

Silversands Cloud Services
Terms and Conditions V1.2
Effective 1st November 2017

Introduction.

"SILVERSANDS" means Silversands Limited, company registration 2141393, of 3-5 Albany Park, Poole, BH17 7BX and any subsidiary, group member or partner of Silversands Limited.

"CLIENT" means the person or body (of whatever legal nature)] contracting with Silversands for the supply by Silversands of Microsoft Cloud Services.

These Cloud Services Terms and Conditions allow Silversands Limited (**Silversands**) to provide Microsoft Online Services to its Clients. These Cloud Services Terms and Conditions should be considered in conjunction with any previously supplied Proposal which provides pricing for the proposed service and are also supplemental to Silversands Professional Services Agreement (PSA), or any other agreement between Silversands and the Client, and apply to Microsoft Online Services only.

This agreement consists of the following documents:

- a) These Cloud Services Terms and Conditions
- b) The Proposal
- c) The Silversands Professional Services Agreement (PSA) or other terms and conditions agreed between Silversands and the Client.

In the event of any inconsistency between the terms, priority shall be given to the terms in the order set out above.

The terms of these Online Services Terms and Conditions shall prevail over any inconsistent terms or conditions contained in, or referred to, in the Customer's purchase order, confirmation of order or outline specification.

ARTICLE I - DEFINITIONS

“Agreement” means the agreement between Silversands and the Client as set out in the Introduction.

“Customer Data” means all data, including all text, sound, video or image files, and software that are provided to Silversands or Microsoft through use of the Online Service.

“Microsoft” means Microsoft or relevant subsidiary.

“Microsoft Cloud Agreement” means the Microsoft Cloud Agreement as published at www.silversands.co.uk/legal

“Microsoft Online Service Terms” means the terms that apply to the use of the products available as published at <https://www.microsoft.com/licensing/onlineuserights> and these include terms which govern the Clients use of the products or at an alternative site identified by Microsoft from time to time.

“Microsoft SLA” means the commitments which Microsoft makes regarding delivery and/or performance of the Online Services published at <https://www.microsoft.com/en-gb/Licensing/product-licensing/products.aspx> or at an alternative site identified by Microsoft from time to time.

“Minimum Term” means 12 months or as otherwise stated in the Proposal

“Online Services” means any of the Microsoft hosted Online Services which you have subscribed to under this Agreement, including but not limited to Office 365 Services, Microsoft Azure Services, Microsoft Azure Plans, Microsoft Dynamics 365 and other Microsoft Online Services.

“Pay as you Go” a service provided by Microsoft directly or indirectly where the services are billed on a variable basis depending on the Client usage.

“Preview(s)” means preview, beta or other pre-release version or feature of the Online Services or Software offered by Microsoft to obtain customer feedback.

“Proposal” means a Proposal or Quotation supplied by Silversands to the Client setting out the Cloud Services to be supplied.

“Product” means any Online Service including any software.

“Professional Services Agreement (PSA)” means Silversands standard terms and conditions which are published at www.silversands.co.uk/legal

“Software” means Software we provide for installation on your device as part of your Subscription or to use the Online Service.

“Subscription” means an enrolment for Online Services as provided under this Agreement.

RELATIONSHIP WITH MICROSOFT

1. We are authorised under a Microsoft Cloud Reseller Agreement to licence and grant the right to use the products. Our relationship with Microsoft is that of a reseller, and we are therefore independent contractors.
2. Our ability to grant you the right to use the Products is subject to your acceptance of the Microsoft Cloud Agreement. By entering into this Agreement you are confirming that you have read, understood and agree to the terms of the Microsoft Cloud Agreement.
3. You acknowledge and accept that we are the administrator for the purposes of the Subscription.

PRODUCTS

4. We agree to grant you the right to use the Products which are detailed in the Quotation in accordance with the terms of this Agreement.
5. All licenses provided pursuant to this Agreement are non-exclusive, non-sub licensable and may only be used in connection with your own internal business purposes.
6. You may not reverse engineer, decompile, disassemble, or work around technical limitation in the Product, except to the extent permitted by law.
7. You must not disable or circumvent any billing mechanism that meters your use of the Products. You may not rent, lease, lend, resell, transfer or host the Product, or any portion thereof, to or for third parties except as expressly permitted in the Microsoft Online Service Terms.
8. You further accept that all licenses are subject to any further restrictions imposed pursuant to the terms of the Microsoft Cloud Agreement. .

