

TERMS AND CONDITIONS

PART 1 – MICROSOFT ONLINE SERVICES TERMS OF SERVICE

These Terms and Conditions are important, and should be read carefully. If You have any queries regarding the terms and conditions, please telephone 01534 882882 in Jersey or 01481 882882 in Guernsey or contact Us via www.itgglobal.com. Any capitalised term not defined in these terms and conditions shall have the meaning given to it in Our [Definitions Terms and Conditions](#).

DEFINITIONS

Acceptable Use Policy or **AUP** means the policy which governs Your use of the MS Product and prohibits certain types of activity e.g. hacking and spamming, as set out at Part 2 of these terms and conditions. **Minimum Contract Period** means the period applicable to the relevant MS Product(s) and the associated term of the same selected by You. **Service** means the services, Software and Third Party Software in relation to the MS Product (including any Optional Services) indicated in the applicable Application Form, in each case, provided by Us to You as more fully described in the applicable Product Description(s). **Service Boundary** means the extent of the Service and the operation, support and maintenance thereof as described in these terms and conditions, the Application Form and/or the Product Description. For the avoidance of doubt this excludes Your Content and the Tenant. **Service Commencement Date** means the date indicated in the applicable Application Form from when We will commence providing the Service being either: (i) a calendar date; or (ii) the occurrence of an event or completion of a milestone. You are deemed to have access to the Service when We send to You via email the Welcome Pack containing the Credentials. **Service Levels** mean the Service levels for the Service as set out in the applicable Product Description. **Service Level Credits** are as defined in the applicable Microsoft documentation, as updated by Microsoft from time to time. **Third Party Software Terms** means the terms and conditions which govern software components of the Service licensed to Us by other companies and required to be accepted by You as part of these terms and conditions, including end user licence terms applicable to Your use of Third Party Software, including but not limited to, those at Part 3 of these terms and conditions. **User(s)** has the meaning given in the AUP.

1. COMMENCEMENT AND DURATION

- 1.1 Unless otherwise expressly agreed in writing or provided for by law or regulation, the Contract shall have effect from the earlier of:
 - (a) the date that the Application Form has been received and accepted by Us; or
 - (b) when a Service is provided to You.
- 1.2 Subject to the provisions of clauses 19.1 and 19.2 hereunder the Contract shall remain in force for the Minimum Contract Period and thereafter shall continue in force until terminated by either You or Us in accordance with clause 19.3 below.
- 1.3 Save where termination is notified by You to Us under clause 19 below, if (a) You terminate the Contract during the Minimum Contract Period; or (b) pursuant to clause 5 below, We either cancel a Service during the Minimum Contract Period or suspend or limit a Service during the Minimum Contract Period and do not reinstate it, You shall, even if We have terminated the Contract pursuant to clause 19 below by reason of the matter giving rise to the cancellation, suspension or limitation of a Service, pay a sum equal to the Service Charges and any extra charges which would have been payable to Us for the balance of the Minimum Contract Period.
- 1.4 Nothing in this clause shall prevent either You or Us from terminating the Contract in accordance with clause 19 below.

2. VARIATION

- 2.1 We may from time to time vary the Conditions and Product Description applicable to a Service and will as soon as practicable and in any event not less than one calendar month before any such variation is to take effect give written notice of all such variations On-line and/or at Our office(s) in Jersey and/or Guernsey as applicable and will also notify You in writing of any material variations.
- 2.2 Notwithstanding the above, We may vary all or any of the Service Charges by publishing any such variation at least one calendar month in advance in a schedule of tariffs to be displayed and/or available at Our office(s) in Jersey and/or Guernsey as applicable and/or On-line. Such variation shall not apply to any element of the Service Charges that is stated as fixed for a stated period in the Application Form if the variation occurs during the stated period.
- 2.3 We will apply an annual increase to the Service Charges paid by You under a Contract based on the annual percentage increase (if any) in the All Items Retail Prices Index (RPI) as published by Statistics Jersey or the "all items" RPI as published by the States of Guernsey Data and Analysis Team (as applicable). The increase will be calculated on the basis of the December RPI figure published by the relevant island authority in January of each year (<https://www.gov.je/StatisticsPerformance/BusinessEconomy/Pages/Inflation.aspx> and <https://gov.gg/rpi>) and will be applied in March/April of that year.
- 2.4 Other than as stated above, any variations to the Contract shall be made in writing by Us and signed by a duly authorised officer.

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2.5 Save as herein expressly provided none of Our servants or agents shall have the authority to agree any variation or addition to the Contract. Any representation or warranty so made is of no force or effect unless made in accordance with this clause.

2.6 In the event that the British Pound Sterling suffers a currency devaluation as a result of an adverse change in applicable foreign exchange rates, and this devaluation directly impacts and increases Our costs in providing the Service, We reserve the right to adjust the Service Charges in order to take account of that increase in Our costs.

3. ORDERING MS PRODUCTS

3.1 You may order MS Products through Us, as a Microsoft Cloud Solution Provider (“CSP”). The Service and any Optional Services shall be agreed in an Application Form which will include the applicable Service Charges and otherwise be in a form approved by Us. You will be provided with a subscription to the relevant MS Product. Subscription terms are governed by the Service and vary depending on the MS Product, for example:

- License-based services;
- Usage-based services;
- Software subscriptions; and
- Microsoft Azure plan pricing.

You shall review the terms and conditions for the MS Product subscription being purchased including but not limited to, details concerning the commitment, billing frequency, and whether the Plan is consumption-based or based on the number of users/licences. Pricing for consumption subscriptions such as pay as you go are dynamic and changes should be reviewed regularly. The various MS Product components may not be coterminous and may provide for different contract periods. We may not provide all MS Product components, which may change from time to time. We may limit usage and resources using quotas per MS Product, updated from time to time. You may contact Our service centre to request changes to the applicable quota, which will be assessed and advised to You from time to time.

3.2 Our provision of Optional Services is subject to the availability of and Our ability to provide the relevant Optional Services and We may reject an order for Optional Services for any reason. Optional Services will be subject to Service-specific terms and conditions and may also be subject to additional Service Charges, including set-up Service Charges, monthly Service Charges, Usage Service Charges and separate applicable Minimum Contract Periods.

