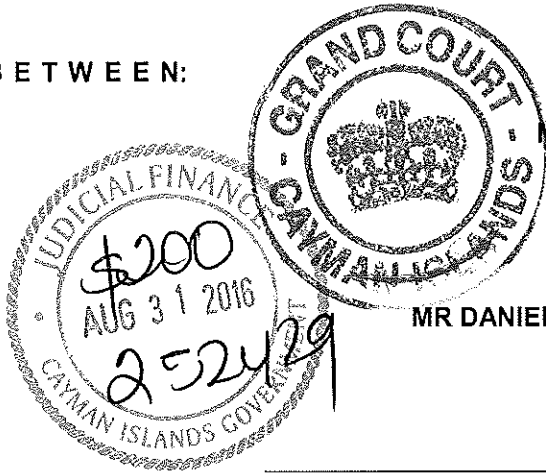


IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: *G0161* OF 2016

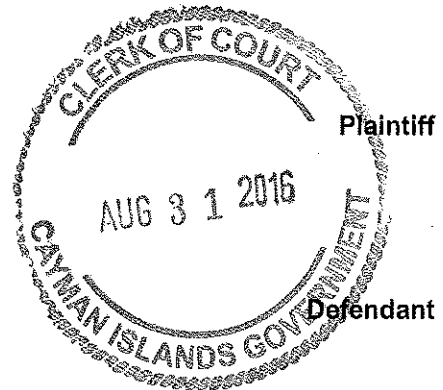
BETWEEN:



MCS LTD

AND

MR DANIEL ANTONY FITTON



**WRIT OF SUMMONS**

TO:

**Mr Daniel Antony Fitton**  
C/O SALT Technology Group  
10 Market Street, Suite 230  
Camana Bay  
KY1-9006

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495, Grand Cayman, KY1-1106, Cayman Islands, the accompanying Acknowledgement of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgement within the time stated, or if you return the Acknowledgement without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this      day of August 2016

NOTE – This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgement of Service are given with the accompanying form.

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**STATEMENT OF CLAIM**

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1. The Plaintiff is, and was at all material times since 2 August 1993, a company incorporated in the Cayman Islands conducting business as an Information Technology Consulting and Professional Service Company specialising in, *inter alia*, providing IT support to offshore business with a particular emphasis on the Cloud Platform. The Plaintiff's address for service is care of its Attorneys, HSM Chambers, Buckingham Square, 720 West Bay Road, PO Box 31726, Grand Cayman, KY1-1207, Cayman Islands.
2. The Defendant is, and was at all material times, an individual who resides in the Cayman Islands.
3. By an agreement dated 30 June 2010 between the Plaintiff and the Defendant (signed by the parties on 8 and 12 July 2010 respectively), the Defendant was employed by the Plaintiff as a Technical Marketing Officer ("the Agreement"). The Plaintiff will refer at the trial hereof to the Agreement for its full terms and effect.
4. It was an express term of the Agreement that, *inter alia*:

***"Non-compete:***            *MCS is making this job offer to you under the express condition that you cannot take up employment with one of MCS's competitors or customers for a period of one (1) year after the end of your employment with our company, unless you have the express written consent from the CEO of MCS."*

5. On or around 8 April 2016, the Defendant gave to the Plaintiff, two months' notice of his resignation which was accepted by the Plaintiff by letter dated 29 April 2016. In doing so, the Defendant expressly represented to the Plaintiff that he was returning to his native New Zealand and would not be taking up employment with a competitor. The Defendant's employment with the Plaintiff ended on or around 8 June 2016.
6. By letter dated 20 May 2016, the Plaintiff wrote to the Chief Immigration Officer pursuant to Regulation 9(a) of the Immigration Law (2015 Revision) in order to cancel the Defendant's Work Permit without consenting to releasing him from the same.

7. Prior to, or alternatively since, terminating his employment with the Plaintiff as aforesaid, the Defendant, in breach of his express duties to the Plaintiff, and in breach of the Agreement generally and specifically as pleaded at paragraph 4 above:
  - a. accepted an offer of employment with SALT Technology Group ("SALT"), a Company incorporated in the Cayman Islands on 14 September 2015 carrying on business as an Information Technology Service Provider which, in direct competition with the Plaintiff, has or seeks to launch a Cloud Platform;
  - b. removed, retained or used, proprietary confidential information of and belonging to the Plaintiff relating to the Plaintiff's business model, client base, technology, pricing structures and trade secrets; and
  - c. approached, directly or indirectly, clients of the Plaintiff generally and, in particular, during the advertising and marketing of the launch of SALT's Cloud Platform.
  
8. By letter dated 28 July 2016, the Defendant was requested to:
  - a. observe the restrictive covenant in the Agreement as pleaded at paragraph 4 above for the period provided thereby;
  - b. undertake not to resume employment with any other competitor or customer of the Plaintiff until 8 June 2017.
  
9. To date, and in continuing breach of his duties to the Plaintiff, and the Agreement generally and specifically the restrictive covenant, the Defendant has neglected, failed or refused to take any or any adequate action to provide terminate his employment with SALT and undertake not to take up employment with any other competitor or customer until 8 June 2017.
  
10. As a result of the aforesaid breached, the Plaintiff has and will, if the Defendant is not otherwise restrained, suffer injury, loss and damage and would be entitled to damages.

**AND THE PLAINTIFF CLAIMS:**

- a) Damages to be assessed;
- b) Interest pursuant to the Judicature Law on such sums and at such rate as the Court thinks fit; and

c) Such further and other relief as this Court may deem just.

*HSM CHAMBERS*

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**HSM Chambers**  
Attorneys for the Plaintiff

This WRIT OF SUMMONS was filed by HSM Chambers, Attorneys-at-Law for the Plaintiff whose address for service is Buckingham Square, PO Box 31726, Grand Cayman, KY1-1207, Cayman Islands (ref: SJA.417683.006)

Acknowledgment of service of writ of summons (O.12, r.3)

**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of each Defendant or by each Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, PO Box 495 GT, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

***See over for notes for guidance  
Please complete overleaf***

### Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgement of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a **FIRM** and an attorney is not instructed, the form must be completed by a **PARTNER** by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual **TRADING IN A NAME OTHER THAN HIS OWN**, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a **LIMITED COMPANY** the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a **MINOR** or a **MENTAL PATIENT**, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO: OF 2016

B E T W E E N:

MCS LTD

Plaintiff

AND

MR DANIEL ANTHONY FITTON

Defendant

**ACKNOWLEDGMENT OF SERVICE OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form IMMEDIATELY.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, **THIS FORM MAY HAVE TO BE RETURNED.**

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)  
 yes  no

3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (*tick box*).  
 yes  no

Service of the Writ is acknowledged accordingly

(Signed).....

[Attorney] for  
[Defendant in person]  
Address for service:

*Please complete overleaf*

**Notes on address for service**

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communication for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

HSM Chambers Attorneys-at-Law Buckingham Square PO Box 31726 George Town Grand Cayman KY1-1207 CAYMAN ISLANDS  Ref: SJA.417683.0006
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Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.

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