



SERVICE AGREEMENT

Between

Sysco Software (N.I.) Limited

&

[Company]

- ☐ **Microsoft Dynamics 365 Customer Engagement**
- ☐ **Microsoft Dynamics 365 Finance & Operations**
- ☐ **Microsoft Dynamics 365 Business Central**

**Tick appropriate product*

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This agreement is dated [DATE]

PARTIES

- (1) Sysco Software (N.I.) Limited incorporated and registered in Northern Ireland with company number NI029874 whose registered office is at 2 Cromac Place, The Gasworks, Belfast BT7 2JB (**Supplier**)
- (2) [Company] incorporated and registered in Northern Ireland with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Customer**)

BACKGROUND

- (A) The Customer is purchasing the Microsoft Product on the terms of the Microsoft Customer Agreement (defined below).
- (B) The Supplier has agreed to provide services for such Microsoft Product to the Customer on the terms set out in this agreement.

AGREED TERMS

1 Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement and the schedules to it.
 - 1.1.1 **Charges:** the charges payable for the Microsoft Product and the Services being the charges set out in as the same may be amended from time to time in accordance with the provisions of clause 6.
 - 1.1.2 **Confidential Information:** has the meaning given in clause 9.
 - 1.1.3 **Customer Manager:** the person appointed by the Customer from time to time in order to fulfil the role described in clause 7.1.
 - 1.1.4 **Cybersecurity Requirements:** means all applicable laws, regulations, codes of practice, guidance (whether mandatory or advisory), international and national standards, and other requirements relating to the security of network and information systems, cybersecurity, and the reporting and management of security breaches or incidents (including the Data Protection Legislation), as each may be amended, updated, or replaced from time to time.

- 1.1.5 **Data Protection Laws:** Data Protection Laws: means all applicable laws relating to data protection, privacy, and the processing of personal data, including, without limitation: the EU General Data Protection Regulation ((EU) 2016/679) ("EU GDPR"); the Data Protection Act 2018 ("DPA 2018"); and the UK GDPR (being the EU GDPR as incorporated into UK law by virtue of the European Union (Withdrawal) Act 2018 and amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 ("DPPEC Regulations")); together with all related national laws, regulations, and secondary legislation, each as amended, replaced, or updated from time to time.
- 1.1.6 **Information Security:** means the document titled Information Security attached as Schedule 7, which forms part of this Agreement.
- 1.1.7 **Lifecycle Managed Service (LMS):** means the agreement titled Lifecycle Managed Service attached as Schedule 9 and when used forms part of this Agreement.
- 1.1.8 **Manager:** the person appointed by the Supplier from time to time in order to fulfil the role described in clause 5.
- 1.1.9 **Microsoft Customer Agreement:** the agreement between Microsoft Ireland Operations Limited and the Customer set out in Schedule 2.
- 1.1.10 **Microsoft Product:** means the Microsoft product set out in Schedule 1.
- 1.1.11 **Services:** are the services set out in Schedule 4.
- 1.1.12 **Service Hours:** 9.00 am to 5.30 pm Monday to Friday, except on days which are bank holidays in Northern Ireland.
- 1.1.13 **Service Level Agreement (SLA):** service level agreement detailed in Schedule 8.
- 1.1.14 **Software:** the Microsoft Product(s) and the Customised Software;
- 1.1.15 **Support Services:** maintenance services for the Microsoft Product(s) and Supplier support services set out in the SLA;
- 1.1.16 **Support Services Commencement Date:** the date on which Support Services commence which, in respect of the Customised Software, will be set out in the Timetable and in respect of Microsoft Product(s) is set out in the applicable Microsoft Customer Agreement.
- 1.1.17 **Supplier Staff:** those individuals who perform the Supplier's obligations under this agreement including (where the context permits) the Manager.

- 1.2 The headings in this agreement do not affect its interpretation. Except where the context otherwise requires, references to clauses and schedules are to clauses and schedules of this agreement.
- 1.3 Unless the context otherwise requires:
 - 1.3.1 The Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules.
 - 1.3.2 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
 - 1.3.3 A reference to any party shall include that party's personal representatives, successors and permitted assigns.
 - 1.3.4 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this agreement.
 - 1.3.5 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
 - 1.3.6 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.4 If there is an inconsistency between any of the provisions in the main body of this agreement and the Schedules, the provisions in the main body of this agreement shall prevail.
- 1.5 Words in the singular include the plural and those in the plural include the singular.
- 1.6 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

2 Microsoft Product

- 2.1 The Customer is purchasing the Microsoft Product from the Supplier and confirms that it accepts the terms of the Microsoft Customer Agreement between the Customer and Microsoft Ireland Operations Limited, and it has executed the Microsoft Customer Agreement.

- 2.2 The Customer confirms that it has all necessary and appropriate consents and notices in place to enable lawful processing of the Personal Data by Microsoft Ireland Operations Limited under the Microsoft Customer Agreement. The Customer further confirms that the Customer shall, as and to the extent required by law, notify the individual users of the Microsoft Product that their data may be processed for the purpose of disclosing it to law enforcement or other governmental authorities as directed by the Supplier, and the Customer shall obtain the users' consent to the same.
- 2.3 The Supplier makes no representations, warranties, terms, or conditions in relation to the Microsoft Product.

3 The Services

- 3.1 The Supplier shall supply, and the Customer shall take and pay for, the Services.
- 3.2 The Supplier may, on prior notice to the Customer, make changes to the Services, provided such changes do not have a material adverse effect on the Customer's business operations.
- 3.3 The Supplier shall have no obligation to provide the Services where faults arise from any breach of the Customer's obligations under this agreement howsoever arising or breach of the Microsoft Customer Agreement;

4 Orders for Optional Services

- 4.1 The Customer may from time to time request the Supplier to supply Optional Services of the type set out in Schedule 5 at rates to be agreed by the parties. The Supplier shall use its reasonable endeavours to comply with the Customer's request, but the Customer acknowledges that the Supplier's ability to supply the Optional Services shall depend on the availability of appropriate resources at the time in question.
- 4.2 Where the Supplier agrees to provide Optional Services, such agreement shall be embodied in an order for Optional Services. Each order for Optional Services shall be made under, and shall incorporate, the terms of this agreement.

5 Service Staff

- 5.1 The Supplier shall appoint a Manager, who shall be responsible for the co-ordination of all matters relating to the Services. All communications, documentation and materials relating to this agreement shall be sent as appropriate by the Manager to the Customer's Manager. Each party shall

notify the other in writing promptly if there is any proposed change to those appointments.