3.3 An Application Form is only binding on Us once accepted as follows:

- (a) in the case of Your first Application Form, the earlier of when We: (i) countersign the Application Form; and (ii) send You via email the Welcome Pack; and
- (b) in the case of subsequent Application Form and/or Optional Services, the earlier of when We: (i) send You an email confirming acceptance of the Application Form; (ii) countersign the Application Form; and (iii) commence performing the applicable Service or Optional Services.

3.4 You will access the MS Product through, and store all Your Content in, the location designated by You.

3.5 You acknowledge that the location(s) of Your Content may affect the calculation of Your Usage, Service Charges and any Service Level Credits.

3.6 Following acceptance of an Application Form, We will perform the Service from the Service Commencement Date.

3.7 Transitioning existing services to Us will require You to provide details of the services to transition to Us. Delays in providing the information can impact the commencement date of the Service. Usage and/or Service Charges may be impacted by delays should the MS Product pricing change.

3.8 Amending the Service can be achieved in line with the applicable MS Product terms. This will depend on the type of MS Product, term and/or commitment.

4. LICENSE

4.1 Use of the MS Product is conditional upon Your acceptance of the Microsoft Customer Agreement (as further set out at Part 3 of these terms and conditions), [Licensing Documents \(microsoft.com\)](#) which includes the Microsoft license agreements and MS Product terms. Use of the MS Product is subject to the Microsoft licence terms and any applicable Third Party Software Terms.

4.2 Except as expressly permitted by these terms and conditions, Customer will not and will ensure that Users do not:

- (a) reproduce, download, frame, mirror, or create derivative works from the MS Product;
- (b) decompile, disassemble, or otherwise reverse engineer any MS Product component;
- (c) access or use the Service in order to build any competing product or service;
- (d) license, sub-license, sell, rent, lease, transfer, assign, distribute, disclose, or otherwise make available the MS Product to any third party, or use the MS Product on a service bureau basis;

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- (e) access or use the Service or the MS Product in breach of the AUP or any law or regulation, including anti-spam laws and regulations;
 - (f) remove, obscure or alter any trademarks, brand names, or other proprietary notices appearing on or contained within any MS Product component; or
 - (g) use or access the MS Product other than as expressly permitted by these terms and conditions.
- 4.3 Authorised Users may access the Service either through a web-based user interface or through Your Application using the API where applicable, which may be modified from time to time. You must ensure that Your Applications and systems are compatible with the then current API.
- 4.4 The Service will include Third Party Software with applicable Third Party Software Terms. If there is any conflict or inconsistency between the Third Party Software Terms and these terms and conditions then, with respect to such Third Party Software, the Third Party Software Terms will prevail to the extent of the conflict or inconsistency.
- 4.5 Subject only to the specific licenses granted in these terms and conditions, You will not acquire or claim any right, title or interest (including intellectual property rights) in or to the MS Product, whether by implication, operation of law or otherwise.
- 4.6 You shall not bring any claim arising out of or in connection with the Service or these terms and conditions against any third party service providers, including Our affiliates and subsidiaries from time to time.
- 4.7 You shall not resell the MS Product or Service, or access to the MS Product or Service which is provided solely for Your own use.

5. SUSPENSION OF A SERVICE

- 5.1 We may (without prejudice to any other right or remedy) suspend, limit or cancel the Service provided to You without penalty and with immediate effect:
- (a) during any technical failure, modification or maintenance of the Service or where We are unable to provide the Service for reasons beyond Our control or otherwise for reasons not Our fault provided that We will use reasonable endeavours to procure resumption of the Service as soon as reasonably practicable;
 - (b) if You fail to observe or perform the Conditions;
 - (c) if We have reasonable grounds to suspect that the Service is being used fraudulently or otherwise illegally; or
 - (d) if We have reasonable grounds to believe that You have provided Us with false, misleading or incomplete details about You or any other person who may use the Service (including, but not limited to, name, current and previous address(es), date of birth, telephone numbers, employment information and bank and credit or debit card information) when You applied for the Service or thereafter or that You have failed to tell Us if any of these details have changed.
- 5.2 Notwithstanding any suspension, limitation or cancellation of the Service under this clause You shall remain liable for all charges due hereunder throughout the period of suspension, limitation or cancellation unless We, at Our sole discretion, determine otherwise.

6. YOUR APPLICATIONS

- 6.1 You are solely responsible for: (i) ensuring You have the necessary rights, permissions and licences to install and host Your Applications on the Service; (ii) the acts and omissions of any users of Your Applications; (iii) the functionality and operation of Your Applications; and (iv) the support and maintenance arrangements for Your Applications.
- 6.2 You warrant that You have the right to grant and grant to Us a limited, non-exclusive, non-transferable, non-sublicensable right and license during the term of each applicable Application Form to host Your Applications and other of Your Content solely in connection with Us providing the Service and performing Our other obligations under these terms and conditions.

7. AUTHORISED USER ACCOUNTS

- 7.1 This section sets out the provisioning of MS Products, which is subject to Your particular circumstances:
- (a) where You are new to the Service, We and/or the Microsoft Indirect Provider will create a MS Product Tenant for You. In the first applicable Application Form, You will designate one Administrator who is authorised by You to enable the Service, order additional MS Products, Services and/or Optional Services, manage Your use of the Service and appoint further Administrators and Users. You may also automate the provisioning, ordering and management of the Service through the applicable API. Any and all actions, requests and orders made using Administrator Credentials or through the API will be deemed to have been authorised by You and You will be responsible for the associated Service Charges; or

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(b) where You are already in receipt of an MS Product, We and/or the Microsoft Indirect Provider will send a Microsoft Partner Relationship invitation to You to establish a relationship with Us and the Microsoft Indirect Provider.

7.2 Prior to commencement of the Service, You will be required to accept Our/Microsoft Indirect Provider invitation which will create a Microsoft reseller relationship, as between You and both Us and the Microsoft Indirect Provider. This will enable Us and the Microsoft Indirect Provider (subject to Your privileges/permissions which can be updated from time to time) to gain Administrator access to manage Your subscriptions, licenses, and Users on Your behalf.

