



VODAFONE – OFFICE 365 - General Terms and Conditions

1. Agreement structure

- 1.1 This agreement between Customer and Vodafone incorporates the Order Form, these General Terms and the applicable Online Services Use Rights
- 1.2 If there is any inconsistency between the various provisions of the Agreement, the following order of precedence will apply, where 1 has a higher precedence than 2 and so on: (1) Order Form; (2) Online Services Use Rights (3) General Terms and Conditions.

2. Installation and Availability of the Licensed Services

- 2.1 Where agreed with Customer, Vodafone will provide reasonable installation services to assist Customer in the integration of the Licensed Service within Customer's IT systems and data migration between existing IT structures and the Licensed Services ("**Migration Services**"). Migration Services shall be provided by Vodafone to Customer in return for the agreed "**Migration Services Fee**" which is set out on the Order Form and is payable by Customer in arrears by the payment method used for Customer invoices from Vodafone. If access to Customer's premises is required for the Migration Services, Customer shall provide Vodafone's representative with access to such premises during office hours (and outside of office hours as agreed between Customer and Vodafone), and shall make its IT systems ready and available for the Migration Services to be carried out. Vodafone does not guarantee the compatibility of the Software with the Customer's IT systems. Customer shall be responsible for notifying Vodafone of any issues with the Migration Services, during the provision of the Migration Services or as a result of the same.
- 2.2 Vodafone shall use reasonable endeavours to provide Customer with the Licensed Services; however Vodafone cannot guarantee that the service will be fault-free.
- 2.3 Vodafone may suspend the Licensed Services: (i) in order to carry out maintenance or testing; (ii) when it is necessary to safeguard the security and integrity of the Licensed Services or to reduce the incidence of fraud.

3. Customer's use of the Licensed Services

- 3.1 Customer may supply the Licensed Services to End Users, but not to any other party. Customer shall ensure the compliance of End Users with the terms of this Agreement, all applicable laws and Codes of Practice.
- 3.2 Customer shall not use any Licensed Services for any purpose that Vodafone (acting reasonably) believes is abusive, a nuisance, illegal or fraudulent.
- 3.3 Where a specific End User causes Customer to be in breach of its obligations of clause 3.2, Vodafone shall be entitled to suspend such End User's use of the Licensed Services. Vodafone shall notify Customer of its intention to do so where this is reasonably practicable, allowing an opportunity to remedy the alleged breach (where it is capable of remedy); otherwise Vodafone shall notify Customer as soon as reasonably practicable after the suspension. This right of suspension shall only apply during the period of breach, although re-instatement of the Licensed Service may be subject to the payment of a reconnection Charge by Customer.
- 3.4 During any period of suspension, Customer shall continue to pay all Charges due under this Agreement in respect of the suspended Licensed Services.

4. Charges and Payment

- 4.1 Vodafone states all Charges exclusive of VAT, unless specified otherwise. All Charges not specified on an Order Form shall be at Standard List Price.
- 4.2 Access Fees shall be invoiced by Vodafone monthly in advance and all other Charges shall be invoiced monthly in arrears. Invoices shall be paid by Customer in cleared funds no later than 30 calendar days from the date of the invoice ("Due Date"), by direct debit.
- 4.3 If Customer reasonably and in good faith disputes an invoice or part of it, Customer shall notify Vodafone within 14 days of receipt of the invoice, providing details of why the invoiced amount is incorrect and, if possible, how much Customer believes is due. All undisputed Charges shall be paid by the Due Date.
- 4.4 Where Vodafone has not received payment for undisputed Charges by the Due Date, Vodafone shall: (i) contact Customer's Accounts Payable Department to request payment; and (ii) be entitled to charge interest on the overdue Charges at the highest rates permitted by applicable law. Where Vodafone has not received payment within 30 calendar days of the Due Date, Vodafone shall be entitled to terminate this Agreement.
- 4.5 Customer shall not be entitled to offset any sums that Vodafone owes to Customer under this Agreement or any other agreement or dispute between the Parties against any sums that Customer owes to Vodafone under this Agreement.
- 4.6 Vodafone may credit assess Customer from time to time as reasonably required to assess Vodafone's risk. Each credit assessment shall entitle Customer to have a credit limit on its Vodafone account (details of which are available on request).

