platform maintenance shall be completed during Working Hours so as not to impact the scheduled backup window, except in cases where Emergency Maintenance is required.

8.9 Eloquent may perform Emergency Maintenance, which may limit the availability of the Hosted Cloud Services, at any time. Eloquent will aim to:

8.9.1 Provide as much notice of such Emergency Maintenance as is reasonably possible; and

8.9.2 Minimise the impact on the Services as is reasonably possible.

8.10 Eloquent will from time to time issue de-support notices against specific older versions of the installed Software products within the Virtual Server/s provided in Services. Such notices will be issued at least ninety days prior to the notice taking effect. During this period, Eloquent will provide an upgrade path in consultation with the Client.

9. TERMINATION

9.1 In addition to the provisions of clause 11 of the General Terms and Conditions, this Agreement may also be terminated:

    9.1.1   By either party by giving the other not less than ninety days' notice in writing to terminate at the end of the Minimum Term or at the end of any calendar month thereafter;

    9.1.2   By the Client giving thirty days' notice in writing in the event that Eloquent makes changes to the terms of this Agreement which are to the detriment of the Client (for the avoidance of doubt, not including changes to charges) PROVIDED THAT such notice is given within thirty days of the effective date of the change(s).

9.2 On termination of this Agreement, if the Client requests that Eloquent exports Customer Data, Eloquent shall be entitled to charge at its prevailing rate for work required to export the Customer Data.

10. CHARGES AND PAYMENT

10.1 In general, invoices for installation shall be raised by Eloquent immediately following the acceptance of the Order, invoices for fixed periodic charges shall be raised in advance of the relevant period and invoices for usage-based charges during the relevant period shall be raised in arrears. The invoicing period is set out in the Order.

10.2 Except in the case of demonstrable error, all charges will be calculated in accordance with data collected by or on behalf of Eloquent.

10.3 The Client acknowledges that the charges for the Minimum Term are calculated by Eloquent in consideration inter alia of the setup costs to be incurred by Eloquent and the length of the Minimum Term offered.

10.4 the Client agrees that the Client shall be liable for termination charges in the event that this Agreement is terminated by:

    10.4.1   The Client terminating this Agreement at convenience prior to the end of the Minimum Term, whereupon the Client shall be liable for the fixed periodic charges payable for the remainder of the Minimum Term plus any additional costs levied on Eloquent by its supplier;

    10.4.2   The Client terminating this Agreement at convenience during the Run-Up Period, whereupon the Client shall be liable for all set-up costs and cancellation costs incurred by Eloquent up to the date that Eloquent received notice of the Client's intention to terminate;

    10.4.3   Eloquent terminating this Agreement prior to the end of the Minimum Term by reason of the Client's un-remedied breach of the terms of this Agreement, whereupon the Client shall be liable for the fixed periodic charges payable for the remainder of the Minimum Term plus any additional costs levied on Eloquent by its supplier;

10.5 The Client shall not be liable for termination charges in the event that this Agreement is terminated by:

    10.5.1   The Client at the end of the Minimum Term or end of any calendar month thereafter PROVIDED THAT the Client properly serves written notice to terminate, in accordance with Clause 9 of this Supplement and Clause 11 of the General Terms and Conditions;

    10.5.2   The Client or Eloquent during the Run-Up Period by reason of Eloquent becoming aware that will be unable to provide the Services or part thereof;

    10.5.3   Eloquent at any time in the event that it can no longer provide the Services or part thereof;

    10.5.4   The Client by reason of Eloquent's un-remedied breach of the terms of this Agreement;

10.5.5   The Client in the event that Eloquent makes changes to the Services which materially adversely affect the Client;

10.5.6   The Client in the event that Eloquent makes changes the terms of this Agreement which are materially disadvantageous to the Client PROVIDED THAT the Client complies with the provisions of sub-clause 9.1.2 of this Supplement.