Note: We will be unable to provide the Service until You accept this invitation. You are responsible for creating additional Administrators, Users and assigning roles, privileges and permissions.

7.3 You consent to Microsoft and its affiliates providing Us and the Microsoft Indirect Provider with Customer Data and Administrator Data (both as defined in the applicable End User Licence Agreement (EULA)) for the purposes of provisioning, administering and supporting the MS Product in accordance with the EULA. We and the Microsoft Indirect Provider may process such data according to the terms of Our and the Microsoft Indirect Provider agreement with You, and Our privacy commitments may differ from Microsoft's. You appoint Us and the Microsoft Indirect Provider as Your agents for the purposes of providing and receiving notices and other communications to and from Microsoft. You may terminate any of Our and Microsoft Indirect Provider's Administrator privileges at any time via the MS Product Tenant. However, We and the Microsoft Indirect Provider may not be able to administer or support Your MS Product Tenant on Your behalf which may impose limitations on the Service. Microsoft Indirect Provider engineers with DAP or GDAP access on the Tenant should be whitelisted by having conditional access in place.

7.4 For the avoidance of doubt, the Usage will be invoiced by Us.

7.5 You shall:

- (a) be responsible for: (i) maintaining the confidentiality of Credentials and ensuring that Credentials are only used by Authorised Users; and (ii) the acts and omissions of Authorised Users and any person using Customer's Credentials; and (iii) removing Users, as required;
- (b) notify Us promptly in writing if You become aware of: (i) any loss, theft, or unauthorised use of any Credentials; or (ii) any breach of these terms and conditions by an Authorised User;
- (c) be responsible for providing additional facilitating services outside of the Service Boundary to use the MS Product, such as but not limited to, internet connectivity with sufficient bandwidth from their locations and equipment you provide such as personal computers;
- (d) determine the appropriateness of the MS Product. We do not make any representation that the MS Product will operate with Your Equipment and software. We accept no liability to You or any other third party for any loss of data or other damage;
- (e) agree to take certain precautions regarding Your customers' data, including backup and protect all data prior to copying to and storing on the MS Product; and
- (f) apply updates and preventative maintenance to their Tenant environments.

8. SERVICE LEVELS AND MAINTENANCE

8.1 The Service Levels are in Our support Service Level terms referenced in the applicable Product Description. You may be entitled to Service Level Credits as provided by the MS Product terms. However, a failure by Us to meet Service Levels is not a breach of these terms and conditions by Us and Service Level Credits are Your sole and exclusive remedy and Our sole and exclusive liability for Our failure to meet any applicable Service Levels.

8.2 We may perform scheduled maintenance on the Service including maintenance related to the Software, infrastructure and other equipment and materials used for providing the Service. Occasionally, We may need to perform emergency or unscheduled maintenance. Maintenance activities may cause interruptions to the Service although We will use reasonable endeavours to inform You in advance of any maintenance-related Service interruptions and their likely duration.

9. SUPPORT

9.1 We recommend that You refer to the User Documentation in the first instance to obtain support for the MS Product. Where You have questions regarding the Service, You may also (but shall not be obliged to) refer to the User Documentation to seek answers.

9.2 You shall nominate qualified personnel having appropriate skill and level of access to the Service to contact Our service centre on Your behalf for all matters relating to the technical support ("**Support Representatives**"). The Support Representatives shall be the primary point of contact for all matters relating to technical support and only Support Representatives are authorised to contact Our service centre and submit support requests. The number of

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Support Representatives shall be determined by Us in consultation with You. Once appointed, You shall supply Us with written notification of the names and contact details of all Support Representatives. You shall be able to (and shall) update such details from time to time as reasonably required by providing Us with written notification of the change including the related details.

- 9.3 Upon receipt of the fault report, We will respond to You in accordance with the Service Level stated in the Product Description. We, at Our sole discretion, shall deal with the fault report:
- (a) by advising You by telephone as to what checks, tests and rectification works (of a non-technical nature) on the Service are to be carried out by Us; or
 - (b) by carrying out remote diagnostic checks on the Service; or
 - (c) in such other manner as We consider appropriate.
- We may require You to provide all reasonable co-operation and assistance to Us as may be necessary or desirable in order to facilitate the provision of the Service to You.
- 9.4 We will provide first line support to assist You with the Service. We offer a response Service Level only. We will use all reasonable endeavours to resolve Service issues. However, if an operational problem is not capable of being resolved, We will escalate the problem to the Microsoft Indirect Provider and/or Microsoft support teams for resolution.
- 9.5 Support tickets outside the scope of the Service support may require a chargeable support Service to be purchased. However, We do not warrant that all support tickets can be resolved.
- 9.6 As elements of the Service are not provided by We, We cannot guarantee or warrant that the Service will be continuously available and fault-free.
- 9.7 You must ensure that You have compatible equipment to use and access the MS Product.
- 9.8 Changes to the Service outside of the self-service Our Portal/MS Portal should be requested via Our service centre. These will be assessed and advised.
- 9.9 Support for the Service does not cover:
- (a) faults not affecting the working of the Service in accordance with the manufacturer's design specification;
 - (b) faults as a result of configuration of the Service caused other than by Us or Our employees or agents;
 - (c) faults as a result of any loss of power e.g. loss of electronically stored data or application software;
 - (d) separate facilitating Service that enable or connect to the Service, including, but not limited to, personal computers, internet connection and data equipment;
 - (e) anything beyond the Service Boundary;
 - (f) updating or patching of the Service; and
 - (g) restoration of Your specific configuration data if a valid backup of such data cannot be provided by You.

