

Statement of Supply

Cloud Supply (Office 365 and Azure)

This Statement of Supply is subject to the Supplier's Master Terms and Conditions available here.

BACKGROUND

- A. The Supplier is an authorized reseller of certain Microsoft cloud services.
- B. The Customer wishes to purchase Microsoft cloud services from the Supplier and the Supplier has agreed to supply Microsoft cloud services to the Customer, in accordance with this Statement of Supply.
- C. Microsoft cloud services are supplied to the Customer subject to the applicable Microsoft customer agreement, which is an agreement between Microsoft and the Customer.
- D. This Statement of Supply is open for acceptance by the Customer for 21 days from the date of issue of the Statement of Supply. This Statement of Supply must be signed by the Customer and returned to the Supplier in order to be accepted by the Customer.
- E. Capitalized words that are not defined in clause 20 of this statement of supply have the meaning given to them in the Master Terms and Conditions.

Microsoft Cloud Services

- A. Office 365, Dynamics 365, Azure and other seat-based Microsoft Cloud Services

Subscriptions and licenses

The Customer authorizes the Supplier to purchase subscriptions and additional licenses for the Customer:

- as requested in writing by Customer; or
- following the Customer's written acceptance of a quote or proposal from the Supplier.

2. Term of subscriptions: Microsoft Cloud Services

Subscription term: Fixed

Month to Month unless otherwise specified

Subscription Renewals: automatic, for same period as initial subscription.

Ending automatic renewals: Customer to notify Supplier in writing not less than 30 days prior to expiration of the initial subscription term or subscription renewal, as

Subscription Renewals

Subscriptions are subject to the termination provisions in clause 17 of this Statement of Supply (which include, by reference, the termination provisions in the Master Terms and Conditions).

3. Basis of supply: Microsoft Cloud Services

Basis of Supply – Microsoft Customer Agreement

All Microsoft Cloud Services are supplied subject to this Statement of Supply and the applicable Microsoft Customer Agreement.

The Microsoft Customer Agreement applicable for the Customer is here:

https://irp.cdnwebsite.com/52f92cc2/files/uploaded/Microsoft-365-Customer-Agreement_2021.pdf

The Microsoft Customer Agreement is an agreement between Microsoft and the Customer and includes General Terms, Use Rights, Use Rights, SLAs (service level agreements) and any additional terms Microsoft presents when an order is placed (the terms 'General Terms', 'Use Rights' and 'SLA' are defined in the

Receipt of Microsoft Customer Agreement

The Customer acknowledges receipt of the current Microsoft Customer Agreement from the Supplier and by purchasing Microsoft Cloud Services from the Supplier the Customer confirms:

- ✔ its acceptance of the Microsoft Customer Agreement;
- ✔ that the Supplier is authorized by the Customer to confirm the Customer's acceptance of the Microsoft Customer Agreement on behalf of the Customer. If required by the Supplier, the Customer will confirm its acceptance of the Microsoft Customer Agreement in writing.

The Customer acknowledges that the Supplier is not permitted to revise the Microsoft Customer Agreement in any way.

If Microsoft updates the Microsoft Customer Agreement the Customer must accept the new Microsoft Customer Agreement at or before renewal of their subscription. The updated Microsoft Customer Agreement (if any) will be available at the above link (if a link is provided) or will be made available to the Addictive Technology Solutions 2021 4 Customer prior to the subscription renewal. By permitting the subscription to renew, the Customer is deemed to have accepted the updated

4. Pricing and payment: Microsoft Cloud Services

Pricing: Office 365, Dynamics 365 and other Seat-based Cloud Services

Additional pricing will be as per applicable quote or proposal (provided that the quote or proposal was still open for acceptance when accepted by the Customer).

Payment amounts

Based on Customer subscriptions and licenses as recorded on the Customer Account. Prices quoted ex GST

The supplier reserves the right to change the price of the services in response to changes in the suppliers cost of providing these services.

Timing of payment

Invoices will be issued monthly unless specified otherwise in the relevant quote or proposal.

Payment terms 7 days following date of invoice unless otherwise agreed in writing

5. Pricing and payment: Microsoft Cloud Services

Order of precedence:

If there is any conflict or inconsistency between the parts of this Agreement, the following order of precedence applies to the extent of that conflict or inconsistency (listed from highest to lowest priority):

- (a) Master terms and conditions;
- (b) this Statement of Supply.

6. Microsoft Customer Account

- 6.1** For the purposes of this Agreement, the Customer is responsible for all activity in the Customer Account including without limitation all subscriptions and licenses and all consumption of Microsoft Cloud Services.
- 6.2** The Supplier has no obligation, under this Statement of Supply, to supervise or in any way monitor the Customer's requests for subscriptions or additional licenses to Microsoft Cloud Services (or suitability of the Customer's subscriptions), or the Customer's consumption of Azure services.

7. Supplier Administrator Access

7.1 The Customer acknowledges and agrees that:

- (a)** once this Statement of Supply is signed by both parties, the Customer will receive a link from the Supplier at which the Customer will confirm the Supplier as being its supplier of the Microsoft Cloud Services (unless this has already occurred);
- (b)** the Supplier and the Distributor will (following confirmation by the Customer under **(a)** above, unless this has already occurred)
 - (i)** be the primary administrator of the Microsoft Cloud Services for the Customer for the term of this Statement of Supply; and
 - (ii)** have administrative privileges and access to Customer Data;
- (c)** the Customer may at any time request additional administrator privileges from the Supplier;

the Customer can, at its sole discretion and at any time during the term of this
- (d)** Statement of Supply, terminate the Supplier's and the Distributor's administrative privileges; and
- (e)** the Customer appoints the Supplier and the Distributor as its agent for the purposes of interfacing with and providing instructions to Microsoft for the purposes of this Statement of Supply.

8. Subscriptions to Microsoft Cloud Services

- 8.1** Nothing in this Statement of Supply alters the rights and obligations of the Customer or Microsoft under the Microsoft Customer Agreement between Microsoft and the Customer which is accepted by the Customer (as described in section 6 above) in respect of all Microsoft Cloud Services.
- 8.2** The Customer acknowledges and agrees that Microsoft may send direct communications to the Customer related to the terms of the Microsoft Customer Agreement or the operation or delivery of the Microsoft Cloud Services.

9. Support for Microsoft Cloud Services

- 9.1** The Supplier is the Customer's point of contact for the Customer for all operational and technical support questions related to the Microsoft Cloud Services. The Supplier's support policies, support hours, incident response time and service levels are described in a separate managed services agreement between the Supplier and Customer
- 9.2** If the Customer considers that it has a claim on the SLA (the 'SLA' being the service level commitments made by Microsoft to the Customer in respect of the Microsoft Cloud Services), the Customer must submit the claim to Microsoft in accordance with the Microsoft Customer Agreement and notify the Supplier in order for any applicable service credit to be channelled back through the Supplier and applied to your account with the Supplier.
- 9.3** The Customer acknowledges that the Supplier cannot remedy, and has no obligation to seek to remedy, any defect or purported defect in the Microsoft Cloud Services that may be identified by the Customer and that the remedy (if any) that the Customer may have in relation to such defects is contained in and subject to the Customer's applicable Microsoft Customer Agreement.

11. Pricing and payment

- 11.1** A claim by a Customer that seat-based subscriptions added to the Customer Account were not used by the Customer, or that use of Azure services was unintentional or inadvertent will not relieve the Customer from its obligation to pay for the seat-based subscriptions or Azure subscriptions/consumption and will not provide a reason for validly disputing an invoice.
- 11.2** Without the Supplier waiving any other right or remedy it may have (including its rights under the Master Terms and Conditions), if any amount due is not paid by the Customer by the due date, the Supplier may:
- (a) suspend delivery of further Microsoft Cloud Services until the outstanding amount is paid in full. The Supplier will give 10 Working Days' notice in writing of its intention to suspend delivery under this clause.

12. Pricing and payment

- 12.1** Subject to clause 14.2, the Supplier may collect, use, transfer, disclose, and otherwise process the Customer Data as required in its performance of this Statement of Supply.
- 12.2** The Supplier will only access the Customer Data and disclose the Customer Data to law enforcement or government authorities to the extent required by law. If a request for Customer Data is made by a law enforcement agency or government authority (directly or through Microsoft or the applicable third party vendor), the Supplier will redirect the request to the Customer or if redirection is not permitted or feasible in the available time frame and unless legally prohibited from doing so, the Supplier will notify the Customer of the request as soon as practically possible.

- 12.3** The Customer will, as and to the extent required by law, notify individual users of the Cloud Services, that their data may be disclosed to law enforcement or other government authorities (if a request is made by law enforcement or other government authorities). It is the Customer's responsibility to obtain consent from individual users to the potential for disclosure under this clause.
- 12.4** The Customer consents to Microsoft providing the Supplier and the Distributor with Customer Data and information that the Customer provides to Microsoft for the purposes of the Supplier and the Distributor ordering, provisioning and administering the Microsoft Cloud Services.

13. Personal Data and Data Protection

- 13.1** Refer to the 'Personal Data and Data Protection' provisions in the Master Terms & Conditions.
- 13.2** The Customer acknowledges that Processing of Personal Data by Microsoft is addressed in the Microsoft Customer Agreement.
- 13.3** The Customer acknowledges that the obligations that Microsoft may have in respect of a Personal Data Breach, where applicable, are addressed in the Microsoft Customer Agreement.

14. Intellectual property

- 14.1** Refer to the Microsoft Customer Agreement.

15. No warranties

- 15.1** To the extent permitted by law, all warranties, terms and conditions (including without limitation, warranties and conditions as to fitness for purpose and merchantability) implied by legislation or otherwise, are excluded by the Supplier.

16. Warranty position for Cloud Services

- 16.1** The Supplier will use reasonable endeavours to assist the Customer to deal with Microsoft (via the Distributor where applicable) on any warranty claims in respect of the Microsoft Cloud Services.
- 16.2** Subject to clause 11 and clause 18.1, the Supplier has no obligations in respect of defects, support requirements or otherwise for the Microsoft Cloud Services including without limitation that in the event of any defect or failure of the Microsoft Cloud Services the Supplier has no obligation to provide any interim hardware, software, other equipment or remedial service.

17. Termination of Statement of Supply

17.1 In addition to the rights of termination under the Master Terms and Conditions, except where the Customer has unexpired subscriptions (whether initial term or renewal term) to Microsoft Cloud Services, either party may terminate this Statement of Supply on 30 days' written notice to the other party.

18. Consequences of termination

18.1 On termination of this Statement of Supply:

- (a) where the Customer has fixed term subscriptions for Microsoft Cloud Services, the Customer will pay the Supplier for the full fixed term (excluding any renewal term to which the Customer is not yet committed); and
- (b) where the Customer has consumption subscriptions for Microsoft Cloud Services, the Customer will pay for all consumption up until the date of termination.

18.2 On termination of this Statement of Supply the Supplier will issue invoices to the Customer for all amounts specified in clause 21.1 for which no invoice has yet been issued and all such invoices will be due seven days following the date of the invoice. Invoices issued prior to the date of termination will remain due in accordance with the terms of the invoice.

18.3 On termination of a subscription the Customer will have 30 days to migrate any Customer Data to either a new subscription or some other service.

19. Liability

19.1 Without limiting the liability provisions in the Master Terms and Conditions, in no event is the Supplier liable to the Customer for the Microsoft Cloud Services, including without limitation in terms of performance, non-performance, availability, non-availability, compliance or non-compliance with specifications of the Microsoft Cloud Services or otherwise. Any right or remedy that the Customer may have in relation to the Microsoft Cloud Services is included or referenced in the Microsoft Customer Agreement.

20. Defined terms

20.1 In this statement of supply:

"Customer Account" means the Customer's account on the Distributor's portal;

"Customer Data" means all data, including all text, sound, video or image files and software, and which may include Personal Data, that is provided to Microsoft by or on behalf of the Customer through use of the Microsoft Cloud Services;

"Distributor" means the Supplier's distributor, being Ingram Micro Cloud Services

"Microsoft Cloud Services" means the Microsoft cloud services for which the Supplier is the relevant Microsoft partner (as recorded by Microsoft), being:

- (a) the Transferred Services (if any); and
- (b) the services purchased by the Supplier for the Customer as described in section 3 above;

“Transferred Services” means Microsoft cloud subscriptions and licenses that were purchased for the Customer by another supplier and that, with the Customer’s authorisation, have been transferred to the Supplier in the Microsoft Partner Center (so that the Customer’s reseller relationship for those subscriptions and licenses is now with the Supplier).



Please feel free to contact us if you have any questions or concerns.

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