11.   LIMITATIONS AND EXCLUSIONS

11.1   In addition to the terms set out in clause 13 of the General Terms and Conditions, Service Credits shall not be applicable to Applicable Services in the event that the failure in availability arises from:

11.1.1   Emergency Maintenance, patching or network or service upgrades by Eloquent or its suppliers;

11.1.2   Planned Maintenance, patching or network or service upgrades by Eloquent or its suppliers;

11.1.3   Failure of any connection to the Hosted Cloud Services which is not provided or managed by Eloquent under the terms of this Agreement, including the Public Internet, private network services provided to the Client by a third party and the Client's own network;

11.1.4   Any Client or contracted third party based security, exploit or boundary testing;

11.1.5   Denial of Service or Distributed Denial of Service attacks on the Client or Eloquent's network; or service attacks, spamming, viruses or other computer malware, where the Service is made available to the internet.

11.1.6   Unavailability caused by a Client Virtual Server automatically restarting on an alternate Host Server or Data Centre in the event of the primary Host Server or Data Centre failing.

11.2   In addition to the terms set out in clause 12 of the General Terms and Conditions, Eloquent shall also be entitled to suspend the provision of Services, in whole or part, without notice due to:

11.2.1   Emergency maintenance or other emergency operational reason;

11.2.2   Eloquent is required by Government, emergency services, regulatory body or other competent authority to suspend Services;

11.3   Eloquent shall also be entitled to suspend the Services for the purpose of carrying out planned maintenance or upgrades, subject to reasonable notice. Eloquent shall use reasonable endeavours to minimise the frequency and extent of such planned maintenance or upgrades.

11.4   Whilst Eloquent's monitoring system is intended to proactively identify most system-related issues, Eloquent does not warrant and cannot guarantee that the monitoring system will identify all system-related issues.

Service Schedule

The following Service Schedule sets out all of the Services that may be provided by Eloquent within these Supplementary Terms. Any Services that are indicated herein as optional shall be provided under the terms of this Agreement if they are listed on the Order.

1. Service Description Overview

1.1   Hosted Cloud Services are an Infrastructure-as-a-Service (IaaS) service that is provided by Eloquent. It delivers scalable and automated computing resources for the configuration and deployment of Virtual Servers. This capability is delivered within a secure multi-tenant platform.

1.2   Hosted Cloud Services include a number of Service Components, which are described in this Schedule. Those services which are identified as being optional shall be included in the Services if they are indicated in the Order as included.

1.3   Hosted Cloud Services will be delivered from one or two Data Centres which are based in the UK.

1.4   Hosted Cloud Services includes logical separation between Client environments within the multi-tenant platform to deliver dedicated infrastructure resources per Client and protect data against unauthorised access.

1.5   Eloquent is responsible for hosting and managing the availability of the Platform, for the Hosted Cloud Services, including Data Centre networking, Host Servers, Security and Storage.

2. Resource Pool

2.1   The Resource Pool is included as part of the Service and is defined as the combined CPU, Memory and Storage resources purchased by the Client as set out in the Order.

2.2   The CPU, Memory and Storage options to configure a Virtual Server on the Private Cloud Platform are set out in the Order.

2.3   Eloquent will maintain an appropriate contention ratio of physical CPUs to virtual CPUs on the Private Cloud Platform.

3. Storage

The Private Cloud Service provides a number of different types of storage options for Virtual Servers. Each storage option can be configured to increase storage within the limitations of the Resource Pool purchased by the Client.

3.1   SATA (or similar) based disk system. This type of storage has lower access-time performance and is typically used to store archive files that are accessed infrequently.

3.2   Mid-line SAS (or similar) based disk system. This type of storage has moderately high access-time performance and is typically used to store operating system or normal files that are accessed frequently but don't need high performance.

3.3   SAS (or similar) based disk system. This type of storage has high access-time performance and is typically used to store heavy usage operating system or database files that are accessed frequently.