10. DATA SECURITY

- 10.1 The Service allows customisation by You, including options to install third party software, implement security controls, establish and enforce user access controls, and select the location(s) in which Your Content will be stored. You acknowledge that You are responsible for using the Service properly and for taking Your own steps to maintain appropriate security, protection, and backup of Your Content, which may include: (i) the use of encryption technology to protect Your Content from unauthorised access; (ii) the use of firewall technology to protect Your Content from unauthorised access; and (iii) routine back-up and archiving of Your Content. You are responsible for selecting the location(s) in which Your Content will be hosted and You will comply with all applicable laws with respect to Your Content and Your use of the Service.
- 10.2 Subject to section 10.4 below, You acknowledge that the Service operates in such a way as to not permit Us and the Microsoft Indirect Provider to access Your Content and each of Us and the Microsoft Indirect Provider has no ability to manipulate, modify or control Your Content without You giving Us and/or Microsoft Indirect Provider access rights.
- 10.3 Where You request support from Us and/or the Microsoft Indirect Provider that requires access to Your Content, You may be required to issue temporary Credentials to Us and/or the Microsoft Indirect Provider to permit such access to Your Content.
- 10.4 Where You grant Us access to Your Content, We agree to:
- (a) access and use Your Content solely for the purpose of providing/maintaining the Service;
 - (b) technical and administrative safeguards to protect Your Content against unauthorised access, use, or disclosure while it is accessible by Us; and
 - (c) not disclose Your Content to any third party, except: (i) to Our employees, consultants or contractors for the purposes of providing the Service, provided that such recipients are bound by confidentiality provisions no

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less restrictive than those set out in these terms and conditions; and (ii) to the extent required by a judicial order or other legal obligation, provided that, to the fullest extent permitted by law, We will promptly notify You of such a required disclosure to allow intervention by You (and will cooperate with You) to contest or minimise the scope of the disclosure.

- 10.5 Access granted to the Microsoft Indirect Provider will be subject to data protection terms agreed by us with the Microsoft Indirect Provider.
- 10.6 You agree that unless backup services are included in the applicable Application Form as an Optional Service, We will not create, maintain or implement backups of any of Your Content and in such circumstances You are solely responsible for all backup, archiving and data retention of Your Content.
- 10.7 Upon termination of the Service, You are responsible for the removal of Your Content from the Service. Service Charges will continue to apply until all of Your Content is removed from the Service or transferred to another provider.

11. REPRESENTATIONS AND WARRANTIES

- 11.1 Both Us and You each represent and warrant to the other that performance of these terms and conditions does not put it in breach any other agreement, and that both Us and You:
 - (a) have the full power and authority to enter in and perform these terms and conditions;
 - (b) will comply with all applicable laws, rules, regulations and ordinances in the performance of these terms and conditions; and
- 11.2 We represent and warrant to You that We will perform the Service materially in accordance with the applicable Product Description(s).
- 11.3 We will pass on to You the benefit of any warranties and indemnities We receive under the Third Party Software Terms to the extent We have the right to do so. Otherwise We make no, and expressly disclaim all, representations and warranties with respect to Third Party Software and Your use of Third Party Software is at Your sole risk.
- 11.4 EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET OUT IN THIS SECTION, THE SERVICE AND ANY OTHER INFORMATION, TECHNOLOGY, CONTENT AND MATERIALS IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND WE DO NOT MAKE ANY, AND EXPRESSLY DISCLAIMS ALL, OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE. WITHOUT LIMITATION OF THE FOREGOING, WE DO NOT REPRESENT OR WARRANT THAT ACCESS TO THE SERVICE WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE. NO ADVICE, RESULTS OR INFORMATION OBTAINED BY YOU FROM US OR THROUGH ANY SERVICE OR ANY DOCUMENTATION WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE IN THESE TERMS AND CONDITIONS.

12. INDEMNIFICATION

- 12.1 You will defend Us from any third party claim, suit, action or proceeding, and will pay all related damages, costs, expenses, judgments, settlement amounts, and other liabilities (including reasonable attorney's fees and costs) finally awarded against Us by a court or tribunal of competent jurisdiction arising from:
 - (a) any violation (or alleged violation) of applicable law by You or any of Your Content;
 - (b) any allegation that any of Your Content infringes, misappropriates or violates any copyright, patent, trade secret, trademark or other intellectual property rights of a third party;
 - (c) any disputes with third party licensors or providers of any of Your Content; or
 - (d) any acts or omissions of Authorised Users or of Your customers or their respective end-users, including any breach of the license restrictions set out in clause 4 above.
- 12.2 If the Service is the subject of an infringement claim (or We reasonably believe that such a claim is likely), then We may at Our option and expense:
 - (a) procure for You the right to continue to use the Service;
 - (b) modify the Service to be non-infringing or provide non-infringing substitutes with substantially similar functionality; or
 - (c) if We cannot accomplish (a) or (b) using commercially reasonable efforts, terminate the Service and refund to You the unused portion of any Service Charges paid in advance for the affected Service.

13. SERVICE CHARGES AND PAYMENTS

- 13.1 The following types of Service Charges apply to the Service:
 - (a) **Set-up fee:** a one-time fee for the set-up and activation of the Service as described in the applicable Application Form.

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- (b) **Usage Service Charges:** the Service Charges payable by You each month based on: (i) Your Usage; and/or (ii) any fixed Service selected by You and provisioned by Us, as set out in the applicable Application Form. You will pay the Minimum Usage Commitment in advance where applicable and will pay Service Charges for any Usage over the Minimum Usage Commitment in arrears. Usage Service Charges are calculated based on the applicable Rate Card in effect on the date of each applicable invoice. Consumption based pricing is dynamic in nature and changes regularly. We are unable to notify customers of any such pricing changes and You must check Our Portal.
- (c) **Service Charges for Optional Services:** the Service Charges payable by You each month for Optional Services will depend on the Optional Service selected by You, such Service Charges are payable either in advance or in arrears as stated in the Application Form or other binding document evidencing provision of the Optional Services.
- (d) You may be charged for incidents where outside the scope of the Service Boundary or Our support Service as detailed in the applicable terms and conditions.
- (e) Termination Service Charges may apply for licences and subscriptions terminated in the minimum commitment/term.

