

Microsoft Office 365 Annex

— **Section One: Terms and Conditions** —

1. General

1.1. The terms set out in this Annex form part of our Standard Terms (which are comprised of the Main Body Terms, available at www.gradwell.com/terms-conditions/, and all relevant Annexes). The terms in this Annex apply whenever you buy any of our Microsoft Office 365 services (“Office 365”). Any conflict between the Main Body Terms, the Annexes and/or any other document expressly referred to in the Standard Terms will be determined in accordance with clause 19.8 of the Main Body Terms.

1.2. We may from time to time amend the Standard Terms, Charges or Services in accordance with clause 14. Whenever we make such changes, we will update the Website to reflect this.

1.3. Office 365 is available in a number of different packages. Details of these packages, and the features and functionality of the different programs of Office 365, are available on our Website, or in promotional material that we may produce from time to time.

1.4. All definitions used in the Main Body Terms apply to this Annex.

1.5. Any reference to a “clause” is to a clause of the Main Body Terms. Any reference to a “paragraph” is to a paragraph of this Annex.

1.6. Other definitions that appear only in this Annex have the meanings set out below:

- “Content” means all Data that you send, receive or store using Office 365;
- “Office 365” has the meaning given it in paragraph 1.1;
- “Microsoft Cloud Agreement” has the meaning given to it in paragraph 6.1, as may be amended from time to time in accordance with paragraph 6.3;
- “SLA” means the Service Level Agreement provided by Microsoft in connection with Office 365 as described in paragraph 5(a)(ii) of the Microsoft Cloud Agreement.

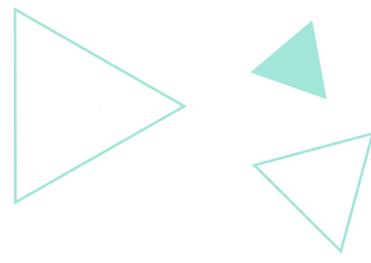
2. Use of the Services

2.1. Without affecting the provisions of clause 8, you agree that you will not use Office 365 to:

2.1.1. transmit available any Content that is illegal, unlawful, or is otherwise likely to be considered threatening, abusive, obscene, or otherwise objectionable by a reasonable person in modern society;

2.1.2. impersonate any person or falsely state or otherwise misrepresent your affiliation with any person, organisation or group;

2.1.3. transmit any Content without the valid right under any relevant Law to carry out that activity;



2.1.4. transmit any Malware;

2.1.5. promote, provide instructional information in respect of, or otherwise facilitate any illegal activity, including, without limitation, activity which may result in:

- a) physical harm or injury to any person; or
- b) any act of cruelty or mistreatment towards animals; or
- c) the creation or assembly of weapons, bombs or incendiary devices;

2.2. Without affecting the provisions of clause 8, you are solely responsible for ensuring that your use of Office 365 does not contravene any relevant Law relating to the sending of unsolicited communications.

2.3. In accordance with clause 17.15, it is your responsibility to ensure that you have a full backup of all Data at all times.

3. Use of Office 365 and availability of Content after suspension or termination

3.1. In accordance with clause 17.15, it is your responsibility to ensure that you have a full backup of all Content at all times.

3.2. If, in accordance with the Standard Terms, we suspend your Services or terminate the Contract, or if Microsoft suspends your service in accordance with the Microsoft Cloud Agreement (or Microsoft terminates the Microsoft Cloud Agreement), you will lose access to Office 365 and you will be unable to access your Content.

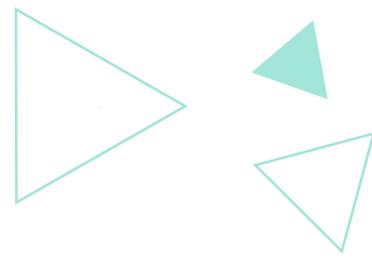
3.3. If you choose to terminate the Contract for Office 365 in accordance with the Standard Terms, or you terminate the Microsoft Cloud Agreement, you will be unable to access your Content using the Service after the relevant notice period expires.

3.4. If you or Microsoft terminate the Microsoft Cloud Agreement in accordance with paragraph 3.2 or 3.3, the Contract for Office 365 will also be terminated and you will be liable for all and any outstanding Charges associated with the relevant Service(s) in accordance with clause 15.10.

4. Changes to Office 365

4.1. Clauses 14.7 to 14.9 inclusive of the Main Body Terms do not apply to Office 365.

4.2. You acknowledge and agree that Microsoft may modify Office 365, or release a new version of it at any time and for any reason including, but not limited to, to address customer needs, to respond to changes in the Law, or to provide innovation in its services. Microsoft reserves the right to add new features or functionality to, or remove existing features of functionality from, Office 365. Notwithstanding paragraph 4.3, we reserve the right to migrate you to a new release of Office 365



at any time.