3.4   SSD (or similar) based disk system. This type of storage has very high access-time performance and is typically used to store multi I/O, heavy usage databases or files that are accessed extremely frequently and require high performance.

4. Backup Storage

4.1 Backup Storage is a dual Data Centre backup option that allows backup of the Client data to secure storage. Backup jobs and restoration jobs are fully managed by Eloquent.

4.2 "Point in time" backup data is stored in two Data Centres, with a copy maintained at the local Data Centre and replicated to an offsite Data Centre. Backup data is stored on resilient storage at both sites. This ensures that backup data remains available for the Client in the event of an unforeseen issue at the primary Data Centre.

4.3 All the Client backup data is stored in UK based Data Centres.

4.4 The backup window typically runs between 1800hrs and 0700hrs daily. However, it is not possible to guarantee that the backup will complete within this window and failure to do so will result in the automatic cancellation / failure of the backup.

4.5 Backed up data is as standard held on disk for a period of 40 days (as such 40 revisions). Additional retention periods are available upon request.

4.6 Virtual Server backups are achieved using Host Server level backup software that allows for backup and restoration of a Virtual Server in its entirety (image backup). Furthermore the backup images produced allow for granular restoration which allows subsequent restoration of specific applications or data without the need to restore an entire Virtual Server. All Virtual Servers hosted on the Private Cloud Platform can be backed up in this way.

4.7 Eloquent supports Granular Backup for Microsoft Windows operating systems. Other Operating Systems may be supported upon request.

4.8 Eloquent supports Granular Backup for the following native applications and databases:

    4.8.1 Microsoft SQL Server

    4.8.2 Microsoft Exchange

    4.8.3 Microsoft SharePoint

    4.8.4 Active Directory

4.9 If the Client wishes to backup a database granularly that is not supported then any running databases must be extracted by the Client to a specified location before the start of the backup window. This will then be completed as a file based backup.

4.10 If the Client wishes to backup an application granularly that is not supported then any running applications must be extracted by the Client to a specified location before the start of the backup window. This will then be completed as a file based backup.

4.11 In the event of a Backup Failure:

    4.11.1 The backup system will automatically notify Eloquent of backup success, backup errors and backup failures.

    4.11.2 If a backup failure is detected by Eloquent's monitoring system, the backup system will automatically attempt to complete the backup during the next scheduled backup window.

    4.11.3 If the backup fails three consecutive times Eloquent's support team will receive an alert from the backup system and will investigate the problem to identify root cause.

4.12 All the Client backup data is encrypted to AES-256 before transmission. Virtual Server backups are encrypted at rest.

4.13 The Client can request restoration of any of the following:

    4.13.1 File restore - to the original location as an overwrite or to a different location

4.13.2   Virtual Server restore - as a complete overwrite of that Virtual Server or alongside the existing

4.13.3   Microsoft Exchange mailbox restore

4.13.4   Dynamic application restores to the original location as an overwrite or to a different location

4.13.5   Dynamic database restores to the original location as an overwrite or to a different location

Data restores are only initiated when requested by authorised Client personnel.

5.   Disaster Recovery

5.1   All Virtual Servers that comprise the Private Cloud Platform are replicated between two Data Centres.

5.2   Replication mode is either "active-passive" or active-active, as set out on the Order.

5.3   If one or more Virtual Server(s) in the primary Data Centre fails or the Data Centre itself becomes unavailable, processing will be transferred to the secondary Data Centre ('Failover'). The Failover mechanism is dependent on the replication mode:

   5.3.1   In active-active mode the Failover will be automatic, with no data loss;

   5.3.2   In active-passive mode, the Failover will be achieved manually by Eloquent. During this process there is a risk that there will be some data loss. Eloquent will use reasonable endeavours to minimise any data loss.