13.2 We will invoice You as follows:

- (a) For Minimum Commitment Plans and Orders for Optional Services, on or after the Service Commencement Date, We will deliver an invoice for the first calendar month's Minimum Usage Service Charges (adjusted pro-rata for the remainder of the then-current calendar month), if applicable; the first calendar month's Service Charges for Optional Services, if applicable (adjusted pro-rata for the remainder of the then-current calendar month); and any set-up fee, if applicable. Each subsequent month, We will deliver an invoice for:
 - (i) the Minimum Usage Service Charges for such month;
 - (ii) for Service Charges for Optional Services that are required to be paid in advance, the applicable Optional Services Service Charges for such month; and
 - (iii) any additional Usage Service Charges and, for Optional Services that are required to be paid in arrears, the applicable Service Charges for Optional Services, in each case for the immediately preceding calendar month (and prior calendar months, if such Service Charges have accrued but have not yet been invoiced).
- (b) For Usage-Based Plans, We will deliver an invoice each month for the Usage Service Charges that accrued in the previous billing month. The date on which the first and each subsequent invoice will be delivered depends on the Service Commencement Date of the applicable SoW.

13.3 The Service Charges shall comprise any connection charge for a Service, whether initial or after suspension, limitation or cancellation, and rental charge (payable in advance) for a Service where such charges depend on the relevant service options selected in the Application Form.

13.4 In Jersey only, in addition to charging GST in respect of the supply of Services, We will, where applicable, charge You GST in respect of the supply of other goods and/or services under this Contract and You will pay that amount in addition to the charges for those other goods and/or services. You acknowledge that GST is calculated on an aggregated basis across all Services taken which, due to the rounding up of decimal places in Our billing system, may result in a nominal increase to the advertised cost of an individual Service where You also take other Services.

13.5 Where You name more than one person on the Application Form upon commencement of the Service or thereafter, liability for the Service Charges and/or any additional sums relating to a Service shall be joint and several.

13.6 Where You request work to be carried out which is not included in the Service Charges, We may charge additional sums. We will, for example, make extra charges where:

- (a) We install additional wiring at Your premises other than that required to provide the Service;
- (b) We repair or trace a defect or fault to any wiring owned or maintained by You that is used to extend the location of the NTU or ONT remotely from the NTP, or to extend the Fibre Router remotely from the ONT;
- (c) We repair any of Your Equipment where such repair is not covered by any other agreement between Us and You;
- (d) We respond to a fault report and no fault is found to exist;
- (e) We repair of a fault reported by You is made more difficult or costly by breach of Your obligations under the Contract;
- (f) We correct any defect or fault caused by You or anyone using a Service; or

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- (g) We repair Telecommunications Apparatus located at the Premises that is damaged other than by Us, Our employees or agents.
- 13.7 Service Charges and/or additional sums are payable in full on demand or as otherwise agreed between You and Us. If payment is agreed in writing to be made by instalments and if You fail to pay any instalment on its due date then We shall be entitled to demand immediate payment of the unpaid balance (including all arrears).
- 13.8 We reserve the right to charge an administration fee in addition to the Service Charges where: (i) You choose to receive a paper copy of a bill; and/or (ii) You pay the Service Charges in a bill by any payment method other than by Direct Debit.
- 13.9 We will charge a Late Payment Fee on any balances which remain unpaid after the due date.
- 13.10 For the purposes of credit referencing and fraud prevention, We reserve the right from time to time during the term of the Contract to:
 - (a) make searches about You at credit reference agencies and elsewhere to verify Your identity and to help Us to decide whether to accept Your application for a Service and/or to continue to provide a Service to You;
 - (b) use (and share with debt collection agencies and appropriate authorities) Your details for the purpose of collecting debts, preventing and detecting fraud and seeking to recover damages and costs arising from fraud or other unlawful activity on Your part;
 - (c) record, and pass to the appropriate authorities, details of any false or inaccurate information provided by You or where We suspect fraud or any other unlawful or improper activity on Your part; and
 - (d) pass on to and share information with other communications service providers and network operators for the detection and prevention of theft and fraud.

14. ASSIGNMENT

- 14.1 You may not assign the Contract without Our permission, such permission not to be unreasonably withheld.
- 14.2 We reserve the right to assign all or part of the Contract to any person and/or to subcontract any of Our obligations hereunder upon giving at least 28 days' advance notice to You.

15. EXCLUSION AND LIMITATION OF LIABILITY

The following provisions set out Our entire liability (including any liability for the acts and omissions of Our employees, agents and subcontractors) to You in respect of any breach of contract, misrepresentation, tortious act or omission including negligence or otherwise arising under or in connection with the provision of a Service. **Your attention is in particular drawn to these provisions.**

- 15.1 We do not exclude or restrict liability for death or personal injury resulting from Our own negligence.
- 15.2 Unless otherwise expressly agreed in writing by You and Us (in a service level agreement or otherwise), We shall not be liable to You or to any other person for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the provision of a Service except as provided in clause 15.1 above. Whilst We will use Our reasonable endeavours to maintain the quality of a Service and to ensure that a Service is available at all times We make no representation or warranty in relation thereto.
- 15.3 Without prejudice to the generality of clauses 15.1 or 15.2, We shall not be liable to You or to any other person for:
 - (a) any defect in, poor quality of, unavailability, interruption or discontinuance of a Service or any website or email address (and without prejudice to the generality of the foregoing and clause 15.1 and 15.2, We shall in no circumstances be liable for any defect in, poor quality of, unavailability or interruption lasting less than 3 days);
 - (b) any loss of profits, business revenue, goodwill or anticipated savings, or any type of special, indirect or consequential loss (including but not limited to loss or damage to data, equipment or property even if in Our care, custody or control) whether direct, indirect, foreseeable or unforeseeable;
 - (c) the non-delivery or non-receipt of an email or other message;
 - (d) the security of any information accessed or delivered;
 - (e) any viruses including but not limited to trojans and worms;
 - (f) failure by You to use a Service and any product supplied with it for the purpose for which it was designed; or
 - (g) Your use of a Service and/or Your activities, including but not limited to, any acts which under the laws of any jurisdiction infringe any third party's intellectual property rights (including the use of any domain name) infringe obscenity laws, constitute threats, are in any way defamatory or are illegal or give rise to any liability in any way.
- 15.4 We are not responsible for maintaining any insurance cover of any nature to cover any loss by You or any other party arising from the provision or unavailability of a Service or otherwise and any such insurance cover shall be Your responsibility.

