Mimecast Offshore Online Services

Sure Terms and Conditions

Sure (Jersey) Limited ("**Sure**") is a global provider of telecom services and has been appointed as a managed service provider by Mimecast Offshore Limited ("**Mimecast**") to sell Service(s) provided by Mimecast.

These terms and conditions (the "**Terms and Conditions**") as amended from time to time, govern the use of the Service(s). The Order Form, the Service Appendices and any other transactional documents relating to the Service(s), including any "customer quote" are hereby incorporated into and form part of these Terms and Conditions. In the event of any conflict between these Terms and Conditions, the Service Appendices and an Order Form, then the following order of precedence shall apply: (i) the Order Form, (ii) the Service Appendices (iii) the Terms and Conditions.

These Terms and Conditions are entered into between Sure and the Customer.

The parties acknowledge that these Terms and Conditions are the complete and exclusive statement of the agreement between the parties relating to the subject matter of these Terms and Conditions and that they supersede all previous terms, communications, representations and arrangements, written or oral.

1. INTERPRETATION

1.1 In these Terms and Conditions, unless the context otherwise requires, the following terms shall have the following meanings ascribed to them:

"Application"	means the software and other material provided or used by Mimecast, which may include third party open source software and which is used to access, configure and provide the Service(s).
"Business Day"	means a day (other than a Saturday, Sunday or a public holiday) when banks in Jersey are open for business.
"Commencement Date"	means the date on which the Service(s) are made available for use to the Customer.
"Commercially Reasonable Efforts"	means taking such steps and performing in such a manner as well managed company would undertake where such company was acting in a professional, prudent and reasonable manner to achieve the particular result for its own benefit.
"Contract"	the contract between the Customer and Sure for the supply of the Service(s) which is governed by these Terms and Conditions.

"Customer"	means the individual or entity who purchases the Service(s) from Sure.
"Customer Data"	means the data provided by the Customer in the course of using the Service(s), including where relevant to the Service, the contents of the files and emails sent and received and including all Personal Data.
"Data Controller"	has the meaning set out in the Data Protection (Jersey) Law 2018.
"Data Processor"	has the meaning set out in the Data Protection (Jersey) Law 2018.
"Data Protection Laws"	means: (i) the Data Protection (Jersey) Law, 2018, (ii) the General Data Protection Regulation EU 2016/679, (iii) any laws which implement any such laws; (iv) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing; and (v) all guidance, guidelines, codes of practice and codes of conduct issued by any relevant supervisory authority relating to such Data Protection Laws (in each case whether or not legally binding).
"Data Subject"	has the meaning set out in the Data Protection (Jersey) Law 2018.
"Fees"	means the fees due from the Customer to Sure for the Service(s) as provided for in an Order Form.
"Force Majeure Event"	any event which results in any delay in a party's performance or failure to perform its obligations (other than a payment obligation) under these Terms and Conditions due to any cause or event that is unforeseeable and is outside its reasonable control.
"Group"	means the relevant company, any Holding Company of that company and any Subsidiary of that company or its Holding Company, from time to time.
"Holding Company"	means a "holding company" as defined in Article 2 of the Companies (Jersey) Law 1991.
"Initial Term"	means the period specified in an Order Form, failing that it will be twelve months, starting on the Commencement Date.
"Intellectual Property Rights"	means all intellectual property rights, including patents, trademarks, trade name, service mark, copyright, trade secrets, know-how, process, technology, development tools, ideas, concepts, design rights, domain names, moral rights, database rights methodology, algorithms and inventions, and any other information relating to the proprietary business or

affairs of either party (whether registered, unregistered, pending or applied for) and anything related or similar in any jurisdiction thereto.

"Order Form"	the document signed by the Customer and setting out the Customer's order for the supply of Service(s).
"Permitted Users"	means the number of paid for users as specified in an Order Form employed by or under the Customer's control; more specifically defined as individual people or specified software agents possessing one or more email addresses under the Customer's domain names.
"Personal Data"	has the meaning set out in the Data Protection (Jersey) Law 2018.
"Relevant Data"	means the Customer Data which Sure has access to and processes (as detailed in a relevant Service Appendix) in order to provide technical support in relation to a Service and to facilitate the ingestion or exgestion of Customer Data to and/or from the Mimecast offshore platform.
"Service(s)"	means the Mimecast services as specified in a Service Appendix to these Terms and Conditions and in an Order Form.
"Service Appendix"	means the appendix or appendices attached to these Terms and Conditions which details the additional terms which apply in respect of an individual Service.
"Service Data"	means any initial business data provided by the Customer to Sure in order to set the Customer up as a user and invoice the Customer.
"Service Description"	means the specification of the Service(s) as detailed in the Order Form and the applicable Service(s) documentation available at https://community.mimecast.com/community/knowledge-base.
"Service Levels"	means the service levels described in Appendix 3.
"Set-up and Connect"	means the process of defining the system user settings and policies for the relevant Service.
"Subsidiary"	means a "subsidiary" as defined in Article 2 of the Companies (Jersey) Law 1991.
"Support Description"	means the technical support described in Appendix 2.