5. Software Licence and Intellectual Property

- 5.1 Use of the Licensed Services shall be subject to the terms of the Online Services Use Rights. If Customer does not accept the terms of the Online Services Use Rights, Customer shall not use, and Vodafone shall not be bound to deliver, the relevant Licensed Service
- 5.2 Customer shall not:
- 5.3.1 Transfer, sub-licence, lend or otherwise make available the Software to any other party;
 - 5.3.2 Modify, adapt, make error corrections or create derivative works based on the Software;
 - 5.3.3 copy, decrypt, or reverse engineer the Software or any part of it, or otherwise convert it from the form in which it was supplied to a form more readily comprehensible by a human provided that where the Customer has the right by law to decompile such Software to obtain information which is necessary to render the Software interoperable with other software and upon written request by Customer providing full information, Vodafone shall at its option provide a software interface to enable such interoperability or such information subject to reasonable conditions including a reasonable fee;
 - 5.3.4 Separate the components of a Licensed Service, or upgrade or downgrade them at different times, except as permitted in this Agreement;
 - 5.3.5 Use Software for any purpose other than using the Licensed Services in accordance with this Agreement and the Online Services Use Rights; or
 - 5.3.6 Use or export the Licensed Services in a manner that is contrary to United States and international export laws and regulations that apply to the Licensed Services. These laws include restrictions on destinations, End Users and end use. Additional information can be found at www.microsoft.com/exporting.
- 5.3 The Intellectual Property Rights that exist in services and Software are owned by Vodafone and Vodafone's licensors. By supplying Customer with Licensed Services or Software, Vodafone is not transferring or assigning ownership of any Intellectual Property Rights in or relating to them to Customer.
- 5.4 Where Vodafone creates Intellectual Property Rights during or as a result of the supply by Vodafone of Licensed Services, Software to Customer, Vodafone shall own all such Intellectual Property Rights.

- 5.5 Customer must not do anything to jeopardise Vodafone or its licensor's Intellectual Property Rights including (i) any of the prohibited acts set out in Clause 5.3; (ii) register or attempt to register any competing Intellectual Property Rights to Vodafone or its licensor's Intellectual Property Rights; (iii) delete or tamper with any proprietary notice on or in Vodafone or its licensor's Intellectual Property Rights; (iv) take any action that diminishes the value of any trade marks included in Vodafone or its Licensor's Intellectual Property Rights; or use any Licensed Services in violation of applicable law.

6 Termination

- 6.1 Each Party shall have the right to terminate this Agreement in whole or in part by giving the other 1 month's written notice of termination.
- 6.2 The Parties shall each have the right to terminate this Agreement with immediate effect (by serving written notice of termination to the other Party):
- 6.2.1 if the other Party becomes subject to an Insolvency Event; or
- 6.2.2 if the other Party is in material breach of any of its obligations under this Agreement (provided that where such breach is capable of remedy, the breaching Party is given 30 days to rectify such breach from the date that notice of any breach is received from the non-infringing Party).
- 6.3 Vodafone shall have the right to terminate the service with immediate effect (by serving written notice of termination to Customer) without liability to the Customer, if for any reason Vodafone is no longer entitled to provide the Licensed Services.
- 6.4 If Vodafone's licensor believes in good faith that Customer is acting in a way that would amount to a breach of the applicable Online Services Use Rights if such Customer had entered into an agreement directly with Vodafone's licensor, Vodafone may be obliged to stop supplying the Licensed Service to Customer, but provide Customer with such prior written notice as is reasonably practicable.
- 6.5 The Parties shall acknowledge, as soon as reasonably possible, the receipt of any notice of termination of this Agreement (in whole or in part) received in writing from the other Party.

