



Vodafone Cloud Services Marketplace

Microsoft Product Content Terms

1. About these Microsoft Product Content Terms

1.1 These Microsoft Product Content Terms will apply to each Order for Microsoft Services. The Order/Commercial Terms, the Content Terms (as defined below), the Vodafone Cloud Services Marketplace General Terms and the AUP together form Vodafone's contract with Customer and apply in decreasing order of precedence (together the "Agreement").

1.2 The Microsoft Cloud Agreement, the Microsoft Online Services Terms and these Microsoft Product Content Terms are together "Content Terms" as referred to in clause 1.1 above and in the Vodafone Cloud Services Marketplace General Terms, and apply in decreasing order of precedence.

1.3 In these Microsoft Product Content Terms, capitalised words are given specific meanings which are set out in Clause 8. Capitalised words which are not defined in Clause 8 are defined in the Vodafone Cloud Services Marketplace General Terms.

2. Installation and Availability of the Microsoft Services

2.1 Vodafone shall use reasonable endeavours to provide Customer with the Microsoft Services; however Vodafone cannot guarantee that the service will be fault-free.

2.2 Vodafone may suspend the Microsoft Services: (i) in order to carry out maintenance or testing; (ii) when it is necessary to safeguard the security and integrity of the Microsoft Services or to reduce the incidence of fraud.

3. Customer's use of the Microsoft Services

3.1 Customer may supply the Microsoft Services to End Users, but not to any other party. Customer shall ensure the compliance of End Users with these Microsoft Product Content Terms, all applicable laws and Codes of Practice.

3.2 Customer shall not use any Microsoft 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 Microsoft 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-installment of the Microsoft Services 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 in respect of the suspended Microsoft Services.

4. The Microsoft Cloud Agreement; Microsoft's Online Services Terms; Software Licence; and Intellectual Property

4.1 Microsoft Services are supplied to Customer upon and subject to the terms set out or referred to in the Microsoft Cloud Agreement and the Microsoft Online Services Terms, both of which constitute direct contractual obligations between Microsoft and Customer.

4.2 If Customer does not accept the terms of the Microsoft Cloud Agreement and the Microsoft Online Services Terms, Customer shall not use, and Vodafone shall not be bound to procure the delivery of, the relevant Microsoft Services.

4.3 Customer shall not:

- (a) transfer, sub-licence, lend or otherwise make available the Microsoft Services or Software to any other party;
- (b) modify, adapt, make error corrections or create derivative works based on the Microsoft Services or Software;
- (c) copy, decrypt, or reverse engineer the Microsoft Services or Software or any part of them, or otherwise convert them from the form in which they are supplied to a form more readily comprehensible by a human provided that where the Customer has the right by law to decompile such Microsoft Services or Software to obtain information which is necessary to render the Microsoft Services or 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;
- (d) separate the components of Microsoft Services, or upgrade or downgrade them at different times, except as permitted under these Microsoft Product Content Terms;

(e) use Software for any purpose other than using the Microsoft Services in accordance with these Microsoft Product Content Terms, the Microsoft Cloud Agreement and the Microsoft Online Services Terms; or

(f) use or export the Microsoft Services in a manner that is contrary to United States and international export laws and regulations that apply to the Microsoft Services. These laws include restrictions on destinations, End Users and end use. Additional information can be found at www.microsoft.com/exporting.

4.4 The Intellectual Property Rights that exist in Microsoft Services and Software are owned by Vodafone, Microsoft and their respective licensors. By supplying Customer with Microsoft Services or Software, neither Vodafone nor Microsoft is transferring or assigning ownership of any Intellectual Property Rights in or relating to them to Customer.

4.5 Where Vodafone or Microsoft create Intellectual Property Rights during or as a result of the supply of Microsoft Services or Software to Customer, Vodafone or Microsoft as applicable shall own all such Intellectual Property Rights.

4.6 Customer must not do anything to jeopardise Vodafone's or Microsoft's Intellectual Property Rights or those of any of their licensors including (i) any of the prohibited acts set out in Clause 4.3; (ii) register or attempt to register any competing Intellectual Property Rights to those of Vodafone, Microsoft or their licensors; (iii) delete or tamper with any proprietary notice on or in Vodafone's or Microsoft's Intellectual Property Rights or those of any of their licensors; (iv) take any action that diminishes the value of any trade marks included in Vodafone's or Microsoft's Intellectual Property Rights or those of any of their licensors; or use any Microsoft Services in violation of applicable law.