| "Territories" | means the territories in which Sure operates being Jersey, Guernsey and/or the Isle of Man. |
| "Working Hours" | means between 09:00 to 17:00 hours on a Business Day. |

1.2   Construction.
In these Terms and Conditions, the following rules apply:

1.2.1   A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2   A reference to a party includes its personal representatives, successors or permitted assigns;

1.2.3   A reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.4   Any phrase introduced by the terms, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

1.2.5   The singular shall include the plural, or vice versa, wherever the context so requires; and

1.2.6   A reference to writing or written includes e-mails.

2.   SERVICES

2.1   Sure hereby agrees, subject to these Terms and Conditions:

2.1.1   to provide the Service(s) to the Customer;

2.1.2   where relevant to a Service, to provide Set-Up and Connect, and/or initial configuration and/or first line support as detailed in the relevant Service Appendix;

2.1.3   to grant or procure a right for the Customer and its Permitted Users to access and use the Application as part of the Service(s) only and to the extent necessary;

2.1.4   to procure that Mimecast provide ongoing maintenance, upgrades and enhancements to the Service(s); and

2.1.5   to use Commercially Reasonable Efforts to prevent unauthorised access to, or use of, the Service(s), and notify the Customer promptly of any such unauthorised use which may affect the Customer or its Permitted Users.

2.2   At Customer's request, Sure will procure that Mimecast will provide professional services to the Customer ("**Professional Services**"). Professional Services may be described in an Order Form or a statement of work agreed with Mimecast. In the event Mimecast's performance does not conform to the terms of the applicable statement of work or Order Form, the

Customer will notify Sure and/or Mimecast of such failure within fifteen (15) days after delivery of the Professional Services ("**Acceptance Period**"). Promptly after receipt of the Customer's notice, Mimecast will reperform the non-conforming Professional Services at no additional cost to Customer, as Customer's exclusive remedy. After the Acceptance Period, any additional Professional Services will be subject to a new Order Form. Neither Sure or Mimecast will have any liability to the extent that Mimecast is delayed or prevented from performing its obligations due to an act or omission of the Customer.

2.3   The Customer hereby agrees:

2.3.1   to be bound by the terms of these Terms and Conditions and to ensure that the Permitted Users comply with the terms of these Terms and Conditions;

2.3.2   that Sure has been appointed by Mimecast to act as managed service provider in the procurement and management of the Service(s) and that the Customer deals with Sure on that basis;

2.3.3   that it may only use the Service(s) for its own internal business purposes and will not rebrand, transfer, resell, license or otherwise make the Service(s) available to third-parties;

2.3.4   that it will allow only the number of Permitted Users shown in the applicable Order Form to access and use the Service(s);

2.3.5   that the Service(s) are offered as software-as-a-service and that the details of the offerings themselves, including the terms of the Service Levels and Support Description, will change over time;

2.3.6   it will not use or access the Service(s) for the purpose of (i) building a competitive service or comparative features; or (ii) comparative analysis (including but not limited to benchmarking) intended for use outside the Customer's organisation;

2.3.7   it will implement and maintain reasonable and appropriate controls to ensure that user accounts are used only by Permitted Users and that it will manage and monitor Permitted Users, including designating one or more administrators responsible for access control. The Customer will not share any user authentication information and/or any user password with any third party. The Customer is solely responsible for the acts or omissions of any user or Permitted User who obtains access to the Service(s) through the Customer or the Customer's systems. The Customer will notify Sure and/or Mimecast promptly if it becomes aware of any unauthorised access or use;

2.3.8   that it will not and will ensure its Permitted Users shall not: (a) use the Service(s) in any manner that violates any applicable law or regulation (including but not limited to any infringing, defamatory or fraudulent purpose or where the Customer is required to obtain permissions or authorisations to permit Sure or Mimecast to perform its obligations hereunder); (b) use the Service(s) in a manner that introduces any viruses, malicious code, or any other items of a harmful nature; (c) disable or circumvent any access control, authentication process or security procedure established with respect to the Service(s); or (d) engage in any activity that could reasonably be expected to interfere with or disrupt the Service(s) or (e) use, or require Sure or Mimecast to use,

any Customer Data obtained via the Service(s) for any unlawful purpose. The Customer will defend and indemnify Sure in the event of any third-party claim or regulatory action arising out of the Customer's breach (or alleged breach) of the terms of this Clause 2.3.8; and

2.3.9   that it is shall indemnify Sure and keep Sure indemnified at all times from all losses, damages, liabilities, costs, loss of profit, charges or expenses arising directly or indirectly from its activities, and those of its Permitted Users hereunder, and for the accuracy, integrity, legality, reliability and appropriateness of all Customer Data.

