

# Terms of Use and Licensing Terms for Microsoft Office 365



## 1. General

1.1 This Agreement, upon acceptance by you (the 'End User'), which acceptance shall be indicated by signature or other recorded End User confirmation, forms a legally binding agreement between the End User and Mauritius Telecom Ltd ('MT') that governs the provisions of the Online Services.

1.2 This Terms and Conditions will apply to any and all orders placed by you via Office 365 Order Form (an "Order"). MT acceptance of an Order is subject to and expressly conditioned on your assent to these Terms and Conditions, the Order and any other written agreements executed by MT and you that reference or are executed pursuant to these Terms and Conditions.

1.3 The End User agrees that while the provisions of this Agreement create enforceable legal rights and obligations between you and MT, such rights may be capable of enforcement by Microsoft and Microsoft Affiliates in their own right as if they were a direct party to this Agreement.

## 2. Definitions

In this Agreement the following definitions shall apply:

|                                        |                                                                                                                                                                                                                             |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Affiliate</b>                       | means any legal entity that owns, is owned by, or that is under common ownership with Company or Microsoft. Ownership means control of more than a 50% interest;                                                            |
| <b>You/Your/End User</b>               | shall have the meaning set forth in Section 1.1 of this Agreement;                                                                                                                                                          |
| <b>MT/We</b>                           | means Mauritius Telecom Ltd                                                                                                                                                                                                 |
| <b>You/Your/Customer/End User Data</b> | means all data, including all text, sound, video or image files and software that are provided to us by, or on behalf of, you through your use of the Office 365 Online Service;                                            |
| <b>End User Documentation</b>          | means any manuals, instructions, guides or other analogous documents regardless of format provided or made available to You by either MT or Microsoft from time to time regarding the services described in this Agreement; |
| <b>Hardware</b>                        | means any hardware, tools, equipment and other tangible property (including laptop and desktop computers, mobile                                                                                                            |

# Terms of Use and Licensing Terms for Microsoft Office 365



|                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                              | telephony, personal digital assistance devices and data network components) and physical IT infrastructure owned or leased by You and used in connection with services described in this Agreement;                                                                                                                                                                                                                                        |
| <b>IPR</b>                                                   | means all (i) patents, designs, trademarks and trade names (whether registered or unregistered), copyright and related rights, moral rights, database rights, know-how and confidential information; (ii) all other intellectual property rights and similar or equivalent rights anywhere in the world which currently exist or are recognized in the future; and (iii) applications, extensions and renewals related to any such rights; |
| <b>Microsoft</b>                                             | means Microsoft Corporation;                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Online Service/<br/>Microsoft/ Office 365<br/>Service</b> | shall mean the provision by MT of Microsoft/ Office 365 and also includes any associated services;                                                                                                                                                                                                                                                                                                                                         |
| <b>Subscription Terms</b>                                    | means the schedule of charges detailing the cost of the provision of the services described in this Agreement to You;                                                                                                                                                                                                                                                                                                                      |
| <b>Subscription Terms and<br/>Conditions</b>                 | means any terms and conditions described in the Subscription Terms;                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Service</b>                                               | means the provision of the Product for the duration of the subscription period and which may include value added services;                                                                                                                                                                                                                                                                                                                 |
| <b>Tariff sheet</b>                                          | means the charges for the Installation or migration and training as agreed between the End User and MT and set out in the relevant order forms;                                                                                                                                                                                                                                                                                            |
| <b>Order Form</b>                                            | means the form detailing an order which is incorporated into and becomes a part of this Agreement;                                                                                                                                                                                                                                                                                                                                         |
| <b>Subscription Charges</b>                                  | means the charges payable by You for access to and use of the Online Service as set forth in the Subscription Terms;                                                                                                                                                                                                                                                                                                                       |
| <b>Subscription Period</b>                                   | means the period during which MT shall provide the Online Services and during which You are permitted to access and use the Online Service.                                                                                                                                                                                                                                                                                                |
| <b>SL</b>                                                    | means subscription license;                                                                                                                                                                                                                                                                                                                                                                                                                |

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**Social Content** means publicly available content collected from the social media networks, such as Twitter, Facebook, YouTube, and data indexing or data aggregation services. Social Content may contain personally identifiable information in response to your search queries. Social Content is not End User Data.