4.3. We will use our reasonable endeavours to provide you with at least 30 days' notice of Microsoft releasing a new or modified version of Office 365 that significantly changes the functionality, general user-experience or customer perception of Office 365.

5. Subscriptions

5.1. Except where the Website states otherwise, each Office 365 package is available for a one-year subscription period which is the Minimum Contract Period for the purposes of clause 15.2.

5.2. All Office 365 packages must be paid for monthly or yearly in advance (as indicated on the Website and confirmed on the Order Confirmation in accordance with clause 13.2). Any part-periods of use of Office 365 services that fall outside of the regular billing cycle will be billed on a pro-rata basis.

5.3. Where you terminate the subscription before the expiry of the relevant subscription period, you remain liable for any Charges that are owed under the Contract for the remainder of the Minimum Contract Period.

5.4. All subscriptions will renew automatically for a further one year period unless you provide us with written notice that you do not want the subscription to renew, or you configure your subscription settings using the Control Panel so that the subscription will not renew. Any notice of non-renewal or modification of your subscription settings must be given or made at least 30 days before the current subscription is due to expire.

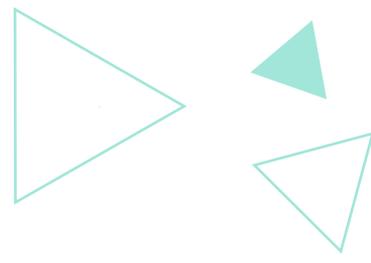
5.5. The latest version of the Standard Terms (including the latest version(s) of the Microsoft Cloud Agreement and any documents referred to in it, and our relevant price list set out under section 2 of this Annex) will apply to the Contract for any subscription that renews.

6. Inclusion of the 'Microsoft Cloud Agreement' in the Contract for Office 365

6.1. By agreeing to the Standard Terms and entering into a Contract for Office 365, you also enter into a separate contract with Microsoft formed of the Microsoft end user terms for Office 365 set out in section three of this Annex ("Microsoft Cloud Agreement").

6.2. You are required to comply with the Microsoft Cloud Agreement in the same way as for any other term of the Contract and your breach of the Microsoft Cloud Agreement will be treated as a breach of the Contract. Where permitted by Law, we may also enforce any term of the Microsoft Cloud Agreement on Microsoft's behalf.

6.3. The Microsoft Cloud Agreement may change from time to time, with any such changes being dealt with in accordance with clauses 14.1 and 14.2. However, the right set out in clause 14.2 to



withdraw from your Contract where changes to the Standard Terms are to your material detriment does not apply in relation to the Contract for Office 365.

7. Support

7.1. We will provide technical support in connection with Office 365 in accordance with paragraphs 7.2 to 7.5 inclusive.

7.2. We will, at no extra charge, provide you with basic technical support concerning the purchase, download and installation of the relevant software on a typical PC device. Any support requests concerning use of the software beyond its basic installation, advanced troubleshooting or installation on a device other than a typical PC, are only available as part of a premium support package which can be purchased through the Gradwell sales team.

7.3. You can contact our Support Team for help by:

- Calling 01225 800888 during the hours of 8am to 8pm Monday to Friday (excluding public holidays) and 9am to 5pm Saturday and Sunday; or
- Submitting a support ticket detailing the problem you have experienced by visiting support.gradwell.com; or
- Sending an email detailing the problem you have experienced to support@gradwell.com.

The Support Team will endeavour to respond to emails and support tickets within 24 hours of receipt.

7.4. Where we consider it appropriate, we may refer you to online support resources and articles made available by Microsoft in connection with Office 365.

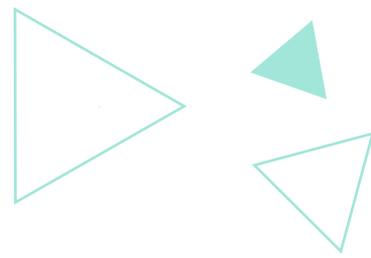
7.5. In some instances, we may need to escalate a support query to Microsoft for investigation. Where this happens, we will keep you updated as the matter progresses and liaise with you as appropriate. We will use our reasonable endeavours to relay and give effect to any solution or 'workaround' that Microsoft suggests.