3.   SERVICE PROVISION

3.1   As soon as reasonably practicable following execution of the Order Form by the Customer Sure will place orders for the Service(s) with Mimecast on behalf of the Customer.

3.2   The Customer may terminate the Service(s) at any time during the thirty (30) calendar days following the Commencement Date. The Customer must give notice of such termination to Sure whereupon the Contract will terminate immediately. Any Fees received in respect of Service(s) delivered within the approved time period shall be refunded to the Customer. If notice of termination is not received by Sure prior to 5pm UK time on the 30th calendar day following the Commencement Date, then the Service will be deemed to have been irrevocably accepted for the Initial Term.

3.3   If at any time continued provision of a Service would compromise the security of a Service or Sure's network due, without limitation, to having attempts, denial of service attacks, mail bombs or other malicious activities either directed at or originating from the Customer's domains the Customer agrees that the Service can be suspended immediately without notice. In such an event, Sure will use Commercially Reasonable Efforts to inform the Customer and to procure that Mimecast work with the Customer to resolve such issues. Once resolved, Sure will procure that Mimecast reinstate the Service.

4.   PAYMENT TERMS

4.1   Upon signature of the Order Form, the Customer will be invoiced, and agrees to pay the Fees specified in the Order Form to Sure for the Initial Term. The Fees shall be invoiced at the Commencement Date and due annually in advance. Any other charges and expenses which fall due under these Terms and Conditions or which are otherwise invoiced by Sure from time to time will be paid by the Customer monthly in arrears.

4.2   Unless otherwise stated on the invoice, Fees are due thirty (30) days from the invoice date. All payments under these Terms and Conditions shall be in Pounds Sterling or US Dollars, as stated in the relevant Order Form.

4.3   If any amount due to Sure is not paid by the applicable due date then Sure reserves the right, without prejudice to any other right or remedy it may have to:

4.3.1   charge interest on any unpaid amount due at the annual rate of the Bank of England's standard rate plus 4%, or at the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid; and/or

4.3.2   suspend the provision of a Service on giving seven (7) days' prior written notice to the Customer.

4.4   Unless otherwise stated or agreed by the parties, the Fees and any other charges hereunder do not include any taxes, levies or duties of any nature. The Customer is responsible for paying any such taxes.

4.5   The Customer agrees to notify Sure in writing within fourteen (14) calendar days of an invoice date if the Customer considers that invoice to be incorrect or invalid, giving reasons for this, failing which the Customer must pay that invoice by the date agreed. If only part of an invoice is disputed, the Customer will pay the undisputed amount as detailed herein.

4.6   Sure may from time to time vary the Fees for periods after the expiry of the Initial Period by giving not less than sixty (60) days' written notice to the Customer.

5.   PROPRIETARY RIGHTS AND USE OF SERVICE

5.1   Mimecast and its third-party licensors (as appropriate) shall retain all Intellectual Property Rights in the Service(s) and its underlying systems. Except as expressly set forth herein or implied by virtue of these Terms and Conditions, no Mimecast Intellectual Property Rights are granted to the Customer or its Permitted Users. The Customer's rights are limited to those expressly stated herein. Notwithstanding any provision herein to the contrary, nothing in these Terms and Conditions is intended to limit a Customer's liability in the event of Customer's violation of Mimecast's intellectual property rights, and any claim with respect to such violation will not be deemed governed by the Terms and Conditions.

5.2   The Intellectual Property Rights to the Customer Data supplied by the Customer shall remain the Customer's property or that of the Customer's licensors as the case may be, but the Customer hereby grants Sure and agrees that Sure may grant to Mimecast, a licence to use the same only to the extent necessary for its performance of the Service(s) and to keep an archival copy of the Customer Data (subject at all times to the Data Protection (Jersey) Law 2018 as amended).

5.3   Notwithstanding any provision herein to the contrary, the Customer acknowledges that Mimecast owns: (i) the aggregated data derived from the Service(s) as aggregated with usage data from Mimecast's other customers, including, without limitation and as applicable, utilization statistics, traffic patterns, user behaviour, reports, logs and other information processed by the Service(s) ("**Aggregated Data**"); and (ii) anything identified through the Service(s) as malicious, such as that which may perpetuate data breaches, malware infections, cyberattacks or other threat activity ("**Threat Data**"). Neither Aggregated Data nor Threat Data will include any personally identifiable information. The Customer acknowledges that Mimecast is entitled to use Aggregated Data or Threat Data for its business purposes and/or may share Aggregated Data or Threat Data with third-parties.

5.4   The Customer hereby permits Sure or Mimecast to check the use of the Service(s) by the Customer to ensure that it complies with these Terms and Conditions at all reasonable times and to access and ensure the quality of the Service(s).