6 Charges

- 6.1 In consideration of the Services (excluding for this purpose any Optional Services), the Customer shall pay the Charges set out in Schedule 3. These Charges shall be paid monthly in arrears by the Customer to the Supplier within thirty (30) days of the date of the Supplier's invoice.
- 6.2 Charges for any Optional Services to the Customer shall be agreed in writing before performance or supply by the Supplier and shall be charged and invoiced to the Customer by the Supplier (and paid by the Customer) following acceptance by the Supplier of the Customer's written order for such Optional Service.
- 6.3 The Customer shall pay all costs (at the Supplier's then prevailing rates) and reasonable expenses incurred by the Supplier for work carried out by the Supplier in connection with any fault which is not covered by this agreement.
- 6.4 If the Customer fails to make any payment due to the Supplier under this agreement by the due date for payment, then, without limiting the Supplier's remedies under clause 16, the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Allied Irish Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 6.5 All amounts payable under this agreement shall be exclusive of VAT or relevant local sales tax (if any) or any relevant local sales taxes which shall be paid at the rate and in the manner for the time being prescribed by law.
- 6.6 The Charges will vary according to the Customer's usage of the Microsoft Product and the Services. Charges are based on the Microsoft Ireland Operations Limited base charges per each item of the Microsoft Product required by the Customer. Any change to these base charges will be notified to the Customer within 15 days of receipt from Microsoft Ireland Operations Limited.
- 6.7 All amounts due under this agreement shall be paid by the Customer to the Supplier in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7 The Customer's Responsibilities

- 7.1 The Customer shall nominate a manager to be available to liaise with, and respond to queries from, the Manager.
- 7.2 The Customer shall:
 - 7.2.1 co-operate with the Supplier in performing the Services and provide any assistance or information as may reasonably be required by the Supplier, including in relation to the diagnosis of any faults; and
 - 7.2.2 report faults promptly to the Supplier.
- 7.3 The Customer shall indemnify the Supplier against any losses, damages, costs (including legal fees) and expenses incurred by or awarded against the Supplier as a result of the Customer's breach of this agreement or the Microsoft Customer Agreement howsoever arising or any negligent or wrongful act of the Customer, its officers, employees, contractors, or agents.

8 Non-solicitation

- 8.1 The Customer shall not, for the duration of this agreement, and for a period of six months following termination, directly or indirectly induce or attempt to induce any employee of the Supplier who has been engaged in the provision, receipt, review, or management of the Services or otherwise in connection with this agreement to leave the employment of the Supplier.

9 Confidentiality and publicity

- 9.1 Each party shall, during the term of this agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party (**Confidential Information**), unless such information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this agreement, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.
- 9.2 Each party shall notify the other party if any of its staff connected with the provision or receipt of the Services becomes aware of any unauthorised

disclosure of any Confidential Information and shall afford reasonable assistance to the other party, at that other party's reasonable cost, in connection with any enforcement proceedings which that other party may elect to bring against any person.

- 9.3 The terms of this agreement may not be disclosed by the Customer (other than to its legal advisors) without the prior written consent of the Supplier.
- 9.4 The Supplier may refer to the Customer as being a client of the Supplier in customer reference lists and sales presentations but shall not refer to the Customer in any advertising or press release without the prior written consent of the Customer.
- 9.5 The provisions of this clause 9 shall remain in full force and effect notwithstanding any termination of this agreement.

10 Data Protection

- 10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 10 is in addition to, and does not relieve, remove, or replace, a party's obligations under the Data Protection Legislation.
- 10.2 The parties acknowledge that:
 - 10.2.1 if the Supplier processes any personal data on the Customer's behalf when performing its obligations under this agreement, the Customer is the data controller, and the Supplier is the data processor for the purposes of the Data Protection Legislation (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).
 - 10.2.2 Schedule 6 sets out the scope, nature, and purpose of processing by the Supplier, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, **Personal Data**) and categories of Data Subject.
 - 10.2.3 the Customer is responsible for determining the location of the Personal Data and the Personal Data may be stored outside the EEA in accordance with the Customer's instructions.
- 10.3 Without prejudice to the generality of clause 10.1 the Customer will ensure that it has all necessary and appropriate consents and notices in place to enable lawful processing of the Personal Data by the Supplier for the duration and purposes of this agreement so that the Supplier may lawfully use, process and transfer the Personal Data in accordance with this agreement on the Customer's behalf.

- 10.4 Without prejudice to the generality of clause 10.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this agreement:
- 10.4.1 process that Personal Data only on the written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (**Applicable Laws**). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
- 10.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
- 10.4.3 not transfer any Personal Data outside of the EEA unless the following conditions are fulfilled:
- (a) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (b) the data subject has enforceable rights and effective legal remedies;
 - (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

- 10.4.4 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 10.4.5 notify the Customer without undue delay on becoming aware of a Personal Data breach;
- 10.4.6 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
- 10.4.7 maintain complete and accurate records and information to demonstrate its compliance with this clause 14 and allow for audits by the Customer or the Customer's designated auditor.
- 10.5 The Customer does not consent to the Supplier appointing any third-party processor of Personal Data under this agreement without its prior written consent; the current third-party sub-processors are listed in Schedule 6.
- 10.6 Either party may, at any time on not less than 30 days' notice, revise this clause 10 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).
- 10.7 Except as expressly provided otherwise, this agreement does not transfer ownership of, or create any licences (implied or otherwise), in any intellectual property rights in any (non-personal) data.
- 10.8 Supplier's obligations regarding the protection of Customer Data are further described in Information Security (Schedule 7).

11 Export

- 11.1 Neither party shall export, directly or indirectly, any technical data acquired from the other party under this agreement (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations (**Export Control Laws**), including United States export laws and regulations, to any country for which the United States or any other government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 11.2 Each party undertakes:

- 11.2.1 contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out above; and
- 11.2.2 if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

12 The Supplier's warranties.

- 12.1 The Supplier represents and warrants to the Customer that:
 - 12.1.1 the Services will be performed:
 - (a) in accordance with all applicable laws and regulations; and
 - (b) with all reasonable skill and care;
 - 12.1.2 at the date of this agreement, the Supplier has obtained and will maintain for the duration of this agreement all permissions, licences, and consents necessary for the Supplier to perform the Services.
- 12.2 If, during the term of this agreement, the Supplier receives written notice from the Customer of any breach by the Supplier of the representations and warranties contained in 12.1.1, the Supplier shall, at its own option and expense, remedy that breach within a reasonable period following receipt of such notice, or terminate this agreement immediately on written notice to the Customer and repay to the Customer all sums which the Customer has paid to the Supplier under this agreement during the year in which the termination occurs, less a charge for the Services performed up to the date of termination. The Customer shall provide all information reasonably necessary to enable the Supplier to comply with its obligations under this clause 12.2. This clause sets out the Customer's sole remedy and the Supplier's entire liability for breach of clause 12.1.1
- 12.3 No representation or warranty is given by the Supplier that all faults will be fixed or will be fixed within a specified period of time.
- 12.4 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties, or other terms as to satisfactory quality, fitness for purpose and the use of reasonable skill and care.