8. Microsoft's SLA in respect of Office 365

8.1. Where you believe a valid breach of the SLA has occurred, you must provide us with all relevant details so that we may notify Microsoft of the potential claim (and you agree to provide us with all reasonable assistance in this regard). We will liaise with Microsoft and use our reasonable endeavours to obtain and pass on to you any benefit due under the SLA, but we shall have no other liability to you in connection with an alleged or actual breach of the SLA.

9. Discounted pricing for other Services

9.1. We may, from time to time, agree with you discounted pricing for other Services we provide where you purchase certain Office 365 packages from us. These discounted prices may be detailed on the Website and/or may be agreed in writing between your representative and our sales team, and will be confirmed on the Order Confirmation.



9.2. Except where we expressly specify otherwise, any discounted pricing for Services will only remain in effect for so long as you continue your subscription with us for the relevant Office 365 services. Any cessation of the subscription, or termination or expiry of the Contract for Office 365 service, will result in the price we charge for the other Services subject to the discount reverting to our standard advertised rate(s) applicable at the time.

10. Conflict of terms

10.1. Any conflict of terms between the various documents of the Contract will be dealt with in accordance with clause 19.8. Where any conflict occurs between the terms of this Annex and the Microsoft Cloud Agreement, the terms of this Annex will prevail.

— Section Two: Pricing —

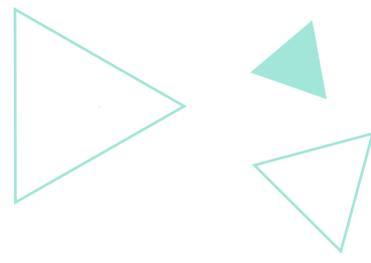
11. Pricing

11.1. Details of all prices set out on our Website, the Control Panel or on any Quotation are exclusive of VAT.

11.2. The prices for our Goods and Services will be those which:

- a) are set out on the Website at the date on which the Contract is formed; or
- b) where we send a Quotation to you, as set out on the relevant Quotation,

which, in either case, will be confirmed on the Order Confirmation in accordance with the Main Body Terms.



— Section Three: Microsoft End User Terms —



Volume Licensing

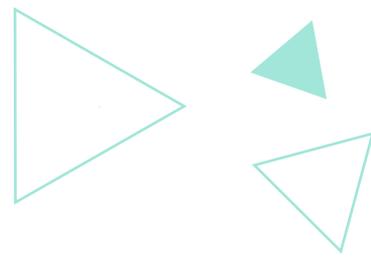
Microsoft Cloud Agreement

This Microsoft Cloud Agreement is entered into between the entity you represent, or, if you do not designate an entity in connection with a Subscription purchase or renewal, you individually (“Customer”), and Microsoft Ireland Operations Limited (“Microsoft”). It consists of the terms and conditions below, Use Rights, SLA, and all documents referenced within those documents (together, the “agreement”). It is effective on the date that your Reseller provisions your Subscription. Key terms are defined in Section 10.

I. Grants, rights and terms.

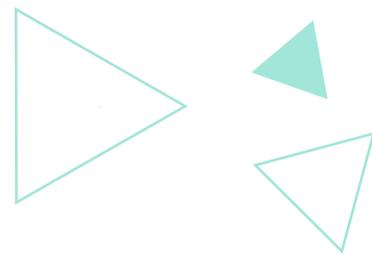
All rights granted under this agreement are non-exclusive and non-transferable and apply as long as neither Customer nor any of its Affiliates is in material breach of this agreement.

- a. **Software.** Upon acceptance of each order, Microsoft grants Customer a limited right to use the Software in the quantities ordered.
 - (i) **Use Rights.** The Use Rights in effect when Customer orders Software will apply to Customer’s use of the version of the Software that is current at the time. For future versions and new Software, the Use Rights in effect when those versions and Software are first released will apply. Changes Microsoft makes to the Use Rights for a particular version will not apply unless Customer chooses to have those changes apply.
 - (ii) **Temporary and perpetual licenses.** Licenses available on a subscription basis are temporary. For all other licenses, the right to use Software becomes perpetual upon payment in full.
- b. **Online Services.** Customer may use the Online Services as provided in this agreement.
 - (i) **Online Services Terms.** The Online Services Terms in effect when Customer orders or renews a subscription to an Online Service will apply for the applicable subscription term. For Online Services that are billed periodically based on consumption, the Online Services Terms current at the start of each billing period will apply to usage during that period.
 - (ii) **Suspension.** Microsoft may suspend use of an Online Service during Customer’s violation of the Acceptable Use Policy or failure to respond to a claim of alleged infringement. Microsoft will give Customer notice before suspending an Online Service when reasonable.
 - (iii) **End Users.** Customer controls access by End Users, and is responsible for their use of the Product in accordance with this agreement. For example, Customer will



ensure End Users comply with the Acceptable Use Policy.