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- 15.5 If any exclusion or limitation of liability contained in this clause is invalid and We become liable for any loss or damage, You (acknowledging that We are not able to evaluate any potential loss to You) agree that Our liability for any 1 event or series of events shall in any event be limited to the Service Charges payable by You for the Minimum Contract Period.
- 15.6 Each provision of this clause shall operate independently of each other provision of this clause.
- 15.7 You agree to indemnify Us and hold Us harmless in respect of all costs, damages, awards and expenses and professional fees of any kind (without limit) arising from or in connection with any claim brought against Us by any third party located in any jurisdiction arising from any use of a Service provided to You (by either You or any other party) constituting any unlawful act or otherwise giving rise to any liability. You shall immediately notify Us in writing of any such claims of which You become aware. You further agree to offer all reasonable assistance to Us in defending such claims at Your sole expense.

16. FORCE MAJEURE

We shall not be liable in respect of any breach of the Contract due to any cause beyond Our reasonable control including (but without limitation) act of God, pandemic, inclement weather, lightning, flood or fire; industrial action or lockouts; the act or omission of government, highway authorities, regulatory or any other competent authority; war or armed conflict, military operations, vandalism or riot; the act or omission of any other party (including any other party that provides any part of the Service or upon which We rely in order to provide any part of the Service) and national and/or civil emergencies.

17. ENTIRE AGREEMENT

The Conditions supersede all prior oral or written communications regarding a Service and contain the whole agreement between the parties relating to a Service, unless specifically otherwise agreed in writing.

18. NOTICES

- 18.1 Any notice or other communication required to be given or served for the purposes of the Contract except where otherwise provided shall be in writing and shall be deemed to have been duly given and served if sent by post, email or delivered by hand. Notices shall be deemed received 48 hours after posting or transmitting.
- 18.2 Your address for correspondence shall be the contact address as specified in the Application Form or an address notified to Us by You in writing as an address to which bills may be sent or Your usual or last known place of abode or business or if You are a limited company Your registered office.
- 18.3 Our address for correspondence in Jersey shall be P.O. Box 53, No. 1 The Forum, Grenville Street, St Helier, Jersey JE4 8PB.
- 18.4 Our address for correspondence in the Bailiwick of Guernsey shall be East Wing, Trafalgar Court Les Banques, St Peter Port, Guernsey, GY1 3PP.

19. TERMINATION

- 19.1 The Contract may be terminated immediately by Us without penalty to Us if You:
- (a) fail to satisfy Us with regard to any credit check undertaken in respect of You;
 - (b) fail to pay when due any sum payable under the Contract or any other agreement or contract made between You and Us;
 - (c) become bankrupt within the meaning of Article 8 of the Interpretation (Jersey) Law 1954 (as amended) or otherwise commit any act indicative of insolvency under the law of any jurisdiction or enter into any composition with Your creditors in Jersey or elsewhere;
 - (d) are declared *en désastre* or pass any special resolution to enter into voluntary liquidation or are placed into compulsory liquidation by act of the Royal Court of Guernsey or a summons or process is served upon You with the intent of obtaining any such order or You become bankrupt or otherwise commit any act indicative of or analogous to insolvency under the law of any jurisdiction or enter into any composition with Your creditors in the Bailiwick of Guernsey or elsewhere;
 - (e) fail to observe or perform the Conditions or the conditions of any other agreement or contract made between You and Us and fail to remedy such breach as soon as possible and in any event within 28 days after the date that We serve written notice on You in relation to such breach;
 - (f) use a Service in a manner which is unsafe or which has not been approved by Us;
 - (g) use a Service fraudulently or in connection with a criminal offence;
 - (h) make improper use, within the meaning of Article 51 of the Telecommunications (Jersey) Law 2002, or any amendment or supervening law thereto, of a Service;
 - (i) make improper use, within the meaning of Article 16(1) of the Telecommunications (Bailiwick of Guernsey) Law 2001, or any amendment or supervening law thereto, of a Service;
 - (j) connect equipment other than equipment approved by Us to a Service.
- 19.2 The Contract may be terminated by You if:

TERMS AND CONDITIONS

- (a) We unreasonably exercise Our rights of variation or suspension under the Contract, by You giving written notice to Us within 14 days of the notice of variation or suspension;
 - (b) We exercise Our rights of variation of the technical specification of a Service such that performance of the same is materially degraded, such termination to be on 14 days written notice without further obligation;
 - (c) We fail to observe or perform Our obligations under the Contract and fail to remedy such breach as soon as possible and in any event within 28 days after the date that You serve written notice on Us in relation to such breach, by giving written notice to Us of such termination.
 - (d) a Service is suspended for a continuous period of 7 days or longer pursuant to clause 5.1(a).
- 19.3 Subject to clauses 1.2, 19.1 and 19.2, either Us or You may terminate the Contract provided always that the party wishing to terminate the Contract gives to the other party written notice of its intention to do so; in Your case at least one calendar month and in Our at least 6 calendar months prior to the effective date of the purported termination of the Contract and such termination shall not affect any rights of either party to enforce any term hereof which right has accrued prior to the effective date of termination.

20. SEVERANCE

If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provisions in question shall not be affected.

21. GOVERNING LAW

- 21.1 A Contract made between You and JT (Jersey) Limited shall be governed by and construed and interpreted in accordance with the law of the Island of Jersey and the parties hereby submit to the exclusive jurisdiction of the Royal Court of Jersey.
- 21.2 A Contract made between You and JT (Guernsey) Limited shall be governed by and construed and interpreted in accordance with the law of the Island of Guernsey and the parties hereby submit to the exclusive jurisdiction of the Royal Court of Guernsey.

22. PERSONAL DATA

We shall process all Personal Data related to the Service in accordance with Our Privacy Policy located at <https://www.jtglobal.com/global/privacy-policy/>.

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PART 2 – ACCEPTABLE USE POLICY

1. PURPOSE

- 1.1 This Acceptable Use Policy (“**Policy**”) provided by Us (also referred to herein as “**we**”, “**us**” or “**our**”) governs any use of the Service. For purposes of the Policy, references to “**you**” or “**your**” refer to the individuals and entities using the Service, including Users (as defined below). The Policy describes important responsibilities, unacceptable practices, and limitations and restrictions on the use of the Service.
- 1.2 The Policy is intended to support secure and reliable use of the Service for you and other our clients and users. You agree to comply with this Policy in connection with your use of the Service. You further agree that you will not authorise, encourage, promote, facilitate or instruct others to violate this Policy.
- 1.3 We may amend this Policy from time to time by providing notice to you.