13 Limits of liability

13.1 Except as expressly stated in clause 13.2:

13.1.1 the Supplier shall not in any circumstances have any liability for any losses or damages which may be suffered by the Customer (or any person claiming under or through the Customer), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, which fall within any of the following categories:

- (a) special damage, even though the Supplier was aware of the circumstances in which such special damage could arise;
- (b) loss of profits;
- (c) loss of anticipated savings;
- (d) loss of business opportunity;
- (e) loss of or goodwill;
- (f) loss of, or damage to (including corruption of), data;

provided that this clause 13.1.1 shall not prevent claims for loss of or damage to the Customer's tangible property that fall within the terms of clause 13.1.3 or any other claims for direct financial loss that are not excluded by any of categories (a) to (f) inclusive of this clause 13.1.1.

13.1.2 the Customer agrees that, in entering into this agreement, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this agreement or (if it did rely on any representations, whether written or oral, not expressly set out in this agreement) that it shall have no remedy in respect of such representations and (in either case) the Supplier shall not in any circumstances have any liability otherwise than in accordance with the express terms of this agreement; and

13.1.3 the total liability of the Supplier, whether in contract, tort (including negligence) or otherwise and whether in connection with this agreement or any collateral contract, shall in no circumstances exceed a sum equal to one hundred percent (100%) of the Charges paid by the Customer during the twelve (12) months immediately preceding the event giving rise to the liability hereunder.

13.2 The exclusions in clause 12.4 and clause 13.1 shall apply to the fullest extent permissible at law but the Supplier does not exclude liability for:

- 13.2.1 death or personal injury caused by the negligence of the Supplier, its officers, employees, contractors, or agents;
- 13.2.2 fraud or fraudulent misrepresentation; or
- 13.2.3 any other liability which cannot be excluded by law.
- 13.3 The Customer acknowledges that:
 - 13.3.1 it is exclusively responsible for:
 - (a) ensuring that the staff of the Customer are trained in the proper use and operation of the Microsoft Product;
 - (b) ensuring the security, completeness and accuracy of all inputs and outputs and compliance with the Cybersecurity Requirements; and
 - (c) the selection, use of and results obtained from any other programs, equipment, materials, or services used in conjunction with the Microsoft Product;
 - 13.3.2 the level of the Charges reflects the allocation of risk between the parties set out in clause 12 and clause 13; and
 - 13.3.3 it is in a better position than the Supplier to assess and manage its risk in relation to use of the Microsoft Product and the Services.
- 13.4 All dates supplied by the Supplier for the delivery of the Modifications, or the provision of Services shall be treated as approximate only. The Supplier shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.
- 13.5 All references to the Supplier in this clause 13 shall, for the purposes of this clause only, be treated as including all employees, subcontractors and suppliers of the Supplier, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause.
- 13.6 The Customer shall comply with the Microsoft Customer Agreement and shall indemnify the Supplier against all liabilities, costs, expenses, damages, and losses (including any direct, indirect, or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with the Customer's breach of the terms of any the Microsoft Customer Agreement.
- 13.7 The Supplier may treat the Customer's breach of the Microsoft Customer Agreement as a breach of this agreement.

14 Assignment and subcontracting

- 14.1 The Customer shall not assign, novate, charge, subcontract, or deal in any other manner with any or all of its rights and obligations under this agreement without the prior written consent of the Supplier (such consent not to be unreasonably withheld or delayed).
- 14.2 The Supplier may at any time assign, novate, charge, subcontract, or deal in any other manner with any or all of its rights and obligations under this agreement, provided it gives written notice to the Customer.
- 14.3 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 14.4 Notwithstanding clause 9, a party assigning any or all of its rights under this agreement may disclose to a proposed assignee any information in its possession that relates to this agreement or its subject matter, the negotiations relating to it and the other party which is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this clause 14.4 shall be made until notice of the identity of the proposed assignee has been given to the other party.

15 Duration

- 15.1 Supply of the Services by the Supplier to the Customer shall commence on the date of this agreement and, subject to termination in accordance with the provisions of this agreement, shall continue until terminated by either the Supplier or the Customer on ninety (90) days' prior written notice to the other party.

16 Termination

- 16.1 Without prejudice to any rights that have accrued under this agreement or any of its rights or remedies, either party may at any time terminate this agreement and/or the Services with immediate effect by giving written notice to the other party if:
 - 16.1.1 the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
 - 16.1.2 the other party commits a material breach of any term of this agreement (other than failure to pay any amounts due under this agreement) and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

- 16.1.3 the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- 16.1.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 570 of the Companies Act 2014;
- 16.1.5 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 its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 16.1.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- 16.1.7 an application is made to court, or an order is made, for the appointment of an examiner or if a notice of intention to appoint an examiner is given or if an examiner is appointed over the other party;
- 16.1.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed a receiver;
- 16.1.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- 16.1.10 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 14 days;
- 16.1.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.1.4 to clause 16.1.10 (inclusive);
- 16.1.12 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

16.2 For the purposes of clause 16.1.2, **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from:

16.2.1 a substantial portion of this agreement; or

16.2.2 any of the obligations set out in clauses 2.1, 9 or 10.

over the term of this agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake, or misunderstanding.

16.3 Either party may terminate this agreement in accordance with clause 16.

16.4 The Supplier may, without prejudice to its other rights or remedies, terminate this agreement immediately by notice to the Customer if the Customer sells all of its assets or is merged or re-organised in circumstances where it is not the surviving entity; or

16.5 This agreement shall automatically terminate on termination or expiry of the Licence, but expiry or any termination of this agreement (however caused) shall have no effect on the licences granted under the Licence.

17 Effect of termination

17.1 Other than as set out in this agreement, neither party shall have any further obligation to the other under this agreement after its termination.

17.2 Any provision of this agreement which expressly or by implication is intended to come into or continue in force on or after termination of this agreement including clause clauses 9 to 11 and clause 13 shall remain in full force and effect.

17.3 Termination of this agreement, for any reason, shall not affect the accrued rights, remedies, obligations, or liabilities of the parties existing at termination.

17.4 Notwithstanding its obligations in this clause 17, if a party is required by any law, regulation, or government or regulatory body to retain any documents or materials containing the other party's Confidential Information, it shall notify the other party in writing of such retention, giving details of the documents and/or materials that it must retain.

17.5 On termination of this agreement for any reason, the Customer's right to receive the Services and the Microsoft Product shall cease automatically.

- 17.6 On termination of this agreement for any reason, the Customer shall immediately pay any outstanding unpaid invoices and interest due to the Supplier. The Supplier shall submit invoices for any Services that it has supplied, but for which no invoice has been submitted, and the Customer shall pay these invoices immediately on receipt.