6.   Networks

6.1   Each Host Server within the Private Cloud Platform is connected via resilient network connections and spans both Data Centres. Eloquent will balance throughput across the Virtual Servers contained within each Host Server and each Data Centre as it deems necessary.

6.2   The Private Cloud Platform will include at least one private network and/or an external network.

6.3   A private network only exists within the Private Cloud Platform and does not provide communication to external infrastructure. This allows Virtual Servers to communicate with one another.

6.4   An external network allows connectivity beyond the Private Cloud Platform, enabling internal Virtual Servers to communicate with external infrastructure and/or the Public Internet.

6.5   Virtual Servers can be configured to be externally contactable or internally contactable over private networks.

7.   Security

7.1   The Private Cloud Platform is based in ISO27001 and ISO9001 accredited, secure UK-based Data Centres.

7.2   The Private Cloud Platform maintains separation of Client data networks at all times through the use of virtual networks ('VLANs') to isolate different broadcast networks. Addresses on the same network but on different VLANs will not see each other, ensuring network isolation and security within the Private Cloud Platform.

7.3   Where the Private Cloud Platform is connected directly to the Public Internet, a physical or virtual firewall will be provided to ensure the security of the Platform.

7.4   Eloquent can provide managed firewall options separately to the Hosted Cloud Services

8. System Administration and Monitoring

8.1 Eloquent is responsible for the administration, configuration and management tasks to be undertaken on the Private Cloud Platform:

8.1.1 CPU and Memory configuration changes to an existing Virtual Server;

8.1.2 Allocation of Storage volumes to Virtual Servers;

8.1.3 Increase Storage on an existing Virtual Server;

8.1.4 Disk and Logical Volume configuration;

8.1.5 Virtual Server state changes (Start, Stop, Reboot, Delete);

8.1.6 Virtual Server (re-)configuration;

8.1.7 Virtual Server network configuration;

8.1.8 Optionally, Uploading the Client's own Virtual Servers to the Private Cloud Platform;

8.1.9 Troubleshoot the Platform in the event of an issue, replacing faulty hardware components where necessary;

8.1.10 Operating System vendor liaison where required.

8.1.11 Virtual Firewall (Fortigate Platform)

8.2 Eloquent will install relevant Probes on agreed virtual servers to enable pro-active monitoring of the Platform, Virtual Servers and the Client's applications running thereupon. The Probes will monitor key aspects of system performance and will alert Eloquent to any detected malfunctions or potential malfunctions ('Alerts'). In response to both Alerts raised automatically and Incidents raised by the Client via Eloquent's help-desk service, Eloquent shall respond in a manner that is appropriate to the severity of the Alert or Incident, whilst aiming to minimise disruption to the Services and maintain the availability of the Platform within its SLA.

Key aspects of system performance include:

8.2.1 The availability of the Platform / Services;

8.2.2 The performance of the Platform / Services;

8.2.3 The capacity of the Platform / Services;

9. Patch Management

Eloquent shall be responsible for the overall operating system patch management implementation, operations and procedures. The standard operating system patch management tasks include:

9.1 Scan each Virtual Server operating system on a weekly basis and produce a report that identifies all outstanding operating system patches, for the following operating systems:

9.1.1 Microsoft Windows, as currently supported by Microsoft.

9.2 Perform operating system patching, following established operating system hardening procedures to ensure the installation of the most recent verified patches. Standard policy is to only deploy operating system patches that have been on general release for more than one calendar month.

9.3 Run a report to verify the successful installation of operating system patches. Any operating system patches not successfully installed will be highlighted to the Client.

9.4 Operating system patches will be applied during the Maintenance Window, according to vendor recommendations.

9.5 If set out on the Order, Eloquent will apply patches to Line of Business Applications that are provided by the Client.

10. End Point Security (Option)

End Point Security is an optional service which Eloquent will provide if set out on the Order.

10.1 Eloquent will install and configure antivirus / antimalware software on all Virtual Servers using an industry recognised antivirus engine, on newly deployed Windows Servers.