2. APPLICATION

- 2.1 This Policy applies to all users of the Service, including users of applications and the Service that is made available by us, by you, or by others through the Service (collectively, “**Users**”). If you enable or permit Users to access the Service, whether directly or indirectly (for example, if you make the Service available to other Users), then:
 - (a) you will ensure that such Users have comprehensive knowledge of and comply with this Policy; and
 - (b) you agree to include, in any contract between you and such Users governing access to the Service, terms and conditions that are no less restrictive than those set forth in this Policy.
- 2.4 You are responsible and liable for the acts and omissions of all Users that you enable or permit to access the Service or who access the Service directly or indirectly through you.

3. SECURITY

- 3.1 User Credentials must be kept confidential and stored securely so that unauthorised persons do not have access to them. If you become aware that the confidentiality of any User Credentials has become compromised, including due to unauthorised use, you will immediately inform us and will, if possible, temporarily suspend the affected account until new User Credentials are issued. We reserve the right to take any action that we deem necessary if any User Credentials have been compromised, which action may include suspending access to your account in whole or in part.
- 3.2 Each User must be assigned his or her own unique User Credentials, and no User may access the Service using another person’s User Credentials. You will ensure that each User who receives User Credentials takes appropriate security measures with respect to such User Credentials, including by promptly changing any temporary passwords issued with such User Credentials.
- 3.3 You are responsible and liable for all interaction with the Service that occurs in connection with User Credentials issued to you or to any Users that you enable or permit to access the Service or who access the Service directly or indirectly through you.

5. UNLAWFUL AND OTHER PROHIBITED ACTIVITIES

- 5.1 You agree that you will use the Service in a lawful manner, and will not use the Service for any illegal activities.
- 5.2 You further agree that you will not:
 - (a) use the Service to conduct any denial-of-service, email bombing or similar attacks on any websites or services, or to conduct any hacking, cracking, phreaking or similar activities.
 - (b) use the Service to impersonate anyone (including any of our representatives), to falsely state or otherwise misrepresent your affiliation with any person or entity, to conduct “phishing” or similar activities or to commit identity theft.
 - (c) use the Service to intercept communications intended for any other person or entity.
 - (d) use any software, tools or other materials through or in connection with the Service that scan the Internet for weak firewalls or conduct dictionary or similar attacks using scripts designed to guess passwords or access codes.
 - (e) use the Service to defame abuse, harass, stalk, threaten or otherwise violate the legal rights of others, including others’ privacy rights or rights of publicity, or harvest or collect personally identifiable information about other users of the Service.
 - (f) use the Service to transmit any materials that would give rise to criminal or civil liability, that encourage conduct that constitutes a criminal offense, or that encourage or provide instructional information about unlawful activities or activities such as hacking, cracking or phreaking.
 - (g) use the Service to interfere with, or disrupt the operation of, the Service or to violate any requirements, procedures, policies or regulations of any networks used to make the Service available.

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- (h) use any means to avoid or circumvent any use or other limitations placed on your use of the Service, including bandwidth, storage and access restrictions.
- (i) restrict or inhibit any other person or entity from using the Service (including by hacking or defacing any portion of the Service).
- (j) except as otherwise expressly permitted in another agreement between you and us for use of the Service, reproduce, download, frame, mirror, display, create derivative works of or otherwise modify all or any part of the Service.
- (k) create a database by systematically downloading and storing Service content.
- (l) use any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, “scrape,” “data mine” or in any way gather Service content; reproduce or circumvent the navigational structure or presentation of the Service; or use the Service to perform any of the foregoing activities in respect of any third party service.
- (m) use the Service to operate open proxies, open mail relays and other similar Services.
- (n) use, install or host on the Service any public Software in a manner that could reasonably be expected to require, pursuant to the license applicable to such Public Software, that the Service (or any portion thereof) be:
 - (i) disclosed or distributed in source code form,
 - (ii) made available free of charge to recipients, or
 - (iii) modifiable without restriction by recipients.

6.3 In certain jurisdictions, breach of certain requirements of this Policy may be criminal or result in civil liability. If we are required to report any of your activities in connection with the Service to any legal authority, we reserve the right to do so without notifying you.

7. INTELLECTUAL PROPERTY

7.1 You agree that you will not use the Service to infringe, misappropriate or otherwise violate any copyright, trade secret, patent, trademark, publicity or privacy right, or other intellectual property or proprietary right (collectively, “Rights”) of any third party. Before using, distributing, transmitting, performing, displaying, modifying, reproducing, uploading or downloading any material (including Your Content) through the Service, you must ascertain that such material is not subject to any third party Rights or obtain the applicable Rights holders’ express written permission to do so. You agree that you will provide us with documentation of such written permission upon request.

7.2 We reserve the right to remove or block access to any material (including Your Content) uploaded, hosted or stored by you on or distributed, transmitted or sent by you through or using the Service if we suspect on reasonable grounds that it does or could infringe, misappropriate or violate any of Our or third party Rights.

8. USE OF THE INTERNET AND CONTENT

8.1 You are solely responsible for:

- (a) determining the content and materials you choose to access on the Internet when using the Service, including the suitability, legality, quality and reliability of such content and materials; and
- (b) any applications and other content, materials or data that you upload, host or store on or distribute, transmit or send through the Service, whether owned by you or a third party ((a) and (b), collectively, “Your Content”).

8.2 You agree that you will not use the Service to view or distribute unlawful, defamatory, obscene, indecent, pornographic, derogatory, sexist, racist, prejudiced, harmful, degrading, hateful, threatening, intimidating, harassing, fraudulent, deceptive, tortious or otherwise objectionable material (“Prohibited Material”).

8.3 You are solely responsible for taking all steps necessary (including the use of filtering programs) to avoid access to Prohibited Material.