18 Waiver

- 18.1 No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

19 Remedies

- 19.1 Except as expressly provided in this agreement, the rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20 Entire Agreement

- 20.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.
- 20.2 Each party acknowledges that in entering into this agreement it does not rely on any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 20.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

21 Variation

- 21.1 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

22 Severance

- 22.1 If any provision or part-provision of this agreement is or becomes invalid, illegal, or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

- 22.2 If any provision or part-provision of this agreement is deemed deleted under clause 22.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

23 Counterparts

- 23.1 This agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 23.2 No counterpart shall be effective until each party has executed at least one counterpart.

24 No partnership or agency

- 24.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.
- 24.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

25 Force majeure

- 25.1 Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 30 days, the party not affected may terminate this agreement by giving 30 days' written notice to the affected party.
- 25.2 If termination occurs under clause 25.1, all sums paid to the Supplier by the Customer under this agreement shall be refunded to the Customer, except that the Supplier shall be entitled to payment on a *quantum meruit* basis for all work done before termination, provided that the Supplier takes all reasonable steps to mitigate the amount due.

26 Notices

- 26.1 Any notice given to a party under or in connection with this contract shall be in writing and shall be:

- 26.1.1 delivered by hand or by pre-paid post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 26.1.2 sent by email.
- 26.2 Any notice shall be deemed to have been received:
 - 26.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - 26.2.2 if sent by pre-paid post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
 - 26.2.3 if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 26.2.3, business hours mean 9.00am to 5.30pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 26.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

27 Dispute resolution.

- 27.1 It is the intention of the parties to settle amicably by negotiation all disagreements and differences of opinion on matters of performance, procedure and management arising out of this agreement. Accordingly, it is agreed that the procedure set out in this clause 27 shall be followed before the serving of written notice terminating this agreement, or in relation to any matter of dispute between the parties concerning performance, procedure or management.
- 27.2 If any disagreement or difference of opinion arises out of this agreement, the matter shall be disposed of as follows:
 - 27.2.1 the Manager and the Customer Manager shall meet to attempt resolution. Should they not meet within 14 days of the date on which either party convenes a meeting to resolve the matter, or should they not be able to resolve the matter within 14 days of first meeting; then
 - 27.2.2 the matter shall promptly be referred by either party to the [INSERT INDIVIDUAL'S POSITION] of the Customer and the [INSERT INDIVIDUAL'S POSITION] of the Supplier for immediate resolution.

- 27.3 If, within 14 days of the matter first having been referred in accordance with clause 27.2.2, no agreement has been reached as to the matter in dispute, the dispute resolution process set out in this clause 27 shall be deemed to have been exhausted in respect of the matter in dispute, and each party shall be free to pursue the rights granted to it by this agreement in respect of such matter without further reference to the dispute resolution process.
- 27.4 For the avoidance of doubt, this clause 27 shall not prevent either party from seeking injunctive relief in the case of any breach or threatened breach by the other of any obligation of confidentiality or any infringement by the other of the first-named party's intellectual property rights.

28 Governing law

- 28.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Northern Ireland law.

29 Jurisdiction

Each party irrevocably agrees that the Northern Ireland Courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This agreement has been entered into on the date stated at the beginning of it.

Schedule 1: MICROSOFT PRODUCT

[INSERT DETAILS OF THE PRODUCT]

Schedule 2: MICROSOFT CUSTOMER AGREEMENT



Microsoft Customer Agreement

This Microsoft Customer Agreement (the "Agreement") is between Customer and Microsoft and consists of these General Terms, the applicable Use Rights and SLAs, and any additional terms Microsoft presents when an order is placed. This Agreement takes effect when the Customer accepts these General Terms. The individual who accepts these General Terms represents that he or she is authorized to enter into this Agreement on behalf of the Customer.

General Terms

These General Terms apply to all of Customer's orders under this Agreement. Capitalized terms have the meanings given under "Definitions."

License to use Microsoft Products

- a. **License grant.** Products are licensed and not sold. Upon Microsoft's acceptance of each order and subject to Customer's compliance with this Agreement, Microsoft grants Customer a nonexclusive and limited license to use the Products ordered as provided in the applicable Use Rights and this Agreement. These licenses are solely for Customer's own use and business purposes and are nontransferable except as expressly permitted under this Agreement or applicable law.
- b. **Duration of licenses.** Licenses granted on a subscription basis expire at the end of the applicable subscription period unless renewed. Licenses granted for metered Products billed periodically based on usage continue as long as Customer continues to pay for its usage of the Product. All other licenses become perpetual upon payment in full.
- c. **Applicable Use Rights.** For perpetual licenses, the Use Rights in effect when Customer orders a Product will apply. For subscriptions, the Use Rights in effect at the start of each subscription period will apply. Customers with subscriptions for Software may use new versions released during the subscription period subject to the Use Rights in effect when those versions are released. For metered Products billed periodically based on usage, the Use Rights in effect at the start of each billing period will apply during that period. Microsoft may update the Use Rights periodically, but material adverse changes for a particular version will not apply during the applicable license, subscription, or billing period.
- d. **End Users.** Customer will control access to and use of the Products by End Users and is responsible for any use of the Products that does not comply with this Agreement.
- e. **Affiliates.** Customer may order Products for use by its Affiliates. If it does, the licenses granted to Customer under this Agreement will apply to such Affiliates, but Customer will have the sole right to enforce this Agreement against Microsoft. Customer will remain responsible for all obligations under this Agreement and for its Affiliates' compliance with this Agreement.
- f. **Reservation of Rights.** Microsoft reserves all rights not expressly granted in this Agreement. Products are protected by copyright and other intellectual property laws and international treaties. No rights will be granted or implied by waiver or estoppel. Rights to access or use a



Product 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.

- g. **Restrictions.** Except as expressly permitted in this Agreement or Product documentation, Customer must not (and is not licensed to):
 - (1) reverse engineer, decompile, or disassemble any Product, 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;
 - (3) work around any technical limitations in a Product or restrictions in Product documentation;
 - (4) separate and run parts of a Product on more than one device;
 - (5) upgrade or downgrade parts of a Product at different times;
 - (6) transfer parts of a Product separately; or
 - (7) distribute, sublicense, rent, lease, or lend any Products, in whole or in part, or use them to offer hosting services to a third party.
- h. **License transfers.** Customer may only transfer fully-paid, perpetual licenses to (1) an Affiliate or (2) a third party solely in connection with the transfer of hardware to which, or employees to whom, the licenses have been assigned 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 must uninstall and discontinue using the licensed Product and render any copies unusable. Customer must notify Microsoft of a License transfer and provide the transferee a copy of these General Terms, the applicable Use Rights and any other documents necessary to show the scope, purpose and limitations of the licenses transferred. Attempted license transfers that do not comply with this section are void.
- i. **Customer Eligibility.** Customer agrees that if it is purchasing academic, government or nonprofit offers, Customer meets the respective eligibility requirements (<https://aka.ms/eligibilitydefinition>). Microsoft reserves the right to verify eligibility and suspend product use if requirements are not met.