5.5   The Customer authorises Sure to give instructions to Mimecast in relation to the Service(s).

5.6   Sure shall have a perpetual, royalty-free, assignable, irrevocable, world-wide licence to use and provide to Mimecast to incorporate into the Service(s) any suggestions, ideas, modification requests, feedback or other recommendations related to the Service(s).

5.7   The Customer acknowledges that Mimecast may from time to time upgrade and/or enhance the Service(s), which may require interruption of the relevant Service(s). The Customer further acknowledges that where Mimecast or Sure or their suppliers are required to undertake emergency maintenance which is necessary to safeguard the Service(s) and/or any systems on which it operates then it shall be entitled to do so at any time but Sure will use Commercially Reasonable Efforts to provide as much information as it can to the Customer.

5.8   If at any time Sure or Mimecast have reason to believe that the use of a Service by the Customer or by any other person under the Customer's control has or is likely to breach any applicable laws, whether in Jersey or elsewhere, or otherwise constitutes an abuse of any commonly accepted terms of use of such a Service (including for example but without limitation the use of a Service by third parties or the Customer to send e-mails which are regarded as SPAM or unsolicited communications) then the Customer agrees that Sure or Mimecast shall be entitled to immediately suspend the provision of the Service(s) whether in whole or in part and without incurring any liability in doing so until such time as those breaches or threatened breaches or unacceptable use are cured to Sure and Mimecast's satisfaction. In the event that Sure or Mimecast suspend the provision of a Service, the Customer will not be entitled to a rebate of any fees paid in advance to Sure for such Service.

5.9   The Customer shall use all Commercially Reasonable Efforts to ensure that it informs those who use any communications system covered by a Service that communications transmitted through such systems may be intercepted (as a function of the Service), indicate the purpose of such interception and ensure that necessary consents are obtained. The Customer shall hold Sure harmless from any claims from its employees, any third party and/or governmental agencies relating to such interceptions. The Customer shall not use, or require Sure to use, any data obtained via the Service for any unlawful purpose.

6.   DATA PROTECTION

6.1   The Customer acknowledges that:

6.1.1   it is Data Controller in relation to the Service(s);

6.1.2   Mimecast is Data Processor in relation to the Service(s) and that processing of the Customer Data by Mimecast is dealt with in a separate data processing agreement between the Customer and Mimecast;

6.1.3   Sure is Data Processor in relation to certain Service(s) and details of processing of the Relevant Data by Sure are set out in the Service Appendices.

6.2   Both the Customer and Sure warrant that it will, and procure that its staff, consultants and any person or entity engaged by the Customer and Sure, will comply with all applicable Data Protection Laws.

6.3   Where relevant to a Service, the provision of any Customer Data by Sure to Mimecast will be deemed to have come from the Customer directly and it is the Customer's responsibility to ensure the accuracy and completeness of that Customer Data it provides to Sure.

6.4   Without prejudice to the foregoing, the Customer shall ensure that all Personal Data is dealt with, transferred and processed at all times strictly in accordance with relevant Data Protection Laws.

6.5   The Customer acknowledges that Sure is reliant on the Customer for direction as to the extent that Mimecast is entitled to use and process Personal Data. Consequently, Sure shall be entitled to relief from liability in circumstances where a Data Subject makes a claim or complaint with regards to Sure's actions to the extent that such actions arise directly or indirectly from instructions received from the Customer.

6.6   The Customer shall indemnify Sure and keep Sure indemnified at all times from all losses, damages, liabilities, costs, loss of profit, charges or expenses arising directly or indirectly from:

6.6.1   A breach by the Customer of its obligations under clauses 6.4 and/or 6.5; and
6.6.2   The use made of the Service(s) by the Permitted Users and other persons under the Customer's control.

7.   THIRD PARTY CLAIMS

7.1   Subject to clause 11 below, Sure will defend and indemnify the Customer against all damages, reasonably incurred costs and expenses (including reasonable legal fees) and losses finally awarded against the Customer or agreed by Sure in final settlement (including reasonable legal fees) arising from a claim that the Application used within the scope of these Terms and Conditions infringes any third party intellectual property rights, provided that (a) the Customer notifies Sure in writing within fourteen (14) days of the claim, (b) Sure has sole control of the defence and all related settlement negotiations, and (c) the Customer provides Sure with the assistance, information and authority necessary to perform the above. Reasonable, documented out-of-pocket expenses incurred by the Customer in providing such assistance will be reimbursed by Sure. The Customer shall be entitled to participate in the defence with its own counsel and at its own expense.

