# LEGAL TERMS & CONDITIONS OF THE AGREEMENT

This SUBSCRIPTION AGREEMENT (‘Agreement’) is made and entered into by and between [Prospect Legal Name] registered with the Registrar of Companies in [COUNTRY] under number: [company reg.no.], located at [full-style address] (‘Client’ or ‘Customer’) and Quantum Cybersecurity Skills Ltd., registered in UK under number: 12762463, located at Kemp House, 160 City Road, London EC1V 2NX, United Kingdom (‘QCS’) for the use of the Quantum Cybersecurity Skills security professional services offering (‘Services’ or ‘Service’). It includes the QCS invoice, which will be attached as a part of the Agreement (‘QCS Invoice). The Agreement shall become binding upon execution by both parties (each a ‘Party’ or collectively the ‘Parties’). In the event of a conflict between the terms of the Agreement and the QCS Invoice, the terms of the Agreement shall control.

 Quantum Cybersecurity Skills professional training Services offer

1. QCS knowledge base, advice, CBT training materials, risk mitigation services (‘CBT Materials’, ‘Service’ or ‘Services’) consists of the following copyrighted products:
	* 1. QCS training materials
		2. Best Security Practice Success Recipes, Custom Roadmap
		3. Technical Skills and Knowledge
	1. Client is hereby granted a license to use the ‘Service’ for the chosen scope of Service deliverables as defined under ‘Investment Proposal For Security Operations Optimization Program’ paragraph and detailed in the QCS Invoice. The access to Service is granted to Client’s employees, employees of Client’s subsidiaries, and their authorized contractors and agents at any of its office locations (‘User’ or ‘Users’). The Service is limited to no more than the number of Users or Modules or specific scope of work set forth in the Agreement.
	2. Unless otherwise specified in the applicable QCS Invoice (i) Services are purchased as User subscriptions and may be accessed by no more than the specific number of Users, additional User subscriptions may be added during the subscription term at the same pricing as that for the pre-existing subscriptions. Pro-rata for (i) Service is not applicable. User subscriptions are for designated Users and cannot be shared or used by more than one User, but may be assigned to new Users replacing former Users who have left the organization or have been assigned to other department and no longer require provided service.
	3. Unless otherwise specified in the applicable QCS Invoice (ii) Services are purchased as Module subscriptions. Knowledge base that is applicable to a specific Module cannot be extended to other Modules unless purchased, (ii) Services specific to purchased Module(s) can be accessed unlimited times during the Subscription Term. Additional Module(s) subscriptions (ii) may be added during the Subscription Term at the same pricing as that for the pre-existing subscriptions, prorated for the remainder of the Subscription Term in effect at the time the additional Module(s) subscriptions are added, and shall terminate on the same date as the pre-existing Module(s) subscriptions.
	4. Unless otherwise specified in the applicable QCS Invoice (iii) Services and service specific SLAs (Service Level Agreement) are purchased as specifically outlined in the Appendix of this Proposal. The defined scope of service cannot be extended unless separately agreed in writing, (iii) Services are non-refundable.
	5. Client shall receive (i) and (ii) Services updated during the Subscription Term (see below for definition of ‘Subscription Term’) at no additional cost.

 Using QCS Services

* 1. Client agrees that:
		1. It will use the Service consistent with the terms of the Agreement;
		2. It is responsible for ensuring its Users and / or Stakeholders compliance with the terms of this Agreement (applicable to all or part of QCS Service offer (i), (ii), (iii));
		3. It will immediately notify QCS of any known unauthorized use of Client’s account;
		4. It will not sell, resell, rent, copy or lease the QCS copyrighted Service beyond the use specified in the Agreement;
		5. It will not interfere with or disrupt the integrity or performance of the Quantum Cybersecurity Skills Service; and
		6. It will not reverse engineer the Quantum Cybersecurity Skills Service or the Licensed Documentation; and
		7. It will not access the Quantum Cybersecurity Skills Service or use the Licensed Documentation to build a competitive service or product, or copy any feature, function or graphic for competitive purposes; and
		8. It will not attempt to gain unauthorized access to Quantum Cybersecurity Skills Service and/or systems and/or networks.
	2. The license granted for the Service is royalty-free, non-exclusive, non-transferable, and non-sublicensable (except as noted in Clause 15e).
	3. QCS Service delivered to Customer pursuant to the terms of this Agreement may be branded with Client’s logo. Any logo applied to the Service pursuant to this section will be provided and approved in writing by Client.
	4. Should Client start using the Service in a commercial manner (non-trial and non-demo and non-Proof of Value) such action shall be deemed as acceptance of the Terms & Conditions outlined herein and automatic execution of the Agreement.
	5. Users may view (i) Services and complete assessments and exams an unlimited number of times during the Subscription Term.
	6. Stakeholders may view knowledge base offered by (ii) Services for the purchased Module(s) an unlimited number of times during the Subscription Term.