Non-Microsoft Products.

Non-Microsoft Products are provided under separate terms by the Publishers of such products. Customer will have an opportunity to review those terms prior to placing an order for a Non-Microsoft Product through a Microsoft online store or Online Service. Microsoft is not a party to the terms between Customer and the Publisher. Microsoft may provide Customer's contact information and transaction details to the Publisher. Microsoft makes no warranties and assumes no responsibility or liability whatsoever for Non-Microsoft Products. Customer is solely responsible for its use of any Non-Microsoft Product.

Verifying compliance.



Customer must keep records relating to Products it and its Affiliates use or distribute. At Microsoft's expense, Microsoft may verify Customer's and its Affiliates' compliance with this Agreement at any time upon 30 days' notice. To do so, Microsoft may engage an independent auditor (under nondisclosure obligations) or ask Customer to complete a self-audit process. Customer must promptly provide any information and documents that Microsoft or the auditor reasonably requests related to the verification and access to systems running the Products. If verification or self-audit reveals any unlicensed use, Customer must, within 30 days, order sufficient licenses to cover the period of its unlicensed use. Without limiting Microsoft's other remedies, if unlicensed use is 5% or more of Customer's total use of all Products, Customer must reimburse Microsoft for its costs incurred in verification and acquire sufficient licenses to cover its unlicensed use at 125% of the then-current Customer price or the maximum allowed under applicable law, if less. All information and reports related to the verification process will be Confidential Information and used solely to verify compliance.

Privacy.

- a. **Personal Data.** Customer consents to the processing of Personal Data by Microsoft and its Affiliates, and their respective agents and subcontractors, as provided in this Agreement. Before providing Personal Data to Microsoft, Customer will obtain all required consents from third parties (including Customer's contacts, Partners, distributors, administrators, and employees) under applicable privacy and data protection laws.
- b. **Location of Personal Data.** To the extent permitted by applicable law, Personal Data collected under this Agreement may be transferred, stored and processed in the United States or any other country in which Microsoft or its Affiliates, or their respective agents and subcontractors, maintain facilities. 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.

Confidentiality.

- a. **Confidential Information.** "Confidential Information" is non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to, Customer Data, the terms of this Agreement, and Customer's account authentication credentials. Confidential Information does not include information that (1) becomes publicly available without a breach of a confidentiality obligation; (2) the receiving party received lawfully from another source without a confidentiality obligation; (3) is independently developed; or (4) is a comment or suggestion volunteered about the other party's business, products or services.
- b. **Protection of Confidential Information.** Each party will take reasonable steps to protect the other's Confidential Information and will use the other party's Confidential Information only for purposes of the parties' business relationship. Neither party will disclose Confidential Information to third parties, except to its Representatives, and then only on a need-to-know basis under nondisclosure obligations at least as protective as this Agreement. Each



party remains responsible for the use of Confidential Information by its Representatives and, in the event of discovery of any unauthorized use or disclosure, must promptly notify the other party. The Online Services Terms may provide additional terms regarding the disclosure and use of Customer Data.

- c. **Disclosure required by law.** A party may disclose the other's Confidential Information if required by law, but only after it notifies the other party (if legally permissible) to enable the other party to seek a protective order.
- d. **Residual information.** Neither party is required to restrict work assignments of its Representatives who have had access to Confidential Information. Each party agrees that the use of information retained in Representatives' unaided memories in the development or deployment of the parties' respective products or services does not create liability under this Agreement or trade secret law, and each party agrees to limit what it discloses to the other accordingly.
- e. **Duration of Confidentiality obligation.** These obligations apply (1) for Customer Data, until it is deleted from the Online Services; and (2) for all other Confidential Information, for a period of five years after a party receives the Confidential Information.

Product warranties.

a. Limited warranties and remedies.

- (1) **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 described in the SLA.
- (2) **Software.** Microsoft warrants that the Software version that is current at the time will perform substantially as described in the applicable Product documentation for one year from the date Customer acquires a license for that version. If it does not, and Customer notifies Microsoft within the warranty term, Microsoft will, at its option, (a) return the price Customer paid for the Software license or (b) repair or replace the Software.

The remedies above are Customer's sole remedies for breach of the warranties in this section. Customer waives any 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, trial, preview, or prerelease products, or to components of Products that Customer is permitted to redistribute.
- c. **Disclaimer.** Except for the limited warranties above and subject to applicable law, Microsoft provides no other 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.



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 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 misappropriation or infringement, it may, at its option, either (1) modify or replace the Product with a functional equivalent or (2) terminate Customer's license and refund any license fees (less depreciation for perpetual licenses), including amounts paid in advance for unused consumption 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 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 and its Affiliates against any third-party claim to the extent it alleges that: (1) any Customer Data or Non-Microsoft Product 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, alone or in combination with anything else, violates the law or harms a third party.

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 Products during the term of the applicable licenses, subject to the following:

- a. **Subscriptions.** For Products ordered on a subscription basis, Microsoft's maximum liability to Customer for any incident giving rise to a claim will not exceed the amount Customer paid for the Product during the 12 months before the incident.
- 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 indirect, incidental, special, punitive, or consequential damages, or loss of use, loss of profits, or interruption of business, however caused or on any theory of liability.
- d. **Exceptions.** No limitation or exclusions will apply to liability arising out of either party's (1) confidentiality obligations (except for liability related to Customer Data, which will remain



subject to the limitations and exclusions above); (2) defense obligations; or (3) violation of the other party's intellectual property rights.

Partners.

- a. **Selecting a Partner.** Customer may authorize a Partner to place orders on Customer's behalf and manage Customer's purchases by associating the Partner with its account. If the Partner's distribution right is terminated, Customer must select an authorized replacement Partner or purchase directly from Microsoft. Partners and other third parties are not agents of Microsoft and are not authorized to enter into any agreement with Customer on behalf of Microsoft.
- b. **Partner Administrator privileges and access to Customer Data.** If Customer purchases Online Services from a Partner or chooses to provide a Partner with administrator privileges, that Partner will be the primary administrator of the Online Services and will have administrative privileges and access to Customer Data and Administrator Data. Customer consents to Microsoft and its Affiliates providing the Partner with Customer Data and Administrator Data for purposes of provisioning, administering and supporting (as applicable) the Online Services. Partner may process such data according to the terms of Partner's agreement with Customer, and its privacy commitments may differ from Microsoft's. Customer appoints Partner as its agent for purposes of providing and receiving notices and other communications to and from Microsoft. Customer may terminate the Partner's administrative privileges at any time.
- c. **Support and Professional Services.** Customer's Partner will provide details on support services available for Products purchased under this agreement. Support services may be performed by Partner 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.

