

This Product Schedule (the “**Schedule**”), between **Intermedia Technologies Company Ltd.** (“**Intermedia**”) and \_\_\_\_\_ (“**You**”) is effective immediately and is issued pursuant to and incorporates by reference the terms and conditions of the Master Service Agreement (the “**MSA**”) by and between Intermedia and You.

All capitalized terms in this Schedule shall have the same meaning as set forth in the MSA, unless defined herein. In the event of a conflict or inconsistency between the terms of the MSA and the terms of this Schedule, the latter shall supersede and govern.

### 1. Products Covered

The terms of this Schedule apply to all Microsoft Office 365 services, including without limitation Office 365 email and productivity applications (collectively, the “**Office 365 Services**”) purchased by You from Intermedia.

### 2. Available Plans and Effect of Termination

All subscriptions to Office 365 Services will be structured as Annual Plans, with an Initial Term and Renewal Term as defined in Section 2.1(b) of the MSA. Monthly Plans will not be available for Office 365 Services. Section 2.2(b) of the MSA does not apply to Office 365 Service subscriptions and is replaced by the following Section 2.2(b) for all Office 365 Service subscriptions:

(b) Annual Plan. For an Annual Plan, You may terminate any Schedule for any reason by following the termination procedure located within the Account section of the administrative control panel at any time. If such a termination is effective prior to the end of the then-current Term, then (i) no refund is allowed for fees that have been paid and (ii) You may be charged an “Early Termination Charge,” meaning an amount equal to up to all fees and charges due from You for the remaining duration of the then-current Term of your Office 365 Service subscriptions, by Intermedia. Intermedia does not currently charge Early Termination Charges for Office 365 Services but expects to begin doing so in the future, effective at the time that Microsoft begins to assess early termination charges against Intermedia. Accordingly, notwithstanding Intermedia’s current policy of not charging Early Termination Charges for Office 365 Services, that policy may be changed at any time with little or no notice, and Intermedia reserves the right to charge an Early Termination Charge in connection with any Office 365 Service subscriptions that are cancelled prior to their expiration, including Your subscription described by this Schedule. To the extent practical, Intermedia will use commercially reasonable efforts to provide you with advance notice of any change in Intermedia’s policy with respect to charging Early Termination Charges.

### 3. Restrictions

You shall not, for yourself or through any affiliate, agent, or other third party, extract, remove or reuse images, software, or commercial licenses of Intermedia without Intermedia’s specific prior written consent. You shall regularly and accurately report the number of users of the Office 365 Services under your subscription described hereby.

Intermedia has the right to sell Office 365 Services to customers in the United Kingdom. By purchasing the Services, You represent, warrant and covenant that You are not placing orders or submitting payments with respect to Office 365 Services for customers located outside of the United Kingdom.

Intermedia will have the right during the term of the MSA, at its own expense and not more than once each calendar year, to audit Your processes, procedures, records, and other documentation relevant to establish Your compliance with the restrictions in this Section 3; provided, however, that: (a) any such inspection and audit will be conducted at Your place of business during regular business hours with reasonable notice of the audit, in such a manner as not to interfere with Your normal business activities, and (b) if any audit should disclose a noncompliance by You, then You shall promptly take such actions as necessary to comply with this Section 3, pay all fees and charges associated with such noncompliance and reimburse Intermedia for the reasonable costs associated with the performance of such audit, and Intermedia reserves the right to terminate the MSA or this Schedule immediately due to Your material breach.

#### **4. Microsoft Terms**

By purchasing a subscription to Office 365 Services, and continuing to use such Services, You (i) acknowledge that Intermedia's ability to provide Office 365 Services to You is contingent upon your continued compliance with certain Microsoft terms and conditions and (ii) agree to the Microsoft Customer Agreement (attached hereto as Appendix A is the Microsoft Customer Agreement for the United Kingdom; versions applicable to other countries can be found at: <https://www.microsoft.com/licensing/docs/customeragreement>) and all other policies, terms and agreements referenced therein, which are generally available on Microsoft's website at: <http://www.microsoftvolumelicensing.com/> .

#### **5. Service Level Agreement**

The Intermedia SLA does not cover Office 365 Services. Intermedia does not offer a separate Service Level Agreement for Office 365 Services. The "SLA" or "Service Level Agreement," as those terms are used in the MSA, refers to the Service Level Agreement offered by Microsoft with respect to Office 365 Services, as it may be in effect from time to time. Please refer to <http://www.microsoftvolumelicensing.com/> for the current Microsoft SLA for Office 365 Services.

For purposes of clarification, if You purchase Office 365 email from Intermedia, and in addition You purchase business continuity service (or other comparable service) from Intermedia (an "**Email Continuity Service**"), then the Service Level Agreement applicable to such Email Continuity Service will apply to Your use of Office 365 email.

#### **6. Customer Pricing**

Details of service-specific pricing as negotiated between You and Intermedia can be accessed via the HostPilot control panel or other Intermedia provided web portal.