7.2   If the Customer's normal use or possession of a Service is held by a court of competent jurisdiction to constitute an infringement of a third party's Intellectual Property Rights as detailed in clause 7.1 above, then Sure or Mimecast may at their own expense and discretion:

7.2.1   Procure for themselves and/or the Customer the right to continue using the Service(s);
7.2.2   Modify or replace the Service(s) so as to the avoid the infringement; or
7.2.3   If 7.2.1 or 7.2.2 above cannot be accomplished on reasonable terms, refund any Fees paid in advance whereupon this Contract shall terminate forthwith.

7.3   The foregoing states the entire liability of Sure with respect to infringement or alleged infringement of any third-party rights of any kind whatsoever.

8.   CONFIDENTIALITY

8.1   Each party will treat as confidential all information obtained from the other party under or in connection with the Contract which is designated as confidential or which is by its nature clearly confidential. The receiving party will not disclose such confidential information (except to such of its employees, agents, professional advisers, subcontractors or suppliers, or employees or any other member of its Group, as need to know it for the purpose of discharging the receiving party's obligation under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the receiving party) or use or permit the use of the confidential information for purposes other than providing or using the Service(s) without the other party's prior written consent. Either party will promptly notify the other in writing of any loss or unauthorised use or disclosure of or access to such confidential information of which it becomes aware.

8.2   This clause will not extend to information which: (a) is or becomes generally available to the public through no fault of the receiving party; (b) was previously rightfully known by the receiving party free of any obligation to keep it confidential; (c) is independently developed by the receiving party without reference to or use of the confidential information of the disclosing party; or (d) is required to be disclosed by the receiving party as a matter of law.

8.3   These obligations of confidentiality will survive termination of the Contract for a period of five (5) years.

8.4   Each party will establish and maintain adequate security measures to safeguard the information and data of the other party in its possession from unauthorised access, use or copying.

8.5   Nothing in this clause prevents Sure from providing confidential information and relevant Customer Data to Mimecast to facilitate the provision of Service(s) in accordance with these Terms and Conditions.

8.6   Mimecast and Sure may, with the Customer's permission, refer to the Customer in its publicity materials as being a client of Mimecast and Sure and may issue a press release following the execution of an Order Form or commencement of a Service, as well as publicise actual details of Mimecast's work under these Terms and Conditions. The Customer agrees that it will not publicise work undertaken by Mimecast through the use of Mimecast's name without the prior written consent of Mimecast. If the parties agree a form of press release, then Mimecast shall be entitled to make reasonable use of that press release.

9.   **WARRANTIES**

9.1   Sure warrants that the Service(s) shall be performed with reasonable care and skill and in accordance with the Service Description. However, Sure does not warrant that operation of a Service as a whole or the Application will be uninterrupted or error free nor that they will meet the Customer's particular requirements (whether communicated to Sure or not).

9.2   Sure's sole obligation to the Customer and the Customer's exclusive remedy under the warranty given in Clause 9.1 is limited, at Sure's sole discretion, to:

        9.2.1   use Commercially Reasonable Efforts to rectify any non-conformance with this warranty within a reasonable period of time;

9.2.2   replacement of the Application with an alternative application with similar functionality; or

9.2.3   make a pro-rata refund of any outstanding upfront Fees paid by the Customer to Sure under these Terms and Conditions whereupon the Contract shall terminate.

9.3   Sure shall have no liability or obligation under the warranty given in Clause 9.1 above unless it has received written notice from the Customer of any non-conformance with the warranty within fourteen (14) days from the date that the Customer is aware of such non-conformance.

10.   **INDEMNIFICATION**

10.1   The Customer shall retain liability and responsibility for the use made of the Service(s) by themselves, the Permitted Users and other persons under the Customer's control with access to the Service(s). The Customer warrants that it will take all reasonable steps to ensure that the Permitted Users and other persons under the Customer's control adhere to the terms of these Terms and Conditions in relation to use of the Service(s). The Customer shall indemnify Sure in full for any loss or damages to Sure due to the Customer's use of the Service(s). The Customer shall further indemnify Sure in full for any loss, claims or damages suffered or brought against Sure as a result of any instructions given to Sure and the Customer's failure:

10.1.1   to adhere to any written instructions given by Sure or Mimecast in relation to the Service(s); and

10.1.2   to obtain any necessary consents and/or permissions from Permitted Users or third parties.

10.2   The Customer will defend and indemnify Sure against all damages, reasonably incurred costs and expenses (including reasonable legal fees) and all losses awarded against Sure or agreed by the Customer in final settlement (including reasonable legal fees) arising from a third party claim that the Customer's actions have resulted in a breach of applicable Data Protection Laws or the confidentiality provisions in clause 8.

11.   **LIMITATION OF LIABILITY**

11.1   Nothing in these Terms and Conditions shall exclude or limit either party's liability for death or personal injury arising from its negligence or any claims arising from that party's fraud.