3. Termination & Modification to Services

* 1. The Subscription Term shall expire after the period of time as set forth in the QCS Invoice (‘Subscription Term’). Thereafter, it may be renewed for additional terms as mutually agreed upon by the Parties in writing.
	2. Client shall cease to use the QCS Service at the end of the Subscription Term.
	3. Client acknowledges and agrees that, to the extent authorized by applicable law, QCS may suspend and ultimately terminate Client’s access to the Service in connection with any actual:
		1. Material breaches or material violations of the Agreement that have not been cured by Client within thirty (30) days’ written notice of such breach or violation;
		2. Technical or security issues or problems caused by Client that materially impact the business operations of QCS or other QCS clients, whether directly or indirectly that have not been cured by Client within thirty (30) days or receipt of written notice of such issues or problem caused by or relating to Client, and/or
		3. Requests by law enforcement or government agencies (QCS will notify Client about such requests if permitted by law).
	4. QCS may also immediately terminate Client’s access to the Service in connection with:
		1. A written request by Client to do so (self-initiated termination), or
		2. Upon the expiration of the Subscription Term set forth in this Agreement provided Client does not enter into a written renewal of Service.

4. QCS Invoice

* 1. The applicable Service Deliverables and associated Subscription Fees, Number of Users (or chosen Modules or defined scope of services set out as a separate Appendix of this Agreement), and Subscription Term as set forth in the QCS Invoice and fully incorporated herein by reference. The items set forth in the QCS Invoice may be updated from time to time by mutual written agreement of the Parties.
	2. Client may choose to add additional Users (1i) or Module(s) (1ii) or extend the scope of (1iii) Services unlimited times during the Subscription Term. The minimum number of Users for additional purchase of (1i) Service is 1 (one). The minimum number of Modules for additional purchase of (1ii) Service is 1 (one). The minimum commitment of order value for (1iii) service is US Dollars 2,000 (two thousand) for the agreed scope of work.

5. Payment Terms and Taxes

* 1. User and Modules based subscription fees are based on periods that begin on the subscription start date and each specified anniversary thereof; therefore, fees for the User and Modules subscriptions added in the middle of a subscription term will be charged for the next full period and the periods remaining in the subscription term.
	2. QCS will invoice Client for one hundred percent (100%) of the agreed Total Investment in advance and prior to access being granted to QCS Service.
	3. QCS Invoices are exclusive of any value added or similar taxes. Where such taxes are applicable to a QCS Invoice, the Client must pay QCS in addition to the agreed Total Investment, the amount payable by QCS as a value added or similar tax on each taxable supply made by QCS under these terms. The Client must pay that additional amount at the same time and in the same manner as the consideration for the supply to which the additional amount relates.