#### **7. Applicable to Office 365 Email Only: Administrative Access to Microsoft Online Services account (including Your Office 365 account)**

In order for Intermedia to administer Your Office 365 email services, You must grant administrative access to Intermedia to Your Microsoft Online Services account (including your Office 365 account). This provides Intermedia with broad rights to access Your account. You will be required to acknowledge and agree to Microsoft's terms, conditions and disclaimers in connection with approving Intermedia's request to be granted administrative access rights with respect to Your account, the current form of which is attached as Appendix B attached hereto. Further, You agree that Intermedia will not be held responsible or made liable for any loss of personal data and/or damages caused in connection with or as a result of Intermedia's status as an administrator of Your Microsoft Online Services account or any actions performed by Intermedia in such role, unless such loss or damages are the direct result of Intermedia's gross negligence or willful misconduct. You may disable

Intermedia's administrative access rights at any time through the Microsoft portal; however, Intermedia will be unable to administer Your Office 365 email services at any time that Intermedia does not hold administrative access rights to Your Microsoft Online Services account.

*The Business Cloud is either a registered trademark or trademark of Intermedia.net, Inc. in the United States and/or other countries. Microsoft and Office 365 are either registered trademarks or trademarks of Microsoft Corporation in the United States and/or other countries.*

## **APPENDIX A. 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 p

“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.

## **APPENDIX B. MICROSOFT TERMS OF DELEGATED ADMINISTRATION**

By delegating administrative authority to your Microsoft Online Services account (including your Office 365 account) to Intermedia, you will agree to the terms and conditions herein (as they may be changed from time to time by Microsoft). Accordingly, please read them carefully.

### **Terms of Delegated Administration**

**Last updated: October 2010**

**WARNING:** If you choose to authorize a partner to be your delegated administrator, the partner will have full administrative access to **all your services and subscriptions**. This includes functions such as setting up mailboxes, adding or removing users and groups, or data migration.

#### **Note of caution regarding authorizing a delegated administrator**

If you (the "customer") opt to authorize a delegated administration partner, do so carefully. Microsoft provides customers who may not wish to perform certain administration functions on their Microsoft Online Services account(s) the ability to authorize a delegated administrator to perform these functions. Before doing so, you must read and agree to these terms.

#### **What functions may a delegated administrator perform?**

A person or entity authorized as a delegated administrator can perform all administrative operations related to a customer's Microsoft Online Services account(s), just as the customer would be permitted to do.

These administrative operations can include, but are not limited to, creation of user accounts, creation of e-mail boxes, or addition / deletion / editing / copying / archiving / transfer of data / transformation of data.

#### **What are some benefits of selecting a delegated administrator?**

Selecting a delegated administrator familiar with administering Microsoft Online Services accounts may free customer from having to learn to perform these functions itself and may enable customer to obtain support services from the delegated administrator.

#### **What are some risks of selecting a delegated administrator?**

Because a delegated administrator will have full administrative access to a customer's account, the delegated administrator will have access to all customer data.

Depending on the nature of the subscription or service, customer may suffer direct or indirect harm if the delegated administrator fails to provide certain functions for customer, e.g., if the delegated administrator does not perform timely backup of data or the delegated administrator does not timely provision new mailboxes for customer employees.

A delegated administrator could, because of its role, accidentally or intentionally harm customer through loss or misuse of customer's data. There is nothing in the system to prevent this.

Microsoft does not approve, monitor, or manage the delegated administrator.

If customer elects to de-authorize a previously authorized delegated administrator, Microsoft will make all reasonable attempts to do so promptly. However, this removal is not instantaneous and during this processing time the delegated administrator will continue to have full access to the customer's subscriptions.

#### **How do I disable a delegated administrator?**

You may disable a delegated administrator's access to your account at any time.

To disable a delegated administrator's access, see Remove a Delegated Administrator in the online Help.

#### **Additional terms**

The option to authorize a partner to perform delegated administration is for customer's convenience only. Customer is not obligated to select or authorize a delegated administrator and, if a delegated

administrator is selected, customer may de-authorize the delegated administrator at any time. Selection of a delegated administrator will not affect or alter the relationship between customer and any other partners (except to the extent such delegated administrator selection is to replace an existing delegated administrator).

The relationship between customer and a delegated administrator is defined by the separate oral or written agreement(s) between them. Microsoft has no involvement in the customer/delegated administrator relationship. In the event of an issue arising from a delegated administrator's services or failure to provide services, customer's sole recourse is with the delegated administrator.

Microsoft bears no responsibility whatsoever for acts or omissions of a delegated administrator. Customer's selection or non-selection of a delegated administrator will not alter the relationship between Microsoft and Customer as spelled out in the applicable agreement for Microsoft Online Services, except as stated in these Terms.

### **DISCLAIMER OF WARRANTIES**

MICROSOFT DOES NOT ENDORSE AND MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES PROVIDED BY A PARTNER (IF ANY). WITHOUT LIMITING THE FOREGOING, MICROSOFT DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF CUSTOMER'S USE OF A PARTNER. ALL PARTNER SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND.

### **LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER MICROSOFT NOR ANY OF ITS AFFILIATES OR SUPPLIERS WILL BE LIABLE FOR DAMAGES (INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES, DAMAGES FOR LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION) ARISING FROM OR IN CONNECTION WITH ANY ACT OR OMISSION BY A PARTNER PROVIDING SERVICES TO CUSTOMER.

Customer explicitly acknowledges that it:

- understands the partner it authorizes will have full administration privileges for customer's account, including the ability to access or migrate any or all of customer's data;
- understands that Microsoft is not responsible for any acts or omissions of the partner that customer has authorized; and
- has read and understands these terms.