11.2   Sure excludes all liability to the greatest extent permitted by law in contract, tort (including negligence), breach of statutory duty or otherwise for indirect losses, claims, damages, expenses or proceedings; special, incidental or consequential loss or damage; loss of profits; and wasted management time incurred or suffered by the Customer either directly or indirectly in connection with the Service(s) and/or these Terms and Conditions .

11.3   In all other instances Sure's total liability in aggregate shall be limited to no more than the Fees paid or payable by the Customer to Sure for the twelve (12) month period immediately preceding the last event giving rise to a claim.

11.4   The Customer acknowledges and agrees that the allocation of risk contained in this clause 11 is reflected in the Fees and is also a recognition of the fact that, inter alia, it is not within Sure's control how and for what purpose the results of a Service are used by the Customer.

12. TERM, RENEWAL AND TERMINATION

12.1 These Terms and Conditions shall apply to the Customer from the Commencement Date. The Contract will renew automatically following the Initial Term for additional twelve month periods (each a "**Renewal Term**") subject to these Terms and Conditions, unless either party gives the other party written notice of its intent not to renew the Contract, such notice to be provided no less than thirty (30) days prior to the end of the Initial Term or the then-current Renewal Term. The Initial Term and any Renewal Term collectively constitute the "Term" of the Contract.

12.2 Either party may terminate the Contract immediately on giving notice in writing to the other party if the other party commits any material breach of any term of these Terms and Conditions and, in the case of a breach capable of being remedied, shall have failed within thirty (30) days after the receipt of a request in writing from the first party to do so, to remedy that breach.

12.3 Either party may terminate the Contract immediately on giving notice in writing to the other party if the other party or Mimecast (i) files for bankruptcy; (ii) becomes or is declared insolvent, or is the subject of any proceedings related to its liquidation, insolvency or the appointment of a receiver or similar officer for it; (iii) makes an assignment for the benefit of all or substantially all of its creditors; or (iv) enters into an agreement for the cancellation, extension, or readjustment of substantially all of its obligations.

12.4 Termination of the Contract shall not affect the accrued rights of either party up to the date of termination.

12.5 Upon payment of reasonable costs to Sure, the Customer can request and Sure can procure that Mimecast return the Customer Data in an agreed format. In the event of a request for the return of any Service Data, Sure can retain such Service Data as forms part of the permanent records which it is bound by law or regulatory requirements to preserve or which Sure may reasonably require for archive purposes. Nothing in these Terms and Conditions shall require Sure or Mimecast to keep the Customer Data and/or the Service Data for more than 30 days following the termination of the Contract unless the parties agree otherwise in writing.

13. GENERAL

13.1 Neither party shall be liable for any delay in performance or failure to perform its obligations (other than a payment obligation) under these Terms and Conditions due to any cause or event outside its reasonable control. Such delay or failure shall not constitute a breach of these Terms and Conditions and the time for performance of the affected obligation shall be extended by such period as is reasonable. In the event that any such cause or event shall continue for a period of sixty (60) days or more, Sure may terminate the Contract without liability to the Customer by notice to the Customer, such notice to take effect forthwith.

13.2 The Customer may not assign the Contract or any benefits or interests arising under it without the prior written consent of Sure. Sure may assign the Contract to a third party with the prior written consent of the Customer, such consent not to be unreasonably withheld, provided that it shall be entitled to assign the Agreement to another member of its Group on written notice. Should the Customer purport to assign the Contract in contravention of this clause,

then Sure shall be entitled to terminate the Contract and any fees paid in advance shall not be refunded.

13.3   Any communications required or permitted under in connection with the Contract must be written in English. Any business communications in connection with the Contract may be provided by email. Any legal notices relating to the Contract must be provided in writing and sent to the receiving party at the address specified above or any address later provided by such party, and legal notices cannot be given by email. All notices will be sent by major commercial delivery courier service or mailed in a manner that requires signature by the recipient. The party serving the notice is responsible for, and shall verify receipt thereof, by the other party.

13.4   If any provisions or part of a provision of the Contract is judged to be illegal or unenforceable, the remainder will continue in full force and effect unless the substantive purpose of the Contract would be frustrated by this, in which case either party may terminate the Contract forthwith on giving written notice to the other. Where any provision of the Contract is deemed unenforceable under any applicable local laws, then the offending part shall be deemed excised from the Contract and replaced by equivalent provisions with the same effect to the fullest extent possible and permitted by such local laws.

13.5   No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual right will be deemed to be a waiver of any other right or of any later breach.

13.6   The Contract is entered into solely between, and may be enforced only by, Sure and the Customer, and the Contract will not be deemed to create any rights in third parties or to create any obligations of a party to any such third parties, except as otherwise expressly set forth herein.

13.7   The Customer acknowledges that in the event Sure uses one or more subcontractors, to provide the Service(s) under these Terms and Conditions, such subcontractors shall be bound by the same obligations of confidentiality as Sure.