5. Consequences of Termination

5.1 Customer shall (if requested by Vodafone), delete or destroy all copies of the user documentation which Vodafone or Microsoft 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 the Order or of termination of the relevant Microsoft Services, and provide Vodafone and/or Microsoft with written confirmation that all such copies have been returned, deleted or destroyed.

6. Liability

6.1 Customer acknowledges that by using the Microsoft 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.

7. General Terms

7.1 If Customer supplies Vodafone or Microsoft 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 Microsoft, and the processing of it by Vodafone and Microsoft, for the purposes of performance of any Order for the supply of Microsoft 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 and Microsoft 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 or Microsoft, comply with the Seventh Principle of the Data Protection Act 1998.

7.2 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.

7.3 Microsoft and Customer shall be directly responsible to each other for the performance of their respective obligations under the Microsoft Cloud Agreement and the Microsoft Online Services Terms.

7.4 Neither Party shall lose any right under any Order 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.

7.5 Termination of any Order or the supply of Microsoft Services, 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 relevant Order(s) and shall not affect any accrued rights or liabilities of either Party nor the coming into force or the continuance in force of any



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provision of these Microsoft Product Content Terms which is expressly or by implication intended to come into or continue in force on or after such termination.

7.6 Only provisions set out or referred to in these Microsoft Product Content Terms shall apply to the supply of Microsoft Services to Customer. All other provisions are expressly excluded to the maximum extent permitted by law. The Parties acknowledge that, in entering into an Order, neither Party has relied upon any statement or warranty made, or agreed to, by any person, except those expressly set out in the Order and set out or referred to in these Microsoft Product Content Terms. However, this shall not be taken to exclude either Party's liability for fraud.

7.7 If a misrepresentation or untrue statement has been made, the only remedy available to the Parties shall be a claim for damages, unless such misrepresentation or untrue statement was made fraudulently, or an Order or a provision of an Order was induced by fraud, in which case all remedies under English Law shall be available.

7.8 All headings in these Microsoft Product Content Terms are for convenience, and do not have any legal effect. Use of the singular includes the plural and vice versa.

7.9 Every provision in these Microsoft Product Content Terms 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 these Microsoft Product Content Terms, without affecting the remainder of that provision or the other provisions of these Microsoft Product Content Terms, which shall still have full effect.

7.10 If there is a dispute under any Order, 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:

- (a) First: Head of Channel, Enterprise Sales (or if you are managed by a Vodafone Partner, your Vodafone Partner),
- (b) 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),
- (c) Third: Director of Enterprise, Vodafone Limited (or if you are managed by a Vodafone Partner, the Head of Indirect Sales, Vodafone Limited).

8. Definitions

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

Charge - Access Fees, Connection Fees, Software Licence fees, call fees, airtime fees and all other fees payable by Customer for use of the Microsoft 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 and Microsoft; (b) details of how Customer uses Microsoft 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 an Order and other information relating to any Order.

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 - An employee or contractor of Customer using Microsoft Services.

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, trademarks, 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.

Microsoft - Microsoft Corporation One Microsoft Way, Redmond WA, USA 98052.

Microsoft Cloud Agreement - Microsoft's agreement of that name under which it agrees to supply Microsoft Services to Customer when Customer agrees to accept the supply of Microsoft Services by placing an Order with Vodafone.

Microsoft Online Services Terms - Microsoft's current terms of service for the provision of Microsoft Services to Customer - <http://www.microsoftvolumelicensing.com/DocumentSearch.aspx?Mode=3&DocumentTypeId=46> (this link may need to be copied into a web browser).

Microsoft Services - The Microsoft services and content made available by Vodafone on the Vodafone Cloud Services Marketplace pursuant to the Content Terms, including Exchange Online, SharePoint Online, Skype for Business Online, Yammer, Office Applications and Azure Active Directory Premium P1 & P2, such list being subject to change from time to time.

Order - An order placed by Customer in a format prescribed by Vodafone, and accepted by Vodafone, for the supply of Microsoft Services.

Party - the Customer or Vodafone, as applicable.

Regulatory Authorities - OFCOM, the Competition and Markets Authority, 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 Cloud Services Marketplace General Terms - Vodafone's current terms and conditions for the provision of the Vodafone Cloud Services Marketplace to Customer.

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.