Pricing and payment.

If Customer orders from a Partner, the Partner will set Customer's pricing and payment terms for that order, and Customer will pay the amount due to the Partner. Pricing and payment terms related to orders placed by Customer directly with Microsoft are set by Microsoft, and Customer will pay the amount due as described in this section.

- a. **Payment method.** Customer must provide a payment method or, if eligible, choose to be invoiced for purchases made on its account. By providing Microsoft with a payment method, Customer (1) consents to Microsoft's use of account information regarding the selected payment method provided by the issuing bank or applicable payment network; (2) represents that it is authorized to use that payment method and that any payment information it provides is true and accurate; (3) represents that the payment method was established and is used primarily for commercial purposes and not for personal, family or household use; and (4) authorizes Microsoft to charge Customer using that payment method for orders under this Agreement.



- b. **Invoices.** Microsoft may invoice eligible Customers. Customer's ability to elect payment by invoice is subject to Microsoft's approval of Customer's financial condition. Customer authorizes Microsoft to obtain information about Customer's financial condition, which may include credit reports, to assess Customer's eligibility for invoicing. Unless the Customer's financial statements are publicly available, Customer may be required to provide their balance sheet, profit and loss and cash flow statements to Microsoft. Customer may be required to provide security in a form acceptable to Microsoft to be eligible for invoicing. Microsoft may withdraw Customer's eligibility at any time and for any reason. Customer must promptly notify Microsoft of any changes in its company name or location and of any significant changes in the ownership, structure, or operational activities of the organization.
- c. **Invoice Payment terms.** Each invoice will identify the amounts payable by Customer to Microsoft for the period corresponding to the invoice. Customer will pay all amounts due within thirty (30) calendar days following the invoice date.
- d. **Late Payment.** Microsoft may, at its option, assess a late fee on any payments to Microsoft that are more than fifteen (15) calendar days past due at a rate of two percent (2%) of the total amount payable, calculated and payable monthly, or the highest amount allowed by law, if less.
- e. **Cancellation fee.** If a subscription permits early termination and Customer cancels the subscription before the end of the subscription or billing period, Customer may be charged a cancellation fee.
- f. **Recurring Payments.** For subscriptions that renew automatically, Customer authorizes Microsoft to charge Customer's payment method periodically for each subscription or billing period until the subscription is terminated. By authorizing recurring payments, Customer authorizes Microsoft to process such payments as either electronic debits or fund transfers, or as electronic drafts from the designated bank account (in the case of Automated Clearing House or similar debits), as charges to the designated card account (in the case of credit card or similar payments) (collectively, "Electronic Payments"). If any payment is returned unpaid or if any credit card or similar transaction is rejected or denied, Microsoft or its service providers reserve the right to collect any applicable return item, rejection or insufficient funds fee to the maximum extent permitted by applicable law and to process any such fees as an Electronic Payment or to invoice Customer for the amount due.
- g. **Taxes.** Microsoft prices exclude applicable taxes unless identified as tax inclusive. If any amounts are to be paid to Microsoft, Customer shall also pay any applicable value added, goods and services, sales, gross receipts, or other transaction taxes, fees, charges, or surcharges, or any regulatory cost recovery surcharges or similar amounts that are owed under this Agreement and that Microsoft is permitted to collect from Customer. Customer shall be responsible for any applicable stamp taxes and for all other taxes that it is legally obligated to pay including any taxes that arise on the distribution or provision of Products by Customer to its Affiliates. Microsoft shall be responsible for all taxes based upon its net income, gross receipts taxes imposed in lieu of taxes on income or profits, and taxes on its property ownership.



If any taxes are required to be withheld on payments invoiced by Microsoft, Customer may deduct such taxes from the amount owed and pay them to the appropriate taxing authority, but only if Customer promptly provides Microsoft an official receipt for those withholdings and other documents reasonably requested to allow Microsoft to claim a foreign tax credit or refund. Customer will ensure that any taxes withheld are minimized to the extent possible under applicable law.

Term and termination.

- a. **Term.** This Agreement is effective until terminated by a party, as described below.
- b. **Termination without cause.** Either party may terminate this Agreement without cause on 60 days' notice. Termination without cause will not affect Customer's perpetual licenses, and licenses granted on a subscription basis will continue for the duration of the subscription period(s), subject to the terms of this Agreement.
- c. **Termination for cause.** Without limiting other remedies it may have, either party may terminate this Agreement on 30 days' notice for material breach if the other party fails to cure the breach within the 30-day notice period. Upon such termination, the following will apply:
 - (1) All licenses granted under this Agreement will terminate immediately except for fully-paid, perpetual licenses.
 - (2) All amounts due under any unpaid invoices shall become due and payable immediately. For metered Products billed periodically based on usage, Customer must immediately pay for unpaid usage as of the termination date.
 - (3) If Microsoft is in breach, Customer will receive a credit for any subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.
- d. **Suspension.** Microsoft may suspend use of an Online Service without terminating this Agreement during any period of material breach. Microsoft will give Customer notice before suspending an Online Service when reasonable.
- e. **Termination for regulatory reasons.** Microsoft may modify, discontinue, or terminate a Product in any country or jurisdiction where there is any current or future government regulation, obligation, or other requirement, that (1) is not generally applicable to businesses operating there; (2) presents a hardship for Microsoft to continue offering the Product without modification; or (3) causes Microsoft to believe these terms or the Product may conflict with any such regulation, obligation, or requirement. If Microsoft terminates a subscription for regulatory reasons, Customer will receive, as its sole remedy, a credit for any subscription fees, including amounts paid in advance for unused consumption for any usage period after the termination date.

Miscellaneous.

- a. **Independent contractors.** The parties are independent contractors. Customer and Microsoft each may develop products independently without using the other's Confidential Information.



- b. **Agreement not exclusive.** Customer is free to enter into agreements to license, use, and promote the products and services of others.
- c. **Amendments.** Microsoft may modify this Agreement from time to time. Changes to the Use Rights will apply as provided in this Agreement. Changes to other terms will not apply until Customer accepts them. Microsoft may require Customer to accept revised or additional terms before processing a new order. Any additional or conflicting terms and conditions contained in a purchase order or otherwise presented by Customer are expressly rejected and will not apply.
- d. **Assignment.** Either party may assign this Agreement to an Affiliate, but it must notify the other party in writing of the assignment. Customer consents to the assignment to an Affiliate or third party, without prior notice, of any rights Microsoft may have under this Agreement to receive payment and enforce Customer's payment obligations, and all assignees may further assign such rights without further consent. Any other proposed assignment of this Agreement must be approved by the non-assigning party in writing. Assignment will not relieve the assigning party of its obligations under the assigned Agreement. Any attempted assignment without required approval will be void.
- e. **U.S. export.** 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 by U.S. and other governments related to Microsoft products, services, and technologies.
- f. **Severability.** If any part of this Agreement is held to be unenforceable, the rest of the Agreement will remain in full force and effect.
- g. **Waiver.** Failure to enforce any provision of this Agreement will not constitute a waiver. Any waiver must be in writing and signed by the waiving party.
- h. **No third-party beneficiaries.** This Agreement does not create any third-party beneficiary rights except as expressly provided by its terms.
- i. **Survival.** All provisions survive termination of this Agreement except those requiring performance only during the term of the Agreement.
- j. **Notices.** Notices must be in writing and will be treated as delivered on the date received at the address, date shown on the return receipt, email transmission date, or date on the courier or fax confirmation of delivery. Notices to Microsoft must be sent to the following address:

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA



Notices to Customer will be sent to the individual at the address Customer identifies on its account as its contact for notices. Microsoft may send notices and other information to Customer by email or other electronic form.