6. Non-Disclosure

* 1. QCS recognizes and acknowledges that the Agreement creates a confidential relationship between QCS and Client and that all information disclosed by Client to QCS (or to which QCS may be exposed) under the Agreement concerning Client’s business affairs, employees, methods of operation, computer programs, security environments, and documentation, and other such information, whether written, oral, or otherwise communicated, is the exclusive property of Client, and not to be shared by any means to any person or organization with exception to cases when government agencies by law require to do so.
	2. QCS agrees that, except as directed in writing by Client, it will not at any time during or after the terms of the Agreement disclose the Confidential Information to any person whatsoever and that, upon the termination of the Agreement, it will turn over to Client all of the Client’s Confidential Information in its possession or control and provide Client written certification of QCS compliance thereof. QCS further agrees to bind its employees, agents and subcontractors to the confidentiality and other terms and conditions of the Agreement and to be liable for their compliance therewith. QCS shall limit internal disclosure of the Confidential Information to its employees and agents who have a need to know the Confidential Information for the purposes of performing this Agreement. This provision shall survive the termination or expiration of this Agreement.
	3. QCS agrees to take appropriate actions to address incidents of unauthorized access to the Confidential Information including immediate notification to Client of any such incident, but in no event shall such notification be later than ten (10) days from the date that QCS is made aware of such unauthorized access.
	4. In the event QCS is provided access to any portfolio holdings or securities related information, QCS agrees not to trade on any such information, and to make best efforts to ensure that its employees, agents and subcontractors do not trade on such information. QCS agrees to comply with all applicable federal and state data privacy laws, including any requirements to establish and maintain safeguards and a written information security program.

7. Intellectual Property and Warranties

* 1. Client acknowledges that QCS Services are copyrighted and/or otherwise consist of data, concepts, technology, and intellectual property proprietary to QCS and are the sole property of QCS.
	2. QCS shall have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Client, relating to the operation of the Services.
	3. QCS represents and warrants to Client that:
		1. that the Service, including any updates with respect thereto and any support services required to effectively deliver the Services and updates to them are complete and fit for their intended use.
		2. that it has the experience and ability to deliver the Service, updates and support services required by the Agreement;
		3. it is duly organized and in good standing under the laws of the jurisdiction in which it is organized;
		4. it is not currently the subject of voluntary or involuntary provision, and is not aware of any claim for the filing of an involuntary petition; that it will perform said required support services in a professional, competent and timely manner;
		5. that it has the power to enter into and perform the Agreement;
		6. that its performance of the Agreement and Client’s use of the Service shall not infringe upon or violate the rights of any third party’s intellectual properly rights or violate any federal, state and municipal laws, and
		7. that all industry standard protocols and practices, including backing up of data, use of redundant hardware and storage devices and protections from viruses and other malicious attacks, will be used to protect Client’s data.
	4. Client warrants that Client’s logo is the sole property of Client.

8. Indemnification

* 1. QCS agrees to defend, indemnify and hold harmless Client, its subsidiaries and affiliates and their respective successors, assigns, employees, officers, directors and agents (each and ‘Indemnified Party’ and collectively the ‘Indemnified Parties’) from and against any and all claims, losses, liabilities, damages and costs, including reasonable legal fees and expenses brought against or suffered by any Indemnified Party, alleging that QCS Service or any associated Services provided pursuant to the Agreement (collectively, ‘QCS Intellectual Property’ herein), or any part thereof infringe any patent, copyright, trademark, trade secret or other intellectual property interest in any country. In the event of an infringement, QCS shall at no additional charge to Client promptly replace, in whole or in part, the infringing QCS Intellectual Property with a substantially compatible and functionally equivalent products or services or modify the QCS Intellectual Property to avoid the infringement. Should it be commercially unreasonable to make the QCS Intellectual Property non-infringing, QCS shall accept the return of the infringing QCS Intellectual Property and refund to Client the applicable fees paid. Furthermore, QCS shall defend, hold harmless and indemnify the Indemnified Parties from and against any liabilities, losses, damages, costs and expenses, including reasonable attorney’s fees, which any Indemnified Party may suffer by reason of any claims, demands, actions, or suits arising from or related to QCS breach of the Agreement under this clause. Client may, at its own expense, assists in such defense if it so chooses, provided that QCS shall control such defense and all negotiations relative to the settlement of any such claim. This provision shall survive the termination or expiration of this Agreement.
	2. If a third-party claims that the Client’s use of the QCS Intellectual Property (other than related to the Client Information) infringes that Party’s patent, copyright or other proprietary right, QCS will defend Client against that claim at QCS’s expense and may all costs, damages, and attorney’s fees, that a court finally awards or that are included in a settlement approved by QCS, provided that Client:
		1. Promptly notifies QCS in writing of the claim; and
		2. Allows QCS to control, and cooperates with QCS in, the defense and any related settlement.

If such a claim is made, QCS could continue to enable Client to use the QCS Intellectual Property or to modify it. If QCS determines that these alternatives are not reasonable available, QCS may terminate the QCS Intellectual Property (without any liability to Client) upon notice to Client and with the return of any prepaid and unused fees.

9. Limitation on QCS Liability

Except as provided in Section 8 concerning Indemnification, in no event will QCS liability to Client arising under this Agreement exceed an amount equal to the amount of the fees received by QCS for Services under this Agreement during the 12-month period immediately preceding the date the cause of action arises.

10. Insurance

QCS shall, during the term of the Agreement, maintain appropriate insurance, including:

* 1. Worker’s compensation Insurance in an amount satisfying applicable laws, and employer’s liability insurance in an amount not less than $1,000,000 per occurrence;
	2. Commercial general liability insurance, including services, products, completed operations liability and personal injury, advertising liability and contractual liability with a minimum combined single limit of liability not less than $1,000,000 per occurrence;
	3. Errors and omissions Insurance with a limit of liability not less than $1,000,000.

11. Independent Contractor

QCS acknowledges that any Services rendered under the Agreement shall be solely as an independent contractor. QCS shall not enter into any agreement or commitment on behalf of Client. QCS further acknowledges that it is not considered an affiliate or subsidiary of Client, and is not entitled to any Client employment rights or benefits. QCS shall not be subject to Client’s control or direction in the manner of its performance under this Agreement. It is expressly understood that this undertaking is not a joint venture.

12. Governing Law

The Agreement and any controversies arising hereunder shall be interpreted and adjudicated in accordance with the laws of England and Wales. The English Courts will have exclusive jurisdiction to deal with any dispute (including any non-contractual claim or dispute) which has arisen or may arise out of or in connection with this Agreement, except that a Party may bring proceedings to protect its Intellectual Property Rights or Confidential Information in any jurisdiction and QCS may bring proceedings against any Subsidiary in an jurisdiction in which that Subsidiary is located.

13. Mediation and Arbitration

Any dispute arising between the Parties in connection with the Agreement which is not settled to the mutual satisfaction of the Parties within thirty (30) business days from the date that either Party informs the other in writing that such dispute exists shall, prior to litigation, be first mediated in a location to be agreed by the parties. The foregoing shall not preclude Client from seeking equitable relief in addition to all other remedies available at any time in the event of a breach of obligations under Section 5.

14. Default

Failure to honor the material terms and conditions contained in the Agreement on the part of either Party shall constitute a default under the Agreement. The non-defaulting Party shall give written notice of default via Certified Mail, return receipt requested, or overnight carrier of the specific nature of the deafault and allowing the defaulting Party ten (10) business days from receipt of the written notice to cure the default. Should the defaulting Party fail to cure the default within the specified time period, the non-defaulting Party thereafter shall have the right to declare the Agreement void and terminate the remaining obligations under the Agreement except those that are intended by their terms to survive. In the event of default by QCS, it will provide Client a prorated refund for fees previously paid and unused for the period starting on the date of termination to the end of the Subscription Term. For purposes of clarity, the foregoing is not intended too in any ways limit Client’s rights in law or equity with respect ot such default/breach or otherwise.

15. Other Provisions:

* + - * 1. Office Rules – QCS may enter Client premises to perform services under this Agreement, however, Client should prioritize deployment of the Service in its organization on a remote Service basis. A separate cost should be agreed to cover expenses required to visit Client’s office to deliver the Service.
	1. Gratuity – QCS shall not offer or give a gratuity of any type to any Client employee or agent.
	2. Severability – in the event that any provision of the Agreement becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, the Agreement shall continue in full force and effect without said provision; provided that no such severance shall be effective if it materially changes the economic benefit of the Agreement to either Party.
	3. Waiver – The failure of either Party to exercise or enforce any right or provision of the Agreement shall not constitute a waiver of such right or provision.
	4. Non Assignability – Neither Party hereto may assign the Agreement or its rights and obligations under the Agreement without the written consent of the other Party, which consent will not be unreasonably withheld, provided, however, that QCS’s consent shall not be withheld for any complete or partial assignment made by, between or among entities within the Client’s worldwide enterprise, or if such assignment or transfer is made as the result of (i) a corporate merger, (ii) a sale of all or substantially all of the corporate assets of such entity, (iii) a sale of a controlling interest in such entities’ corporate stock, (iv) a corporate reorganization, or (v) as a result of a corporate name change. No additional fees or costs shall be associated with any assignment permitted hereunder. In the event an entity member of Client’s enterprise shall become an independent entity, Client may assign to the former entity of Client’s enterprise the number of licenses then in use on the same terms and conditions as are contained in the Agreement. Neither Client nor the former entity member of Client’s enterprise shall owe any further remuneration for licenses already paid for, and there shall be no transfer fees associated with such assignment. Additional licenses, if any are needed by the former entity member of Client’s enterprise, will be available to the former entity member of Client’s enterprise at the same prices available to Client under the Agreement, for a period of one (1) year from the date of assignment.
	5. This Party Beneficiary Rights – Nothing in the Agreement shall benefit or create any right or cause of action in or on behalf of any person or entity other than Client and QCS.
	6. Client hereby grants QCS the nonexclusive right and license to use and display the Client’s name and logo on its website and marketing collateral identifying Client as a customer of QCS.
	7. Section 6 though 15 of these terms and conditions shall survive any termination of this Agreement.
	8. The Convention of Contracts for the International Sale of Good, and the Virginia Uniform Computer Information Transactions Act, do not apply.