7 Consequences of Termination

- 7.1 On termination of this Agreement, Customer shall immediately cease use of the Software.
- 7.2 Customer shall (if requested by Vodafone, delete or destroy all copies of the user documentation which Vodafone has supplied or which Customer has copied, in whatever form and return, delete or destroy all copies of the Software (except Software which is embedded in equipment to which Customer has title) within 7 calendar days of termination of this Agreement or of termination of the relevant Licensed Service, and provide Vodafone with written confirmation that all such copies have been returned, deleted or destroyed.

8 Confidentiality

- 8.1 This Agreement and any information about Licensed Services that is not publicly available, is confidential, and may be disclosed by Customer to Customer's employees only, strictly on a need-to-know basis, unless otherwise agreed in writing with Vodafone.
- 8.2 Vodafone shall be entitled to keep records of Customer information, which Vodafone shall use to perform Vodafone's obligations under this Agreement, and for related purposes.
- 8.3 Customer acknowledges and agrees that Vodafone shall provide Customer's nominated email address to Microsoft, and Microsoft shall be entitled to contact Customer regarding service issues, updates or upgrades, or maintenance issues concerning the Licensed Services.
- 8.4 Vodafone shall only provide Customer's details to Microsoft for Microsoft to use for direct marketing purposes where Customer has consented to such contact.
- 8.5 Vodafone shall be entitled to disclose Customer information as required by any legal, regulatory or financial agency or by court order, to any Vodafone group company or to any third party (some of whom may be outside of the European Union) for the purposes of providing the Licensed Services.

9 Liability

- 9.1 Nothing in this Agreement shall operate to restrict either Party's liability to the other from: death or personal injury resulting from negligent acts or omissions; claims for non-payment; the non-excludable statutory rights of consumers (for example, under laws providing for strict product liability); breaches of any Software license; breach of any obligation of confidence; and any infringement of Vodafone or its licensor's Intellectual Property Rights.
- 9.2 Except for Clause 9.1 above and to the extent not prohibited by law:
- 9.2.1 each Party's maximum aggregate liability for all claims relating to a Licensed Service provided pursuant to this Agreement, whether for breach of contract (including repudiatory breach), breach of warranty or in tort, including negligence, will be limited to 100% of the value of the Charges paid or payable under this Agreement, up to a maximum of £10,000 (ten thousand pounds); and
- 9.2.2 neither Party will be liable for any indirect, punitive, special, incidental or consequential damages in connection with or arising out of the terms of this Agreement nor any direct or indirect loss of business, revenue, profits, goodwill, use, data, or other economic advantage, however they arise, whether in breach of contract (including repudiatory breach), breach of warranty or in tort, including negligence, and even if that Party has previously been advised of the possibility of such damages. Vodafone shall not be liable to Customer if it is unable to provide any of the Licensed Services contemplated by this Agreement due to circumstance outside its reasonable control.
- 9.3 Except for the payment obligations of the Customer, neither Party will be responsible or liable in any way for the failure or delay in the performance of its obligations due to Force Majeure. If a cause relied on by a Party hereunder ceases to exist, the Party will perform or resume performance of its obligations and the time for performance will be extended by a period equal to the duration of the Force Majeure. If Force Majeure persists for a period of more than 30 days, the other Party will be entitled to terminate this Agreement on written notice.
- 9.4 Microsoft is not a party to this Agreement and, to the extent permissible by law, shall not have any liability to Customer, whether for breach of contract (including repudiatory breach), breach of warranty or in tort, including negligence, for any damages, whether direct, indirect, or consequential, arising from the sale or use of the Licensed Services.
- 9.5 Customer acknowledges that by using the Licensed Services, Customer's data will be stored in the cloud owned and operated by Microsoft and not by Vodafone and as such, Vodafone shall have no liability to Customer for any loss or corruption of such data while it is stored by Microsoft.