10.2 The antivirus service will notify Eloquent if there is a virus infection on the Virtual Server.

10.3 Eloquent will respond to security alerts generated from the antivirus software and take necessary steps to investigate the issue.

11. Software Licensing

11.1 Operating System Licensing:

11.1.1 Windows Server - Eloquent is responsible for the supply, installation and support of Microsoft Windows Server operating system licenses within the Platform. The Microsoft Windows operating system will be licensed by Eloquent under the terms of the Microsoft Service Provider Licensing Agreement (SPLA).

11.2 Antivirus Licensing:

11.2.1 Eloquent is responsible for the supply, licensing and installation of antivirus software if the Antivirus option is taken.

11.3 Backup Licensing:

11.3.1 Eloquent is responsible for the supply, licensing and installation of Backup software.

11.4 Application Licences:

11.4.1 Eloquent is responsible for the supply and installation of any application licences specified within the Order. Any such Microsoft applications will be licensed by Eloquent under the terms of the Microsoft Service Provider Licensing Agreement (SPLA).

11.4.2 The Client is responsible for any and all licences for Line of Business Applications that are migrated into the Private Cloud Platform.

11.4.3 If the Client migrates its own Microsoft application licences to the Hosted Cloud Services, it shall comply with the terms of the 'Microsoft License Mobility through Software Assurance' program.

11.4.4 Under the terms of 'Microsoft License Mobility through Software Assurance Program, the Client may transfer all eligible Licence Mobility products owned by the Client to the Service Provider. The Client must complete and submit a Licence Mobility Verification Form.

12. User Administration

Eloquent will ensure that server-based End User accounts are at all times properly managed and in response to Service Requests made by the Client, Eloquent shall set up, change and delete End User accounts.

13. Reporting (Option)

Reporting is an optional service which Eloquent will provide if set out in the Order. Eloquent will on request and subject to fair usage provide comprehensive reports, which detail:

13.1 Support Calls logged in the period, including number of Support Calls, Response and Resolution times.

13.2 Availability of the Service Components.

13.3 The reporting service for Fortinet hosted firewall is provided by FortiAnalyzer

13.3.1 www.Fortinet.com/content/dam/fortinet/assests/data-sheets/FortiAnalyzer.pdf

14. Helpdesk Service

Eloquent's Helpdesk Service provides support and assistance in the use of the Hosted Cloud Services as follows:

14.1 Provision of help and guidance in the use and configuration of the Hosted Cloud Services;

14.2 Management of the prompt resolution of Incidents that occur in the Private Cloud Platform and are raised by the Client

14.3 Management of the prompt resolution of Incidents that occur in the Private Cloud Platform and are raised by Eloquent's monitoring system;

14.4 Management of hardware, firmware and software upgrades as required as a result of routine maintenance or product / service improvement activities by Eloquent.

14.5 Escalation management if required in the event of protracted Incident resolution.

14.6 The Helpdesk Service is available Monday to Friday 08:00 to 18:00, excluding bank and public holidays or 24/7/365 as defined in the Order.

14.7 The Client shall make requests for assistance by one of the following methods:

14.7.1 Via Eloquent's web support portal: TBC

14.7.2 By Email to Eloquent's help desk: support@eloquent-technologies.com;

14.7.3 By Telephone to Eloquent's help desk: 0333 2000 991

14.8 Eloquent shall aim to perform initial triage on the Client's request for assistance within one hour of the Client raising an Incident report, evaluating and assigning the priority based on our standard criteria as detailed in the Impact and Urgency table below

Impact		Urgency		
	Description	Whole company is affected	Departments or large group of users are affected	One user or a small group of users is affected
	All Business Functions Affected	Priority 1	Priority 2	Priority 2
	Critical Business Functions affected	Priority 2	Priority 2	Priority 3
	Non Critical Business Functions	Priority 3	Priority 3	Priority 4
	Change Request (New User Request. Request for Information, etc)	Priority 3	Priority 4	Priority 4

