TRUSTMARQUE SOLUTIONS LIMITED – TERMS AND CONDITIONS

1. These terms and conditions which consist of the Sections listed below (these "**Conditions**") apply to all contracts that we enter into with our customers for the provision of "**IT Supplies**" to them:

SECTION A – DEFINITIONS AND INTERPRETATION

SECTION B – STATEMENT OF WORKS/SUBSIDIARY AGREEMENT GENERAL TERMS

SECTION C – SOFTWARE AND HARDWARE SUPPLY TERMS

2. Section A contains the definition and interpretation provisions that apply to these Conditions generally.

3. Section B contains the general terms which apply to orders for all IT Supplies.

4. Section C only applies where they are applicable to the IT Supplies being ordered.

5. Unless and until superseded by any new Conditions that we may post on this Website, these Conditions apply to all Statements of Work from and including 1 November 2013.

6. Unless otherwise stated in a quotation or a price guide, a price is valid until the end of the month in which it is quoted only, and unless otherwise agreed in writing, We may withdraw it at any time by notice to the You.

7. Each order or acceptance of a quotation for IT Supplies by You shall be deemed to be an offer by You subject to these Conditions. You shall ensure that Your order is complete and accurate.

8. A binding contract shall not come into existence between Us and You unless and a Statement of Works is signed by both parties, until We issue a written order acknowledgement to You or We commence delivery of the IT Supplies to You (whichever occurs earlier).

9. No order which has been acknowledged by Us may be cancelled by You, except as provided in these Conditions and/or a Statement of Works and provided that You indemnify Us in full against all loss (including without limitation loss of profit), costs (including without limitation the cost of all labour and materials used), damages, charges and expenses incurred by Us as a result of cancellation.

10. It is suggested that you download and retain a copy of these Conditions if you have or will be placing an order.

11. Phone calls received and made by Us may be recorded for training and quality measurement purposes. All call recordings are treated as confidential information and are only available for review by authorised staff.

SECTION A – DEFINITIONS AND INTERPRETATION

1. Definitions and interpretation

1.1 In these Conditions the expressions which follow are given these meanings unless the context in which they are used requires a different meaning:

1.1.1 **"Applicable Laws"** means any legislation in force from time to time that We can be reasonably expected to be aware of in relation to the IT Supplies;

1.1.2 **"Business Day"** means any day which is not a Saturday, a Sunday or a bank or public holiday throughout England and Wales or Scotland;

1.1.3 **"Commencement Date"** means the earlier of the date specified as such in the Statement of Works or the commencement of delivery of the IT Supplies;

1.1.4 **"Confidential Information"** means (i) Your Input Data; (ii) the Deliverables; (iii) the terms of any Statement of Works; and (iv) any and all other confidential information in any form or format disclosed by or on behalf of one Party to the other Party under or in connection with any Statement of Works at any time (whether before, upon or following the entry into force of these Conditions), which information is marked as confidential or otherwise designated (whether orally or in writing, including in the latter case in terms of the following provisions of this definition) by the person supplying it as 'confidential', or which by its nature is clearly confidential. Confidential Information includes any information in relation to the past, present and potential future finances, policies, procedures, plans, products, services, contractual arrangements, staff, customers or other of Our contractors and/or those of any of Our Group Companies;

1.1.5 **"Contract Governance Arrangements"** means the contract governance arrangements set out in any Statement of Works;

1.1.6 **"Data Subject"** has the meaning given in the DPA (as defined below);

1.1.7 **"Deliverables"** means any works, materials or other output in any form or format whatsoever (including drafts) produced or supplied by or on Our behalf for or to You, as part of the IT Supplies, including any such works, materials or other output specified in any Statement of Works;

1.1.8 **"Discloser"** means, in respect of any Confidential Information, the Party by or on behalf of which that Confidential Information is disclosed, except that both Parties will be treated as the "Discloser" of the terms of these Conditions;

1.1.9 **"DPA"** means the Data Protection Act 1998;

1.1.10 **"Fees"** means the fees specified in, or calculated in accordance with, any Statement of Works;

1.1.11 **"Force Majeure Event"** means any cause affecting the performance by a Party of its obligations under any Statement of Works arising from acts, events or omissions beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving Our

workforce or the workforce of any other party), failure of a utility service or transport network, default of suppliers or sub-contractors, act of God, war, riot, civil commotion, act or threats of terrorism, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of IT equipment, fire, flood or storm;

1.1.12 **"Group Company(ies)"** means, in relation to a Party:

1.1.12.1 any subsidiary of that Party;

1.1.12.2 the holding company of that Party (if any); and

1.1.12.3 any other subsidiary of that holding company;

and for these purposes the terms "subsidiary" and "holding company" each have the meaning given to them in section 1159 of the Companies Act 2006;

1.1.13 **"Intellectual Property Rights"** means patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including without limitation all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

1.1.14 **"IT Supplies"** means any services, Software, Hardware and/or other information technology product which We have agreed to supply to You under, and is described in, a Statement of Works;

1.1.15 **"Our Group"** means Us and our Group Companies;

1.1.16 **"Parties"** means Us and You as parties to the relevant Statement of Works;

1.1.17 **"Personal Data"** and **"Processing"** have the meanings given to them in the DPA and **"Process"** and any other tense or part of that verb will be interpreted accordingly;

1.1.18 **"Project Milestones"** means the dates (if any) identified as such in the Project Timetable;

1.1.19 **"Project Timetable"** means the timetable (if any) for the provision of the IT Supplies which appears in the Statement of Works;

1.1.20 **"Recipient"** means, in respect of any Confidential Information, the Party to which that Confidential Information is disclosed under any Statement of Works, except that both Parties will be treated as the "Recipient" of the terms of any Statement of Works;

1.1.21 **"Statement of Works"** means any contract (and any subsequent document(s)) that the Parties enter into for the provision of IT Supplies and/or Deliverables to be provided by Us to You, which is subject to these Conditions. Where the IT Supplies is Software and/or Hardware the Statement of Works refers to the order confirmation in relation to that Software and/or Hardware where no further agreement is signed by both parties;

1.1.22 **"Term"** means the term of the Statement of Works;

1.1.23 **"Us"** means Trustmarque Solutions Limited, a company incorporated in England Wales (registered number 02183240), whose registered office is at 17 Rochester Row, London SW1P 1QT and similar expressions such as "We", "Our" and "Ours" shall be construed accordingly;

1.1.24 **"VAT"** means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax;

1.1.25 **"Website"** means the website url www.trustmarque.com (or any website that We may operate in replacement therefor from time to time);

1.1.26 **"You"** means the person, firm or company who purchases the IT Supplies from Us and similar expressions such as "Your" and "Yours" shall be construed accordingly;

1.1.27 **"Your Input Data"** means any information and works in any form or format whatsoever disclosed to Us by You or on Your behalf for use by Us in supplying the IT Supplies and includes the physical embodiment of any such information and works (if any) listed in the Statement of Works as part of Your Property; and

1.1.28 **"Your Property"** means the equipment, materials and other items listed in the Statement of Works as resource requirements that You will provide.

1.2 Unless the context requires a different interpretation or these Conditions expressly provides otherwise, the following rules will be used to interpret these Conditions:

1.2.1 Any reference to a statute, a statutory instrument or a provision of either includes references to that statute, statutory instrument or provision as amended, extended, applied, consolidated or re-enacted from time to time, whether before, on or after the Commencement Date and, in the case of a statute or a provision of that statute, will be interpreted as including any subordinate legislation made under that statute or that provision from time to time.

1.2.2 Words used in the singular will be interpreted to include the plural and vice versa.

1.2.3 A reference to a Party to these Conditions includes that Party's permitted successors, transferees and assignees.

1.2.4 A reference to a "person" is to any legal person, including any individual, partnership, company or other body corporate.

1.2.5 The word "including" means "including but not limited to" and "include" and "includes" will be interpreted accordingly.

1.2.6 Except if and to the extent that these Conditions expressly provide otherwise, any reference to recording or communicating any matter in "writing" will be interpreted as excluding email, and "written" will be interpreted accordingly.

1.2.7 The word "disclose" includes permitting a person to access information in any manner or imparting that information orally or by demonstration and any other tense or part of that verb will be interpreted accordingly.

1.3 Where a word or phrase is defined anywhere in these Conditions, whether in this Clause 1 or elsewhere, that word or phrase will have the meaning given to it in that definition wherever it is used throughout these Conditions.

1.4 The clause headings in these Conditions and any Statement of Works do not create legal rights or obligations, nor affect the meaning of these Conditions.

1.5 In the event of any conflict or inconsistency between them, the terms of the Statement of Works will prevail over these Conditions.

1.6 Where these Conditions use an English legal term and the relevant provision of these Conditions is being considered in the context of a jurisdiction other than England and Wales, the term will be interpreted as referring to that which most nearly approximates to the English legal term in such other jurisdiction.

SECTION B - STATEMENT OF WORKS GENERAL TERMS

2. Application of the general terms to all Statements of Works

The general terms of this Section B of these Conditions apply to and are deemed incorporated within all Statements of Works to the exclusion of any terms and conditions or other contractual terms or arrangements proposed by You except to the extent expressly agreed by Us in the Statement of Works.

3. IT Supplies

3.1 We will use reasonable endeavours to provide the IT Supplies and/or Deliverables to You in accordance with:

3.1.1 the Statement of Works in all material respects;

3.1.2 all Applicable Laws; and

3.1.3 the Project Timetable, recognising however that the dates set out in the Project Timetable shall be estimates only and time shall not be of the essence of these Conditions.

4. Deliverables

4.1 Risk of damage to, or loss of, any Deliverable which is a good, or any physical medium on which a Deliverable is stored, will pass to You on delivery to You.

4.2 Property in any Deliverable which is a good, or any physical medium on which a Deliverable is stored, will pass to You on payment by You of the Fees in respect of that Deliverable.

5. Your obligations

5.1 You shall:

5.1.1 co-operate with Us in all matters relating to the IT Supplies;

5.1.2 provide in a timely manner such access to Your premises, Your Property and data (including Your Input Data), and such office accommodation, computer and other facilities, as is requested by Us and/or as indicated as being required from You in the Statement of Works;

5.1.3 provide in a timely manner such information as We may request, and ensure that such information is accurate in all material respects; and

5.1.4 be responsible (at Your own cost) for preparing the relevant premises for the supply of the IT Supplies.

5.2 where the provision of the IT Supplies requires Us to ensure that certain resources are made available at a time and location agreed by both Parties and/or as set out in the Project Timetable, if You are unable to fulfil Your obligations in relation to such activities at such time and location or wish to cancel or postpone the activity so that the resources are not required at the agreed time and/or location then You must give Us notice in accordance with Clause 18 (Notices) not less than 5 Business Days prior to the date of such activity.

5.3 We shall not be liable to You if Our performance of Our obligations under any Statement of Work is prevented or delayed by any act or omission of You or Your agents, sub-contractors or employees. Subject to Clause 5.2, if Our performance of Our obligations under any Statement of Work is prevented or delayed by any act or omission of You or Your agents, sub-contractors or employees, You shall be liable to pay to Us on demand all reasonable costs, charges or losses sustained or incurred by Us (including, without limitation, any loss of opportunity to deploy resources elsewhere), subject to Our confirmation and evidence of such costs, charges and losses to You in writing, and provided We have taken all reasonable steps to mitigate such costs, charges and/or loss. To be clear, such costs, charges and losses may include any such costs, charges or expenses that We incur to Our sub-contractors.

5.4 You shall not, without Our prior written consent, at any time from the Commencement Date to the expiry of six months after the completion of the IT Supplies, solicit or entice away from Us or employ or attempt to employ any person who is, or has been, engaged by Us as an employee or sub-contractor in relation to the relevant IT Supplies.

6. Fees, invoicing and payment

6.1 The Fees, invoicing and payment information shall be confirmed in writing by Us in the Statement of Works.

6.2 Clause 6.3 shall apply if any part of the IT Supplies that are to be provided on a time-and-materials basis. Clause 6.4 and Clause 6.6 shall apply if any part of the IT Supplies are to be provided for a fixed price. The remainder of this Clause shall apply in either case. The provisions in this Clause are without prejudice to the provisions of Clause 32 where they apply.

6.3 Unless otherwise stated in the Statement of Works, where the Statement of Works provides that any part of the IT Supplies are to be provided on a time-and-materials basis:

6.3.1 The Fees payable for the IT Supplies shall be calculated in accordance with Our standard daily Fee rates as amended from time to time;

6.3.2 Our standard daily Fee rates are calculated on the basis of an seven and half hour day worked between 8.00 and 5.30 pm on Business Days;

6.3.3 We shall be entitled to charge at an overtime rate of 150% of the normal rate for time worked by members of Our team outside the hours referred to in Clause 6.3.2 on a pro-rata basis;

6.3.4 We shall ensure that all members of the team complete time sheets recording time spent in providing the IT Supplies, and We shall use such time sheets to calculate the charges covered by each monthly invoice referred to in Clause 6.3.5; and

6.3.5 We shall invoice You monthly in arrears for Our Fees for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this Clause 6. Each invoice shall set out the time spent by each member of Our team.

6.4 Where the Statement of Works provides that any of the IT Supplies are provided for a fixed price the Fees for the IT Supplies shall be the amount set out in the Statement of Works. The total price shall be paid to Us (without deduction or set-off) in instalments as set out in the Project Timetable on its achieving the corresponding Project Milestone. On achieving a Project Milestone, We shall invoice You for the Fees that are then payable, together with expenses and the costs of materials (and VAT, where appropriate), calculated as provided in Clause 6.

6.5 Where the Statement of Works does not contain a Project Timetable, We may invoice You on the dates otherwise set out in the Statement of Works or otherwise on delivery of the IT Supplies and/or the Deliverables.

6.6 Any fixed Fees exclude:

6.6.1 the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the team in connection with the provision of the IT Supplies, and the cost of any materials or services reasonably and properly provided by third parties required by Us for the provision of the IT Supplies. Such expenses, materials and third party services shall be invoiced by Us at cost; and

6.6.2 VAT, which We shall add to Our invoices at the appropriate rate.

6.7 You shall pay each invoice submitted to You by Us in full, and in cleared funds, within 30 days of receipt.

6.8 Without prejudice to any other right or remedy that We may have, if You fail to pay Us on the due date We may:

6.8.1 charge interest on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of The Royal Bank of Scotland plc accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment. Alternatively, We may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and

6.8.2 suspend the provision of all IT Supplies until payment has been made in full.

6.9 Time for payment shall be of the essence of the Statement of Works.

6.10 All payments payable to Us under the Statement of Works shall become due immediately on termination of the Statement of Works, despite any other provision. This Clause is without prejudice to any right to claim for interest under the law, or any such right under these Conditions.

6.11 We may, without prejudice to any other rights We may have, set off any liability that We may have to You against any liability of You may have to Us.

7. Change control

7.1 If either Party wishes to change the scope of the IT Supplies, it shall submit details of the requested change to the other in writing.

7.2 If either Party requests a change to the scope or execution of the IT Supplies, We shall, within a reasonable time, provide a written estimate to You of:

7.2.1 the likely time required to implement the change;

7.2.2 any variations to Our Fees arising from the change;

7.2.3 the likely effect of the change on the Project Timetable; and

7.2.4 any other impact of the change on the terms of these Conditions and/or the Statement of Works.

7.3 If We request a change to the scope of the IT Supplies, You shall not unreasonably withhold or delay consent to it.

7.4 If You wish Us to proceed with the change, We have no obligation to do so unless and until the Parties have agreed in writing on the necessary variations to Our Fees, the Project Timetable and any other relevant terms of these Conditions and/or the Statement of Works to take account of the change.

7.5 You shall be responsible for paying additional fees for providing You with an estimate in accordance with Clause 7.2 unless the change in question has been requested by Us.

8. Contract governance

8.1 Where applicable, the Parties will implement and follow the Contract Governance Arrangements.

8.2 Without affecting the generality of Clause 8.1, each Party will ensure that the individuals identified in the Contract Governance Arrangements attend the meetings and otherwise perform the functions set out there. We may also require You to ensure that one or more of Your senior representative(s) attends any of those meetings, in any case where We consider that the issues to be discussed at that meeting justify that.

9. Intellectual Property Rights

9.1 All Intellectual Property Rights existing prior to the Commencement Date shall vest in their originator absolutely.

9.2 You grant Us for the Term a non-exclusive, worldwide, royalty free licence to use Your Intellectual Property Rights in any pre-existing material that vests in You pursuant to Clause 9.1 (including without limitation Your Input Data) to the extent required by Us to provide the IT Supplies and to fulfil Our other obligations under these Conditions or the Statement of Works.

9.3 Subject to Clauses 9.1 and 9.2 above and 9.4 below, all Intellectual Property Rights and all other rights in the Deliverables shall be owned by Us. We hereby licence all such rights to You free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable You to make reasonable use of the Deliverables and the IT Supplies as is envisaged by the Parties. If We lawfully terminate a Statement of Works under Clauses 14.1, 14.2, 14.5, 14.6 and 14.7, this licence will automatically terminate.

9.4 Where we have agreed to provide You with third party software as part of the IT Supplies, the terms upon which such software is provided are set out in Section C of these Conditions.

10. Limitation of liability

10.1 The following provisions set out Our entire financial liability (including any liability for the acts or omissions of Our employees, agents and sub-contractors) to You in respect of:

10.1.1 any breach of these Conditions or the Statement of Works;

10.1.2 any use made by You of the IT Supplies, the Deliverables or any part of them; and

10.1.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with these Conditions or the Statement of Works.

10.2 We will provide the IT Supplies to You using reasonable care and skill and any Deliverables will conform substantially to the requirements of the Statement of Works. Without prejudice to Clause 35 if it should be applicable, all other warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded by these Conditions.

10.3 Nothing in Clause 10 excludes Our liability:

10.3.1 for death or personal injury caused by Our negligence; or

10.3.2 for fraud or fraudulent misrepresentation.

10.4 Subject to Clause 10.3:

10.4.1 We shall not in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent) or otherwise for:

10.4.1.1 loss of profits; or

10.4.1.2 loss of business; or

10.4.1.3 depletion of goodwill or similar losses; or

10.4.1.4 loss of anticipated savings; or

10.4.1.5 loss of goods; or

10.4.1.6 loss of contract; or

10.4.1.7 loss of use; or

10.4.1.8 loss or corruption of data or information; or

10.4.1.8 any loss arising as a result of any defect in Software and/or Hardware; or

10.4.1.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

10.4.2 subject to Clause 10.4.1, Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of Our obligations under these Conditions or the Statement of Works (including any applicable conditions) shall be limited to the value of the Fees (unless any other amounts are agreed in writing in the Statement of Works).

11. Insurance

We will take out and maintain with a reputable insurer the insurance policies detailed in the Statement of Works in respect of Our potential liabilities under or in relation to the Statement of Works.

12. Confidentiality

12.1 Each Party will in respect of any Confidential Information of which it is the Recipient:

12.1.1 use that Confidential Information only if and to the extent necessary for the purposes of performing its obligations and/or exercising its rights under these Conditions and the Statement of Works;

12.1.2 not disclose that Confidential Information to any person other than:

12.1.2.1 any person employed or engaged by it (including, in Our case, any of Our subcontractors); (ii) its auditors and other professional advisers, in each case if and to the extent that such disclosure is necessary for the purposes in Clause 12.1.1 (**"Permitted Disclosees"**); or

12.1.2.2 any other person having a statutory or other legal right (other than a contractual right) to request and receive that information, including any court of competent jurisdiction, provided that the Recipient informs the Discloser prior to such disclosure that it has been required to make it (if and to the extent that the Recipient is legally permitted to so inform the Discloser); and

12.1.3 otherwise use its best endeavours to protect and maintain the confidentiality of that Confidential Information.

12.2 Clause 12.1 will not apply to any information which:

12.2.1 is or becomes public knowledge other than as a result of a breach of this Clause 12;

12.2.2 was lawfully in the Recipient's possession before its disclosure to the Recipient under or in connection with these Conditions; or

12.2.3 following its disclosure to the Recipient under or in connection with these Conditions, is received by the Recipient from a third party who is not under an obligation of confidentiality in relation to that information.

12.3 Each Party will ensure compliance by its Permitted Disclosees with the confidentiality obligations imposed on it by this Clause.

12.4 A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of this disclosure as possible.

12.5 Each Party agrees that damages may not be an adequate remedy for any breach of this Clause and that the other Party will be entitled to a court order to enforce compliance with this Clause or to stop any breach of it, actual or threatened.

12.6 The provisions of this Clause 12 are subject to the provisions of Clause 13 in so far as they apply to any Confidential Information which is Personal Data.

13. Data protection

13.1 If and to the extent that We are required to Process Personal Data on Your behalf pursuant to a Statement of Works, We shall:

13.1.1 Process such Personal Data only to the extent necessary for the purposes of performing Our obligations under the Statement of Works, and otherwise in accordance with Your instructions;

13.1.2 put and at all times maintain in place appropriate technical and organisational measures against unauthorised or unlawful Processing of such Personal Data and against accidental loss or destruction of or damage to such Personal Data; and

13.1.3 not transfer any of that Personal Data outside the European Economic Area, except with Your prior written consent.

13.2 We shall be entitled to authorise a third party to process the Personal Data.

14. Termination

14.1 The Statement of Works may be terminated by Us at any time by giving at least thirty days' written notice to You.

14.2 The Statement of Works may be terminated by Us immediately by giving written notice to You, if You commit a material breach of the Statement of Works.

14.3 You may terminate the Statement of Works by giving written notice to Us, if We commit a material breach of the Statement of Works. However, where a breach is capable of being remedied, such Statement of Works may only be terminated where We have failed, within 14 days of receipt of a notice from You (unless an alternative timescale is agreed), describing that breach and requesting that it be remedied, to remedy that breach or to provide You with a plan for remedying that breach.

14.4 The Statement of Works may be terminated immediately by You by giving written notice to Us, if We are in persistent breach of the Statement of Works. We will be in persistent breach of the Statement of Works if We have committed a material breach of such Statement of Works on at least the number of occasions in the period prescribed in the Statement of Works.

14.5 Where any of the IT Supplies is subject to a User License, We shall be entitled to suspend or terminate the relevant IT Supplies immediately effective upon notice, for a violation of the User License by You, and You agree to defend, indemnify and hold Us harmless from any losses, damages, costs, liabilities or expenses resulting from any third party claim or allegation arising out of, or relating to, use of the relevant IT Supplies, which is as a result of Your violation of the User Licence.

14.6 Either Party may, by written notice to the other, terminate the Statement of Works if a Force Majeure Event occurs which prevents Us from performing Our obligations in respect of all or a substantial part of the IT Supplies for a continuous period of more than 15 days.

14.7 The Statement of Works may be terminated by either Party (the **"Terminating Party"**) immediately by giving written notice to the other Party if:

14.7.1 the other Party suspends or threatens to suspend payment of its debts or is unable to pay its debts as they fall due or, being a company or a limited liability partnership, is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or, being a natural person, is deemed either to be unable to pay its debts or to have no reasonable prospect of so doing, in either case within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing applies;

14.7.2 the other Party commences negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors (other than for the sole purpose of a scheme for a solvent amalgamation of the other Party with one or more other companies or the solvent reconstruction of the other Party);

14.7.3 a moratorium is declared in respect of any indebtedness of the other Party;

14.7.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other Party (other than for the sole purpose of a scheme for a solvent amalgamation of the other Party with one or more other companies or the solvent reconstruction of the other Party);

14.7.5 an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other Party;

14.7.6 an administrative receiver, a receiver or a compulsory manager is appointed over the assets of the other Party or a person becomes entitled to make any such appointment;

14.7.7 a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen days;

14.7.8 any event occurs or step is taken in respect of the other Party in any jurisdiction to which it is subject which event or step is equivalent or similar to those set out in this Clause 14.7;

14.7.9 the other Party ceases (or threatens to cease) for any reason to carry on all or a substantial part of its business or takes or suffers any similar action which in the opinion of the Terminating Party means that the other Party may be unable to pay its debts.

15. Consequences of expiry or termination

15.1 The expiry or termination of the Statement of Works (for any reason) will not affect:

15.1.1 any rights or obligations of either Party that have accrued prior to such expiry or termination; or

15.1.2 any provision of the Statement of Works which is expressly or by implication intended to come into or to continue in force on or after such expiry or termination.

15.2 Subject to Clause 15.3, upon the expiry or termination of the Statement of Works, each Party will promptly, and in event within ten Business Days of such expiry or termination, deliver up to the other Party or destroy (at the absolute discretion of the other Party) any and all copies of Confidential Information (other than copies of these Conditions or any of its terms) of which it is the Recipient then in its (or any of its Permitted Disclosees') possession or control and provide the other Party with written confirmation, signed by a duly authorised officer, certifying that it has complied with its obligations under this Clause 15.2. The obligation to destroy any Confidential Information pursuant to this Clause 15.2 includes an obligation to permanently delete from any information technology system any copies of that Confidential Information held there in electronic form.

15.3 Clause 15.2 does not prohibit a Party (or its Permitted Disclosee) from retaining a copy of any Confidential Information if and to the extent that and for so long as that Party (or its Permitted Disclosee) is legally obliged to do so (other than in terms of any contractual obligation on its part) or that Party (or its Permitted Disclosee) reasonably requires to do so for internal audit and legal risk management purposes.

16. Assignment and sub-contracting

16.1 You may not assign, novate or otherwise transfer or sub-contract or otherwise deal in any of Your rights and/or obligations under the Statement of Works, whether in whole or in part, without Our prior written consent, such consent not to be unreasonably withheld or delayed.

16.2 We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under these Conditions and/or the Statement of Works.

17. Force majeure

A Party that is subject to a Force Majeure Event will not be in breach of these Conditions and/or the Statement of Works or liable for any failure or delay in the performance of any obligations under these Conditions and/or the Statement of Works to the extent that such failure or delay is attributable to the Force Majeure Event.

18. Notices

18.1 Where any notice is to be given under the Statement of Works, it must be in English and in writing, signed by a duly authorised signatory of the Party giving it. Notices must be:

18.1.1 delivered personally or by commercial courier or sent by first class post or recorded delivery, to the address and marked for the attention of the individual specified in the notices provisions of the Statement of Works, or to any other address and marked for the attention of any other individual that either Party may nominate in writing for these purposes from time to time; or

18.1.2 sent by fax to the fax number specified in the notices provisions of the Statement of Works, or such other fax number as either Party may nominate in writing for these purposes from time to time, and provided that within twenty four hours of sending it by fax, the notice is also delivered or posted to the Party concerned in accordance with Clause 18.1.1.

18.2 Any notice given in accordance with Clause 18.1 will be treated as having been received:

18.2.1 at the time of delivery, if delivered personally;

18.2.2 at the time of signature by the recipient of the courier's receipt, if delivered by commercial courier;

18.2.3 at 0900 hours on the second Working Day following the date of posting the notice, if sent by post; and

18.2.4 immediately on completion of successful transmission, if sent by fax.

However, where in any case, these rules would result in a notice being treated as having been received on a day which is not a Business Day, or after 1700 hours on a day which is a Business Day, it will be treated as having been received at 0900 hours on the next Business Day afterwards.

18.3 To prove the giving of a notice it will be sufficient to show it was sent in accordance with Clause 18.1.

18.4 The provisions of this Clause do not apply to the service of any process in any legal action or proceedings which may be served in any manner competent under applicable law.

19. Severability

19.1 If any provision of these Conditions and/or the Statement of Works is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

19.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

20. Waiver

20.1 No failure to exercise or delay in exercising a right or remedy under a Statement of Works or otherwise in law will constitute grounds from which to infer that the Party so delaying or failing has waived or elected to abandon that right or remedy in respect of any circumstances or events, past, present and/or future.

20.2 No single or partial exercise of any right or remedy under a Statement of Works or in law will preclude or restrict the further exercise of that right or remedy.

21. Variations

No variation of these Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

22. Exclusive Remedies

The remedies set out in these Conditions and the relevant Statement of Works are Your sole and exclusive remedies.

23. Disputes

23.1 If a dispute arises out of or in connection with these Conditions and/or a Statement of Works, or the performance, validity or enforceability of either of them (**Dispute**) then the Parties shall follow the procedure set out in this clause:

23.1.1 either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, our Sales Director and the person identified in the Statement of Works for First Stage Dispute shall attempt in good faith to resolve the Dispute;

23.1.2 if the above are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to our Sales & Marketing Director and the person identified in the Statement of Works for Second Stage Dispute who shall attempt in good faith to resolve it; and

23.1.3 if the above are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the Dispute shall be referred for determination as follows:

23.1.3.1 if the dispute is of a technical nature which is related to the provision of the IT Supplies and/or the Project, to an expert (an **"Expert"**), who will act as expert and not as arbitrator, in accordance with Clause 23.2 to Clause 26.5; or

23.1.3.2 in all other cases, mediation and/or arbitration in accordance with Clause 23.6 and Clause 26.8.

23.2 The Expert will be selected and appointed by agreement of the Parties. If the Parties fail to appoint the Expert within 10 Business Days, the Expert will be chosen and appointed on the instructions of either Party using CEDR Solve who shall appoint an Expert who is suitably qualified and experienced to determine the issue in dispute.

23.3 The Expert will be instructed to deliver his or her decision to the Parties in writing within 30 days or such other period as may be agreed in writing of the date on which his or her appointment takes effect.

23.4 Each Party will fully comply with any instructions issued by the Expert in accordance with the terms of his or her appointment and otherwise co-operate with the Expert, including by providing him or her with any information in its possession which he or she requests for the purposes of considering the issue in dispute and reaching his or her decision.

23.5 Each Party will bear its own costs in relation to the reference to the Expert. The fees and costs of the Expert will be borne by the Parties in whatever proportion he or she decides having regard (amongst other things) to the conduct of the Parties.

23.6 If Clause 23.1.3.2 applies and/or the Parties cannot agree that the Dispute is of a technical nature, the Parties shall first seek settlement of the Dispute by mediation in accordance with the LCIA Mediation Rules, which Rules are deemed to be incorporated by reference into this clause.

23.7 If the Dispute is not settled by mediation within 30 days of the commencement of the mediation, or such further period as the parties shall agree in writing, the Dispute shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause there shall be one arbitrator and the seat, or legal place, of arbitration shall be England.

23.8 The provisions of this Clause 23 do not prevent either Party from applying for an interim court order whilst the Parties attempt to resolve a dispute in accordance with this clause.

24. No joint venture, partnership or agency

A Statement of Works does not and is not intended to create a partnership or joint venture between the Parties to it, nor authorise either Party to act as agent for the other. Except to the extent otherwise agreed expressly in a Statement of Works or otherwise in Writing, neither Party will have authority to act in the name of or on behalf of or otherwise to bind the other Party in any way (including without limitation the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power), nor will they purport to so act or to so bind the other Party.

25. Counterparts

A Statement of Works may be entered into in any number of counterparts and by the Parties on separate counterparts, each of which, when executed and delivered, shall constitute a duplicate original, but all the counterparts together shall together constitute the one agreement.

26. Entire agreement

26.1 The Statement of Works and any other documents that may be referred to in it or annexed to it, constitutes the entire agreement between the Parties in relation to its subject matter and supersedes any prior arrangement, understanding or agreement between them in relation thereto.

26.2 Each of the Parties acknowledges and agrees that in entering into the Statement of Works and the documents referred to in it or annexed to it, it does not rely on the statement, representation (whether innocent or negligent), assurance or warranty (whether in writing or not) of any person (whether party to this agreement or not) other than as expressly set out in the Statement of Works or those documents.

26.2 These Conditions and the Statement of Works are made for the benefit of the Parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by anyone else.

27. Law

27.1 These Conditions, the Statement of Works and any dispute or claim arising out of or in connection with them or their subject matter or formation (including without limitation non-contractual disputes or claims) are governed by and construed in accordance with the law of England and Wales.

27.2 Subject to Clause 23, the Parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Conditions, the Statement of Works or its or their subject matter or formation (including without limitation non-contractual disputes or claims).

SECTION C – SOFTWARE AND HARDWARE SUPPLY TERMS

28. Application of Section C

28.1 The terms of this Section C of these Conditions apply to and are deemed incorporated within all Statement of Works where within the IT Supplies there is a reference to Software and/or Hardware, to the exclusion of any terms and conditions or other contractual terms or arrangements proposed by You.

28.2 Unless any provision in this Section provides otherwise, the terms of this Section apply subject to the other terms of these Conditions which shall take precedence in the event of conflict or inconsistency.

29. Definitions

In addition to the defined terms contained within Section A Clause 1, the expressions which follow are given these meanings unless the context in which they are used requires another meaning.

"Hardware" means the hardware products to be provided by Us to You under the Statement of Works;

"Media" means the media upon which Software is recorded and any documentation produced by Us which is associated with Software specified in the Statement of Works;

"Software" means any third party software products to be provided by Us to You under the Statement of Works;

"User Licence" means the end user licence agreement applying to the Software provided to You by the licensor of the Software.

30. Software User Licences, Intellectual Property and Representations

30.1 Subject to the payment of the Fees by You and acceptance by You of the terms of the relevant User Licences, We shall procure the delivery of the Software for, and provide the Media to, You.

30.2 We do not own any Intellectual Property Rights in the Software and We do not grant You any rights to use the Software. You acknowledge that User Licences are granted by the licensors of the Software direct to You and confirm that You will use Software on and subject to their terms.

30.3 You acknowledge that We are not authorised to make and have not made any representations regarding the Software to You, and You have not entered into the Statement of Works in reliance of any representations regarding the Software.

30.4 The Statement of Works covers the supply of the Software by Us to You. Unless the description of the IT Supplies expressly provides otherwise, We do not advise or recommend the purchase of any software by You and assume no duties under contract or otherwise in relation to Your choice of Software.

31. Use of Software

31.1 You undertake:

31.1.1 not to use the Software until You have accepted the terms of the relevant User Licence;

31.1.2 to notify Us of any material breaches of User Licences without delay;

31.1.3 not to copy the Software (other than in accordance with the terms of a User Licence);

31.1.4 not to disassemble, decompile or reverse engineer the Software except in accordance with the terms of the User Licence, the Statement of Works or as permitted by applicable law;

31.1.5 not to translate, modify, create derivative works from, adapt, enhance or extend the Software (other than in accordance with the terms of a User Licence);

31.1.6 not to lease, rent, loan, distribute, sub-lease, transfer, or sub-license the Software (other than in accordance with the terms of a User Licence);

31.1.7 to supervise and control use of Software to ensure compliance with the terms of User Licences and the Statement of Works;

31.1.8 to ensure that Your employees and agents are notified of the restrictions contained in this Section and the terms of User Licences prior to such employee or agent using the Software; and

31.1.9 not to use the Software to provide any bureau, application service or facilities management service or use the Software to process the data of any third party.

32. Payment

32.1 Unless otherwise stated in the Statement of Works, You shall pay the Fees which relate to the Software and/or Hardware in full to Us within 30 days of the date of Our invoice without any withholding, deduction, set-off, counterclaim or cross demand. We reserve the right to have User Licences revoked and withdraw IT Supplies if payment is not received for the Software and/or Hardware within 30 days of Our Invoice date (or in accordance with any other payment terms which are agreed between the Parties).

32.2 Time shall be of the essence in respect of Your obligations under this Clause 32.

32.3 Title to Media and/or Hardware shall not pass until full payment of the relevant Fees and all other monies due from You to Us have been paid.

32.4 In addition to the Fees (and unless the parties agree otherwise) You shall pay any delivery charges associated with the delivery of Media and/or Hardware to Us and/or to You.

32.5 Save to the extent that they are inconsistent with the terms of this Clause 32, the terms of Clause 6 apply to the Fees which relate to Software and/or Hardware.

33. Delivery

33.1 Where applicable, We agree to deliver Media and/or Hardware to You. Any delivery times provided by Us to You are estimates only and time of delivery of Media and/or Hardware shall not be of the essence.

33.2 We may deliver Media and/or Hardware in instalments.

33.3 Risk in Media and/or Hardware shall pass on delivery.

33.5 You shall be responsible (at the Your own cost) for preparing the delivery location for the delivery of the Hardware and for the provision of all necessary access and facilities reasonably required to deliver and install the Hardware. If We are prevented from carrying out delivery or installation on the specified date because no such preparation has been carried out, We may levy additional charges to recover Our loss arising from this event.

34. Returns/Cancellation

As a reseller of Software and Hardware, We are subject to the return and cancellation policies of the relevant supplier of the Software and Hardware. We shall provide reasonable efforts to assist You in cancelling and/or returning the Software and/or Hardware in accordance with the relevant return and/or cancellation policies of the supplier applicable to the Software and/or Hardware.

35. Warranty

35.1 We warrant that Media will be of satisfactory quality on delivery but otherwise all warranties and conditions that may apply to the Software are excluded to the fullest extent permitted by law.

35.2 In the event of any breach of Clause 35.1 by Us, Our sole obligation and Your sole remedy shall be to replace such deficient Media provided that this remedy will only be available to You where such deficiency has been notified to Us within 7 days of the date of delivery.

35.3 We do not manufacture the Hardware, We therefore, exclude all warranties, conditions and implied terms to the fullest extent possible in relation to such Hardware.

36. Export Control

Without prejudice to the generality of Clause 30.2, You acknowledge and undertake that the Software may be the subject of governmental controls on its use or resale and that You will observe the provisions of applicable law and User Licences relating to such controls.

37. Indemnity

You will indemnify Us against all losses, claims, demands, expenses and liabilities of any nature which We may sustain or suffer arising from a breach by You of your undertakings to Us under clauses 31 and/or 36.

Volume Licensing

Online Services Terms
April 1, 2017

Microsoft

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Introduction

Beginning July 1, 2014 these Online Services Terms (OST) replace the Online Services Use Rights (OLSUR). The OST contains terms that apply to Customer's use of Online Services. Separate terms, including different privacy and security terms, govern Customer's use of Non-Microsoft Products (as defined below), as well as other products and services from Microsoft.

Most Online Services offer a Service Level Agreement (SLA). For more information regarding the Online Services SLAs, please refer to http://microsoft.com/licensing/contracts.

Prior Versions

The OST provides terms for Online Services that are currently available. For earlier versions Customer may refer to http://go.microsoft.com/?linkid=9840733 or contact its reseller or Microsoft Account Manager.

Clarifications and Summary of Changes

Additions	Deletions
Office 365 Threat Intelligence	
Microsoft Stream	
Kaizala	

Privacy and Security Terms

Data Processing Terms: The Microsoft Azure Core Services row in the Online Services table has been updated to include Azure IoT Hub, Azure Resource Manager, Azure Rights Management, Application Gateway, Service Fabric, and VPN Gateway, remove Workflow Manager, and replace Operations Insights with Log Analytics. Microsoft Cloud App Security has been added to the Online Services table, the Location of Customer Data at Rest section, and the Online Services Information Security Policy table. The Microsoft Dynamics 365 Core Services bullet in the Location of Customer Data at Rest section has been updated to include the geographies of Australia, India, Japan, and the United Kingdom.

Online Service Specific Terms

Microsoft Azure Services: Microsoft Cloud App Security has been moved to the Other Online Services section.
Office 365 Services: Office 365 Advanced Compliance has been removed because with the addition of Office 365 Customer Lockbox as a feature component Office 365 Advanced Compliance no longer has a unique term that requires being denoted in the Online Service Specific Terms.

Table of Contents / General Terms

General Terms

Customer may use the Online Services and related software as expressly permitted in Customer's volume licensing agreement. Microsoft reserves all other rights. Customer must acquire and assign the appropriate subscription licenses required for its use of each Online Service. Each user that accesses the Online Service must be assigned a User SL or access the Online Service only through a device that has been assigned a Device SL, unless specified otherwise in the Online Service-specific Terms. Attachment 2 describes SL Suites that also fulfill requirements for User SLs. Customer has no right to use an Online Service after the SL for that Online Service ends.

Definitions

If any of the terms below are not defined in Customer's volume licensing agreement, they have the definitions below.

"Customer Data" means all data, including all text, sound, video, or image files, and software, that are provided to Microsoft by, or on behalf of, Customer through use of the Online Service.

"External User" means a user of an Online Service that is not an employee, onsite contractor, or onsite agent of Customer or its Affiliates.

"Instance" means an image of software that is created by executing the software's setup or install procedure or by duplicating such an image.

"Licensed Device" means the single physical hardware system to which a license is assigned. For purposes of this definition, a hardware partition or blade is considered to be a separate device.

"Non-Microsoft Product" means any third-party-branded software, data, service, website or product, unless incorporated by Microsoft in an Online Service.

"Online Service" means a Microsoft-hosted service to which Customer subscribes under a Microsoft volume licensing agreement, including any service identified in the Online Services section of the Product Terms. It does not include software and services provided under separate license terms (such as via gallery, marketplace, console, or dialog). The Product Terms is located at http://go.microsoft.com/?linkid=9839207.

"Operating System Environment" (OSE) means all or part of an operating system Instance, or all or part of a virtual (or otherwise emulated) operating system Instance, that enables separate machine identity (primary computer name or similar unique identifier) or separate administrative rights, and Instances of applications, if any, configured to run on all or part of that operating system Instance. There are two types of OSEs, physical and virtual. A physical hardware system can have one physical OSE and/or one or more virtual OSEs. The operating system Instance used to run hardware virtualization software or to provide hardware virtualization services is considered part of the physical OSE.

"SL" means subscription license.

Online Services Terms Updates

When Customer renews or purchases a new subscription to an Online Service, the then-current OST will apply and will not change during Customer's subscription for that Online Service. When Microsoft introduces features, supplements or related software that are new (i.e., that were not previously included with the subscription), Microsoft may provide terms or make updates to the OST that apply to Customer's use of those new features, supplements or related software.

Online Services Changes and Availability

Microsoft may make commercially reasonable changes to each Online Service from time to time. Microsoft may terminate an Online Service in any country where Microsoft is subject to a government regulation, obligation or other requirement that is not generally applicable to businesses operating there. Availability, functionality, and language versions for each Online Service may vary by country. For information on availability, Customer may refer to www.microsoft.com/online/international-availability.aspx.

Data Retention

At all times during the term of Customer's subscription, Customer will have the ability to access and extract Customer Data stored in each Online Service. Except for free trials, Microsoft will retain Customer Data stored in the Online Service in a limited function account for 90 days after expiration or termination of Customer's subscription so that Customer may extract the data. After the 90-day retention period ends, Microsoft will disable Customer's account and delete the Customer Data.

The Online Service may not support retention or extraction of software provided by Customer. Microsoft has no liability for the deletion of Customer Data as described in this section.

Use of Software with the Online Service

Customer may need to install certain Microsoft software in order to use the Online Service. If so, the following terms apply:

Microsoft Software License Terms

Customer may install and use the software only for use with the Online Service. The Online Service-specific Terms may limit the number of copies of the software Customer may use or the number of devices on which Customer may use it. Customer's right to use the software begins when the Online Service is activated and ends when Customer's right to use the Online Service ends. Customer must uninstall the software when Customer's right to use it ends. Microsoft may disable it at that time.

Validation, Automatic Updates, and Collection for Software

Microsoft may automatically check the version of any of its software. Devices on which the software is installed may periodically provide information to enable Microsoft to verify that the software is properly licensed. This information includes the software version, the end user's user account, product ID information, a machine ID, and the internet protocol address of the device. If the software is not properly licensed, its functionality will be affected. Customer may only obtain updates or upgrades for the software from Microsoft or authorized sources. By using the software, Customer consents to the transmission of the information described in this section. Microsoft may recommend or download to Customer's devices updates or supplements to this software, with or without notice. Some Online Services may require, or may be enhanced by, the installation of local software (e.g., agents, device management applications) ("Apps"). The Apps may collect data about the use and performance of the Apps, which may be transmitted to Microsoft and used for the purposes described in this OST for Customer Data.

Third-party Software Components

The software may contain third party software components. Unless otherwise disclosed in that software, Microsoft, not the third party, licenses these components to Customer under Microsoft's license terms and notices.

Non-Microsoft Products

Microsoft may make Non-Microsoft Products available to Customer through Customer's use of the Online Services (such as through a store or gallery, or as search results). If Customer installs or uses any Non-Microsoft Product with an Online Service, Customer may not do so in any way that would subject Microsoft's intellectual property or technology to obligations beyond those expressly included in Customer's volume licensing agreement. For Customer's convenience, Microsoft may include charges for the Non-Microsoft Product as part of Customer's bill for Online Services. Microsoft, however, assumes no responsibility or liability whatsoever for the Non-Microsoft Product. Customer is solely responsible for any Non-Microsoft Product that it installs or uses with an Online Service.

Acceptable Use Policy

Neither Customer, nor those that access an Online Service through Customer, may use an Online Service:

- in a way prohibited by law, regulation, governmental order or decree;
- to violate the rights of others;
- to try to gain unauthorized access to or disrupt any service, device, data, account or network;
- to spam or distribute malware;
- in a way that could harm the Online Service or impair anyone else's use of it; or
- in any application or situation where failure of the Online Service could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage.

Violation of the terms in this section may result in suspension of the Online Service. Microsoft will suspend the Online Service only to the extent reasonably necessary. Unless Microsoft believes an immediate suspension is required, Microsoft will provide reasonable notice before suspending an Online Service.

Technical Limitations

Customer must comply with, and may not work around, any technical limitations in an Online Service that only allow Customer to use it in certain ways. Customer may not download or otherwise remove copies of software or source code from an Online Service except as explicitly authorized.

Compliance with Laws

Microsoft will comply with all laws and regulations applicable to its provision of the Online Services, including security breach notification law. However, Microsoft is not responsible for compliance with any laws or regulations applicable to Customer or Customer's industry that are not generally applicable to information technology service providers. Microsoft does not determine whether Customer Data includes information subject to any specific law or regulation. All Security Incidents are subject to the Security Incident Notification terms below.

Customer must comply with all laws and regulations applicable to its use of Online Services, including laws related to privacy, biometric data, data protection and confidentiality of communications. Customer is responsible for implementing and maintaining privacy protections and security measures for components that Customer provides or controls (such as devices enrolled with Microsoft Intune or within a Microsoft Azure customer's virtual machine or application), and for determining whether the Online Services are appropriate for storage and processing of information subject to any specific law or regulation. Customer is responsible for responding to any request from a third party regarding Customer's use of an Online Service, such as a request to take down content under the U.S. Digital Millennium Copyright Act or other applicable laws.

Import/Export Services

Customer's use of any Import/Export Service is conditioned upon its compliance with all instructions provided by Microsoft regarding the preparation, treatment and shipment of physical media containing its data ("storage media"). Customer is solely responsible for ensuring the storage media and data are provided in compliance with all laws and regulations. Microsoft has no duty with respect to the storage media and no liability for lost, damaged or destroyed storage media. All storage media shipped to Microsoft must be shipped DAP Microsoft DCS Data Center (INCOTERMS 2010). Storage media shipped to Customer will be shipped DAP Customer Dock (INCOTERMS 2010).

Electronic Notices

Microsoft may provide Customer with information and notices about Online Services electronically, including via email, through the portal for the Online Service, or through a web site that Microsoft identifies. Notice is given as of the date it is made available by Microsoft.

License Reassignment

Most, but not all, SLs may be reassigned. Except as permitted in this paragraph or in the Online Service-specific Terms, Customer may not reassign an SL on a short-term basis (i.e., within 90 days of the last assignment). Customer may reassign an SL on a short-term basis to cover a user's absence or the unavailability of a device that is out of service. Reassignment of an SL for any other purpose must be permanent. When Customer reassigns an SL from one device or user to another, Customer must block access and remove any related software from the former device or from the former user's device.

Font Components

While Customer uses an Online Service, Customer may use the fonts installed by that Online Service to display and print content. Customer may only embed fonts in content as permitted by the embedding restrictions in the fonts and temporarily download them to a printer or other output device to print content.

Competitive Benchmarking

If Customer offers a service competitive to an Online Service, by using the Online Service, Customer agrees to waive any restrictions on competitive use and benchmark testing in the terms governing its competitive service. If Customer does not intend to waive such restrictions in its terms of use, Customer is not allowed to use the Online Service.

Multiplexing

Hardware or software that Customer uses to pool connections; reroute information; reduce the number of devices or users that directly access or use the Online Service (or related software); or reduce the number of OSEs, devices or users the Online Service directly manages (sometimes referred to as "multiplexing" or "pooling") does not reduce the number of licenses of any type (including SLs) that Customer needs.

Table of Contents / General Terms

Privacy and Security Terms

This section of the Online Services Terms has two parts:

- General Privacy and Security Terms, which apply to all Online Services; and
- Data Processing Terms, which are additional commitments for certain Online Services.

General Privacy and Security Terms

Scope

The terms in this section apply to all Online Services except Bing Maps Enterprise Platform, Bing Maps Mobile Asset Management Platform, and Microsoft Cognitive Services, which are governed by the privacy and/or security terms referenced below in the applicable Online Service-specific Terms.

Use of Customer Data

Customer Data will be used only to provide Customer the Online Services including purposes compatible with providing those services. Microsoft will not use Customer Data or derive information from it for any advertising or similar commercial purposes. As between the parties, Customer retains all right, title and interest in and to Customer Data. Microsoft acquires no rights in Customer Data, other than the rights Customer grants to Microsoft to provide the Online Services to Customer. This paragraph does not affect Microsoft's rights in software or services Microsoft licenses to Customer.

Disclosure of Customer Data

Microsoft will not disclose Customer Data outside of Microsoft or its controlled subsidiaries and affiliates except (1) as Customer directs, (2) as described in the OST, or (3) as required by law.

Microsoft will not disclose Customer Data to law enforcement unless required by law. If law enforcement contacts Microsoft with a demand for Customer Data, Microsoft will attempt to redirect the law enforcement agency to request that data directly from Customer. If compelled to disclose Customer Data to law enforcement, Microsoft will promptly notify Customer and provide a copy of the demand unless legally prohibited from doing so.

Upon receipt of any other third party request for Customer Data, Microsoft will promptly notify Customer unless prohibited by law. Microsoft will reject the request unless required by law to comply. If the request is valid, Microsoft will attempt to redirect the third party to request the data directly from Customer.

Microsoft will not provide any third party: (a) direct, indirect, blanket or unfettered access to Customer Data; (b) platform encryption keys used to secure Customer Data or the ability to break such encryption; or (c) access to Customer Data if Microsoft is aware that the data is to be used for purposes other than those stated in the third party's request.

In support of the above, Microsoft may provide Customer's basic contact information to the third party.

Educational Institutions

If Customer is an educational agency or institution to which regulations under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA) apply, Microsoft acknowledges that for the purposes of the OST, Microsoft is a "school official" with "legitimate educational interests" in the Customer Data, as those terms have been defined under FERPA and its implementing regulations, and Microsoft agrees to abide by the limitations and requirements imposed by 34 CFR 99.33(a) on school officials.

Customer understands that Microsoft may possess limited or no contact information for Customer's students and students' parents. Consequently, Customer will be responsible for obtaining any parental consent for any end user's use of the Online Service that may be required by applicable law and to convey notification on behalf of Microsoft to students (or, with respect to a student under 18 years of age and not in attendance at a postsecondary institution, to the student's parent) of any judicial order or lawfully-issued subpoena requiring the disclosure of Customer Data in Microsoft's possession as may be required under applicable law.

HIPAA Business Associate

If Customer is a "covered entity" or a "business associate" and includes "protected health information" in Customer Data as those terms are defined in 45 CFR § 160.103, execution of Customer's volume licensing agreement includes execution of the HIPAA Business Associate Agreement ("BAA"), the full text of which identifies the Online Services to which it applies and is available at http://aka.ms/BAA. Customer may opt out of the BAA by sending the following information to Microsoft in a written notice (under the terms of the Customer's volume licensing agreement):

- the full legal name of the Customer and any Affiliate that is opting out;
- if Customer has multiple volume licensing agreements, the volume licensing agreement to which the opt out applies.

Security
Microsoft is committed to helping protect the security of Customer's information. Microsoft has implemented and will maintain and follow appropriate technical and organizational measures intended to protect Customer Data against accidental, unauthorized or unlawful access, disclosure, alteration, loss, or destruction.

Security Incident Notification
If Microsoft becomes aware of any unlawful access to any Customer Data stored on Microsoft's equipment or in Microsoft's facilities, or unauthorized access to such equipment or facilities resulting in loss, disclosure, or alteration of Customer Data (each a "Security Incident"), Microsoft will promptly (1) notify Customer of the Security Incident; (2) investigate the Security Incident and provide Customer with detailed information about the Security Incident; and (3) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Security Incident.

Notification(s) of Security Incidents will be delivered to one or more of Customer's administrators by any means Microsoft selects, including via email. It is Customer's sole responsibility to ensure Customer's administrators maintain accurate contact information on each applicable Online Services portal. Microsoft's obligation to report or respond to a Security Incident under this section is not an acknowledgement by Microsoft of any fault or liability with respect to the Security Incident.

Customer must notify Microsoft promptly about any possible misuse of its accounts or authentication credentials or any security incident related to an Online Service.

Location of Data Processing
Except as described elsewhere in the OST, Customer Data that Microsoft processes on Customer's behalf may be transferred to, and stored and processed in, the United States or any other country in which Microsoft or its affiliates or subcontractors maintain facilities. Customer appoints Microsoft to perform any such transfer of Customer Data to any such country and to store and process Customer Data in order to provide the Online Services. Microsoft will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland. In addition to Microsoft's commitments under the Standard Contractual Clauses and other model contracts, Microsoft is certified to the EU-U.S. Privacy Shield Framework and the commitments it entails.

Preview Releases
Microsoft may offer preview, beta or other pre-release features, data center locations, and services ("Previews") for optional evaluation. Previews may employ lesser or different privacy and security measures than those typically present in the Online Services. Unless otherwise provided, Previews are not included in the SLA for the corresponding Online Service.

Use of Subcontractors
Microsoft may hire subcontractors to provide services on its behalf. Any such subcontractors will be permitted to obtain Customer Data only to deliver the services Microsoft has retained them to provide and will be prohibited from using Customer Data for any other purpose. Microsoft remains responsible for its subcontractors' compliance with Microsoft's obligations in the OST. Customer has previously consented to Microsoft's transfer of Customer Data to subcontractors as described in the OST.

How to Contact Microsoft
If Customer believes that Microsoft is not adhering to its privacy or security commitments, Customer may contact customer support or use Microsoft's Privacy web form, located at http://go.microsoft.com/?linkid=9846224. Microsoft's mailing address is:

Microsoft Enterprise Service Privacy
Microsoft Corporation
One Microsoft Way
Redmond, Washington 98052 USA

Microsoft Ireland Operations Limited is Microsoft's data protection representative for the European Economic Area and Switzerland. The privacy representative of Microsoft Ireland Operations Limited can be reached at the following address:

Microsoft Ireland Operations, Ltd.
Attn: Data Protection
Carmenhall Road
Sandyford, Dublin 18, Ireland

Data Processing Terms

The Data Processing Terms (DPT) include the terms in this section.

The Data Processing Terms also include the "Standard Contractual Clauses," pursuant to the European Commission Decision of 5 February 2010 on standard contractual clauses for the transfer of personal data to processors established in third countries under the EU Data Protection Directive. The Standard Contractual Clauses are in Attachment 3. In addition,

- Execution of the volume licensing agreement includes execution of Attachment 3, which is countersigned by Microsoft Corporation;
- The terms in Customer's volume licensing agreement, including the DPT, constitute a data processing agreement under which Microsoft is the data processor; and
- The DPT control over any inconsistent or conflicting provision in Customer's volume licensing agreement and, for each subscription, will remain in full force and effect until all of the related Customer Data is deleted from Microsoft's systems in accordance with the DPT.

Customer may opt out of the "Standard Contractual Clauses" or the Data Processing Terms in their entirety. To opt out, Customer must send the following information to Microsoft in a written notice (under terms of the Customer's volume licensing agreement):

- the full legal name of the Customer and any Affiliate that is opting out;
- if Customer has multiple volume licensing agreements, the volume licensing agreement to which the Opt Out applies;
- if opting out of the entire DPT, a statement that Customer (or Affiliate) opts out of the entirety of the Data Processing Terms; and
- if opting out of only the Standard Contractual Clauses, a statement that Customer (or Affiliate) opts out of the Standard Contractual Clauses only.

In countries where regulatory approval is required for use of the Standard Contractual Clauses, the Standard Contractual Clauses cannot be relied upon under European Commission 2010/87/EU (of February 2010) to legitimize export of data from the country, unless Customer has the required regulatory approval.

In the DPT, the term "Online Services" applies only to the services in the table below, excluding any Previews, and "Customer Data" includes only Customer Data that is provided through use of those Online Services.

Online Services	
Microsoft Dynamics 365 Core Services	The following services, each as a standalone service or as included in a Dynamics 365 branded plan or application: Microsoft Dynamics 365 for Customer Service, Microsoft Dynamics 365 for Field Service, Microsoft Dynamics 365 for Project Service Automation, Microsoft Dynamics 365 for Sales, and Microsoft Social Engagement. Microsoft Dynamics 365 Core Services do not include (1) Microsoft Dynamics 365 for Operations or Microsoft Dynamics 365 for Financials; (2) Microsoft Dynamics 365 Services for supported devices or software, which includes but is not limited to Microsoft Dynamics 365 for apps, tablets and/or phones; or (3) except as expressly defined in the licensing terms for the corresponding service, any other separately-branded service made available with or connected to Microsoft Dynamics 365 Core Services.
Office 365 Services	The following services, each as a standalone service or as included in an Office 365-branded plan or suite: Exchange Online, Exchange Online Archiving, Exchange Online Protection, Office 365 Advanced Threat Protection, SharePoint Online, OneDrive for Business, Microsoft Planner, Project Online, Skype for Business Online, Sway, Office Online, Microsoft MyAnalytics, Customer Lockbox, Microsoft Bookings, and Yammer Enterprise. Office 365 Services do not include Office 365 ProPlus, any portion of PSTN Services that operate outside of Microsoft's control, any client software, or any separately branded service made available with an Office 365-branded plan or suite, such as a Bing or a service branded "for Office 365."
Microsoft Azure Core Services	Azure Active Directory, Azure IoT Hub, Azure Resource Manager, Azure Rights Management, API Management, Application Gateway, App Service (API Apps, Mobile Apps, Web Apps), Automation, Backup, Batch, BizTalk Services, Cloud Services, Data Catalog, Data Factory, DocumentDB, Event Hubs, Express Route, HDInsight, Key Vault, Load Balancer, Log Analytics (formerly Operational Insights), Machine Learning, Management Portal, Media Services, Multi-Factor Authentication, Notification Hubs, Redis Cache, Scheduler, Service Bus, Service Fabric, Site Recovery, SQL Database, Storage, StorSimple, Stream Analytics, Traffic Manager, Virtual Machines, Virtual Network, Visual Studio Team Services, and VPN Gateway.
Microsoft Cloud App Security	The cloud service portion of Microsoft Cloud App Security.
Microsoft Intune Online Services	The cloud service portion of Microsoft Intune such as the Microsoft Intune Add-on Product or a management service provided by Microsoft Intune such as Mobile Device Management for Office 365.
Microsoft Power BI Services	The cloud service portion of Microsoft Power BI offered as a standalone service or as included in an Office 365-branded plan or suite, but excluding data catalog functionality, the Power BI mobile applications, or Power BI Desktop.

Location of Customer Data at Rest

Microsoft will store Customer Data at rest within certain major geographic areas (each, a Geo) as follows:

- **Office 365 Services.** If Customer provisions its tenant in Australia, Canada, the European Union, India, Japan or the United States (each of the foregoing a Geo), Microsoft will store the following Customer Data at rest only within that Geo: (1) Exchange Online mailbox content (e-mail body, calendar entries, and the content of e-mail attachments), (2) SharePoint Online site content and the files stored within that site, and Project Online data, and (3) files uploaded to OneDrive for Business.
- **Microsoft Intune Online Services**. When Customer provisions a tenant account, Customer selects an available Geo where Customer Data at rest will be stored. Microsoft will not transfer the Customer Data outside of Customer's selected Geo except as noted in the "Data Location" section of the Microsoft Intune Trust Center.
- **Microsoft Power BI Services**. If Customer provisions its tenant in Australia, Canada, Asia Pacific, India, Japan, the European Union, United Kingdom, or the United States, Microsoft will store Microsoft Power BI Customer Data at rest only within that Geo, except as noted in the data location section of the Microsoft Power BI Trust Center.
- **Microsoft Azure Core Services**. If Customer configures a particular service to be deployed within a Geo then, for that service, Microsoft will store Customer Data at rest within the specified Geo. Certain services may not enable Customer to configure deployment in a particular Geo or outside the United States and may store backups in other locations, as detailed in the Microsoft Azure Trust Center (which Microsoft may update from time to time, but Microsoft will not add exceptions for existing Services in general release).
- **Microsoft Cloud App Security**. Microsoft will store Customer Data at rest in the United States.
- **Microsoft Dynamics 365 Core Services**. Except for Microsoft Social Engagement, if Customer provisions its instance of Microsoft Dynamics 365 Core Services in Australia, the European Union, India, Japan, the United Kingdom or the United States, Microsoft will store Customer Data at rest within the specified Geo. Certain entities may not be configured to be stored in any particular Geo and may be stored at rest in other locations as detailed in the Microsoft Dynamics 365 Trust Center.

Microsoft does not control or limit the regions from which Customer or Customer's end users may access or move Customer Data.

Privacy

- **Customer Data Deletion or Return**. No more than 180 days after expiration or termination of Customer's use of an Online Service, Microsoft will disable the account and delete Customer Data from the account.
- **Transfer of Customer Data**. Unless Customer has opted out of the Standard Contractual Clauses, all transfers of Customer Data out of the European Union, European Economic Area, and Switzerland shall be governed by the Standard Contractual Clauses. Microsoft will abide by the requirements of European Economic Area and Swiss data protection law regarding the collection, use, transfer, retention, and other processing of personal data from the European Economic Area and Switzerland.
- **Microsoft Personnel**. Microsoft personnel will not process Customer Data without authorization from Customer. Microsoft personnel are obligated to maintain the security and secrecy of any Customer Data as provided in the DPT and this obligation continues even after their engagements end.
- **Subcontractor Transfer**. Microsoft may hire subcontractors to provide certain limited or ancillary services on its behalf. Any subcontractors to whom Microsoft transfers Customer Data, even those used for storage purposes, will have entered into written agreements with Microsoft that are no less protective than the DPT. Customer has previously consented to Microsoft's transfer of Customer Data to subcontractors as described in the DPT. Except as set forth in the DPT, or as Customer may otherwise authorize, Microsoft will not transfer to any third party (not even for storage purposes) personal data Customer provides to Microsoft through the use of the Online Services. Microsoft provides a website that lists subcontractors authorized to access Customer Data in the Online Services as well as the limited or ancillary services they provide. At least 6 months before authorizing any new subcontractor to access Customer Data, Microsoft will update the website and provide Customer with a mechanism to obtain notice of that update. If Customer does not approve of a new subcontractor, then Customer may terminate the affected Online Service without penalty by providing, before the end of the notice period, written notice of termination that includes an explanation of the grounds for non-approval. If the affected Online Service is part of a suite (or similar single purchase of services), then any termination will apply to the entire suite. After termination, Microsoft will remove payment obligations for the terminated Online Services from subsequent Customer invoices.

Additional European Terms.

These Additional European Terms apply only if Customer has end users in the European Economic Area ("EEA") or Switzerland.

- **End Users in EEA or Switzerland**. Terms used in the DPT that are not specifically defined will have the meaning in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (the "EU Data Protection Directive").
- **Intent of the Parties**. For the Online Services, Microsoft is a data processor (or sub-processor) acting on Customer's behalf. As data processor (or sub-processor), Microsoft will only act upon Customer's instructions. The OST and Customer's volume licensing agreement (including the terms and conditions incorporated by reference therein), along with Customer's use and configuration of features in the Online Services, are Customer's complete and final instructions to Microsoft for the processing of Customer Data. Any additional or alternate instructions must be agreed to according to the process for amending Customer's volume licensing agreement.

- **Duration and Object of Data Processing**. The duration of data processing shall be for the term designated under Customer's volume licensing agreement. The objective of the data processing is the performance of the Online Services.
- **Scope and Purpose of Data Processing**. The scope and purpose of processing of Customer Data, including any personal data included in the Customer Data, is described in the DPT and Customer's volume licensing agreement.
- **Customer Data Access**. For the term designated under Customer's volume licensing agreement Microsoft will, at its election and as necessary under applicable law implementing Article 12(b) of the EU Data Protection Directive, either: (1) provide Customer with the ability to correct, delete, or block Customer Data, or (2) make such corrections, deletions, or blockages on Customer's behalf.

Security

- **General Practices**. Microsoft has implemented and will maintain and follow for the Online Services the following security measures, which, in conjunction with the security commitments in the OST, are Microsoft's only responsibility with respect to the security of Customer Data.

Domain	Practices
Organization of Information Security	**Security Ownership**. Microsoft has appointed one or more security officers responsible for coordinating and monitoring the security rules and procedures. **Security Roles and Responsibilities**. Microsoft personnel with access to Customer Data are subject to confidentiality obligations. **Risk Management Program**. Microsoft performed a risk assessment before processing the Customer Data or launching the Online Services service. Microsoft retains its security documents pursuant to its retention requirements after they are no longer in effect.
Asset Management	**Asset Inventory**. Microsoft maintains an inventory of all media on which Customer Data is stored. Access to the inventories of such media is restricted to Microsoft personnel authorized in writing to have such access. **Asset Handling** - Microsoft classifies Customer Data to help identify it and to allow for access to it to be appropriately restricted. - Microsoft imposes restrictions on printing Customer Data and has procedures for disposing of printed materials that contain Customer Data. - Microsoft personnel must obtain Microsoft authorization prior to storing Customer Data on portable devices, remotely accessing Customer Data, or processing Customer Data outside Microsoft's facilities.
Human Resources Security	**Security Training**. Microsoft informs its personnel about relevant security procedures and their respective roles. Microsoft also informs its personnel of possible consequences of breaching the security rules and procedures. Microsoft will only use anonymous data in training.
Physical and Environmental Security	**Physical Access to Facilities**. Microsoft limits access to facilities where information systems that process Customer Data are located to identified authorized individuals. **Physical Access to Components**. Microsoft maintains records of the incoming and outgoing media containing Customer Data, including the kind of media, the authorized sender/recipients, date and time, the number of media and the types of Customer Data they contain. **Protection from Disruptions**. Microsoft uses a variety of industry standard systems to protect against loss of data due to power supply failure or line interference. **Component Disposal**. Microsoft uses industry standard processes to delete Customer Data when it is no longer needed.
Communications and Operations Management	**Operational Policy**. Microsoft maintains security documents describing its security measures and the relevant procedures and responsibilities of its personnel who have access to Customer Data. **Data Recovery Procedures** - On an ongoing basis, but in no case less frequently than once a week (unless no Customer Data has been updated during that period), Microsoft maintains multiple copies of Customer Data from which Customer Data can be recovered. - Microsoft stores copies of Customer Data and data recovery procedures in a different place from where the primary computer equipment processing the Customer Data is located. - Microsoft has specific procedures in place governing access to copies of Customer Data. - Microsoft reviews data recovery procedures at least every six months, except for data recovery procedures for Azure Government Services, which are reviewed every twelve months. - Microsoft logs data restoration efforts, including the person responsible, the description of the restored data and where applicable, the person responsible and which data (if any) had to be input manually in the data recovery process. **Malicious Software**. Microsoft has anti-malware controls to help avoid malicious software gaining unauthorized access to Customer Data, including malicious software originating from public networks. **Data Beyond Boundaries** - Microsoft encrypts, or enables Customer to encrypt, Customer Data that is transmitted over public networks. - Microsoft restricts access to Customer Data in media leaving its facilities. **Event Logging**. Microsoft logs, or enables Customer to log, access and use of information systems containing Customer Data, registering the access ID, time, authorization granted or denied, and relevant activity.

Domain	Practices
Access Control	**Access Policy**. Microsoft maintains a record of security privileges of individuals having access to Customer Data. **Access Authorization** - Microsoft maintains and updates a record of personnel authorized to access Microsoft systems that contain Customer Data. - Microsoft deactivates authentication credentials that have not been used for a period of time not to exceed six months. - Microsoft identifies those personnel who may grant, alter or cancel authorized access to data and resources. - Microsoft ensures that where more than one individual has access to systems containing Customer Data, the individuals have separate identifiers/log-ins. **Least Privilege** - Technical support personnel are only permitted to have access to Customer Data when needed. - Microsoft restricts access to Customer Data to only those individuals who require such access to perform their job function. **Integrity and Confidentiality** - Microsoft instructs Microsoft personnel to disable administrative sessions when leaving premises Microsoft controls or when computers are otherwise left unattended. - Microsoft stores passwords in a way that makes them unintelligible while they are in force. **Authentication** - Microsoft uses industry standard practices to identify and authenticate users who attempt to access information systems. - Where authentication mechanisms are based on passwords, Microsoft requires that the passwords are renewed regularly. - Where authentication mechanisms are based on passwords, Microsoft requires the password to be at least eight characters long. - Microsoft ensures that de-activated or expired identifiers are not granted to other individuals. - Microsoft monitors, or enables Customer to monitor, repeated attempts to gain access to the information system using an invalid password. - Microsoft maintains industry standard procedures to deactivate passwords that have been corrupted or inadvertently disclosed. - Microsoft uses industry standard password protection practices, including practices designed to maintain the confidentiality and integrity of passwords when they are assigned and distributed, and during storage. **Network Design**. Microsoft has controls to avoid individuals assuming access rights they have not been assigned to gain access to Customer Data they are not authorized to access.
Information Security Incident Management	**Incident Response Process** - Microsoft maintains a record of security breaches with a description of the breach, the time period, the consequences of the breach, the name of the reporter, and to whom the breach was reported, and the procedure for recovering data. - For each security breach that is a Security Incident, notification by Microsoft (as described in the "Security Incident Notification" section above) will be made without unreasonable delay and, in any event, within 30 calendar days. - Microsoft tracks, or enables Customer to track, disclosures of Customer Data, including what data has been disclosed, to whom, and at what time. **Service Monitoring**. Microsoft security personnel verify logs at least every six months to propose remediation efforts if necessary.
Business Continuity Management	- Microsoft maintains emergency and contingency plans for the facilities in which Microsoft information systems that process Customer Data are located. - Microsoft's redundant storage and its procedures for recovering data are designed to attempt to reconstruct Customer Data in its original or last-replicated state from before the time it was lost or destroyed.

Online Services Information Security Policy

Each Online Service follows a written data security policy ("Information Security Policy") that complies with the control standards and frameworks shown in the table below.

Online Service	ISO 27001	ISO 27002 Code of Practice	ISO 27018 Code of Practice	SSAE 16 SOC 1 Type II	SSAE 16 SOC 2 Type II
Office 365 Services	Yes	Yes	Yes	Yes	Yes
Microsoft Dynamics 365 Core Services	Yes	Yes	Yes	Yes*	Yes*
Microsoft Azure Core Services	Yes	Yes	Yes	Varies**	Varies**
Microsoft Cloud App Security	Yes	Yes	Yes	No	No
Microsoft Intune Online Services	Yes	Yes	Yes	Yes	Yes
Microsoft Power BI Services	Yes	Yes	Yes	No	No

**Does not include Microsoft Social Engagement.*
***Current scope is detailed in the audit report and summarized in the Microsoft Azure Trust Center.*

Microsoft may add industry or government standards at any time. Microsoft will not eliminate a standard or framework in the table above, unless it is no longer used in the industry and it is replaced with a successor (if any). Azure Government Services meet a separate set of control standards and frameworks, as detailed on the Microsoft Azure Trust Center.

Subject to non-disclosure obligations, Microsoft will make each Information Security Policy available to Customer, along with other information reasonably requested by Customer regarding Microsoft security practices and policies.

Customer is solely responsible for reviewing each Information Security Policy and making an independent determination as to whether it meets Customer's requirements.

If the Standard Contractual Clauses apply, then this section is in addition to Clause 5 paragraph f and Clause 12 paragraph 2 of the Standard Contractual Clauses.

Microsoft Audits of Online Services

For each Online Service, Microsoft will conduct audits of the security of the computers, computing environment and physical data centers that it uses in processing Customer Data (including personal data), as follows:

- Where a standard or framework provides for audits, an audit of such control standard or framework will be initiated at least annually for each Online Service.
- Each audit will be performed according to the standards and rules of the regulatory or accreditation body for each applicable control standard or framework.
- Each audit will be performed by qualified, independent, third party security auditors at Microsoft's selection and expense.

Each audit will result in the generation of an audit report ("Microsoft Audit Report"), which will be Microsoft's Confidential Information. The Microsoft Audit Report will clearly disclose any material findings by the auditor. Microsoft will promptly remediate issues raised in any Microsoft Audit Report to the satisfaction of the auditor.

If Customer requests, Microsoft will provide Customer with each Microsoft Audit Report so that Customer can verify Microsoft's compliance with the security obligations under the DPT. The Microsoft Audit Report will be subject to non-disclosure and distribution limitations of Microsoft and the auditor.

If the Standard Contractual Clauses apply, then (1) Customer agrees to exercise its audit right by instructing Microsoft to execute the audit as described in this section of the DPT, and (2) if Customer desires to change this instruction, then Customer has the right to do so as set forth in the Standard Contractual Clauses, which shall be requested in writing.

If the Standard Contractual Clauses apply, then nothing in this section of the DPT varies or modifies the Standard Contractual Clauses or affects any supervisory authority's or data subject's rights under the Standard Contractual Clauses. Microsoft Corporation is an intended third-party beneficiary of this section.

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Online Service Specific Terms

If an Online Service is not listed below, it does not have any Online Service-specific terms.

Microsoft Azure Services

Notices
The Bing Maps, Professional Services, Azure Media Services H.265/HEV Encoding, and H.264/AVC Visual Standard, VC-1 Video Standard, and MPEG-4 Part 2 Visual Standard and MPEG-2 Video Standard Notices in Attachment 1 apply.

Service Level Agreement
Refer to http://azure.microsoft.com/support/legal/sla/.

Definitions
"Azure Government Services" means one or more of the services or features Microsoft makes available to Customer as Government Community Cloud Services in the "US Gov" regions identified at http://azure.microsoft.com/en-us/regions/#services.

"Customer Solution" means an application or any set of applications that adds primary and significant functionality to the Microsoft Azure Services and that is not primarily a substitute for the Microsoft Azure Services.

"Microsoft Azure Services" means the Microsoft services and features identified at http://azure.microsoft.com/services/, except those licensed separately. "Microsoft Azure Services" includes any open source components incorporated by Microsoft in those services and features.

"Microsoft Translator" means Translator API Text Translation and/or Translator API Speech Translation offered by Microsoft as a cloud based automatic translation service.

Limitations
Customer may not

- resell or redistribute the Microsoft Azure Services, or
- allow multiple users to directly or indirectly access any Microsoft Azure Service feature that is made available on a per user basis (e.g., Active Directory Premium). Specific reassignment terms applicable to a Microsoft Azure Service feature may be provided in supplemental documentation for that feature.

Retirement of Services or Features
Microsoft will provide Customer with 12 months' notice before removing any material feature or functionality or discontinuing a service, unless security, legal or system performance considerations require an expedited removal. This does not apply to Previews

Data Retention after Expiration or Termination
The expiration or termination of Customer's Online Service subscription will not change Customer's obligation to pay for hosting of Customer Data during any Extended Term.

Hosting Exception
Customer may create and maintain a Customer Solution and, despite anything to the contrary in Customer's volume licensing agreement, combine Microsoft Azure Services with Customer Data owned or licensed by Customer or a third party, to create a Customer Solution using the Microsoft Azure Service and the Customer Data together. Customer may permit third parties to access and use the Microsoft Azure Services in connection with the use of that Customer Solution. Customer is responsible for that use and for ensuring that these terms and the terms and conditions of Customer's volume licensing agreement are met by that use.

Use of Software within Microsoft Azure
For Microsoft software available within a Microsoft Azure Service, Microsoft grants Customer a limited license to use the software only within the Microsoft Azure Service.

Data Center Availability
Usage of data centers in certain regions may be restricted to Customers located in or near that region. For information on service availability by region, please refer to http://azure.microsoft.com/en-us/regions.

Sharing
The Microsoft Azure Services may provide the ability to share a Customer Solution and/or Customer Data with other Azure users and communities, or other third parties. If Customer chooses to engage in such sharing, Customer agrees that it is giving a license to all authorized users, including the rights to use, modify, and repost its Customer Solution and/or the Customer Data, and Customer is allowing Microsoft to make them available to such users in a manner and location of its choosing.

Marketplace
Microsoft Azure enables Customer to access or purchase Non-Microsoft Products through features such as the Microsoft Azure Marketplace and the Virtual Machine Gallery, subject to separate terms available at http://azure.microsoft.com/en-us/support/legal/store-terms.

Microsoft Cognitive Services

Microsoft Cognitive Services Privacy
The Microsoft Privacy Statement located at https://go.microsoft.com/fwlink/?LinkId=521839 applies to Customer's use of Microsoft Cognitive Services, except that this Microsoft Cognitive Services section controls to the extent it conflicts with the Microsoft Privacy Statement.

Use of Cognitive Services Data.
Customer is solely responsible for the content of all Customer Data it sends to the Cognitive Services ("Cognitive Services Data").

Microsoft may process Cognitive Services Data solely to: (i) provide Cognitive Services to Customer; and (ii) improve Microsoft products and services. Solely for such processing, Microsoft may collect, retain, use, reproduce, and create derivative works of, Cognitive Services Data and Customer grants Microsoft a limited nonexclusive irrevocable worldwide license to do so. Customer will secure and maintain all rights necessary for Microsoft to process Cognitive Services Data as described in this paragraph without violating the rights of any third party or otherwise obligating Microsoft to Customer or to any third party.

Where Cognitive Services Data includes personal data, Customer will obtain sufficient consent for such processing by Microsoft from the data subjects (or from their parents or guardians as required by applicable law).

Microsoft is committed to helping protect data subjects who may be identifiable from Cognitive Services Data that Microsoft retains. Microsoft has implemented business and technical measures designed to help de-identify some retained Cognitive Services Data.

This Use of Cognitive Services Data section will survive termination or expiration of Customer's volume licensing agreement. As between the parties, Customer retains all right, title and interest in and to Cognitive Services Data. Microsoft acquires no rights in Cognitive Services Data, other than the rights Customer grants to Microsoft in this Use of Cognitive Services Data section. This paragraph does not affect Microsoft's rights in software or services Microsoft licenses to Customer.

Cognitive Services Data Retention
Unless stated in documentation for a service, Cognitive Services are not designed to store Customer Data on Customer's behalf.

Application of General Privacy and Security Terms
Only the following sections of the General Privacy and Security Terms apply to the Cognitive Services: Location of Data Processing, Preview Releases, Use of Subcontractors, How to Contact Microsoft

Attribution
When using the Microsoft Cognitive Services (except the Search APIs (defined below)), Customer will provide reasonably prominent attribution. The attribution should read "using Microsoft Cognitive Services" and include a hyperlink to http://go.microsoft.com/fwlink/?LinkID=829046.

Precedence
This Microsoft Cognitive Services section controls to the extent there is any conflict with other parts of the OST.

Bing APIs Limit on Customer use of service output for

Customer may not use any data from the Bing-branded APIs for the purpose of developing or offering any comparable machine-learning based service.

Bing Search APIs Use and Display Requirements
Customer must comply with use and display requirements for the Bing Web Search, Image Search, Video Search and News Search APIs, Bing Spell Check, and Bing Autosuggest (collectively, the "Search APIs"), which are available https://aka.ms/r1j7jq. Customer must use results it obtains through the Search APIs only in Internet Search Experiences (as defined in the use and display requirements) and must not cache or copy results. The results Customer obtains through the Search APIs are not Products, Fixes, or Services Deliverables.

Translator API

Attribution:
When displaying automatic translations performed by Microsoft Translator, Customer will provide reasonably prominent notice that the text has been automatically translated by Microsoft Translator.

Limit on Customer use of service output:
Customer may not use any data from Microsoft Translator for the purpose of developing or offering any comparable machine-learning based service.

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Microsoft Azure Plans

Notices
The Bing Maps Notices in Attachment 1 apply.

Subscription License Suites
In addition to User SLs, refer to Attachment 2 for other SLs that fulfill requirements for Azure Active Directory Premium, Azure Information Protection, and Microsoft Intune.

Azure Active Directory Basic

Customer may, using Single Sign-On, pre-integrate up to 10 SAAS Applications/Custom Applications per User SL. All Microsoft as well as third party applications count towards this application limit.

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Azure Active Directory Premium

Customer may, using Single Sign-On, pre-integrate SaaS Applications/Custom Applications. Customer may not copy or distribute any data set (or any portion of a data set) included in the Microsoft Identity Manager software that is included with a Microsoft Azure Active Directory Premium (P1 and P2) User SL.

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Azure Information Protection Premium

Notices
The Bing Maps Notices in Attachment 1 applies. Any deployment services provided to Customer are subject to the Professional Services Notice in Attachment 1.

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Microsoft Dynamics 365 Services

Microsoft Dynamics 365 for Case Management, Enterprise Edition
Microsoft Dynamics 365 for Customer Service, Enterprise Edition
Microsoft Dynamics 365 for Field Services, Enterprise Edition
Microsoft Dynamics 365 for Financials, Business Edition
Microsoft Dynamics 365 for Operations, Enterprise Edition
Microsoft Dynamics 365 for Project Service Automation, Enterprise Edition
Microsoft Dynamics 365 for Sales, Enterprise Edition
Microsoft Dynamics 365 for Team Members, Business Edition
Microsoft Dynamics 365 for Team Members, Enterprise Edition

Notices
The Bing Maps and Professional Services Notices in Attachment 1 apply. Any onboarding, migration, or deployment services provided to Customer as subjection to the Professional Services Notice in Attachment 1.

Subscription License Suites
In addition to User SLs, refer to Attachment 2 for other offerings that fulfill SL requirements.

External Users
External Users of Microsoft Dynamics 365 Services do not need a SL to access the Online Service. This exemption does not apply to contractors or agents of Customer or its Affiliate, or External Users using Microsoft Dynamics 365 clients with Microsoft Dynamics 365 Services other than Microsoft Dynamics 365 for Operations.

Microsoft Dynamics 365 for Operations
Customer may modify Microsoft Dynamics 365 for Operations to allow extension of its functionality, but only for Customer's internal use purposes.

Server Use Rights for Dynamics 365 User SLs, From SA User SLs and Add-on User SLs
Customer with active Microsoft Dynamics 365 Services subscriptions may:

- install and use any number of copies of the Microsoft Dynamics 365 On-premises Server software on any server;
- allow users or devices licensed with Microsoft Dynamics 365 On-premises CALs, Microsoft Dynamics CRM CALs and Microsoft Dynamics AX CALs to access Microsoft Dynamics 365 On-premises Server software provided with Microsoft Dynamics 365 subscriptions. Users or devices without Software Assurance on CALs may not access new versions of Microsoft Dynamics 365 On-premises Server;
- receive and use updates related to government tax and regulatory requirements on Microsoft Dynamics On-premises Server software;
- modify or create derivative works of plug-ins, runtime, and other components identified in printed or online documentation and use those derivative works, but only with the Microsoft Dynamics 365 On-premises Server software and only for Customer's internal purposes; and
- this server use rights provision does not apply to Customers licensed for Dynamics 365 Business Edition .

Microsoft Social Engagement

Service Level Agreement
There is no SLA for Microsoft Social Engagement.

Social Content Obtained through Microsoft Social Engagement
Social Content is publicly-available content collected from social media networks (such as Twitter, Facebook and YouTube) and data indexing or data aggregation services in response to Customer's search queries executed in Microsoft Social Engagement. Social Content is not Customer Data. Customer Data used in configuring or initiating search queries executed on Customer's behalf may be shared with third parties for purposes of collecting Social Content. Customer may use Social Content for its internal business purposes only. Microsoft reserves the right to:

- store Social Content in a database commingled with content aggregated from other sources by other licensees;
- access, edit or delete Social Content in response to a request from a social media network, data indexing or data aggregation service, Social Content owner or a takedown request under the Digital Millennium Copyright Act;
- instruct Customer to edit or delete Social Content if Customer exports Social Content; and
- delete or restrict further access to Social Content after the Online Service has been terminated or expires.

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Office 365 Services

Notices
The Bing Maps Notices in Attachment 1 apply. Any onboarding, migration, or deployment services provided to Customer are subject to the Professional Services Notice in Attachment 1.

Core Features for Office 365 Services
During the term of Customer's subscription, the Office 365 Services will substantially conform to the Core Features description provided (if any) in the Office 365 service-specific sections below, subject to Product restrictions or external factors (such as the recipient, message rate, message size and mailbox size limits for e-mail; default or Customer-imposed data retention policies; search limits; storage limits; Customer or end user configurations; and meeting capacity limits). Microsoft may permanently eliminate a functionality specified below only if it provides Customer a reasonable alternative functionality.

Administration Portal
Customer will be able to add and remove end users and domains, manage licenses, and create groups through the Microsoft Online Services Portal or its successor site.

Subscription License Suites
In addition to User SLs, refer to Attachment 2 for other SLs that fulfill requirements for Office 365 Services.

Microsoft Teams
Notice: The H.264/MPEG-4 AVC Notice in Attachment 1 applies to all Office 365 Services that include Microsoft Teams.

Yammer
For Office 365 Services that include Yammer, External Users invited to Yammer via external network functionality do not need User SLs.

Exchange Online

Office 365 Advanced Threat Protection
Office 365 Threat Intelligence
Data Loss Prevention
Exchange Online Archiving for Exchange Online
Exchange Online Archiving for Exchange Server
Exchange Online S1
Exchange Online (Plan 1 and Plan 2)

Core Features for Office 365 Services – Exchange Online
Exchange Online or its successor service will have the following Core Features capabilities:

Emails
An end user will be able to send email messages, receive email messages that originate from within and outside of Customer's organization, and access the end user's mailbox.

Mobile and Web Browser Access
Through the Microsoft Exchange ActiveSync protocol or a successor protocol or technology, Exchange Online will enable an end user to send and receive emails and update and view calendars from a mobile device that adequately supports such a protocol or technology. An end user will be able to send email messages, receive email messages that originate from within and outside of Customer's organization, and access the end user's mailbox, all from within a compatible web browser.

Retention Policies
Customer will be able to establish archive and deletion policies for email messages.

Deleted Item and Mailbox Recovery
Customer will be able to recover the contents of a deleted non-shared mailbox and an end user will be able to recover an item that has been deleted from one of the end user's email folders.

Multi-Mailbox Search
Customer will be able to search for content across multiple mailboxes within its organization.

Calendar
An end user will be able to view a calendar and schedule appointments, meetings, and automatic replies to incoming email messages.

Contacts
Through an Exchange Online-provided user interface, Customer will be able to create and manage distribution groups and an organization-wide directory of mail-enabled end users, distribution groups, and external contacts.

Core Features for Office 365 Services – Exchange Online Archiving
Exchange Online Archiving or its successor service will have the following Core Features capabilities:

Storage
Customer will be able to allow an end user to store email messages.

Retention Policies
Customer will be able to establish archive and deletion policies for email messages distinct from policies that an end user can apply to the end user's own mailbox.

Deleted Item and Mailbox Recovery
Customer, through Office 365 support services, will be able to recover a deleted archive mailbox, and an end user will be able to recover an item that has been deleted from one of the end user's email folders in the end user's archive.

Multi-Mailbox Search
Customer will be able to search for content across multiple mailboxes within its organization.

Legal Hold
Customer will be able to place a "legal hold" on an end user's primary mailbox and archive mailbox to preserve the content of those mailboxes.

Archiving
Archiving may be used for messaging storage only with Exchange Online Plans 1 and 2.

Archiving for Exchange Server
Users licensed for Exchange Server 2013 Standard Client Access License may access the Exchange Server 2013 Enterprise Client Access License features necessary to support use of Exchange Online Archiving for Exchange Server.

Exchange Online Plan 2 from Exchange Hosted Archive Migration
Exchange Online Plan 2 is a successor Online Service to Exchange Hosted Archive. If Customer renews from Exchange Hosted Archive into Exchange Online Plan 2 and has not yet migrated to Exchange Online Plan 2, Customer's licensed users may continue to use the Exchange Hosted Archive service subject to the terms of the March 2011 Product Use Rights until the earlier of Customer's migration to Exchange Online Plan 2 or the expiration of Customer's Exchange Online Plan 2 User SLs. The Product Use Rights is located at http://go.microsoft.com/?linkid=9839206.

Data Loss Prevention Device License
If Customer is licensed for Data Loss Prevention by Device, all users of the Licensed Device are licensed for the Online Service.

Service Level Agreement
There is no SLA for Office 365 Advanced Threat Protection or Office 365 Threat Intelligence.

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Office 365 Applications

Office 365 Business
Office 365 ProPlus
Visio Pro for Office 365

Service Level Agreement
There is no SLA for Visio Pro for Office 365.

Installation and Use Rights
Each user to whom Customer assigns a User SL must have a Microsoft Account in order to use the software provided with the subscription. These users:

- may activate the software provided with the SL on up to five concurrent OSEs for local or remote use;
- may also install and use the software, with shared computer activation, on a shared device, a network server, or on shared servers with a qualified cloud partner. A list of qualified cloud partners and additional deployment requirements is available at www.office.com/sca. For the purpose of this use right "network server" means a physical hardware server solely dedicated to Customer use. This shared computer activation provision does not apply to Customers license for Office 365 Business; and
- must connect each device upon which user has installed the software to the Internet at least once every 30 days or the functionality of the software may be affected.

The following terms apply only to Office 365 Business and Office 365 ProPlus
Smartphone and Tablet Devices
Each user to whom Customer assigns a User SL may also activate Microsoft Office Mobile software to use on up to five smartphones and five tablets.

The following terms apply only to Office 365 ProPlus
Office Home & Student 2013 RT Commercial Use
Each User SL for Office 365 ProPlus modifies the user's right to use the software under a separately acquired Office Home & Student 2013 RT license by waiving the prohibition against commercial use. Except for this allowance for commercial use of the software, all use is subject to the terms and use rights provided with the Office Home & Student 2013 RT License.

Office Online Server

For each Office 365 ProPlus subscription, Customer may install any number of copies of Office Online Server on any Server dedicated to Customer's use. Each Office 365 ProPlus user may use the Office Online Server software. This provision does not apply to Customers that license this Product under the Microsoft Online Subscription Agreement or other Microsoft agreement that cover Online Services only.

Subscription License Suites
In addition to Office 365 ProPlus User SLs, Customer may fulfill the SL requirement for this Product by purchasing a Suite SL (refer Attachment 2).

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Microsoft MyAnalytics

Service Level Agreement
There is no SLA for Microsoft MyAnalytics.

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Office Online

Core Features for Office 365 Services
Office Online or its successor service will have the following Core Features capabilities:
An end user will be able to create, view, and edit documents in Microsoft Word, Excel, PowerPoint, and OneNote file types that are supported by Office Online or its successor service.

External Users
External Users invited to site collections via Share-by-Mail functionality do not need User SLs with Office Online.

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OneDrive for Business

External Users
External Users invited to site collections via Share-by-Mail functionality do not need User SLs with OneDrive for Business.

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Project Online

Project Online Essentials
Project Online Premium
Project Online Professional

Installation and Use Rights for Project application
Each user to whom Customer assigns a Project Online Professional or Project Online Premium User SL must have a Microsoft Account in order to use the software provided with the subscription. These users:

- may activate the software provided with the SL on up to five concurrent OSEs for local or remote use;
- may also install and use the software, with shared computer activation, on a shared device, a network server, or on shared servers with a qualified cloud partner. A list of qualified cloud partners and additional deployment requirements is available at www.office.com/sca. For the purpose of this use right "network server" means a physical hardware server solely dedicated to Customer use; and
- must connect each device upon which user has installed the software to the Internet at least once every 30 days or the functionality of the software may be affected.

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SharePoint Online

Duet Enterprise Online for Microsoft SharePoint and SAP
SharePoint Online (Plan 1 and Plan 2)
SharePoint Online S1

Core Features for Office 365 Services
SharePoint Online or its successor service will have the following Core Features capabilities:

Collaboration Sites
An end user will be able to create a web browser-accessible site through which the end user can upload and share content and manage who has permission to access that site.

Storage
Customer will be able to set storage capacity limits for a site created by an end user.

External Users
External Users invited to site collections via Share-by-Mail functionality do not need User SLs with SharePoint Online S1, Plan 1 and Plan 2.

Storage Add-on SLs
Office 365 Extra File Storage is required for each gigabyte of storage in excess of the storage provided with User SLs for SharePoint Online Plans 1 and 2.

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Skype for Business Online

Skype for Business Online (Plan 1 and Plan 2) | Skype for Business Online Cloud PBX

Notices
The H.264/MPEG-4 AVC and/or VC-1 Notices in Attachment 1 apply.

Core Features for Office 365 Services
Skype for Business Online Plan 1 and Plan 2 or their successor services will have the following Core Features capabilities:

Instant Messaging
An end user will be able to transfer a text message to another end user in real time over an Internet Protocol network.

Presence
An end user will be able to set and display the end user's availability and view another end user's availability.

Online Meetings
An end user will be able to conduct an Internet-based meeting that has audio and video conferencing functionality with other end users.

External Users and users not authenticated by Skype for Business Online
User SLs are not required for External Users and users not authenticated by the Skype for Business Online service.

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Skype for Business Online PSTN Services

Skype for Business Online PSTN Calling
Skype for Business Online PSTN Conferencing
Skype for Business PSTN Consumption

PSTN Services
Skype for Business Online PSTN Services ("PSTN Services") enable users to communicate with others via the worldwide voice telephone network known generally as the Public Switched Telephone Network. PSTN Services are provided by the Microsoft Affiliate authorized to provide them. Pricing for PSTN Services may include applicable taxes and fees. The terms of use of PSTN may vary from country to country. All included taxes, fees and country-specific terms of use are disclosed on the Volume Licensing site (http://go.microsoft.com/fwlink/?LinkId=690247).

Exceeding the usage limitations for the applicable PSTN Service subscription plan as described in the terms of use may result in suspension of the services. Microsoft will provide reasonable notice before suspending PSTN Services, and customer will be able to make emergency calls during any period of suspension.

Important Information About Emergency Services
Customer must notify each user of Skype for Business Online PSTN Calling that Emergency Services operate differently than on traditional telephone services in the following ways: (i) Skype for Business may not know the actual location of an Emergency Services caller, which could result in the call being routed to the wrong Emergency Services call center and/or emergency services being dispatched to the wrong location; (ii) if the user's device has no power, is experiencing a power outage or, for any reason, cannot otherwise access the Internet, the user cannot make an Emergency Services call through Skype for Business PSTN Calling services; and (iii) although Skype for Business Online PSTN Calling services can be

used anywhere in the world where an Internet connection is available, users should not make an Emergency Services call from a location outside their home country because the call likely will not be routed to the appropriate call center in that location.

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Other Online Services

Bing Maps Enterprise Platform and Bing Maps Mobile Asset Management Platform

Service SLs

A Service SL is required to access the services via the Bing Maps Enterprise Platform or Bing Maps Mobile Asset Management Platform. Each Service SL must be purchased with at least one of the following qualifying Add-On SLs:

- For the Bing Maps Enterprise Platform Service SL, either:
  - Bing Maps Public Website Usage Add-on SL, which is available for a specified number of billable transactions for use on a website that is available publicly without restriction,
  - Bing Maps Internal Website Usage Add-on SL, which is available for a specified number of billable transactions for use on an internal website (e.g., intranet) on a private network,
  - Bing Maps Known User Add-on SL, or
  - Bing Maps Light Known User Add-on SL.
- For the Bing Maps Mobile Asset Management Platform Service SL; for each Asset either:
  - Bing Maps Asset Management for North America Add-on SL
  - Bing Maps Asset Management for Europe Add-on SL, or
  - Bing Maps Asset Management for Rest of World Add-on SL

Qualifying Bing Maps Mobile Asset Management Platform Service SL Add-on SLs

For the Bing Maps Mobile Asset Management Platform, an Add-on SL is required for each tracked Asset whose GPS or other sensor based position can be monitored, displayed, reverse geocoded or used to perform calculations using Bing Maps Mobile Asset Management Platform. “Asset” is defined as any vehicle, device or other mobile object. These Add-on SLs are for a specified number of tracked Assets.

Authenticated Users

Users that are authenticated by Customer’s programs that access Bing Maps Enterprise Platform and Bing Maps Mobile Asset Management Platform must have a SL.

Bing Maps APIs

Customer may use all Bing Maps APIs in accordance with the Microsoft Bing Maps Platform API Terms of Use and Bing Maps Platform SDKs, including any successors thereto, located at https://aka.ms/bingmapsplatformapistou and https://aka.ms/bingmapsplatformsdks/.

Bing Maps Privacy

The Bing Privacy Statement and privacy terms in the Microsoft Bing Maps Platform API Terms of Use located at: https://go.microsoft.com/fwlink/?LinkId=521839 apply to Customer’s use of the Bing Maps Services.

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Business Application Platform

Microsoft Flow
Microsoft PowerApps
Microsoft Power BI Pro
Microsoft Stream

Notices

The Bing Maps, H.264/AVC Visual Standard, VC-1 Video Standard, and MPEG-4 Part 2 Visual Standard and MPEG-2 Video Standard Notices in Attachment 1 apply.

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Kaizala

Service Level Agreement
There is no SLA for Kaizala.

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Microsoft Cloud App Security

Notices
The Bing Maps and Professional Services notices in Attachment 1 apply.

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Microsoft Intune

Microsoft Intune (per user) Microsoft Intune Add-on for System Center Configuration	Microsoft Intune Add-on for System Center Configuration Manager and System Center Endpoint Protection (per user) ("Microsoft Intune Add-On")

Notices
Any deployment services provided to Customer are subject to the Professional Services Notice in Attachment 1.

Manage Devices and Applications
Each user to whom Customer assigns a User SL may access and use the Online Service and related software (including System Center software) to manage applications and up to fifteen devices.

Storage Add-on SL
A Storage Add-on SL is required for each gigabyte of storage in excess of the storage provided with the base subscription.

Windows Software Components in System Center Software
The System Center software includes one or more of the following Windows Software Components: Microsoft .NET Framework, Microsoft Data Access Components, Powershell software and certain .dlls related to Microsoft Build, Windows Identity Foundation, Windows Library for JAVAScript, Debghelp.dll, and Web Deploy technologies. The license terms governing use of the Windows Software Components are in the Windows 8.1 Pro and Enterprise section of the Product Terms. The Product Terms is located at http://go.microsoft.com/?linkid=9839206.

SQL Server Technology and Benchmarking
The Software included with the Online Service includes SQL Server-branded components other than a SQL Server Database. Those components are licensed to Customer under the terms of their respective licenses, which can be found in the installation directory or unified installer of the software. Customer must obtain Microsoft's prior written approval to disclose to a third party the results of any benchmark test of these components or the software that includes them.

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Microsoft Learning

Microsoft Learning E-Reference Library
Any person that has valid access to Customer's computer or internal network may copy and use the documentation for Customer's internal reference purposes. Documentation does not include electronic books.

Microsoft Learning Imagine Academy Service SL
A Service SL is required for each Location that accesses or uses any Microsoft Imagine Academy service or benefit. Location is defined as a physical site with staff under the same administrator, such as a principal, in a single building or group of buildings located on the same campus.

Microsoft Learning Imagine Academy Program Guidelines
The Imagine Academy program guidelines, located at http://www.microsoft.com/itacademy, apply to Customer's use of the Microsoft Learning Imagine Academy and its benefits.

Microsoft Learning Imagine Academy Program Benefits Provided by Third-Party
Program benefits may only be used by a licensed institution's faculty, staff and students currently enrolled in the licensed institution.

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Minecraft: Education Edition

Notices
The Bing Maps Notices in Attachment 1 apply.

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Office 365 Developer

No Production Use of Office 365 Developer
Each user to whom Customer assigns a User SL may use the Online Service to design, develop, and test Customer's applications to make them available for Customer's Office 365 Online Services, on-premises deployments or for the Microsoft Office Store. The Online Service is not licensed for production use.

Office 365 Developer End Users
Customer's end users do not need a SL to access Office 365 Developer to perform acceptance tests or provide feedback on Customer programs.

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Windows Desktop Operating System

Data Retention
The Windows Defender Advanced Threat Protection portion of the product does not contain extractable Customer Data therefore the Customer Data extraction terms in the OST do not apply.

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Attachment 1 – Notices

Bing Maps

The Online Service or its included software includes use of Bing Maps. Any content provided through Bing Maps, including geocodes, can only be used within the product through which the content is provided. Customer's use of Bing Maps is governed by the Bing Maps End User Terms of Use available at go.microsoft.com/?linkid=9710837 and the Bing Maps Privacy Statement available at go.microsoft.com/fwlink/?LinkID=248686.

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Professional Services

Customer may be eligible for Microsoft customer support and consulting services related to this Online Service. These services are "Professional Services" under Customer's volume licensing agreement. If Customer's volume licensing agreement covers Online Services only (and does not define Professional Services), then these services are provided subject to the "Professional Services Terms" below.

The Professional Services to which this Notice applies are not Online Services, and the rest of the Online Services Terms, as well as any data processing amendment or HIPAA Business Associate Agreement signed by the parties, do not apply. Any information provided to Microsoft in connection with these Professional Services is protected under the confidentiality terms of Customer's volume licensing agreement.

Additional terms may apply to these Professional Services, but only to the extent those terms don't conflict with this Notice.

Professional Services Terms

Definition

Any services to which this notice applies are defined, collectively, as "Professional Services".

Obligations of the Parties

Microsoft warrants that all Professional Services will be performed with professional care and skill. If Microsoft fails to do so and Customer notifies Microsoft within 90 days of the date of performance, then Microsoft will either re-perform the Professional Services or return the price paid for them as Customer's sole remedy for breach of the Professional Services warranty.

Customer will perform its applicable responsibilities and obligations to support Microsoft's performance of the Professional Services, as specified in the description of each Professional Service.

Limitation of Liability

To the extent permitted by applicable law, each party's total liability for all claims relating to Professional Services will be limited to the amounts Customer was required to pay for the Professional Services or the limitation of liability for the Online Service with which the Professional Services are offered, whichever is greater. **In no event will either party be liable for indirect, incidental, special, punitive, or consequential damages, including loss of use, loss of profits, or interruption of business, however caused or on any theory of liability in relation to the Professional Services. No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations; or (2) violation of the other party's intellectual property rights.**

Fixes

"Fixes" are Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as service packs) or that Microsoft provides to Customer to address a specific issue. Each Fix, is licensed under the same terms as the Product to which it applies. If a Fix is not provided for a specific Product, any use terms Microsoft provides with the Fix will apply.

Pre-Existing Work

"Pre-Existing Work" means any computer code or non-code based written materials developed or otherwise obtained independent of Customer's volume licensing agreement. All rights in Pre-Existing Work shall remain the sole property of the party providing the Pre-Existing Work. Each party may use, reproduce and modify the other party's Pre-Existing Work only as needed to perform obligations related to Professional Services.

Services Deliverables

"Services Deliverables" means any computer code or materials other than Products or Fixes that Microsoft leaves with Customer at the conclusion of Microsoft's performance of Professional Services. Microsoft grants Customer a non-exclusive, non-transferable, perpetual license to reproduce, use, and modify the Services Deliverables solely for Customer's internal business purposes, subject to the terms and conditions in Customer's volume licensing agreement.

Non-Microsoft Technology
Customer is solely responsible for any non-Microsoft software or technology that it installs or uses with the Online Services, Fixes, or Services Deliverables.

Affiliates' Rights
Customer may sublicense the rights to use Services Deliverables to its Affiliates, but Customer's Affiliates may not sublicense these rights. Customer is liable for ensuring its Affiliates' compliance with the terms of this Notice and Customer's volume licensing agreement.

Government Customers.
If Customer is a government entity, then the following terms apply to any Professional Services provided at no charge to Customer. Microsoft waives any and all entitlement to compensation from Customer for the Professional Services. In compliance with applicable laws and regulations, Microsoft and Customer acknowledge that the Professional Services are for the sole benefit and use of Customer and not provided for the personal use or benefit of any individual government employee.

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Notice about Azure Media Services H.265/HEVC Encoding

Customer must obtain its own patent license(s) from any third party H.265/HEVC patent pools or rights holders before using Azure Media Services to encode or decode H.265/HEVC media.

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Notice about H.264/AVC Visual Standard, VC-1 Video Standard, MPEG-4 Part Visual Standard and MPEG-2 Video Standard

This software may include H.264/AVC, VC-1, MPEG-4 Part 2, and MPEG-2 visual compression technology. MPEG LA, L.L.C. requires this notice: THIS PRODUCT IS LICENSED UNDER THE AVC, THE VC-1, THE MPEG-4 PART 2 AND MPEG-2 VISUAL PATENT PORTFOLIO LICENSES FOR THE PERSONAL AND NON-COMMERCIAL USE OF A CONSUMER TO (i) ENCODE VIDEO IN COMPLIANCE WITH THE ABOVE (VIDEO STANDARDS) AND/OR (ii) DECODE AVC, VC-1, MPEG-4 PART 2 AND MPEG-2 VIDEO THAT WAS ENCODED BY A CONSUMER ENGAGED IN A PERSONAL AND NON-COMMERCIAL ACTIVITY AND/OR WAS OBTAINED FROM A VIDEO PROVIDER LICENSED TO PROVIDE SUCH VIDEO. NO LICENSE IS GRANTED OR SHALL BE IMPLIED FOR ANY OTHER USE. ADDITIONAL INFORMATION MAY BE OBTAINED FROM MPEG LA, L.L.C. REFER TO www.mpegla.com.

For clarification purposes, this notice does not limit or inhibit the use of the software for normal business uses that are personal to that business which do not include (i) redistribution of the software to third parties, or (ii) creation of content compliant with the VIDEO STANDARDS technologies for distribution to third parties.

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Attachment 2 – Subscription License Suites

Online Services may be available for purchase as Suites of Online Services. If, in the table below, a cell is shaded blue in an Online Service's row, the Suite SL for the column the cell is in fulfills the SL requirements for the cell's Online Services.

	Office 365 Enterprise [1, 3]				Office 365 Government					Office 365 Education		Office 365 Business Essentials	Office 365 Business Premium	Enterprise Mobility + Security		Secure Productive Enterprise [2]		Dynamics 365 Enterprise Edition	
Online Service	S1	E1	E3	E5	S1	E1	E3	E4	E5	Edu	E5			E3	E5	E3	E5	Plan 1	Plan 2
Exchange Online												■	■						
Exchange Online S1	■				■														
Exchange Online Plan 1		■				■				■									
Exchange Online Plan 2			■	■			■	■	■		■					■	■		
SharePoint Online												■	■						
SharePoint Online S1	■				■														
SharePoint Online Plan 1		■				■				■									
SharePoint Online Plan 2			■	■			■	■	■		■					■	■		
Skype for Business Online												■	■						
Skype for Business Online Plan 1																			
Skype for Business Online Plan 2		■	■	■		■	■	■	■	■	■					■	■		
Skype for Business Online Cloud PBX				■					■		■						■		
Skype for Business Online PSTN Conf.				■					■		■						■		
OneDrive for Business	■	■	■	■	■	■	■	■	■	■	■	■	■			■	■		
Office Online	■	■	■	■	■	■	■	■	■	■	■	■	■			■	■		
Office 365 Business													■						
Office 365 ProPlus			■	■			■	■	■		■					■	■		
Microsoft MyAnalytics				■					■		■						■		
Office 365 Advanced Compliance				■					■		■						■		
Office 365 Advanced Security Manag.				■					■		■						■		
Office 365 Threat Intelligence				■					■		■						■		
Microsoft Power BI Pro				■					■		■						■		
Office 365 Advanced Threat Protection				■					■		■						■		
Microsoft Intune														■	■	■	■		
Azure Info Protection Premium Plan 1														■		■	■		
Azure Info Protection Premium Plan 2															■	■	■		
Azure Active Directory Premium Plan 1														■		■	■		
Azure Active Directory Premium Plan 2															■	■	■		
Microsoft Cloud App Security															■				
Microsoft Dynamics 365 for Customer Service																		■	■
Microsoft Dynamics 365 for Field Service																		■	■
Microsoft Dynamics 365 for Operations																		■	■
Microsoft Dynamics 365 for Project Service Automation																			■
Microsoft Dynamics 365 for Sales																		■	■
Microsoft Flow	■	■	■	■		■	■	■	■			■	■					■	■
Microsoft PowerApps	■	■	■	■		■	■	■	■			■	■					■	■
Microsoft Stream Plan 1		■	■				■	■		■									
Microsoft Stream Plan 2				■					■		■								

[1] Add-on Suite SLs that include "without ProPlus" in the title do not include rights to Office 365 ProPlus.

[2] In addition to the Online Services identified above, Secure Productive Enterprise fulfills the SL requirement for Windows SA per User as noted in the Product Terms.

[3] Inclusion of Skype for Business Online PSTN Conferencing with Office 365 Enterprise E5 is dependent on regional availability.

Attachment 3 – The Standard Contractual Clauses (Processors)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, Customer (as data exporter) and Microsoft Corporation (as data importer, whose signature appears below), each a "party," together "the parties," have agreed on the following Contractual Clauses (the "Clauses" or "Standard Contractual Clauses") in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

Clause 1: Definitions

(a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

(b) 'the data exporter' means the controller who transfers the personal data;

(c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) 'the subprocessor' means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

Clause 2: Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 below which forms an integral part of the Clauses.

Clause 3: Third-party beneficiary clause

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

Clause 4: Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 below;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

Clause 5: Obligations of the data importer

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,

(ii) any accidental or unauthorised access, and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11; and

(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

Clause 6: Liability

1. The parties agree that any data subject who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

Clause 7: Mediation and jurisdiction

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

Clause 8: Cooperation with supervisory authorities

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

Clause 9: Governing Law.

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

Clause 10: Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

Clause 11: Subprocessing

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.

2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.

4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

Clause 12: Obligation after the termination of personal data processing services

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

Appendix 1 to the Standard Contractual Clauses

Data exporter: Customer is the data exporter. The data exporter is a user of Online Services as defined in the section of the OST entitled “Data Processing Terms.”

Data importer: The data importer is MICROSOFT CORPORATION, a global producer of software and services.

Data subjects: Data subjects include the data exporter’s representatives and end-users including employees, contractors, collaborators, and customers of the data exporter. Data subjects may also include individuals attempting to communicate or transfer personal information to users of the services provided by data importer.

Categories of data: The personal data transferred includes e-mail, documents and other data in an electronic form in the context of the Online Services.

Processing operations: The personal data transferred will be subject to the following basic processing activities:

a. Duration and Object of Data Processing. The duration of data processing shall be for the term designated under the applicable volume licensing agreement between data exporter and the Microsoft entity to which these Standard Contractual Clauses are annexed (“Microsoft”). The objective of the data processing is the performance of Online Services.

b. Scope and Purpose of Data Processing. The scope and purpose of processing personal data is described in the DPT. The data importer operates a global network of data centers and management/support facilities, and processing may take place in any jurisdiction where data importer or its sub-processors operate such facilities.

c. Customer Data Access. For the term designated under the applicable volume licensing agreement data importer will at its election and as necessary under applicable law implementing Article 12(b) of the EU Data Protection Directive, either: (1) provide data exporter with the ability to correct, delete, or block Customer Data, or (2) make such corrections, deletions, or blockages on its behalf.

d. Data Exporter's Instructions. For Online Services, data importer will only act upon data exporter's instructions as conveyed by Microsoft.

e. Customer Data Deletion or Return. Upon expiration or termination of data exporter's use of Online Services, it may extract Customer Data and data importer will delete Customer Data, each in accordance with the OST applicable to the agreement.

Subcontractors: The data importer may hire other companies to provide limited services on data importer's behalf, such as providing customer support. Any such subcontractors will be permitted to obtain Customer Data only to deliver the services the data importer has retained them to provide, and they are prohibited from using Customer Data for any other purpose.

Appendix 2 to the Standard Contractual Clauses

Description of the technical and organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c):

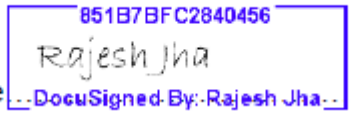
1. **Personnel**. Data importer's personnel will not process Customer Data without authorization. Personnel are obligated to maintain the confidentiality of any Customer Data and this obligation continues even after their engagement ends.

2. **Data Privacy Contact**. The data privacy officer of the data importer can be reached at the following address:
Microsoft Corporation
Attn: Chief Privacy Officer
1 Microsoft Way
Redmond, WA 98052 USA

3. **Technical and Organization Measures**. The data importer has implemented and will maintain appropriate technical and organizational measures, internal controls, and information security routines intended to protect Customer Data, as defined in the DPT, against accidental loss, destruction, or alteration; unauthorized disclosure or access; or unlawful destruction as follows: The technical and organizational measures, internal controls, and information security routines set forth in the DPT are hereby incorporated into this Appendix 2 by this reference and are binding on the data importer as if they were set forth in this Appendix 2 in their entirety.

Signature of Microsoft Corporation appears on the following page.

Signing the Standard Contractual Clauses, Appendix 1 and Appendix 2 on behalf of the data importer:

Signature 

Rajesh Jha, Corporate Vice President
Microsoft Corporation
One Microsoft Way, Redmond WA, USA 98052