10 General Provisions

- 10.1 If Customer supplies Vodafone with personal data (for example relating to End Users) Customer shall ensure that it is accurate and up to date when disclosed. Customer shall ensure that Customer has obtained from the individuals concerned all necessary consents under the Data Protection Legislation to both the supply of the data to Vodafone, and the processing of it by Vodafone, for the purposes of performance of this Agreement, supply of the, Licensed Services, for any other services and for direct marketing about Vodafone's similar products and services. Customer shall also ensure that any individual to whom personal data relates has given consent for Vodafone to pass such data back to Customer. Customer shall process all personal data fairly and lawfully, as required by the Data Protection Legislation and shall in particular, if processing personal data on behalf of Vodafone, comply with the Seventh Principle of the Data Protection Act 1998.



- 10.2 Each Party shall comply with its obligations under the Data Protection Legislation. Customer acknowledges that Vodafone retains the role of Data Controller as defined in the Data Protection Act 1998 except in the limited circumstances where Vodafone processes any personal data for and on behalf of Customer.
- 10.3 Vodafone shall be entitled to transfer in whole or in part any of its rights and obligations to any company within Vodafone's Group at any time. Vodafone may use sub-contractors to perform any of its obligations under this Agreement but remains responsible for their performance.
- 10.4 Unless expressly provided in this Agreement, no term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 10.5 All notices served by Customer under this Agreement shall be in writing and sent to the Head of Enterprise Contracts at Vodafone House, The Connection, Newbury, Berkshire RG14 2FN, or any other address Vodafone directs Customer to use from time to time. Vodafone shall send all notices to Customer at Customer's registered office. Notices will be deemed given: where they are hand delivered, when a duly authorised employee or representative of the recipient gives written acknowledgement of receipt; for e-mail communication, at the time the communication enters into the information system of the recipient; for posting, three days after dispatch; and for fax on receipted transmission of the fax.
- 10.6 Neither Party shall lose any right under this Agreement if it fails to use that right, or delays in using it. For a waiver of a right to be valid, it must be written and will not give rise to an ongoing waiver of that right unless it is expressly stated to do so.
- 10.7 Termination of this Agreement or any part thereof, shall be without prejudice to any other rights or remedies a Party may be entitled to at law or under the Agreement and shall not affect any accrued rights or liabilities of either Party nor the coming into force or the continuance in force of any provision of the Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- 10.8 This Agreement is governed by English Law and is subject to the non-exclusive jurisdiction of the English Courts.
- 10.9 Only provisions set out in this Agreement shall apply to Vodafone's supply of Licensed Services to Customer. All other provisions are expressly excluded to the maximum extent permitted by law. The Parties acknowledge that, in entering into this Agreement, neither Party has relied upon any statement or warranty made, or agreed to, by any person, except those expressly set out within this Agreement. However, this shall not be taken to exclude either Party's liability for fraud.
- 10.10 If a misrepresentation or untrue statement has been made, the only remedy available to the Parties shall be a claim for damages for breach of this Agreement, unless such misrepresentation or untrue statement was made fraudulently, or a provision of the Agreement was induced by fraud, in which case all remedies under English Law shall be available.
- 10.11 All headings in this Agreement are there for convenience, and do not have any legal effect. Use of the singular includes the plural and vice versa.
- 10.12 Every provision in this Agreement is independent from the others to the extent that, if a provision, or any part of it, is ruled to be illegal or unenforceable by the English Courts, that provision or the relevant part of it shall be treated as having been deleted from this Agreement, without affecting the remainder of that provision or the other provisions of this Agreement, which shall still have full effect.
- 10.13 If there is a dispute under this Agreement, and Customer's account manager has been unable to resolve the issue to Customer's satisfaction, Customer may escalate the issue to a more senior representative within Vodafone. The Parties shall use the escalation process to its full before taking legal action against the other Party. Escalation routes within Vodafone shall be as follows, Customer shall provide escalation contacts at equivalent levels:
- First: Head of Channel, Enterprise Sales (or if you are managed by a Vodafone Partner, your Vodafone Partner), Second: Sales Director, Enterprise Sales (or if you are managed by a Vodafone Partner, your Vodafone Partner Manager the Head of Indirect Sales, Vodafone Limited), Third: Director of Enterprise, Vodafone Limited (or if you are managed by a Vodafone Partner, the Head of Indirect Sales, Vodafone Limited).