8.4 You agree that you will not use or attempt to use the Service to make inappropriate contact with children.

8.5 You agree that you will comply with all applicable laws, rules, regulations, industry codes and similar guidelines with respect to your use of the Service, including those that require you to label or identify Your Content in any way.

9. SHARING YOUR CONTENT WITH THE PUBLIC

The Service may include functionality that allows you to share some or all of Your Content with other Users and the general public. If you decide to share Your Content on or through the Service, you do so at your own risk and we incur no liability arising from your having shared Your Content with any person or entity, or from any person’s or entity’s receipt of, access to, collection of, use of or disclosure of Your Content.

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10. COOPERATION WITH AUTHORITIES

- 10.1 Subject to any other agreement between you and us for use of the Service, as part of our efforts to comply with the laws to which we and our affiliates are subject and any court orders and other directives that we or our affiliates may receive, we reserve the right to take any steps we deem necessary, with or without notice to you, including:
- (a) making Your Content and other data and materials of or concerning you and your Users available to any law enforcement agency, regulator, authority or other appropriate third party;
 - (b) cooperating with investigations by such entities; and
 - (c) removing Your Content and such other data and materials from the Service and our equipment, network resources and servers.

You agree not to prevent or hinder us in taking such steps.

11. SUSPENSION OR TERMINATION

- 11.1 We reserve the right to investigate any violation of this Policy or any misuse of the Service, and to suspend your access to the Service, without notice to you, if you breach, or authorise, encourage, promote, facilitate or instruct others to breach, this Policy. If, in our sole discretion, we determine that the breach can be remedied and that it is unnecessary to suspend your access to the Service pending remediation of the breach, we may notify you to rectify the breach within the time period that we specify, and if the breach is not remedied within such time period, we reserve the right to suspend your access to the Service.
- 11.2 We also reserves the right to suspend access to the Service if the Service is threatened or impaired in whole or in part, and to modify, remove, block or disable access to any materials available on or through the Service that violate this Policy or any other agreement between you and us for use of the Service.
- 11.3 If we suspend your access to the Service and the reason for suspension is not corrected by you within 7 days, we may terminate your access to the Service, in which case we reserve the right to levy a reasonable fee against you for any costs incurred by us arising from such suspension or termination.
- 11.4 In the event Microsoft terminates your access to the Service, we may terminate the Agreement between Us and you. We will not be liable for such as a Termination. In the event Microsoft suspends your subscription for legal or regulatory reasons or breach of the EULA, We will be liable to you.
- 11.5 You are responsible for the Service Charges for the duration of any Minimum Commitment Plan.

12. MISCELLANEOUS

- 12.1 You agree that you will immediately notify us if you become aware of any violation of this Policy, and that you will provide us with any assistance we request to investigate, remedy or end such violation.
- 12.2 Our rights and remedies specified in this Policy, including our suspension and termination rights, are without liability to you or to any third party. Such rights and remedies and your obligations specified in this Policy are cumulative and in addition to, and not in lieu of, any other rights, remedies and obligations specified herein or in any other agreement between you and us, or that are available to us at law or otherwise.

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PART 3 – THIRD PARTY SOFTWARE TERMS

We may use or make available to You certain Third Party Software in connection with the Service. Notwithstanding anything to the contrary in these terms and conditions/Application Form, Your use of and access to such Third Party Software is subject to and conditioned on Your compliance with the Third Party Software license and other terms and conditions, which include terms and conditions required by applicable licensors and providers.

Microsoft reserves certain rights to verify compliance with its license terms and conditions, including by accessing certain facilities where Microsoft Software is hosted or used, in each case either itself or through an independent auditor. You agree to cooperate with Us, Microsoft, and any such auditor in facilitating Microsoft's compliance verification, including by providing any records, responses and other information and materials requested thereby.

MICROSOFT

Use of the Service and MS Product is subject to You agreeing to the Microsoft Customer Agreement ("MCA") found at: <https://www.microsoft.com/licensing/docs/customeragreement>. **You must provide evidence of acceptance of the MCA before taking the Service from Us.** The Service and/or MS Product may be restricted or suspended for failure to comply with the MCA.

In addition, Your use of any Third Party Software provided by Microsoft is subject to and conditioned on Your and the Authorised Users' acknowledgement of and compliance with the following terms and conditions, as amended by Microsoft from time to time:

No High Risk Use. You acknowledge that the Microsoft Software is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted. You will not, and will ensure that Your Authorised Users do not, use any Microsoft Software in any application or situation where such Microsoft Software's failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("**High Risk Use**"). Examples of High Risk Use include: aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, or weaponry systems. High Risk Use does not include utilisation of Microsoft Software for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage. These non-control applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function. You agree to indemnify, defend and hold harmless Us and Microsoft from any third party claim arising out of Your or any Authorised User's use of the Microsoft Software in connection with any High Risk Use.

- (a) Emergency Services. When using Microsoft Teams for emergency services please see additional terms [Emergency calling terms and conditions - Microsoft Teams | Microsoft Learn](#). We recommend that You also have traditional fixed line/mobile for emergency calling as additional ways to reach emergency services.
- (b) You must also be compliant to the terms and conditions in the country when using calling services as well as compliance with emergency services terms such as providing and maintain accurate location information. These vary from country to country such as UK and USA as examples.

Proprietary Notices and Trademarks. You will not, and will ensure that Your Authorised Users do not, remove, modify or obscure any copyright, trademark, patent or other proprietary rights notices that are contained in or on the Microsoft Software. You and Your Authorised Users have no right under these terms and conditions to use any Microsoft logos in any manner whatsoever, and must not undertake any action that will interfere with or diminish Microsoft's (or Microsoft's suppliers') right, title and/or interest in their respective trademarks or trade names.

End User License Terms. You will, and will ensure that Your Authorised Users, comply at all times with the relevant Microsoft End User License Terms located at <https://www.microsoft.com/licensing/terms> (hereby incorporated herein by this reference).

Notwithstanding anything to the contrary in the Agreement, if required to comply with Our agreements with the applicable licensors of the Third Party Software, We may amend the Third Party Software Terms from time to time by posting the updated version of the Third Party Software Terms at <https://www.itglobal.com/global/terms-conditions/>.