FEES AND PAYMENT

9. The Fees for each Product are as detailed in the Proposal.
10. We reserve the right to vary the prices in respect of any Consumption offering (also known as Pay-As-You-Go) Products at any time upon giving you at least 7 days' notice.
11. We reserve the right to vary prices in respect of any Subscription upon expiry of its term, being 12 months from the date of an order being placed.
12. Invoices will be raised:
 - a) for Pay-As-You-Go products monthly in advance as set out in the Proposal and adjusted to reflect actual consumption in the previous month of the service (except for the first month of service) and if the Client cancels the service at the end of the term a final invoice will be raised after the service expires to reflect the final months usage.
 - b) for Subscription Products monthly in advance for the applicable Subscription price which may vary from time to time.

13. Taxes. All charges provided under this Agreement are exclusive of VAT which will be added to each invoice value.
14. Invoices are payable no later than 30 days from date of invoice.

SERVICE LEVEL

15. We will provide the Products in accordance with the terms of this Agreement and the Microsoft Cloud Agreement. We do not guarantee that the Products will be continuously available or free from service failures.
16. The Microsoft SLA makes certain commitments as to the Products. In the event of a service failure, you are entitled to lodge a claim with us pursuant to the Microsoft SLA.
17. In accordance with the Microsoft SLA we will escalate your claim pursuant to the Microsoft SLA, we may at our sole discretion provide you with a service credit but in the event that Microsoft does not accept your claim pursuant to the Microsoft SLA, we will not provide you with a service credit. Our liability to pay you service credits as detailed in this clause shall be your sole remedy for service failures
18. You acknowledge and accept that the Previews are not subject to the terms of Microsoft's SLA with regard to the applicable service levels. Further, we are not obliged to provide support services in respect of any Preview.

SUPPORT

19. We will provide you with support services which include but are not limited to account set-up, sign up, accounts and billing, service and software updates.
20. For the avoidance of doubt, we will not provide support services in relation to any customisation or configuration of the Products under this Agreement unless this is specifically set out in a Proposal.
21. You can find details of our support services and contact details published on our web site www.silversands.co.uk/support
22. You acknowledge that where an undocumented scenario arises it may be necessary for us to escalate an issue to Microsoft for resolution
23. Notwithstanding the provisions of the Agreement, and with the knowledge that reasonable efforts will be made to diagnose and resolve faults that occur, we make no warranties that the support services will be successful in resolving all issues that arise.
24. We accept no responsibility or liability for hardware or software application problems.

CANCELLATION

25. Following cancellation of a Product or termination of the Agreement by either party, you have a period of 30 days in which to migrate any Customer Data to either a new Subscription with us, with Microsoft directly, or some other service after this period you agree that such data may be immediately deleted.
26. We may cancel a Subscription for a Product for you, however an early termination charge, meaning fees due from you in the event of cancellation of a Subscription before its term ends, may be applied.
27. Upon request, Microsoft may assist us with migration of your Customer Data at an additional charge agreed between you and us.
28. Services may be cancelled without notice where payment terms are not met.

WARRANTIES AND REPRESENTATIONS

29. You acknowledge and accept that the only warranties provided to you in respect of the Products are those which are stated in clause 5 of the Microsoft Cloud Agreement.
30. We provide no warranties whether implied, statutory or otherwise, including warranties of merchantability or fitness for a particular purpose. These disclaimers apply except to the extent applicable law does not permit them.
31. You acknowledge and agree that your remedies in respect of any breach of warranty are limited to those detailed in clause 5 of the Microsoft Cloud Agreement.
32. In order to make a claim for breach of warranty, you must first lodge this with us to escalate to Microsoft for validation in accordance with Microsoft's SLA.
33. Under no circumstances will we be liable for any loss of or damage to Customer Data unless such a specific service is defined in a service offering otherwise you accept responsibility for backing up your Data and shall ensure that your processes in this respect are adequate.

LIMITATION OF LIABILITY

34. The aggregate liability of each party for claims under the Agreement is limited to direct damages up to the amount paid under the Agreement for the Products during the 12 months before the cause of action arose; provided that in no event will a party's aggregate liability for any Product exceed the amount paid for that Product during the Subscription.
35. You agree that we shall have no liability whatsoever in respect of the use of any Preview.

INTELLECTUAL PROPERTY

36. Except for your license to use the Products as expressly granted under the Agreement, you shall not acquire in any way, any title, rights of ownership, or Intellectual Property Rights of whatever nature in the Products or in any copies of it and no Intellectual Property Rights of either party are transferred or licensed as a result of the Agreement.

For :

Customer Name :

Signature :

Position :

Date : / /

For:

Silversands Limited

Signature :

Position :

Date : / /

End.