Appendix 1 – Definitions

Access Fee - The monthly or other periodic fee payable by Customer for use of the Licensed Services

Charge - Access Fees, Connection Fees, Software Licence fees, call fees, airtime fees and all other fees payable by Customer for use of the Licensed Services.

Codes of Practice - All guidelines governing use or provision of mobile telecommunications and data services, issued by any generally recognised bodies (such as PhonepayPlus) or that are adopted by Vodafone from time to time, and all instructions, regulations or guidance issued by the Regulatory Authorities, whether or not mandatory.

Customer Information - Information that (a) Customer provides to Vodafone; (b) details of how Customer uses Licensed Services, including information relating to the volume and types of calls made, details of charges paid & other financial information; or (c) details of how Customer has performed in meeting the obligations under this Agreement and other information relating to this Agreement

Data Protection Legislation - The Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003, any amendments or replacements to them, and any other legislation implementing Directives 95/46/EC and 2002/58/EC

End User - A person using a Licensed Service, who is an employee or contractor of Customer.

Force Majeure - Any cause beyond a party's reasonable control including without limitation, acts of God, war, fire, flood or other accident, strike, lockouts, delays in transport, material shortages, failures or fluctuations in electric power or telecommunications services or equipment, restrictions or prohibitions of any government or semi-government authority.

Insolvency Event - An event where a Party either ceases or threatens to cease conducting its business in the normal manner; or is treated as being insolvent, or threatens or is in jeopardy of becoming insolvent because it: (a) is unable to pay its debts (within the meaning of Section 123 of the Insolvency Act 1986); or (b) makes or offers to make any arrangement or composition with any one or more of its creditors; or (c) commits any act of bankruptcy or if any petition or receiving order in bankruptcy is presented or made against it; or (d) any resolution or petition to wind up it up (being a limited company) is issued or passed or presented otherwise than for reconstruction or amalgamation; or (e) has had a receiver, administrator or liquidator appointed to it.

Intellectual Property Rights - Patents, design rights, trade marks, copyrights (including any such rights in typographical arrangements, websites or software), rights subsisting in trading, business or domain names and e-mail addresses, rights in inventions, rights in databases and all other intellectual property rights of a similar or corresponding character which subsist now or in the future in any part of the world whether registered or not and whether or not capable of registration, and any applications to register or rights to apply for registration of any of the foregoing in all parts of the world.

Licensed Service – The service(s) that Vodafone makes available to Customer under this Agreement, including Exchange Hosted Services, Exchange Online, Office Communications Online, Office Live Meeting, and Office SharePoint Online, such list being subject to change from time to time.

Online Services Use Rights – Microsoft's current terms of service under which Vodafone provides the applicable Licensed Service to Customer <https://www.microsoftvolumeicensing.com%2FDownloader.aspx%3FDocumentId%3D6799&ei=UW6oUp6YK4mUhQey94DwDw&usq=AFQjCNHmu9-sXtcJCG5Qbrfmh-w0Im7voA&sig2=6ly99-slv9t7DCdaZ62rUQ&bvm=bv.57799294,d.ZG4>

Party – a party to this agreement being the Customer and Vodafone.

Regulatory Authorities - OFCOM, the Office of Fair Trading, the Competition Commission, the Information Commissioner, the Advertising Standards Authority, or any similar authority established from time to time

Software - A machine executable computer program, software module or software package or any part thereof (in object code only), supplied by Vodafone or its licensors to Customer irrespective of how it is stored or executed.

Software Licence - The terms and conditions that prescribe how Customer shall use Software and set out the rights of the Software owner/licensor and the Software user in relation to such Software

Standard List Price(s) – Vodafone's standard unsubsidised Charges for business services as advised to Customer by Vodafone and/or as made available on request by Vodafone (as amended by Vodafone from time to time)

Vodafone's Group - Vodafone Group Plc and any company in which Vodafone Group Plc holds, directly or indirectly, 50% or more of its issued share capital or has the right to exercise, directly or indirectly 50% or more of the voting rights.