- (iv) **Customer Data.** Customer is solely responsible for the content of all Customer Data. Customer will secure and maintain all rights in Customer Data necessary for Microsoft to provide the Online Services to Customer without violating the rights of any third party or otherwise obligating Microsoft to Customer or to any third party. Microsoft does not and will not assume any obligations with respect to Customer Data or to Customer's use of the Product other than as expressly set forth in this agreement or as required by applicable law.
- (v) **Responsibility for your accounts.** Customer is responsible for maintaining the confidentiality of any non-public authentication credentials associated with Customer's use of the Online Services. Customer must promptly notify customer support about any possible misuse of Customer's accounts or authentication credentials or any security incident related to the Online Services.
- c. **License transfers.** License transfers are not permitted, except that Customer may transfer only fully-paid perpetual licenses to (1) an Affiliate or (2) a third party, solely in connection with the transfer of hardware or employees to whom the licenses have been assigned to the third party as part of (a) a divestiture of all or part of an Affiliate or (b) a merger involving Customer or an Affiliate. Upon such transfer, Customer and its Affiliates must uninstall and discontinue using the licensed Product and render any copies unusable. Nothing in this agreement prohibits the transfer of Software to the extent allowed under applicable law if the distribution right has been exhausted.
- d. **Reservation of rights.** Products are protected by copyright and other intellectual property rights laws and international treaties. Microsoft reserves all rights not expressly granted in this agreement. No rights will be granted or implied by waiver or estoppel. Rights to access or use Software on a device do not give Customer any right to implement Microsoft patents or other Microsoft intellectual property in the device itself or in any other software or devices.
- e. **Restrictions.** Customer may use the Product only in accordance with this agreement. Customer may not (and is not licensed to): (1) reverse engineer, decompile or disassemble any Product or Fix, or attempt to do so; (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to any other license terms; or (3) work around any technical limitations in a Product or Fix or restrictions in Product documentation. Customer may not disable, tamper with, or otherwise attempt to circumvent any billing mechanism that meters Customer's use of the Online Services. Except as expressly permitted in this agreement or Product documentation, Customer may not distribute, sublicense, rent, lease, lend, resell or transfer and Products, in whole or in part, or use them to offer hosting services to a third party.
- f. **Preview releases.** Microsoft may make Previews available. **Previews are provided "as-is," "with all faults," and "as-available," and are excluded from the SLA and all limited warranties provided in this agreement.** Previews may not be covered by customer support. Previews may be subject to reduced or different security, compliance, and privacy commitments, as further explained in the Online



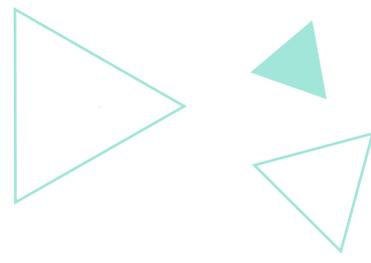
Services Terms and any additional notices provided with the Preview. Microsoft may change or discontinue Previews at any time without notice. Microsoft also may choose not to release a Preview into “General Availability.”

g. Verifying compliance for Products.

- (i) **Right to verify compliance.** Customer must keep records relating to all use and distribution of Products by Customer and its Affiliates. Microsoft has the right, at its expense, to verify compliance with the Products’ license terms. Customer must promptly provide any information reasonably requested by the independent auditors retained by Microsoft in furtherance of the verification, including access to systems running the Products and evidence of licenses for Products that Customer hosts, sublicenses, or distributes to third parties. Customer agrees to complete Microsoft’s self-audit process, which Microsoft may request as an alternative to a third party audit.
- (ii) **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use of Products, then within 30 days (1) Customer must order sufficient licenses to cover its use, and (2) if unlicensed use is 5% or more, Customer must reimburse Microsoft for the costs Microsoft incurred in verification and acquire the necessary additional licenses at 125% of the price, based on the then-current price last and customer price level. The unlicensed use percentage is based on the total number of licenses purchased for current use compared to the actual installed base. If there is no unlicensed use, Microsoft will not subject Customer to another verification for at least one year. By exercising the rights and procedures described above, Microsoft does not waive its rights to enforce this agreement or to protect its intellectual property by any other legal means.
- (iii) **Verification process.** Microsoft will notify Customer at least 30 days in advance of its intent to verify Customers’ compliance with the license terms for the Products Customer and its Affiliates use or distribute. Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Any information collected in the self-audit will be used solely for purposes of determining compliance. This verification will take place during normal business hours and in a manner that does not unreasonably interfere with Customer’s operations.