The priority status of your request will then define the standard response times that can be expected, as per the below table:

Priority		**Target Assignment** Goal = 95%	**Target Response** Goal = 95%	**Target Resolution*** Goal = 85%	**Agent Update KPI** Goal = 90%
	Priority 1	15 mins	30 mins	4 hours	Hourly
	Priority 2	15 mins	1 hour	8 hours	Hourly
	Priority 3	1 Hour	4 hours	2 Working days (16 Business hours)	Every 8 hours
	Priority 4	1 Hour	8 hours	3 Working Days (24 Business hours)	Every 8 hours
	Change Request	4 Hours	8 hours	3 Working Days (24 Business hours)	Every 8 hours

- All times shown are taken from initial receipt of the request within our systems
- Times shown are maximum response times and every effort is made to provide a response quicker than that stated.
- Target ASSIGNMENT is defined as the time between a request being raised by the Customer and a member of our Operations Team being assigned to investigate
- Target RESPONSE is defined as the time between a request being raised by the Customer and a member of our Operations Team getting in contact for further information and to progress the necessary actions for resolution
- Target RESOLUTION is an estimated fix time that cannot be guaranteed. Please note; this does not include time spent waiting for response by the Customer and/or 3rd parties. *Please also note; certain services are subject to individual target resolution times as detailed in the applicable Service Schedule.

14.9 The priority status of your request will be continually evaluated by our Support Team

15. Service Level Agreement

15.1 As Clients may select differing Service Components within Private Cloud Platform, for the purpose of the Service Level Agreement, service level targets are set separately for each Service Component.

15.1.1 Each Service Component comprises a bundle of one or more service elements, which are described in the table under each Service Component heading within this section.

15.1.2 Service Components that are labelled "Applicable Services" qualify, subject to the terms of this Agreement, for payment of Service Credits to the Client should the relevant target not be met by Eloquent;

15.1.3 Availability is measured in minutes as the aggregated time that a Service Component is available per calendar month, and downtime is calculated as:

(Time in minutes in a 24 hour day x number of days in the month) – measured availability

15.2 Platform Availability for Dual Data Centre Configuration (Applicable Service)

It should be noted that Platform Availability specifically excludes any network connectivity outside of the Private Cloud Data Centre platform. For example; network connectivity to Client sites, such as Ethernet lines are excluded.

Platform Availability Target		
<u>Service Component</u>	<u>Measurement</u>	<u>Target Maximum Monthly Downtime (MMD)</u>
Private Cloud Access	Availability of network connectivity between Virtual Servers and connected private Service (at the Data Centre).	4 hours
Internet Cloud Access	Availability of network connectivity between Virtual Servers and Public Internet (at the Data Centre).	
Virtual Server	Availability of Virtual Server	
Resource Pool	Availability of and access to resource pool to support the following functionality: • Deploy new Virtual Server • CPU, RAM and storage configuration changes on existing Virtual Server • Virtual Server state changes	

15.2.1 If the measured downtime in any month exceeds the target specified in sub-clause 15.2, the Client shall be entitled to claim Service Credits as a percentage of the monthly recurring charge as follows:

Downtime	Service Credit %
Less than 4 hours	0%
Between 4 and 5 hours	5%
Between 5 and 6 hours	10%
Between 7 and 8 hours	15%
Between 8 and 9 hours	20%
Greater than 9 hours	20% plus 2% for each hour

15.3   Backup Service Availability in Dual Data Centre Configuration (Applicable Service)

Backup Service Availability		
Service Component	Configuration	Maximum Monthly Downtime (MMD)
Backup Service	Dual Data Centre	4 hours

15.3.1   If the measured downtime in any month exceeds the target specified in sub-clause 15.3, the Client shall be entitled to claim Service Credits as a percentage of the monthly recurring charge as follows:

Downtime	Service Credit %
Less than 4 hours	0%
Between 4 and 5 hours	5%
Between 5 and 6 hours	10%
Between 7 and 8 hours	15%
Between 8 and 9 hours	20%
Greater than 9 hours	20% plus 2% for each hour

15.4   Backup targets

The target for initiating a restore following a request from the Client to do so is:

15.4.1   Four hours during a Working Day for critical items;

15.4.2   Eight hours outside of a Working Day or for non-critical items.

Restoration time will vary depending on the quantity and complexity of what is being restored. Critical items will be specified by the Client upon requesting a restoration.

15.5   Disaster Recovery targets

The Target Recovery Time Objective will be assessed from the time of Eloquent invoking a failover (server operational and available in alternate Data Centre).

Target Recovery Point Objective (RPO)	Target Recovery Time Objective (RTO)
15 minutes	1 hour

15.6   Incident Response and Recovery Times (Applicable Service)

Eloquent aims to Respond to and Recover Incidents that occur in the Hosted Cloud Services in timescales set out below:

Response and Recovery Times		
Severity	Response	Recovery
Severity 1	30 minutes	2 Hours
Severity 2	1 Working Hour	6 Hours
Severity 3	4 Working Hours	Next Working Day
Severity 4	Next Working Day	N/A

15.6.1　If Eloquent fails to meet the recovery target for Severity 1 Incidents set out in sub-clause 15.6, the Client shall be entitled to claim Service Credits as a percentage of the monthly recurring charge as follows:

Severity 1 Recovery Time	Service Credit %
Less than 2 hours	0%
Between 2 and 3 hours	5%
Between 3 and 4 hours	10%
Between 4 and 5 hours	15%
Between 6 and 7 hours	20%
Greater than 7 hours	20% plus 2% for each hour

15.6.2　Incident severities are defined as follows:

Incident Severity	Class	Description
Severity 1	Emergency	Total loss of service
Severity 2	Major	Significant degradation of service
Severity 3	Minor	Minor degradation of service
Severity 4	Service Request	Eg. change of configuration, user administration change, information request, etc.

15.7　Failure by Eloquent to meet the targets set out in this Paragraph 15 shall not be deemed to be a breach of this Agreement.

16.　Escalation Handling and Complaints

16.1　If you are dissatisfied with the progress of any request, you may escalate to **Level 1** from the 'time since incident logged' as per the table and contact details below.

16.2　If your complaint remains unresolved, you should escalate to **Level 2** in the escalation path. This is recommended to be either by telephone or email using the details provided

Priority		Level 1			Level 2		
		Time Since Incident Logged	Contact Role	Contact Details	Time Since Incident Logged	Contact Role	Contact Details
Priority	Priority 1	5 Hours	Head of Service Delivery	escalations@eloquent-technologies.com 0333 200 0991	6 Hours	Managing Director	david.ford@eloquent-technologies.com 07766 900244
	Priority 2	9 Hours	Head of Service Delivery	escalations@eloquent-technologies.com 0333 200 0991	10 Hours	Managing Director	david.ford@eloquent-technologies.com 07766 900244
	Priority 3	2 Working Days	Head of Service Delivery	escalations@eloquent-technologies.com 0333 200 0991	3 Working Days	Client Director	scott.marshall@eloquent-technologies.com 07539 101627
	Priority 4	4 Working Days	Head of Service Delivery	escalations@eloquent-technologies.com 0333 200 0991	5 Working Days	Client Director	scott.marshall@eloquent-technologies.com 07539 101627
	Change Request	4 Working Days	Head of Service Delivery	escalations@eloquent-technologies.com 0333 200 0991	5 Working Days	Client Director	scott.marshall@eloquent-technologies.com 07539 101627

16.3 Formal complaints should be made in writing to directors@eloquent-technologies.com and will be responded to within to two Working Days