13.8   The Customer agrees that, in relation to the Service(s), Sure is permitted to engage any member of its Group to provide the Service(s) on its behalf. Sure will remain liable to the Customer for the actions or omissions of its Group company and will procure that any member of its Group shall comply with the terms and conditions contained herein.

13.9   The Customer acknowledges that no reliance is placed on any representations made but not embodied in these Terms and Conditions. The printed terms and conditions of any purchase order or other correspondence and documents of the Customer issued in connection with these Terms and Conditions shall not apply unless expressly accepted in writing by Sure. Sure may revise these Terms and Conditions, at any time in our sole discretion by posting such revised terms at https://web.sure.com/jersey/terms-and-conditions, or otherwise notifying the Customer in accordance with Clause 13.3. Such revised terms shall be effective to the Customer upon posting or other notice, unless otherwise explicitly stated by Sure. If the Customer does not agree with any of these Terms and Conditions as they may be amended from time to time, Sure may in its sole discretion consider any proposed amendments.

13.10   Headings have been included for convenience only and shall not be used in construing any provision herein.

13.11   These Terms and Conditions and the Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, Jersey law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of Jersey.

APPENDIX 1
SERVICE APPENDICES

[INSERT RELEVANT SERVICE APPENDIX]

APPENDIX 2
Support Description

Sure will provide the following technical support ("**Technical Support**") in connection with the Service(s). Sure will respond to each Technical Support request within the time frames set forth below and will use commercially reasonable endeavours to resolve such request as soon as reasonably possible. Sure will log all support requests, provide the Customer with an incident number and use all reasonable endeavours to provide a resolution. Sure may elect to provide a temporary solution until a resolution to the initial problem can be found.

1. **Contacts**

Customer will nominate specific people as support contacts ("**Designated Contacts**"), whose details will be registered with Sure. The Designated Contacts may be amended by Customer upon written notice to Sure. Customer is required to ensure that the Designated Contacts are and continue to be fully trained on all the licensed Services using web-based training provided by Sure and Mimecast. Designated Contacts will perform the following:

- Carry out initial analysis and attempt to replicate the problem in an effort to resolve simple end user-type errors. They will co-ordinate the gathering of relevant information from the end-users, computer room operators, system managers in order to diagnose reported problems.

- Distinguish between normal and abnormal operation of the Service(s); accurately describe symptoms of repeatable problems.

- Notify Sure of problem situations using agreed procedures if the problem cannot be resolved after the initial analysis.

Sure will provide and maintain applicable contact information to enable Customer to contact the technical support team.

2. **Technical Support**

Sure will provide 24 hour a day, seven days a week technical support to the Customer for problems with the Service and liaise with the Customer to resolve these problems.

If a defect with the Service is reported to Sure, Sure will assess priority and respond as detailed below:

Priority	Definition	Target response time
Urgent	Including but not limited to, an interruption to general mail flow. This is defined as no emails flowing either inbound or outbound. Partial or total loss of Service or Service Impairment.	within two Working Hours
Non-Urgent	Including, but not limited to changes to stationary, changes to active directory synchronization and replication of files, queries relating to individual email deliveries, queries related to changes in configuration that are not related to email flow.	within one Business Day

The Customer must verify to the best of their ability that the reason for the incident is not generated from their systems. Defects originating from the Customer's actions or requiring the actions of other service providers are beyond the control of Sure and as such are specifically excluded from the above response times.

3. Exclusions

Sure shall be under no obligation to provide technical support due to improper installation or operation of the Service(s) or use of the Service(s) not in accordance with the documentation or instructions of Sure's support team, which are in the sole discretion of Sure. In addition, Sure shall not be responsible for any performance delays or failure of the Service(s) if the failures or delays are caused by (a) equipment, software, systems, services or data not provided by Sure, or (b) acts or omissions of Customer (including Permitted Users) that violate these Terms and Conditions.

4. Service Upgrades

Customer acknowledges and agrees that Mimecast may from time to time upgrade and/or enhance the Service(s), which may require the cessation or interruption of the Service(s). Mimecast shall use reasonable endeavours to avoid doing so during the hours of 8:00am to 8:00pm on Business Days. Where Mimecast is required to undertake emergency maintenance which is necessary to safeguard the Service(s) and/or any systems on which it operated then it may do so at any time but Sure shall endeavour to provide as much advance warning as it reasonably can to Customer.

The Customer acknowledges and agrees that the documented Service Levels set out below shall apply to all Customers and the remedies therein shall be the Customer's sole remedy in respect of any service level breach. Sure may modify the SLA from time to time in its sole discretion.

A.   SERVICE LEVELS

Sure will maintain the following Service Levels in connection with the Service(s).