2. Subscriptions, ordering.

- a. Choosing a Reseller.** Customer must choose and maintain a Reseller authorized within its region. If Microsoft or Reseller chooses to discontinue doing business with each other, Customer must choose a replacement Reseller or purchase a Subscription directly from Microsoft, which may require Customer to accept different terms.
- b. Available Subscription offers.** The Subscription offers available to Customer will be established by its Reseller and generally can be categorized as one or a combination of the following:
 - (i) **Online Services Commitment Offering.** Customer commits in advance to purchase a specific quantity of Online Services for use during a Term and to pay



upfront or on a periodic basis for continued use of the Online Service.

- (ii) **Consumption Offering (also called Pay-As-You-Go).** Customer pays based on actual usage with no upfront commitment.
- (iii) **Limited Offering.** Customer receives a limited quantity of Online Services for a limited term without charge (for example, a free trial) or as part of another Microsoft offering (for example, MSDN). Provisions in this agreement with respect to the SLA and data retention may not apply.
- (iv) **Software Commitment Offering.** Customer commits in advance to purchase a specific quantity of Software for use during a Term and to pay upfront or on a periodic basis for continued use of the Software.

c. Ordering.

- (i) Orders must be placed through Customer's designated Reseller. Customer may place orders for its Affiliates under this agreement and grant its Affiliates administrative rights to manage the Subscription, but, Affiliates may not place orders under this agreement. Customer also may assign the rights granted under Section I.a and I.b to a third party for use by that third party in Customer's internal business. If Customer grants any rights to Affiliates or third parties with respect to Software or Customer's Subscription, such Affiliates or third parties will be bound by this agreement and Customer agrees to be jointly and severally liable for any actions of such Affiliates or third parties related to their use of the Products.
- (ii) Customer's Reseller may permit Customer to modify the quantity of Online Services ordered during the Term of a Subscription. Additional quantities of Online Services added to a Subscription will expire at the end of that Subscription.

d. Pricing and payment. Prices for each Product and any terms and conditions for invoicing and payment will be established by Customer's Reseller.

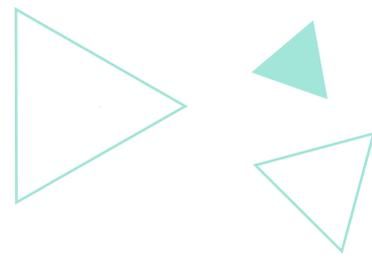
e. Renewal.

- (i) Upon renewal of a Subscription, Customer may be required to sign a new agreement, a supplemental agreement or an amendment to this agreement.
- (ii) Customer's Subscription will automatically renew unless Customer provides its Reseller with notice of its intent not to renew prior to the expiration of the Term.

f. Eligibility for Academic, Government and Nonprofit versions. Customer agrees that if it is purchasing an academic, government or nonprofit offer, Customer meets the respective eligibility requirements listed at the following sites:

- (i) For academic offers, the requirements for educational institutions (including administrative offices or boards of education, public libraries, or public museums) listed at <http://go.microsoft.com/academic>;
- (ii) For government offers, the requirements listed at <http://go.microsoft.com/government>; and

- (iii) For nonprofit offers, the requirements listed at <http://go.microsoft.com/nonprofit>.



Microsoft reserves the right to verify eligibility at any time and suspend the Online Service if the eligibility requirements are not met.

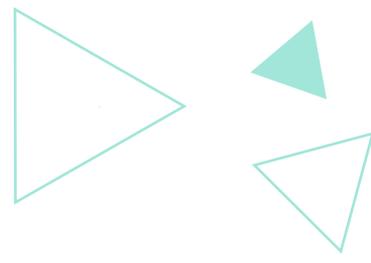
- g. Taxes.** The parties are not liable for any of the taxes of the other party that the other party is legally obligated to pay and which are incurred or arise in connection with or related to the transactions contemplated under this agreement, and all such taxes will be the financial responsibility of the party who is obligated by operation of law to pay such tax.

3. Term, termination.

- a. Agreement term and termination.** This agreement will remain in effect until the expiration or termination of Customer's Subscription, whichever is earliest. Customer may terminate this agreement at any time by contacting its Reseller. The expiration or termination of this agreement will only terminate Customer's right to place new orders for additional Products under this agreement.
- b. Termination for cause.** If either party breaches this Agreement, the other party may terminate the breached agreement (in whole or in part, including orders) upon notice. If the breach is curable within 30 days, then the terminating party must provide 30 days' notice to the breaching party and an opportunity to cure the breach.
- c. Cancel a Subscription.** Customer's Reseller will establish the terms and conditions, if any, upon which Customer may cancel a Subscription.