## 3. License Grant

**3.1 General.** License grants are subject to your obligation to pay and your compliance with this agreement and any additional product or service use terms associated with this agreement. A License is non-exclusive, non-perpetual (unless specifically allowed), and is not transferable (unless specifically allowed). The ability to use Licensed Software may be affected by minimum system requirements or other factors. MT reserves all rights not expressly granted (and no other rights will arise by implication, estoppel, exhaustion, or otherwise).

**3.2 Limitations on use.** Licensed Software is licensed to you. You have no right to:

- a) reverse engineer, decompile, or disassemble any Licensed Software, except where applicable law permits it despite this limitation;
- b) rent, lease, lend, resell, or host to or for third parties any Licensed Software, except as may be expressly permitted for a given Licensed Software in the product use terms;
- c) separate and use the components of Licensed Software on two or more computers, upgrade or downgrade components at different times, or transfer components separately, except as may be expressly permitted in the product use terms; or
- d) modify or create derivative works of the Licensed Software.

## 4. General Terms

You may access and use the Office 365 service as described below.

These license terms apply to Your use of all Microsoft software and Online Services licensed to You under this Agreement.

**4.1.1 End User Rights.** By complying with this Agreement, You may use the Online Services only as expressly permitted by this Agreement.

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**4.1.2 Third Party Programs.** If other terms come with a program licensed by a third party, those terms apply to the End User's use of it.

**4.1.3 Other Rights.** Rights to access the software on any device do not give You any right to implement Microsoft patents or other Microsoft IPR in software or devices that access that device.

**4.1.4 Additional Functionality.** Microsoft may provide additional functionality for the products. Other license terms and fees may apply.

**4.1.5 Data Transfer Notices - Internet Based Services.** Microsoft may provide Internet based services with the products. It may change or cancel the services at any time. You may not use these Internet based services in any way that could harm them or impair anyone else's use of them. You may not use the services to try to gain unauthorized access to any service, data, account or network by any means.

**a. Consent for Data Transfer through Internet Based Services.** The Internet Based Services Notices document identifies software features that connect to Microsoft or service provider computer systems over the Internet. It also identifies the products in which they are found. Some features appear in more than one product. In some cases, You will not receive a separate notice when one of these features connects. You may switch off these features or not use them. By using these features, You consent to the transmission of this information. Microsoft does not use the information to identify or contact You.

**b. Computer Information.** The features use Internet protocols, which send the appropriate systems computer information, such as Your Internet protocol address, the type of operating system, browser and name and version of the software You are using, and the language code of the device where You installed the software. Microsoft uses this information only to make the Internet based services available to You.

**c. Use of Information.** Microsoft may use the computer information, accelerator information, search suggestions information, error reports, Malware reports and URL filtering reports to improve its software and services.

**d. Misuse of Internet based Services.** You may not use these services in any way that could harm them or impair anyone else's use of them. You may not use the services to try to gain unauthorized access to any service, data, account or network by any means.

**4.1.6 Using Multiple Products or Functionality Together.** A separate license is required for each product and each separately licensed functionality used on a device or by a user. For example, You use Office Windows; You will need a license for both

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Office and Windows. Sometimes referred to as “multiplexing” or “pooling”), does not reduce the number of licenses of any type that You require.

## 5. Additional Terms

**5.1 License Terms Updates.** Microsoft may update these License terms from time to time. Changes to these license terms that we either introduce with updates or supplements or are required by law to make, that do not materially affect Your use of the online service will apply immediately. We will endeavor to notify You of updates at least 30 days before they are generally effective. You agree to the new terms by using the online service after we publish them in these Online Services use rights or send You an email notice about the updates.

**5.2 Online Service Updates.** Microsoft may modify the functionality or features or release a new version of the Online Service and software from time-to-time. After an update, some previously available functionality or features may change or no longer be available. If we update the Online Service or software and You do not use the updated Online Service or software, some features may not be available to You and Your use of the Online Service and software may be interrupted.

## 5.3 Suspension of Office 365 Service

### 5.3.1 Online Services Suspension.

MT may suspend an Online Service in whole or in part in the following circumstances:

- a) if we believe that Your use of the of Online Services represents a direct or indirect threat to our network function or integrity or anyone else’s use of the Online Service;
- b) if reasonably necessary to prevent unauthorized access to Customer Data; or to the extent necessary to comply with legal requirements; or
- c) if You do not abide by the Scope of Use section (Clause 9) or violate other terms of the Agreement.

**5.3.2 Our suspension promise.** Any suspension of an Online Service pursuant to this section shall apply to the minimum necessary portion of the Online Service and will only be in effect for as long as reasonably necessary to address the issues giving rise to the suspension.

**5.3.3 Notice of suspension.** We will provide advance notice before suspending an Online Service, except where we reasonably believe an immediate suspension is required. We will provide at least 30 days’ notice before suspending an Online Service for non-payment.

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**5.3.4 Our right to terminate the Online Service.** If You do not fully address the reasons for the suspension within 60 days after we suspend Your Online Service, we may terminate Your Subscription and reserve the right to delete Your Customer Data without any retention period.

## 6. Online Service Expiration or Termination

Upon expiration or termination of Your Online Service subscription, You must contact MT and tell us whether to:

- i. Disable Your account and then delete Your customer data; or
  - ii. Retain Your customer data stored in the Online Service in a limited function account for at least 90 days after expiration or termination of Your subscription (the “retention period”) so that You may extract the data.
- ☐ If You indicates option (i), You will not be able to extract Your Data from the End User account. If You indicates option (ii), You will reimburse MT for any applicable costs. If You does not indicate (i) or (ii), MT will retain the End User Data in accordance with (ii).
- ☐ Following the expiration of the retention period, we will disable Your account and then delete Your customer data. Cached or back-up copies will be purged within 30 days of the end of the retention period.
- ☐ The online service may not support retention or extraction of software provided by customer for use in the Online Service.

**6.1 No Liability for Deletion of Customer Data.** You agree that, other than as described in these terms, we have no obligation to continue to hold, export or return Your customer data. You agree that we have no liability whatsoever for deletion of Your customer data pursuant to these terms.

**6.2 Availability of Online Service.** Availability of the Online Service, some of its functionality and language versions vary by country. You may only use the Online Service, or certain functionality of the Online Service, as is made available in Your location.

**6.3 Responsibility for End User Accounts.** You are responsible for Your passwords, if any and all activity with Your Online Service accounts including that of users You provision and dealings with third parties that take place through Your account or associated accounts. You must keep Your accounts and passwords confidential. You must tell MT immediately about any possible misuse of Your accounts or any security incident related to the Online Service.

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**6.4 Use of Software with the Online Service.** You may need to install certain Microsoft software in order to sign into and use the Online Services. If so, the following terms apply:

**6.4.1 Microsoft Software License Terms** right to use the software ends when Your right to use the Online Service terminates or expires, or when we update the Online Service and it no longer supports the software, whichever comes first. You must uninstall the software when Your right to use it ends. We may also disable it at that time.

**6.4.2 Automatic Updates for Microsoft Software.** From time to time, We may check Your version of the software and recommend or download updates to Your devices. You may not receive notice when We download the update.

**6.5 Use of other Web Sites and Services.** You may need to use certain Microsoft web sites or services to access and use the Online Services. If so, the terms of use associated with those web sites or services, as applicable, apply to Your use of them.

**6.6 Third Party Content and Services.** We are not responsible for any third party content You access directly or indirectly via the online service. You are responsible for Your dealings with any third party (including advertisers) related to the online service (including the delivery of any payment for goods and services).

**6.7 No High Risk Use.** The Online Service is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted. Neither you nor your end users have the right to use the Online Service in any application or situation where the Online Service's failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use"). High Risk Use does not include utilization of the Online Service 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-controlling 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 and hold harmless Microsoft from any third-party claim arising out of the use of the Online Service in connection with any High Risk Use.

**6.8 Your Customer Data.** You may be able to submit customer data for use in connection with the Online Service. "Customer data" are all data, including all text, sound, or image files and software that are provided to MT by, or on behalf of, You through Your use of the Online Service. When You submit customer data for use with any Online Service that enables communication or collaboration with third parties.

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**6.9 Ownership of customer data.** As between the parties, You retain all right, title and interest in and to customer data. MT acquire no rights in and to customer data. MT acquire no rights in customer data, other than the rights You grant to us for the applicable online service. This does not apply to software or services MT license to You.

**6.10 Privacy.** Personal Data collected through the Online Service may be transferred, stored and processed in the United States or any other country in which Microsoft or its services providers maintain facilities. This includes any personal data You collect using the service. By using this Online Service, You consent to transfer of personal data outside of Republic of Mauritius. You also agree to obtain sufficient authorization from persons providing personal data to You, to:

- (i) Transfer that data to Microsoft and its agents, and
- (ii) Permit its transfer, storage and processing.

## **7. MT Use of Customer Data**

**7.1** MT undertake to act in full compliance with provisions of Data Protection Act 2017 (as amended, extended or replaced from time to time).

**7.2** Customer data will be used only to provide You the Online Service. This may include troubleshooting aimed at preventing, detecting and repairing problems affecting the operation of the Online Service and the improvement of features that involve the detection of, and protection against, emerging and evolving threats to the uses (such as malware or spam).

**7.3** We will not disclose customer data to a third party except as You direct or unless required by law. Should a third party contact us with a demand for customer data, MT will attempt to redirect the third party to request it directly from You. If compelled to disclose customer data to an enforcement third party, MT will use commercially reasonable efforts to notify You in advance of a disclosure unless legally prohibited. You are responsible for responding to requests by a third party regarding Your use of the Online Service.

**7.4** For avoidance of doubt Your Data held within the Online Service shall not be accessed or used by MT, Microsoft or any other third party and shall be accessed by You only.

## **8. Security of Customer Data**

We will implement reasonable and appropriate technical and organizational measures, as described in the security overview applicable to the Online Service to help secure your

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Customer Data processed or accessed by the Online Service against accidental or unlawful loss, access, or disclosure. You agree that these measures are:

- a) our only responsibility with respect to the security and handling of Customer Data; and
- b) in place of any confidentiality obligation contained in your volume licensing agreement or any other non-disclosure or confidentiality agreement.

## 9. Scope of Use

You may not:

- a) Use the Online Service in a way that is prohibited by any law, regulation or governmental order or decree in any relevant jurisdiction, or that violates others' legal rights;
- b) Use the Online Service in a way that could harm it or impair anyone else's use of it;
- c) Use the Online Service to try to gain unauthorized access to any service data, account or network by any means;
- d) Falsify any protocol or email header information ("spoofing");
- e) Use the online service to send "spam" (i.e. unsolicited bulk messages), to distribute malware or other make available any offering designed to violate these terms (e.g., denial of service attacks, etc.); or
- f) Remove, modify, or tamper with any regulatory or legal notice or link that is incorporated into the online service.

**9.1 Electronic Notices.** MT may provide You with information about the Online Service in electronic form. It may be via email to the address You provide when You sign up for the Online Service. Notice via email is given as of the transmission date. As long as You use the Online Service, You have the software and hardware needed to receive these notices. You may not use the online service if You do not agree to receive these electronic notices.

## 10. Warranties

It is hereby expressly agreed and acknowledged by MT and You that:

**MT MAKE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY**

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WITH RESPECT TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, QUALITY, OPERATION, THE MERCHANTABILITY OR FITNESS OF THE ONLINE SERVICES FOR A PARTICULAR PURPOSE, OR ISSUES REGARDING IPR INFRINGEMENT, TITLE AND THE LIKE;

You hereby waive to the maximum extent permitted by law any rights and remedies conferred upon You under any relevant legislation, and those rights now or hereafter conferred by statute or otherwise;

You hereby further agree that: (a) any implied warranties, guarantees or conditions not able to be disclaimed as a matter of law will last for one year from the start of the limited warranty; and (b) the warranties do not cover problems caused by accident, abuse or use of the Online Services or Software in a manner that is inconsistent with Your Agreement or resulting from events beyond MT's reasonable control

(i) MT shall not be deemed to have made, be bound by or liable for, any representation, warranty or promise made by Microsoft in respect of the Online Services;

(ii) MT shall not be liable for any failure of the Online Services or any delay in the availability thereof; and

(iii) You shall be fully and solely responsible for satisfying Yourself that the Online Service is fit for Your purposes and neither MT nor Microsoft provide any representations or warranties in this regard.

(iv) You acknowledge that Microsoft may at any time do the following:

- a. Modify all or part of an Online Service, including adding new features or functionality to, or removing existing features or functionality;
- b. In the event of Microsoft issuing a new release of all or part of the Online Services, migrate You to such new release at any time subject to the terms and conditions of this Agreement;
- c. Release a new version of the Online Services or part of it.

## **11. Subscription charges and Billing Arrangements**

**11.1** The detailed description of Subscription Charges payable by You to MT for the services as provided in the Order Form.

**11.2** You acknowledge that the Subscription Charges may be amended by MT by giving You not less than thirty (30) days' notice.

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11.3 Charges payable by You shall be as agreed in Tariff sheet.

11.4 Charges for any third party installation shall be payable by You.

11.5 MT shall submit an invoice to You monthly in arrears in respect of Subscription Charges due to relevant period. MT reserve the right to alter payment in advance at any time and to determine in its sole discretion the format an invoice shall be submitted in, including but not limited to electronic format.

11.6 You hereby agree to pay the Subscription Charges and other charges (if any) in full without any deduction to MT within 15 days of the date of invoice.

11.7 Without prejudice to any other rights of MT, in the event of You failing to pay any sums due pursuant to this Agreement on time or at all notwithstanding notification by MT of the overdue debt to You, MT shall be entitled to:

- (i) Charge interest of 10% on amounts overdue from You, from due date until the payment is actually made;
- (ii) Suspend the provision of the Online Services, and/or disconnect the Online Services until such time as all payments due including all interest accrued have been paid and satisfied in full;
- (iii) Terminate this Agreement forthwith.

MT reserves the right, at its discretion, to waive any surcharge in certain cases including faulty billing system or billing error.

11.8 The Online Service is provided by MT to You as part of an Online Service bundle. Where Your MT account is terminated or suspended for any reason (either by MT or You), the Online Service shall be suspended forthwith and the provisions of Clause 6 shall apply. Subject to the provisions of clause 6 and discharge by You of all sums due to MT in respect of the terminated or suspended account You may by notice in writing request that the Online Services be charged to another account which is held in its name with MT and thereafter have its Online Services resumed. Mt reserves sole and exclusive discretion whether to accept such a request.

## 12. Your Obligations

You agree throughout the Subscription Period that You will:

□ pay all amounts due to MT under this Agreement;

□ comply with all relevant laws related to Your use of the services; and

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Use the licensed software and services in compliance with the terms of this Agreement and any User Guide or other instructions of MT or Microsoft and You will not copy, reverse engineer or modify any software made available as part of any of the services in any way.

12.1 You represent and warrant that You have all of the necessary rights and authorizations to use to all data, software programs and services that You use in connection with Your access to or use of the Applications and the Online Service, and that such activities do not infringe the intellectual property or other proprietary rights of any third party. You agree to indemnify and hold harmless MT and Microsoft from and against any and all claims, costs, expenses, damages, liabilities and legal fees that MT and Microsoft may suffer or incur as a result of any dispute that may arise , any way whatsoever, in connection with any breach of this Clause.

12.2 You warrant and represent that it shall access and use the services:

- (a) Without violating the rights of any third party or purporting to subject Microsoft or MT to any obligations with any third party, and
- (b) Solely in a manner that complies with all applicable laws and regulations.

## 13. MT's Obligations

13.1 MT will provide the Online Services in accordance with the terms and conditions of this Agreement .

13.2 MT will provide necessary log in details as are required to enable You to access and use the Online Services.

13.3 During the Subscription Period, MT will provide customer support services to You in relation to all technical support queries up to a level at which MT advises You that the issue has been escalated to Microsoft directly.

## 14. Subscription Term

14.1.1 The Service including the subscription plan opted in the Order Form by the Customer shall be provided with a minimum subscription period of twelve (12) calendar months ("Initial Term") effective as from subscription start date ("Start Date"), as stipulated by MT on Customer's Order Form. For the avoidance of doubt, all the licences opted in the Order Form constitute as part of the Service and cannot be cancelled, removed and/or decreased without incurring penalty charges.

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14.1.2 After the Initial Term, this Agreement shall automatically renew for successive periods of one (1) year ("Renewal Term") on the same terms and conditions.

## 14.2 Earlier Termination during Initial Term

14.2.1 In the event the Customer provides written notice of termination anytime during the Initial Term, then the Customer shall be liable to pay MT a penalty fee to be determined by MT unless the notice of termination is given in writing one month before the expiry date of the Initial Term.

## 14.3 Earlier Termination during Renewal Term(s)

14.3.1 In the event the Customer provides written notice of termination anytime during the Renewal Term, then the Customer shall be liable to pay MT a penalty fee to be determined by MT unless the notice of termination is given in writing one month before the expiry date of the then current Renewal Term.

## 15. Termination

MT may terminate this Agreement immediately and without prior notice if You fail to comply with any term or condition of this AGREEMENT or if MT does not receive timely payment for the licenses to the Software or for the hardware to which it is attached, if any. In addition, MT may terminate any license to Software distributed for free at any time in its sole discretion. Either party may terminate this AGREEMENT at any time by providing at least ninety (90) days prior written notice to the other party. In the event of termination of this AGREEMENT, all licenses granted hereunder shall automatically terminate and You must immediately cease use of the Software and return or destroy all copies of the Software. The parties recognize and agree that there are certain obligations which by their nature are meant to survive, as well as obligations for payment, and all such terms shall survive the cancellation, termination, and/or expiration of this AGREEMENT, and/or the licenses granted hereunder.

(i) You may terminate this Agreement by giving notice to MT or online and such termination will take effect at the expiration of the then current billing period during which notice of termination is received.

(ii) On termination or suspension for any reason the provisions of this Agreement related to Online Service Expiration or Termination shall apply.

(iii) You shall not be entitled to any refund of any prepaid Subscription Charges for the unexpired remainder of the subscription period for any reason.

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(iv) MT may terminate this Agreement immediately: (i) if You fail to pay the Subscription Charges) by the due date; (ii) if the Agreement between MT and Microsoft is terminated; (iii) if there are reasonable grounds to believe that You are misusing the services in any way; or using the services in a manner which is in breach of this Agreement or illegal; and/or (iv) for any reason, without cause, by providing You at least thirty (30) days advance written notice.

## **16. Suspension**

MT may suspend or restrict the provision of services under this Agreement, if: (a) You fail to pay the Subscription Charges and by the due date and the provisions of this Agreement related to non-payment and termination or suspension shall apply; (b) there is an emergency, or if there are reasonable grounds to that there is a threat or risk to the security or integrity of the Online Services or the Online Service; (c) You breach this Agreement; or (d) in accordance with any other provisions of this Agreement which allow for suspension of the services.

16.1 During a suspension period, You will have limited or no access to the Online Services except for the purposes of retrieving End User Data in accordance with the provisions of this Agreement related to termination or suspension. You acknowledge that neither Microsoft nor MT will be liable in any manner whatsoever to You where Microsoft or MT has suspended or terminated Your access to and use of the Online Services in accordance with the terms of this Agreement.

16.2 You shall not be relieved of the obligation to pay the Subscription Charges due notwithstanding the suspension or termination of the provisions of the services described in this Agreement up to the date of termination.

16.3 Microsoft may terminate or suspend the Online Services if it believes in good faith that You are misusing the Service. Microsoft may, at Microsoft's sole discretion, terminate or suspend Your subscription and the provisions of this Agreement relations suspension or termination shall apply. You acknowledge that Microsoft will have no liability to You in connection with terminating or suspending the Online Services.

16.4 MT shall endeavor to provide advance notice to You of any suspension or termination of the services described in this Agreement but shall not be required to do so.

## **17. Retrieval of Your Data.**

Upon termination, suspension or expiration of this Agreement for any reason the provisions of this Agreement related to Online Service Expiration or Termination shall apply. You shall

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be fully and solely responsible for contacting MT in the manner described in the Section on Online Service Expiration or termination. Neither MT nor Microsoft shall be liable to You for any cost, claim, loss, liability, expense or damage incurred directly or indirectly or any way whatsoever in the event that Your data is deleted due to Your failure to comply with the provisions of this Agreement related to Section 6.0(d) (“Online Service Expiration or Termination”).

## 18. Intellectual Property

18.1 You acknowledge that nothing in this Agreement, or elsewhere in this commercial arrangement, will be deemed to or require MT to transfer, assign or license any IPR to You.

18.2 You will not be entitled to use in the course of trade or otherwise in relation to any goods or Your services any registered or unregistered trademark, logotype or abbreviation of the name of MT/Microsoft or any part of MT so that any person might reasonably import a connection between those goods or services and MT or any part of MT.

18.3 The provision of the Online Services to You do not grant You any right, title, interest or license in or to any of Microsoft’s IPR.

## 19. Limitation of Liability.

SUBJECT TO THE PROVISIONS OF THIS AGREEMENT RELATED TO YOUR OBLIGATIONS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THE PROVISION OF THE SERVICES OR SOFTWARE DESCRIBED IN THIS AGREEMENT IN CONTRACT OR TORT OR OTHERWISE FOR ANY LOSS (WHETHER DIRECT OR INDIRECT) OF PROFITS, BUSINESS, REVENUE, ANTICIPATED SAVINGS, GOODWILL OR ANY LOSS OR CORRUPTION OF DATA OR FOR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE WHATSOEVER.

NOTHING IN THIS AGREEMENT SHALL EXCLUDE OR RESTRICT THE LIABILITY OF EITHER PARTY FOR: (A) DEATH OR PERSONAL INJURY RESULTING FROM THAT PARTY’S NEGLIGENCE; OR (B) CLAIMS RELATED TO YOUR OBLIGATIONS UNDER SECTION 12.

MT SHALL NOT BE LIABLE TO YOU FOR ANY CLAIM BROUGHT MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION FOR SUCH CLAIM FIRST AROSE.

**20. Force Majeure.** MT shall not be responsible for any delay or failure in performance of any part of an embargo, government requirement, civil, or military authority, act of God, act or omission of carriers, failure of the Internet or other similar causes beyond its control.

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## 21. Miscellaneous

**No Assignment.** Except as set forth herein, You may not assign or transfer Your interests, rights or obligations under this AGREEMENT by written Agreement, merger, consolidation, operation of law or otherwise, without the prior written consent of an authorized executive officer of MT. Any attempt to assign this AGREEMENT by You without such prior written consent from MT shall be null and void.

**Entire Agreement.** Unless You have entered into another written Agreement with respect to the Software which has been signed by You and an authorized representative of MT and which conflicts with the terms of this Agreement, You agree that this Agreement supersedes all prior written or oral Agreements, warranties or representations, including any and all other click-wrap, shrink-wrap or similar licenses or Agreements, with respect to use of the Software. No amendment to or modification of this Agreement, in whole or in part, will be valid or binding unless it is in writing and executed by authorized representatives of both parties. If any term of this Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective. You agree that any principle of construction or rule of law that provides that an Agreement shall be construed against the drafter shall not apply to the terms and conditions of this Agreement.

**No Waiver.** No waiver of breach or failure to exercise any option, right, or privilege under the terms of this AGREEMENT on any occasion shall be construed to be a waiver of a subsequent breach or right to exercise any option, right, or privilege.

**Amendments.** MT reserves the right to amend this Agreement by providing notice to You of the proposed amendment not less than thirty (30) days prior to the date any such proposed amendment is implemented.

**Confidentiality.** You agree to: (A) not use Confidential Information except as necessary to exercise the rights herein and (B) use best efforts to preserve and protect the confidentiality of the Confidential Information. "Confidential Information" means any oral, written, graphic or machine-readable information disclosed by MT that is (i) identified as confidential; (ii) designated in writing to be confidential or proprietary; or (iii) should be reasonably understood to be confidential. Confidential Information includes the Software and its trade secrets, including but not limited to source code, the development status of the Software, the appearance, content and flow of the user interface of the Software, and the content and documentation of the Software. Confidential Information does not include information that is (a) publicly available other than through a breach of this AGREEMENT; (b) known to You prior to such disclosure; or (c) subsequently lawfully obtained by You from a third party that has no obligations of confidentiality. These obligations do not expire. In some, limited circumstances, MT may need to engage a third

# Terms of Use and Licensing Terms for Microsoft Office 365



party to fulfill its obligations to You under this Agreement. By using this Software You agree that MT may provide Your information to such third party for that purpose. MT may obtain information related to Your use of the Software. Any feedback, value added changes or suggestions made by You or other information that is provided to MT relating to the Software shall be owned by MT and considered MT Confidential Information.

**Governing Law.** This Agreement, and the documents to be entered into pursuant to it, shall be governed by and construed in accordance with the laws of the Republic of Mauritius.