1.   Email Delivery: This Service Level measures the ability to deliver email messages to or from Mimecast's servers.

Service Availability Per Calendar Month	Credit of Fee for the Affected Month
<100% but >=99%	10%
<99% but >=98%	20%
<98% but >=97%	30%
<97% but >=96%	40%
<96%	50% and Customer may terminate the Agreement and receive a pro-rata refund of any unused pre-paid fees.

2.   DNS Resolution: This Service Level measures the ability to resolve customer DNS requests against Mimecast's servers for the Web Security Service only.

Service Availability Per Calendar Month	Credit of Fee for the Affected Month
<100% but >=99%	10%
<99% but >=98%	20%
<98% but >=97%	30%
<97% but >=96%	40%
<96%	50% and Customer may terminate the Agreement and receive a pro-rata refund of any unused pre-paid fees.

3.   Spam Protection: This Service Level measures the effectiveness of the protection against receipt of spam for those Service(s) that include such functionality. This Service Level is measured in terms of "False Positives" and "False Negatives" (defined below). This Service Level applies across all of Customer's email traffic and SMTP connection attempts (any attempt to connect to a Mimecast SMTP mail gateway to send email).

(a)   Definitions: A "**False Positive**" is an e-mail incorrectly classified as spam by the Service. False Positives do not include emails which: (i) do not constitute legitimate business email; (ii) are sent from a compromised machine; (iii) are sent from a machine which is on a third party block list; or (iv) are sent from a mail server that does not fully comply with the SMTP delivery standards as

defined in RFC 2821 & 2822. A "**False Negative**" is a spam email that the Service does not identify as spam.

        (b)   Service Levels:

False Positive Service Levels:

False Positive Capture Rate per Calendar Month	Credit of Fee for the Affected Month
>.0001% but <=.001%	10%
>.001% but <=.01%	20%
>.01% but <=.1%	30%
>.1%	40%

False Negative Service Levels:

Consecutive days with False Negative Rate Exceeding 2%	Credit of Fee for the Affected Month
2 – 3	10%
4 – 5	20%
6 – 9	30%
10+	40%

4.   **Anti-Virus Service:** This Service Level measures protection against infection of Customer's servers by a virus through the Service(s), for those Service(s) that include anti-virus functionality. Upon confirmation by Sure that Customer's systems has been infected by one or more harmful viruses in any calendar month through the Service(s), Customer will be entitled to a service credit from Sure equal to 50% of the fees for the affected calendar month.

5.   **Search Performance:** This Service Level relates to the search time where Permitted Users access Mimecast's email archiving service. This Service Level measures the time elapsed between the receipt of the Permitted User's search request by Mimecast's systems and when the return of the search results is initiated by Mimecast (the "**Query Time**").

Query Time *	Credit of Fee for the Affected Month
> 7 seconds but <= 20**	10%
> 20 seconds but <= 25**	15%
> 25 seconds but <= 30**	25%

* Service Level applies only where Customer has performed at least 250 searches in the given month.

** Query Time calculated via the median search times for Permitted Users searches in the given month..

6.   **Credit Request Process and Service Credits**

To receive a credit under this Section A, Customer must submit a credit request to serviceoperations@sure.com within 4 days of the end of the calendar month in which it believes Sure has failed to meet the standards provided in this Section A. A credit request will include details and dates of the relevant anomalies. Subject to verification by Sure, Sure will apply the appropriate credit and notify Customer accordingly. In any event, Sure's maximum accumulative liability to the Customer

under these Terms and Conditions in any calendar month shall be no more than 100% of the fees paid by Customer for the applicable month.

7.   Service Level Conditions

Service Levels will not apply to the following circumstances:

- During any trial periods, periods of planned maintenance, periods of non-availability due to a force majeure event, or periods of suspension of Service by Sure in accordance with these Terms and Conditions.
- Customer is not using the Service(s) in accordance with the documentation (including the best practice implementation policies therein) as well as reasonable usage allowances. The reasonable usage limit for Service(s) which include archiving, journaling or SMS messaging is three times the typical average user (as per internal benchmarks).
- To emails containing attachments that cannot be scanned (i.e. encrypted or password protected attachments).
- The implementation by Customer of excessively complex full text content policies.
- To emails sent by Customer to large external distribution lists, which may be subject to serialized delivery.
- A denial of service attack from a third party or Customer causes a denial of service attach to occur (or any similar event).
- Customer or third-party inability to access the primary or backup MX hosts servers due to a failing in the Internet.
- Viruses introduced to Customer's systems by Customer.
- Problems caused by mail servers that are not RFC-822 compliant.
- Where Customer's email system appears to be operative as an "open relay". "Open relay" means an email server configured to receive mail from an unknown or unauthorised third party and forward mail to recipients who are not users of that system.

Please note that Sure reserves the right to contact any Customer which is using the Service(s) in excess of the reasonable usage allowance to renegotiate contract terms.