16. Entire Agreement and Notice

The Agreement, along with all exhibits, QCS Invoices, appendices and any additional agreement concerning disclosure provided by Client contain the entire understanding of the Parties and may not be amended without the specific written consent of both Parties. Any required notice shall be given at the Parties’ respective addresses set forth in the QCS Invoice.

# THE SERVICE LEVEL SCHEDULE

**Definitions**

|  |  |
| --- | --- |
| Agreement | Shall mean the agreement between the parties to which this schedule is appended; |
| Service | Means Service to be provided by QCS to the Customer and the Subsidiaries; |
| Customer Help Desk | Means the internal support desk established by the Customer and the subsidiaries that are qualified to support the Services within the Customer’s operations; |
| Business Day | Shall mean a Day on which the Customer or the Subsidiaries are open for business at a office location using the Service; |
| Day | Means a calendar day; |
| Maintenance and Support Services | Means the maintenance and support services to be provided by QCS as described in this Schedule; |
| Minimum Service Level | Means the minimum Service Levels to be achieved by QCS as set out in this Schedule; |
| Response Time | Means the time period commencing with notification from the Customer or a Subsidiary of an incident and ends with the initial response from QCS; |
| Resolution Time | Means the time period commencing with notification being received from the Customer or a Subsidiary and ending with a response or deemed response from the Customer Help Desk that an item has been resolved; |
| Service Credits | Means the applicable service credits as described in 2(f) for the Service Levels; |
| Service Hours | Means, in respect of each week of the Term, the period from the start of the first business day in the first location from which Customer accesses the Services to the end of the last Business day in the relevant week in the last location from which Customer accesses the Services; |
| Service Levels | Means the performance levels to which the Services shall be provided as set out in this Schedule; |
| Service Period | Means each calendar month that Customer and the Subsidiaries receives the Services; |
| System Response Time | Means the time required for the Service to respond to an input as set out in this Schedule; |
| Term | Means the term for which the Customer and the Subsidiaries has subscribed to the Service; |
| Service Up Time Percentage | Means the total number of minutes in a calendar month minus scheduled downtime minus the number of minutes of downtime suffered in a calendar month, divided by the total number of minutes in a calendar month minus scheduled maintenance windows; |
| Up Time | Has the meaning set out in 2(e)(i) of the Service Levels; |

## Services Specification

**1. General**

* + - * 1. This schedule describes the scope and functionality of the Services to be provided by QCS to the Customer and the Subsidiaries under this Agreement. It also specifies certain of the obligations of each party in the delivery of the Services.
				2. Each Service has, where specified, an associated Service Level.
				3. Incident Response scope of Services and related Service Level Agreement (SLA) are outlined in Appendix B.

**2. Service Overview**

1. QCS shall supply Customer and the Subsidiaries with a chosen scope of Service listed under Section 1(a)(i)(ii) incorporating the following production environment services:
2. (if applicable for chosen Service type) Online Access: on-line access to the Service during the Service Hours excluding scheduled downtime as defined in this schedule or as otherwise agreed in writing between the parties;
3. (if applicable for chosen Service type) Maintenance and Support Services during the Service Hours;
4. (if applicable for chosen Service type) Data back-ups in accordance with Section 5;
5. (if applicable for chosen Service type) Application management: (1) application upgrades, (2) delivery of application maintenance updates.
6. QCS shall monitor and manage all components used to deliver the Service during the Service Hours throughout the Term.
7. QCS shall ensure appropriate capacity planning of the Services to ensure there is always sufficient capacity to provide the Service at the Service Levels. This shall require Customer and the subsidiaries to advise QCS of any anticipated material changes to the use of the Service.

**3. Reporting**

1. Upon Client’s written request to QCS Support, QCS shall make available to authorized Support Contacts a monthly management report detailing the performance of the Service against the Service Levels.

## Maintenance and Support Services

**1. Release Strategy**

1. QCS will inform Customer and the Subsidiaries regularly of the timing and contents of new releases to the Service during the Subscription Term. Customer may provide suggestions and input to QCS regarding any planned or requested new features. QCS shall, at its sole discretion consider whether Customer’s suggestions shall be included in a subsequent release as part of the Maintenance and Support Services.
2. Except where a product enhancement cost has been agreed with the Customer or Subsidiary, such new release to the Service shall be made at no cost to the customer.
3. QCS shall document any such changes in release notes which shall be made available to the Customer and the Subsidiaries as soon as possible, but no later than the date any new release is issued.

**2. Support Services & Responsibilities**

1. QCS shall provide the support services in English.
2. QCS shall notify Customer of all incidents that may have an impact on the Service provided to the Customer.
3. QCS shall be responsible for:
4. The availability of the Service
5. Solving incidents and problems raised by the Customer Help Desk
6. Implementing changes to the Service required as a result of solving incidents
7. Communicating the status of incidents to the Customer Help Desk
8. Communicating information about planned system changes of outages to Customer and the subsidiaries in a timely manner
9. Responding to each incident in line with the specified actions for each incident class
10. Customer and the Subsidiaries shall be responsible for:
11. Raising incidents to the QCS help desk through a centralized Customer Help Desk
12. The Customer and the Subsidiaries must nominate at least 2 (two) and not more than 6 (six) authorized Support Contacts and notify QCS of their names and contact details immediately following the date of the Agreement
13. Incidents and service requests must be reported by email by an authorized Support Contact to support@QuantumCybersecuritySkills.com
14. No phone support is provided directly to Users and/or Stakeholders of any part to QCS Service
15. The Customer and the Subsidiaries must not publish QCS’s contact details on their intranet, website or anywhere else.

**3. Incident Management**

1. The Customer Help Desk shall provide the following items when notifying QCS of an incident:
2. Incident time, duration and location
3. Contact details and name of main incident stakeholder
4. Incident description
5. Category of incident, to be mutually agreed between the Parties.

**4. Incident Categorization**

|  |  |
| --- | --- |
| Class A – Severe Impact | Provision of Service FailureAn incident that results in the loss of all or a significant portion of the service and impacts a majority of the service users / stakeholders. |
| Class B – Major Impact | **Provision of Service Failure**The service is accessible by means of a workaround, or only a small number of users /s stakeholders are impactedOrAn Error which materially affects the performance of the Service in a negative manner or materially restricts the Customer’s and the Subsidiaries’ use of the Service |
| Class C – Moderate Impact | Incidents occur which do not individually represent a failure of the Service, but are agreed as defects OrAnd Error which has only a minor affect on the Customer’s and the Subsidiaries’ use of the Service or an Error which is not a Severity 1 or 2 Error |
| Class D – Low Impact | A general question or concern raised by the Customer or the Subsidiaries concerning the use or implementation of the Service |

**5. Response Times**

The QCS Help Desk will acknowledge receipt of the incident report within no more than one hour of UK (9am-5pm) business hours, unless otherwise agreed with the Customer in writing which forms a part of this Agreement under Section ‘Additional Terms, Ordering & Payment Schedule’.

**6. Resolution Time**

In the event of a class A incident QCS will immediately assign necessary staff to work on the incident until resolved or a workaround is provided to the Customer or the Subsidiaries.

For class B and C incidents QCS and the Customer or the Subsidiaries will agree an accepted timeframe within which the incident should be resolved, such agreement to occur within 2 working days for a class B incident and 10 working days for a class C incident.

For class D incidents within such period of time as QCS deems appropriate given the nature of the question or concern.

**7. Closure of Incidents**

Before closing an incident, the QCS help desk will seek confirmation of the Customer or the Subsidiaries that the incident has been resolved.

## Services Levels

**1. General Description of Service Levels**

1. Unless otherwise specified, the measurement period for the Service Levels is each Service Period.
2. Where Service Levels are described as ‘targeted’, such targeted Service Level measurements represent the expected performance levels of the Service under normal operating conditions, but such targeted measurements are for guidance only and do not constitute any obligations or liabilities on the part of QCS and any failure to meet such targeted Service Levels shall not be construed in any way as a breach by QCS of the Agreement.
3. In the event that Service Levels fail to meet the targeted Up Time and/or the targeted System Response Time metrics in any Service Period, QCS’s obligations are limited to providing an analysis and explanation of the changes either in the usage of the Services by the Customer, or of the Services by QCS.
4. Where Service Levels are described as ‘contracted’, such contracted Service Level measurements represent the actual performance levels of the Service under normal operating conditions, and a failure to meet such contracted Service Levels will result in Service Credits being calculated.

**2. Uptime and Performance Service Levels**

1. The Service Levels apply to the QCS Service 1(a)(i) and shall be measured over the Service Hours except for scheduled maintenance periods.
2. The metrics used to measure performance of the Service are as follows:
3. Response Time;
4. Up Time;
5. Maintenance Window
6. The point of measurement for all Services monitoring with respect to Response Time shall be the QCS Help Desk response to Customer Help Desk.
7. The Response Time metric shall be calculated over a Service Period.
8. Measurement methods and targets for Service Up Times shall be as follows:
9. Service Up Time shall be calculated at the end of each Service Period. The contracted Service level for Service Up Times in any service period shall be 99%. The targeted Service Level for Services Up Times in any Service Period shall be 98%.
10. Up Time shall be expressed in percent and is defined as the time period during which the Service is available to the Customer.
11. Up Time is calculated as follows:

Service Up Time in % = means total number of minutes in the calendar month minus scheduled downtime minus the number of minutes of downtime suffered in a calendar month, divided by the total number of minutes in a calendar month minus scheduled maintenance windows.

1. Service Credits shall apply for failure to meet the contracted Service Levels and shall be as follows:
2. For Uptime Percentage less than 99%, but equal to or greater than 98%, you will be eligible for a 1% Service Credit of the Service fee for the applicable month during the Service Period.
3. For Uptime Percentage less than 98%, you will be eligible for a 5% Service Credit.
4. The Service Fee Shall be the total service fee paid divided by the number of months of subscription to the service during a Term.
5. QCS shall provide the Service Credit to the Customer in the month following the Service Period in which the Service Level Failure occurred.

**3. Maintenance Windows**

1. The provisions for scheduled maintenance are as follows:

|  |  |
| --- | --- |
| Frequency | Weekly |
| Duration | Maximum of two (2) hours |
| Time | Monday 11 am – 1 pm UK time (GMT) |

1. Unplanned maintenance including corrective actions to be taken by QCS to resolve an incident

**4. Service Level Exclusions**

1. The parties agree that the Service Levels shall not apply if one or more of the following exists:
2. Suspension of the Service to carry out planned or routine maintenance;
3. Adverse impact on Up Times or Response Times due to the malfunction of Customer owned or controlled firewalls, networks, connectivity or other technology.
4. Adverse impact on Up Times or Response Times due to a Force Majeure event(s).

**5. Back-Ups**

1. QCS shall take a backup of all Customer and Subsidiary data, if chosen Service provides that option:
2. Incremental Backup: Every Minute, retained for 24 hours
3. Full Backup: Every 6 hours, retained for 2 calendar days
4. Full Backup: Every day retained for 7 calendar days
5. Full Backup: Every week retained for 4 weeks
6. Full Backup: Every month retained for 13 months
7. Such backup shall be stored at a separate, secure, location to the production environment.
8. Backup data shall only be used for resolving an incident reported by the Customer or a Subsidiary.