4. Security, privacy, and data protection.

- a. Reseller Administrator Access and Customer Data.** Customer acknowledges and agrees that (i) once Customer has chosen a Reseller, that Reseller will be the primary administrator of the Online Services for the Term and will have administrative privileges and access to Customer Data, however, Customer may request additional administrator privileges from its Reseller; (ii) Customer can, at its sole discretion and at any time during the Term, terminate its Reseller's administrative privileges; (iii) Reseller's privacy practices with respect to Customer Data or any services provided by Reseller are subject to the terms of Customer's agreement with its Reseller and may differ from Microsoft's privacy practices; and (iv) Reseller may collect, use, transfer, disclose, and otherwise process Customer Data, including personal data. Customer consents to Microsoft providing Reseller with Customer Data and information that Customer provides to Microsoft for purposes of ordering, provisioning and administering the Online Services.
- b.** Customer consents to the processing of personal information by Microsoft and its agents to facilitate the subject matter of this agreement. Customer may choose to provide personal information to Microsoft on behalf of third parties (including your contacts, resellers, distributors, administrators, and employees) as part of this agreement. Customer will obtain all required consents from third parties under applicable privacy and data protection laws before providing personal information to Microsoft.



- c. Additional privacy and security details are in the Online Services Terms. The commitments made in the Online Services Terms only apply to the Online Services purchased under this agreement and not to any services or products provided by a Reseller. If Customer uses software or services that are hosted by a Reseller, that use will be subject to Reseller's privacy practices, which may differ from Microsoft's.
- d. As and to the extent required by law, Customer shall notify the individual users of the Online Services that their data may be processed for the purpose of disclosing it to law enforcement or other governmental authorities as directed by Reseller or as required by law, and Customer shall obtain the users' consent to the same.
- e. Customer appoints Reseller as its agent for purposes of interfacing with and providing instructions to Microsoft for purposes of this Section 4.

5. Warranties.

a. Limited warranty.

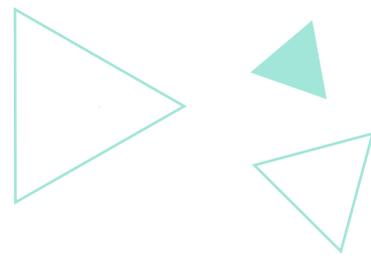
- (i) **Software.** Microsoft warrants that each version of the Software will perform substantially as described in the applicable Product documentation for one year from the date Customer is first licensed for that version. If it does not, and Customer notifies Microsoft within the warranty term, then Microsoft will, at its option, (1) return the price Customer paid for the Software license or (2) repair or replace the Software.
- (ii) **Online Services.** Microsoft warrants that each Online Service will perform in accordance with the applicable SLA during Customer's use. Customer's remedies for breach of this warranty are in the SLA.

The remedies above are Customer's sole remedies for breach of the warranties in this section. Customer waives any breach of warranty claims not made during the warranty period.

- b. **Exclusions.** The warranties in this agreement do not apply to problems caused by accident, abuse or use inconsistent with this agreement, including failure to meet minimum system requirements. These warranties do not apply to free or trial products, Previews, Limited Offerings, or to components of Products that Customer is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above, Microsoft provides no warranties or conditions for Products and disclaims any other express, implied, or statutory warranties for Products, including warranties of quality, title, non-infringement, merchantability and fitness for a particular purpose.

6. Defense of third party claims.

The parties will defend each other against the third-party claims described in this section and will pay the amount of any resulting adverse final judgment or approved settlement, but only if the defending party is promptly notified in writing of the claim and has the right to control the defense and any settlement of it. The party being defended must provide the defending party with



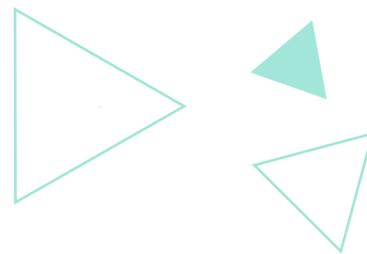
all requested assistance, information, and authority. The defending party will reimburse the other party for reasonable out-of-pocket expenses it incurs in providing assistance. This section describes the parties' sole remedies and entire liability for such claims.

- a. **By Microsoft.** Microsoft will defend Customer against any third-party claim to the extent it alleges that a Product or Fix made available by Microsoft for a fee and used within the scope of the license granted under this agreement (unmodified from the form provided by Microsoft and not combined with anything else), misappropriates a trade secret or directly infringes a patent, copyright, trademark or other proprietary right of a third party. If Microsoft is unable to resolve a claim of infringement under commercially reasonable terms, it may, as its option, either: (1) modify or replace the Product or fix with a functional equivalent; or (2) terminate Customer's license and refund any prepaid license fees (less depreciation on a five-year, straight-line basis) for perpetual licenses and any amount paid for Online Services for any usage period after the termination date. Microsoft will not be liable for any claims or damages due to Customer's continued use of a Product or Fix after being notified to stop due to a third-party claim
- b. **By Customer.** To the extent permitted by applicable law, Customer will defend Microsoft against any third-party claim to the extent it alleges that: (1) any Customer Data or non-Microsoft software hosted in an Online Service by Microsoft on Customer's behalf misappropriates a trade secret or directly infringes a patent, copyright, trademark, or other proprietary right of a third party; or (2) Customer's use of any Product or Fix, alone or in combination with anything else, violates the law or harms a third party.

7. Limitation of liability.

For each Product, each party's maximum, aggregate liability to the other under this agreement is limited to direct damages finally awarded in an amount not to exceed the amounts Customer was required to pay for the applicable Products during the term of this agreement, subject to the following:

- a. **Online Services.** For Online Services, Microsoft's maximum liability to Customer for any incident giving rise to a claim will not exceed the amount Customer paid for the Online Service during the 12 months before the incident; provided that in no event will Microsoft's aggregate liability for any Online Service exceed the amount paid for that Online Service during the Subscription.
- b. **Free Products and distributable code.** For Products provided free of charge and code that Customer is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to direct damages finally awarded up to US\$5,000.
- c. **Exclusions. In no event will either party be liable for loss of revenue or indirect, special, incidental, consequential, punitive, or exemplary damages, or damages for loss of use, lost profits, revenues, business interruption, or loss of business information, however caused or on any theory of liability.**



- d. **Exceptions.** The limits of liability in this section apply to the fullest extent permitted by applicable law, but do not apply to: (1) the parties' obligations under section 6; or (2) violation of the other's intellectual property rights.

8. **Support and Professional Services.**

Customer's Reseller will provide details on support services available for Products purchased under this agreement. Support services may be performed by Reseller or its designee, which in some cases may be Microsoft. If Customer purchases Professional Services under this agreement, the performance of those Professional Services will be subject to the terms and conditions in the Use Rights.

9. **Miscellaneous.**

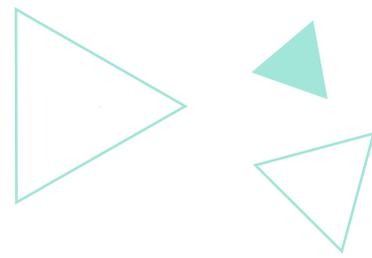
- a. **Notices.** You must send notices by mail, return receipt requested, to the address below.

Notices should be sent to:

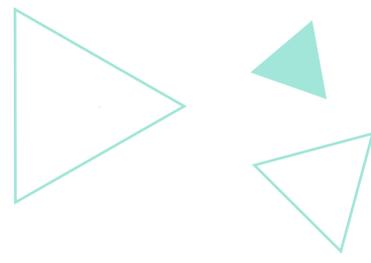
Microsoft Ireland Operations
Limited South County Business
Park Leopardstown
Dublin 18

You agree to receive electronic notices from us, which will be sent by email to the account administrator(s) named for your Subscription. Notices are effective on the date on the return receipt or, for email, when sent. You are responsible for ensuring that the email address for the account administrator(s) named for your Subscription is accurate and current. Any email notice that we send to that email address will be effective when sent, whether or not you actually receive the email.

- b. **Assignment.** You may not assign this agreement either in whole or in part. Microsoft may transfer this agreement without your consent, but only to one of Microsoft's Affiliates. Any prohibited assignment is void.
- c. **Severability.** If any part of this agreement is held unenforceable, the rest remains in full force and effect.
- d. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver.
- e. **No agency.** This agreement does not create an agency, partnership, or joint venture.
- f. **No third-party beneficiaries.** There are no third-party beneficiaries to this agreement.



- g. **Use of contractors.** Microsoft may use contractors to perform services, but will be responsible for their performance, subject to the terms of this agreement.
- h. **Microsoft as an independent contractor.** The parties are independent contractors. Customer and Microsoft each may develop products independently without using the other's confidential information.
- i. **Agreement not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft products or services.
- j. **Applicable law and venue.** This agreement is governed by the laws of Ireland. If Microsoft brings an action to enforce this agreement, Microsoft will bring it in the jurisdiction where Customer has its headquarters. If Customer brings an action to enforce this agreement, Customer will bring it in Ireland. This choice of jurisdiction does not prevent either party from seeking injunctive relief in any appropriate jurisdiction with respect to violation of intellectual property rights.
- k. **Entire agreement.** This agreement is the entire agreement concerning its subject matter and supersedes any prior or concurrent communications. In the case of a conflict between any documents in this agreement that is not expressly resolved in those documents, their terms will control in the following order of descending priority: (1) this agreement, (2) the Product Terms, (3) the Online Services Terms, and (4) any other documents in this agreement.
- l. **Survival.** All provisions survive termination of this agreement except those requiring performance only during the term of the agreement.
- m. **U.S. export jurisdiction.** Products are subject to U.S. export jurisdiction. Customer must comply with all applicable international and national laws, including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end-use and destination restrictions issued by U.S. and other governments related to Microsoft products, services, and technologies.
- n. **Force majeure.** Neither party will be liable for any failure in performance due to causes beyond that party's reasonable control (such as fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism (including cyber terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of government that impact the delivery of Online Services)). This Section will not, however, apply to your payment obligations under this agreement.
- o. **Contracting authority.** If you are an individual accepting these terms on behalf of an entity, you represent that you have the legal authority to enter into this agreement on that entity's behalf.
- p. **Waiver of right to void online purchases.** To the maximum extent permitted by applicable law, Customer waives its rights to void purchases under this agreement pursuant to any law governing distance selling or electronic or online agreements, as well as any right or obligation regarding prior information, subsequent confirmation, rights of withdrawal, or cooling-off periods.



10. Definitions.

Any reference in this agreement to “day” will be a calendar day.

“Acceptable Use Policy” is set forth in the Online Services Terms.

“Affiliate” means any legal entity that a party owns, that owns a party, or that is under common ownership with a party. “Ownership” means, for purposes of this definition, control of more than a 50% interest in an entity.

“Consumption Offering”, “Commitment Offering”, or “Limited Offering” describe categories of Subscription offers and are defined in Section 2.

“Customer Data” is defined in the Online Services Terms.

“End User” means any person you permit to access Customer Data hosted in the Online Services or otherwise use the Online Services.

“Fix” means a Product fix, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as Product service packs) or provides to Customer to address a specific issue.

“Licensing Site” means <http://www.microsoft.com/licensing/contracts> or a successor site. “Non-Microsoft Product” is defined in the Online Services Terms.

“Online Services” means any of the Microsoft-hosted online services subscribed to by Customer under this agreement, including Microsoft Dynamics Online Services, Office 365 Services, Microsoft Azure Services, or Microsoft Intune Online Services.

“Online Services Terms” means the additional terms that apply to Customer’s use of Online Services published on the Licensing Site and updated from time to time.

“Previews” means preview, beta, or other pre-release version or feature of the Online Services or Software offered by Microsoft to obtain customer feedback.

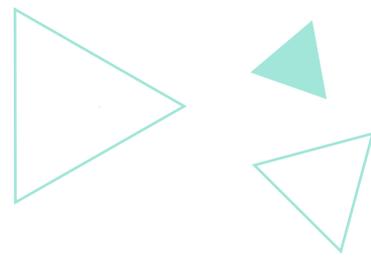
“Product” means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including Previews.

“Product Terms” means the document that provides information about Microsoft Products and Professional Services available through volume licensing. The Product Terms document is published on the Licensing Site and is updated from time to time.

“Professional Services” means Product support services and Microsoft consulting services provided to Customer under this agreement. “Professional Services” does not include Online Services.

“Reseller” means an entity authorized by Microsoft to resell Software licenses and Online Service Subscriptions under this program and engaged by you to provide assistance with your Subscription.

“SLA” means Service Level Agreement, which specifies the minimum service level for the Online



Services and is published on the Licensing Site.

“Software” means licensed copies of Microsoft software identified on the Product Terms. Software does not include Online Services, but Software may be a part of an Online Service.

“Subscription” means an enrollment for Online Services for a defined Term as established by your Reseller.

“Term” means the duration of a Subscription (e.g., 30 days or 12 months).

“Use Rights” means the use rights or terms of service for each Product published on the Licensing Site and updated from time to time. The Use Rights supersede the terms of any end user license agreement that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.