- k. **Applicable law.** This Agreement will be governed by and construed in accordance with the laws of the State of Washington and federal laws of the United States. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Agreement.
- l. **Dispute resolution.** When bringing any action arising under this Agreement, the parties agree to the following exclusive venues:
 - (1) If Microsoft brings the action, the venue will be where Customer has its headquarters.
 - (2) If Customer brings the action against Microsoft or any Microsoft Affiliate located outside of Europe, the venue will be the state or federal courts in King County, State of Washington, USA.
 - (3) If Customer brings the action against Microsoft or any Microsoft Affiliate located in Europe, and not also against Microsoft or a Microsoft Affiliate located outside of Europe, the venue will be the Republic of Ireland.

The parties consent to personal jurisdiction in the agreed venue. This choice of venue does not prevent either party from seeking injunctive relief in any jurisdiction with respect to a violation of intellectual property rights or confidentiality obligations.
- m. **Order of precedence.** These General Terms will take precedence over any conflicting terms in other documents that are part of this Agreement that are not expressly resolved in those documents, except that conflicting terms in the Use Rights take precedence over these General Terms as to the applicable Products. Terms in the Online Services Terms take precedence over conflicting terms in the Product Terms. Terms in an amendment control over the amended document and any prior amendments concerning the same subject matter.
- n. **Microsoft Affiliates and contractors.** Microsoft may perform its obligations under this Agreement through its Affiliates and use contractors to provide certain services. Microsoft remains responsible for their performance.
- o. **Government procurement rules.** By accepting this agreement, Customer represents and warrants that (i) it has complied and will comply with all applicable government procurement laws and regulations; (ii) it is authorized to enter into this Agreement; and (iii) this Agreement satisfies all applicable procurement requirements.

Definitions.

"Administrator Data" means the information provided to Microsoft or its Affiliates during sign-up, purchase, or administration of Products.

"Affiliate" means any legal entity that controls, is controlled by, or is under common control with a party. "Control" means ownership of more than a 50% interest of voting securities in an entity or the power to direct the management and policies of an entity.



"Confidential Information" is defined in the "Confidentiality" section.

"Customer" means the entity identified as such on the account associated with this Agreement.

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

"End User" means any person Customer permits to use a Product or access Customer Data.

"Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

"Microsoft" means Microsoft Corporation.

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

"Online Services" means Microsoft-hosted services to which Customer subscribes under this Agreement. It does not include software and services provided under separate license terms.

"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.

"Partner" means a company Microsoft has authorized to distribute Products to Customer.

"Personal Data" means any information relating to an identified or identifiable natural person.

"Product" means all Software and Online Services identified in the Product Terms that Microsoft offers under this Agreement, including previews, prerelease versions, updates, patches and bug fixes from Microsoft. Product availability may vary by region. "Product" does not include Non-Microsoft Products.

"Product Terms" means the document that provides information about Products available under this Agreement. The Product Terms document is published on the Licensing Site and is updated from time to time.

"Publisher" means a provider of a Non-Microsoft Product.

"Representatives" means a party's employees, Affiliates, contractors, advisors and consultants.

"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 in the Product Terms. Software does not include Online Services, but Software may be part of an Online Service.

"use" means to copy, download, install, run, access, display, use or otherwise interact with.

"Use Rights" means the license terms and 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. License terms for all Products are published in the Product Terms. Terms of service for Online Services are published in the Online Services Terms.

SIGNATURE AND ACCEPTANCE OF MICROSOFT CUSTOMER AGREEMENT

The customer [Company] has read and accepted the **Microsoft Customer Agreement**, as above (Schedule 2).

Primary Contact

*Date:

*Full Name:

*Signature:

*Email:

**All details above are required.*

Schedule 3: CHARGES

[INSERT DETAILS OF THE MONTHLY FEE]

Schedule 4: SERVICES

[INSERT DETAILS OF THE SERVICES]

Schedule 5: OPTIONAL SERVICES

[INSERT DETAILS OF THE SERVICES] or NOT USED.

Schedule 6: DATA PROTECTION

PROCESSING, PERSONAL DATA AND DATA SUBJECTS

Processing by the Supplier

Purpose of processing: The purpose(s) of processing data using Microsoft products is determined by the controller that implements, configures, and uses it. As specified by the Online Services Terms (OST), Microsoft and/or the Supplier, as a data processor, processes Personal Data only to provide the requested services to our customer, the data controller. Microsoft and/or the Supplier will not use Personal Data or information derived from it for any advertising or similar commercial purposes.

Duration of the processing: for the duration of the contract, as specified in this Agreement/SLA.

Types of Personal Data

External Company IP Address, Work Company, Work e-mail address, other properties that the data controller configures Sysco to process, e.g., Name, Work Title, Work Phone, Work Location

Categories of Data Subject

Personal Data – All data, including all text, sound, video, or image files, and software, that are provided to Microsoft and/or the Supplier by, or on behalf of, a customer through use of the enterprise service. Personal Data includes both (1) identifiable information of end users (e.g., usernames and contact information in Azure Active Directory) and customer content that a customer uploads into or creates in specific services (e.g., customer content in an Azure Storage account, customer content of an Azure SQL Database, or a customer's virtual machine image in Azure Virtual Machines).

System-Generated Logs – Logs and related data generated by Microsoft and/or the Supplier that help Microsoft and/or the Supplier provide enterprise services to users. System-generated logs contain primarily pseudonymized data, such as unique identifiers generated by the system, that cannot on their own identify an individual person but are used to deliver the enterprise services to users. System-generated logs may also contain identifiable information about end users, such as a username.

Support Data – This is data provided to Microsoft and/or the Supplier by or on behalf of Purchaser (or that Purchaser authorizes Microsoft to obtain from an Online Service) through an engagement with Microsoft and/or the Supplier to obtain technical support for Online Services.

For additional details regarding data processed by Microsoft products, see the Online Services Terms (<https://www.microsoft.com/licensing/terms/product/PrivacyandSecurityTerms/all>) as well as Microsoft Trust Center.

Approved Third-Party Sub-Processors

sysco-software.com

Strictly Confidential **SYSCO NI | SOFTWARE AS A SERVICE AGREEMENT | [Company]**

The following Sub-Processors shall be considered approved by the Data Controller at the time of entering into this Agreement:

Sub-processor	Purpose	Location	Safeguard
Microsoft Corporation	Cloud hosting (Dynamics 365 / Azure)	EEA / UK / USA	EU SCCs + UK Addendum
[Other Partners]	[Purpose]	[Country]	[Mechanism]

New Sub-Processors

The following Sub-Processors have been added and communicated to the Data Controller prior to the relevant sub-processing:

[insert when relevant]

Schedule 7: INFORMATION SECURITY

These obligations reflect the fact that we cannot outsource risk — if the Supplier handles Customer Data, the Supplier must meet security standards equivalent to those Customer is required to meet.

Purpose / Scope

This Information Security document sets out the minimum information security obligations that apply where Supplier may access, store, transmit or otherwise process Customer Data in the course of providing the Services. These terms supplement (and form part of) the Agreement and are intended to ensure that Customer Data is protected in a manner consistent with industry standards and our regulatory, contractual, and risk requirements.



Supplier acknowledges that Customer remains ultimately accountable to its customers, regulators and other stakeholders for the protection of Customer Data; therefore, Supplier will implement and maintain the controls in this document so that Customer can meet those obligations.

Statement

1. Security Program

Supplier shall maintain a written information security program suitable to the nature of the Services and the sensitivity of Customer Data. Supplier's program shall include administrative, technical, organisational and physical controls aligned to industry standards (supplier is ISO 27001:2022 certified; certificate inserted at end of this document) and support continuous risk reduction.

2. Access Control

Supplier shall implement role-based access, enforce MFA for administrative access, and ensure least-privilege by default. Supplier personnel shall only access Customer Data where strictly required to perform the Services.

3. Encryption

Supplier shall encrypt Customer Data in transit using TLS (or successor) and at rest using industry standard encryption algorithms.

4. Data Location

Supplier shall only store or process Customer Data in jurisdictions disclosed in writing to Customer. Cross-border transfers shall be subject to legally sufficient safeguards (e.g. SCCs or equivalent).

5. **Sub-processors**

Supplier shall not appoint any sub-processor that will access Customer Data without informing Customer in advance and ensuring such sub-processor is contractually bound to terms no less protective than those in this document.

6. **Security Testing / Vulnerability Management**

Supplier shall maintain a vulnerability management program, including regular patching of critical vulnerabilities within a commercially reasonable time. Supplier shall perform regular security testing of systems used to provide the Services.

7. **Incident Notification**

Supplier shall notify Customer without undue delay upon becoming aware of any confirmed Security Incident involving Customer Data and shall provide information reasonably required to support Customer's investigation and remediation.

8. **Data Retention / Deletion**

Upon termination of the Services (or upon Customer request), Supplier shall delete or return Customer Data, unless retention is required by law. Secure deletion methods shall be used.

9. **Audit Cooperation**

On reasonable notice, Supplier shall provide Customer (or a mutually agreed independent auditor) evidence of Supplier's information security controls sufficient to validate materially consistent compliance with the above.

10. **Flow-Down to Sub-contractors**

Supplier shall ensure that any subcontractor engaged in the performance of the Services who will access, or process Customer Data is bound by written terms no less protective than those set out in this document. Supplier remains fully responsible and liable for the performance of its subcontractors as if such acts or omissions were its own. No subcontractor may access Customer Data until such terms are in place.

The document defines our obligations; specific technological and organisational controls can be requested as they evolve independently of contract terms.

EXPIRY DATE: 04 NOVEMBER 2028
CERTIFICATE NUMBER: 534787

00010238, 11.44 AmTivo Certificate



CERTIFICATE OF REGISTRATION

The management system of certificate number **534787**
Sysco Limited T/A Sysco Software Limited
23 Lower Hatch Street, Dublin, Dublin, D02 F626

has been assessed and certified as meeting the requirements of:
ISO/IEC 27001:2022

The Information Security Management System of Sysco Software Ltd supporting the development, deployment and support of IT services and solutions to our global customer base from our offices in Dublin and Belfast.

To the extent that the scope of this certificate and the applicability of any relevant certificate obtained by the customer is the responsibility of the customer.




Valid from:
Initial certification: 05 November 2025
Last issue:
Latest issue: 05 November 2025
Expiry date:
Expiry date: 04 November 2028
Recertification before:
Recertification before: 04 November 2028
Full details of annual surveillance.

Authorised by

Mike Timms
Chief Executive Officer

amTivo.ie
Certificate issued by AmTivo (Ireland)

Certification is issued to the company in writing. It is not valid for use as evidence of compliance with the requirements of any standard or regulation. The company is responsible for ensuring that the scope of the certificate is correct and that the certificate is used in accordance with the terms and conditions of the certificate. The company is responsible for ensuring that the certificate is used in accordance with the terms and conditions of the certificate. The company is responsible for ensuring that the certificate is used in accordance with the terms and conditions of the certificate.

<https://www.amTivo.com/certificate/534787> 1/2

00010238, 11.44 AmTivo Certificate



CERTIFICATE OF REGISTRATION

Expiry date: 04 November 2028 **Certificate number:** 534787

Locations covered under certification

- **Sysco Limited T/A Sysco Software Limited**
23 Lower Hatch Street, Dublin, Dublin, D02 F626
- **Sysco Limited T/A Sysco Software Limited**
2, Queen's Place, 7 The Cornmarket, Belfast, BT2 2 3J
As per Scope

amTivo.ie
Certificate issued by AmTivo (Ireland) Limited

Certification is issued to the company in writing. It is not valid for use as evidence of compliance with the requirements of any standard or regulation. The company is responsible for ensuring that the scope of the certificate is correct and that the certificate is used in accordance with the terms and conditions of the certificate. The company is responsible for ensuring that the certificate is used in accordance with the terms and conditions of the certificate. The company is responsible for ensuring that the certificate is used in accordance with the terms and conditions of the certificate.

<https://www.amTivo.com/certificate/534787> 2/2

Schedule 8: SERVICE LEVEL AGREEMENT

Signed separately.

Schedule 9: LIFECYCLE MANAGED SERVICE

If used; signed separately.

SIGNATURE AND ACCEPTANCE OF THE SOFTWARE AS A SERVICE AGREEMENT

SIGNED on behalf of **Sysco Software (N.I.) Ltd** by:

Signature:

Name: Paul Bingham

Title: Commercial Director

Date:

SIGNED on behalf of [Company] by:

Signature:

Name: INSERT

Title: INSERT

Date: