

ETS Microsoft Cloud Services Agreement

This Master Services Agreement is between (i), **Etisalat Technology Services LLC** having its place of business at Etisalat Building, Level 4, Al Kifaf, Dubai, P. O. Box.1150 United Arab Emirates (hereinafter, referred to as “ETS”); and (the customer ordering the Services (“**Customer**”), each a “**Party**” and together the “**Parties**”.

The individual who accepts this Agreement represents that he or she is authorized to enter into this Agreement on behalf of the Customer, and by entering into this Agreement understands and agrees that the Party entering into the Agreement with the Customer, for the Service, shall be determined by the respective Service Order of the particular Service as per the terms of this Agreement. This Agreement shall be deemed accepted once the Customer signs the proposal with the Agreement link specified on the proposal.

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In the Agreement, the following definitions apply:

“**Activation Date**” means the date for each Service, respectively, on which ETS activates or makes available such Service to the Customer.

“**Additional Services**” means such additional services as may be agreed by the parties in writing from time to time, which shall be provided on and subject to the terms of the Agreement including any accepted proposals which may be applicable;

“**Agreement**” means this Agreement between ETS and the Customer in respect of the Services, together with the related documents described in Clause 22.2 (Structure of the Agreement).

“**Applicable Law**” means any and all applicable laws, statutes and regulations (whether local, regional, national, federal or otherwise) and including bye-laws or any other regulatory instrument, policy or guideline issued by a Competent Authority, in force from time to time during the Term, as well as requirements stemming from any licenses, permits, authorisations, approvals or similar acts of any Competent Authority required for the provision of any Service, being: (i) the applicable laws and/or regulations of the UAE; and (ii) such laws as apply to the provision of the Services.

“**Charges**” means the fees payable by the Customer to ETS for the provision of the Services ordered, including Usage-Based Charges as well as One-Time Charges and Recurring Charge, where applicable.

“**Competent Authority**” means a law enforcement, security or government agency, emergency service authority, regulatory authority or other competent authority.

“**Confidential Information**” means the content of the Agreement and any related documentation or any other information that is not generally known to the public and that is (a) used, developed or obtained by the receiving party from the disclosing party in connection with its business, products and services, (b) copyright works, (c) all technology and trade secrets, (d) inventions, devices, new developments, methods and processes, (e) customers and clients database and personal information, (f) drawings, photographs and reports, (g) computer software including operating systems, applications and programs, (h) all similar and related information in whatever form.

“**Content**” means any information made available, displayed or transmitted in connection with a Service (including information made available by means of an HTML “hyperlink”, third party posting or similar means) including all Marks and domain names contained in such information, as well as the contents of any bulletin boards or chat forums, and all upgrades, updates, modifications and other versions of any of the foregoing.

“**Control**” means the ability to direct the affairs of another, whether by virtue of the ownership of shares, contract or otherwise.

“**Early Termination Charge**” means the higher of: (i) the early termination charges set out in the relevant Service Order; and/or (ii) proposal for the terminated Service.

“**Force Majeure Event**” has the meaning given to it in Clause 2117.1 (Force Majeure).

“**Initial Term**” has the meaning given to it in Clause 3 (Commencement and Duration).

“**Intellectual Property Rights**” or “**IPR**” means any intellectual property rights including trademarks, rights in designs, patents, copyright, moral rights, database rights, rights in know-how and inventions, in each case whether registered or unregistered, together with applications for the grant of any such rights or any forms of protection having equivalent or similar effect to any of the foregoing, which are owned by a Party or used in connection with the Agreement, in any country and all future rights of such nature.

“**Licensed Software**” has the meaning given to it in Clause 11.1.

“**Marks**” means any trademark, service mark, logo or indication of origin used by a Party to identify its business and services.

“**Managed Cloud Services**” (i) the Support; and (ii) the managed services, specified in the Service Order and further described under the Service Schedule.

“**Microsoft**” means Microsoft Ireland Operations Limited.

“**Microsoft Azure Services**” means one or more of the Microsoft services and features for the Microsoft Azure cloud computing platform, as specified in the Service Order and as further described on the Portal.

“**Microsoft Software**” means any software specified in the Service Order, which is being provided to the Customer as part of the Microsoft Azure Services.

“**Microsoft Terms**” means has the meaning given to it in Section 1.3 above.

“**Minimum Term**” means for each Service the agreed minimum period for which ETS shall provide the Services to the Customer and the Customer shall pay the Charges, as set out in the relevant Service Schedule or Service Order.

“**Renewed Term**” has the meaning given to it in Clause 3 (Commencement and Duration)

“**One-Time Charges**” means any non-recurring Charges including connection charges; set up charges; downgrade charges; late payment charges; and Early Termination Charges.

“**Services**” means (i) the professional services ordered by the Customer; and (ii) any Additional Services.

“**Service Order**” means an order placed and confirmed by ETS, specifying the Services to be purchased and provided hereunder.

“**Services Provider**” – means the third-party service provider of the Services.

“**System**” means the Network and any physical machines, virtual machines, networking, storage, backup, archiving, disaster recovery, big data, analytics, video surveillance, virtual desktop infrastructure, applications, monitoring, reporting and connectivity and the build and operation used by ETS for the provision of the Services.

“**Term**” means the Initial Term and any Renewed Term.

“**Third Party End User Licence Terms**” means the end user licence agreements that apply to products and services which are provided by third parties, whether purchased directly by the Customer or provided by ETS as part of the Services. Third Party End User Licence Terms are entered into directly between the Customer and such third party, where applicable.

“**Third Party Software**” means any software that the Customer, or its customers, load on to, use or operate with the Services, which software shall not include any software expressly specified as being provided to the Customer by) ETS

“**UAE**” means the United Arab Emirates.

“**UAE Dirhams**” means United Arab Emirates dirhams being the lawful currency of the UAE.

“**Usage-Based Charges**” means any Charges that are calculated on the basis of units of a Service actually consumed by the Customer in the preceding month, as set out in the relevant Service Schedule or detailed on the Portal.

“**User**” means anyone who is properly permitted or allowed by the Customer to use or access the Services purchased by the Customer including the Customer’s employees, agents or any person to whom the Customer has given access to the Services.

“**User**” means anyone who is properly permitted or allowed by the Customer to use or access the Services purchased by the Customer including the Customer’s employees, agents or any person to whom the Customer has given access to the Services.

“**VAT**” means any value added or similar consumption tax levied by the applicable value added tax laws and regulations in the UAE (“**VAT Laws and Regulations**”).

1.2. Interpretation

In the Agreement and unless the context otherwise requires:

- 1.2.1. references to the Agreement include the Agreement as amended or supplemented in accordance with its terms;
- 1.2.2. headings and bold type are for convenience only and do not affect the interpretation of the Agreement;
- 1.2.3. references to the Parties, Clauses, Annexures and Schedules are references respectively to the parties, clauses, annexures and schedules to this Agreement;
- 1.2.4. words importing the singular include the plural and vice-versa;
- 1.2.5. where the words ‘include(s)’, ‘including’ or ‘in particular’ are used, they are deemed to have the words ‘without limitation’ following them;
- 1.2.6. where a term or acronym appears in capital letters and is not specifically defined in the Agreement it shall have its industry standard meaning as would be reasonably understood by a customer or supplier of technology and digital services; and
- 1.2.7. definitions and processes part of the Microsoft Agreement shall be incorporated under this Agreement, by default .

2. STRUCTURE OF THE AGREEMENT

- 2.1 This Agreement establishes the terms and conditions which shall apply to the provision of any and all Services ordered by the Customer during the Term.
- 2.2 The Agreement between ETS and the Customer in respect of the Services is recorded in the following documents
 - 2.2.1 Agreement;
 - 2.2.2 Service Schedule(s);
 - 2.2.3 Annexes or appendices to the Service Schedule(s); and
 - 2.2.4 Service Orders.
- 2.3 In the event of any conflict between provisions of the documents comprising the Agreement, the order of precedence shall be as set out in Clause 2.2 (Structure of the Agreement) in order of decreasing precedence, unless explicitly stated otherwise. Where the provisions in a document with a higher precedence modify or conflict with some but not all of the provisions in relation to a particular issue addressed in another document with a lower precedence, the remaining related provisions in the document with lower precedence shall remain valid and in force to the extent that it is practicable for them to do so.
- 2.4 By entering into the Agreement, the Customer acknowledges that the Customer’s use of Microsoft Azure is subject to the Microsoft Customer Agreement, a separate agreement between the Customer and Microsoft Ireland Operations Limited under which Microsoft provides Microsoft Azure to the Customer, a current version of which is located here: <https://www.microsoft.com/licensing/docs/customeragreement> (“**Microsoft Terms**”).
- 2.5 Note that all Microsoft Azure Services will include a Microsoft Support package provided by ETS, which will be detailed in the Service Order and as further described on the Portal.

3. COMMENCEMENT AND DURATION

- 3.1 Each Service shall come into force on the Activation Date and shall continue for the Minimum Term or until terminated in accordance with the Agreement or as defined under the relevant proposal. Unless stated otherwise, each Service shall automatically renew at the end of the Minimum Term for successive one-month periods unless and until terminated in accordance with the Agreement.

4. THIRD PARTY TERMS

- 4.1 Certain Services may be subject to additional, third party terms and the Customer may be required to enter into separate agreements prescribed by a third party involved in providing those Services, including Third Party End User Licence Terms. The Customer’s use of the Services will be subject to any such third party terms, where applicable.

5. CUSTOMER OBLIGATIONS

- 5.1 The Customer undertakes not to use or allow the Services to be used to knowingly receive, upload, download, transmit, disclose, distribute, send or otherwise circulate information data, material and/or Content which violates any Applicable Laws, or is in breach of any intellectual property rights, confidence, privacy or any other rights, or which comprises of a virus or other item liable to cause loss or damage. ETS is not responsible for any material or information contained in any Content that is accessible through the Services.

- 5.2 The Customer may use the Services for its own benefit or for the purposes of incorporating the Services in providing services to its customers, but the Customer may not resell or sublicense the Services to any third party.
- 5.3 The Customer will be solely responsible for the safe preservation and storage of all data and information in relation to the Microsoft Azure Services. The Customer will also make backup copies of its files at reasonable intervals, in order to allow lost or disrupted data to be recovered with reasonable efforts only. ETS may be responsible to manage backups of Customer data and information if agreed in the Service Order.
- 5.4 The Customer is solely responsible for determining the suitability of the Services in light of the type of data used with the Services. ETS has no knowledge of the data or types of data hosted under the Agreement.
- 5.5 ETS is not responsible to the Customer for unauthorized access to the Customer's data or the unauthorized use of the Services unless the unauthorized access or use results from ETS's material failure to meet its security obligations stated in the Agreement.
- 5.6 The Customer shall indemnify ETS against any and all losses, damages, costs (including legal fees) and expenses suffered or incurred by or awarded against ETS in relation to any claim brought by a third party as a result of a breach of the Customer's obligations
- 5.7 In respect of any claim brought by a third party as a result of breach of any intellectual property or any other obligations by the Customer: (i) ETS will promptly notify the Customer in writing of the existence of any claim or demand covered by the indemnity; (ii) ETS will use reasonable endeavours to minimise any loss or damage which it may suffer; (iii) the Customer will allow ETS to conduct all negotiations and proceedings in relation to the defence and settlement of the claim; and (iv) where ETS permits the Customer conduct or defence of the claim, the Customer must obtain ETS's prior written consent to the settlement of any claim (such consent not to be unreasonably withheld or delayed).

Customer Obligations specific to Microsoft Products and Services:

- 5.8 The Customer shall comply with the Acceptable Use Policy for the Microsoft Services (including Azure), which can be found in the Online Services Terms at the following location: <https://www.microsoft.com/en-us/licensing/product-licensing/products>.
- 5.9 The Microsoft Software is neither sold nor distributed to the Customer and the Customer may use it solely in conjunction with the Services.
- 5.10 The Customer shall not:
 - 5.10.1 transfer or use the Microsoft Software outside the Services;
 - 5.10.2 remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in or on the Microsoft Software;
 - 5.10.3 reverse engineer, decompile or disassemble the Microsoft Software, except to the extent expressly permitted by Applicable Law.
- 5.11 Microsoft is not responsible for providing any support in connection with the Microsoft Services (including Azure). Where ETS provides a support package, the Customer should contact ETS for support.
- 5.12 Unless otherwise explicitly stated in the Agreement, the Microsoft Software and Services (including Azure) are not designed or intended for high risk use scenarios where a failure or fault of any kind of the product could reasonably be seen to lead to death or serious bodily injury, or to severe damage to tangible or intangible property or the environment ("High Risk Use"). The Customer shall not use the Microsoft Software and Services (including Azure) for any HighRisk Use.
- 5.13 To the extent required by Applicable Law, the Customer shall (i) notify the Users of the Microsoft Azure and Microsoft Services that their Personal Data may be processed for the purpose of disclosing it to Competent Authorities when required by Applicable Law; and (ii) obtain the Users' consent to the same.
- 5.14 Clause 4 (Third Party Terms) of this Agreement shall not apply where ETS is directly responsible for the ordering of any third party services or products as detailed in the Service Order.

6. UNAUTHORISED USE

- 6.1 ETS reserves the right to:
 - 6.1.1 remove, suspend or disable access to, or remove or modify any content or resource that breaches the Customer's obligations set out in Clause 55 (Customer Obligations); and
 - 6.1.2 report to Competent Authorities any activity that it suspects violates Applicable Law. ETS's reporting may include disclosing Customer or User information.
- 6.2 The Customer acknowledges and accepts that ETS may also cooperate with Competent Authorities to help with the investigation and prosecution of illegal conduct by providing Network and Systems information related to alleged violations.

7. INTELLECTUAL PROPERTY

Existing Intellectual Property

- 7.1 Each Party shall retain exclusive ownership of Intellectual Property Rights belonging to it prior to the commencement of the Services. If the Customer provides ETS with any of the Customer's IPR, the Customer grants to ETS, during the term of the Agreement, a limited, worldwide, non-exclusive, non-transferable, royalty-free, right and licence (with right of sub-licence where required to perform the Services) to use the Customer's IPR solely for the purpose of providing the Services.
- 7.2 The Customer represents and warrants that it has at all times all rights in the Customer's IPR necessary to grant the licence in Clause 7.17.1, and that ETS's use of the Customer's IPR shall not infringe the IPR of any third party.
- 7.3 Neither Party may use any Marks of the other Party without prior written consent.

Developed Intellectual Property

- 7.4 Unless otherwise specifically stated in a proposal and excluding any Customer IPR, as between the parties, ETS shall own all IPR created in providing the Services or otherwise created or generated by or for ETS in connection with the Agreement and all IPR in the System.
- 7.5 Subject to Customer's compliance with the terms of the Agreement, ETS grants to the Customer a limited, worldwide, non-transferable, non-exclusive licence (without the right to sublicense) to use any IPR provided by ETS to the Customer as part of the Services (excluding any Third Party Software) solely for the Customer's internal use and as necessary for the Customer to receive the Services during the term of the relevant Service.

Infringement

- 7.6 If the provision of the Services infringes the IPR of a third party and ETS determines that it is not reasonably or commercially practicable to obtain the right to use the infringing element, or modify the Services such that they do not infringe, then ETS may terminate the infringing Services on giving at least ninety (90) days' written notice to the Customer and shall not have any liability on account of such termination except to refund amounts paid for unused Services (prorated as to the portion of the Services deemed infringing).

8. IPR LICENCES

8.1 Customer Licences and Third Party Software

- 8.1.1 The Customer warrants and undertakes that at all times the Customer will either own or have a valid licence to use Third Party Software and it shall comply with all relevant third-party licence terms when using Third Party Software on the Services. The Customer shall comply with all Third Party End User Licence Terms related to the Third Party Software from time to time.
- 8.1.2 The Customer shall at all times install, load and use on the Services Third Party Software that has been lawfully obtained in accordance with the applicable terms and the Customer shall not install, load or use any Third Party Software which (i) requires consent from the vendor to be used or loaded, without first obtaining all necessary consents and/or (ii), by reason of any licence terms, cannot be used with the Services or (with regard to existing licences) cannot be migrated onto the Services.
- 8.1.3 The Customer is solely responsible for obtaining all required licences and for complying with all applicable Third Party Software licensing requirements, including the product use rights and product terms of Third Party Software. Usage of the Services in relation to the Third-Party Software which is in violation of the Customer's agreement with the relevant third party is not authorised or permitted.
- 8.1.4 If ETS agrees to install, patch or otherwise manage Third Party Software for the Customer in reliance on Customer's licence with the relevant third party, then the Customer represents and warrants that it has a written licence agreement with the relevant third party in force that permits ETS to perform these activities. On ETS's request, the Customer will certify in writing that it is in compliance with the requirements of this Clause 12.2.4 and will provide evidence of the Customer's compliance as ETS may reasonably request. If the Customer fails to provide the required evidence of licensing, ETS may, at its option, either: (i) charge its standard fee for the use of the Third Party Software in reliance on any applicable licensing agreement that ETS may have with the relevant third party, where applicable, until such time as the required evidence is provided; or (ii) terminate on reasonable notice and without liability, the whole or any part of the Service which involves the installation, patching or management of such Third Party Software.
- 8.1.5 The Customer shall keep records relating to all use of Third Party Software. ETS and/or any third party nominated by ETS has the right, at ETS's expense, to audit and verify compliance with any licence terms of Third Party Software. The Customer shall promptly provide the relevant auditor with the information the auditor reasonably requests in furtherance of the verification or audit, including access to the systems running Third Party Software and evidence of licences for Third Party Software. ETS will endeavour to notify the Customer twenty-one (21) days in advance of its intent to verify the Customer's compliance with the licence terms of Third Party Software and any auditor shall be subject to confidentiality obligations.

8.2 RIGHTS IN DELIVERABLES

- 8.2.1 Subject to the provisions of this Service Schedule and Customer's full and final payment of all applicable Charges, ETS grants to Customer a non-exclusive, non- sublicenseable, non-transferable, restricted and limited licence to use each Deliverable for Customer's internal business operations only (the "**License Grant**"). The License Grant will subsist unless and until terminated in accordance with the Agreement.
- 8.2.2 Notwithstanding any other provision of the Agreement: (a) ETS and ETS's licensors own and will retain all rights, title and interests throughout the world in, to and associated with each Deliverable and all related IPR; and (b) a Deliverable is licensed, not sold, to Customer, and Customer will not acquire any right, title or interest in, to or associated with a Deliverable or any related intellectual property rights except for the limited license to use the Deliverable expressly set forth in the License Grant.
- 8.2.3 Customer acknowledges that ETS and its licensors and their respective successors, assigns and licensees have and will retain the unlimited and unrestricted right to use and commercialise each Deliverable and all knowledge, know-how, information, materials and creations of any kind learned, derived or created in the course of the performance of the Services. ETS reserves all rights that are not expressly granted in this Agreement.
- 8.3 The Customer shall indemnify ETS against any and all losses, damages, costs (including legal fees) and expenses suffered or incurred by or awarded against ETS as a result of a breach of the Customer's obligations under this Clause 8 12 (IPR Licences)**Error! Reference source not found.**, and the Customer agrees to defend ETS and/or its directors from any claim brought by a third party in respect of the same.

8.4 In respect of Clause 12.3: (i) ETS will promptly notify the Customer in writing of the existence of any claim or demand covered by the indemnity; (ii) ETS will use reasonable endeavours to minimise any loss or damage which it may suffer; (iii) the Customer will allow ETS to conduct all negotiations and proceedings in relation to the defence and settlement of the claim; and (iv) where ETS permits the Customer conduct or defence of the claim, the Customer must obtain ETS's prior written consent to the settlement of any claim (such consent not to be unreasonably withheld or delayed).

9. PLANNED AND UNPLANNED OUTAGES

9.1 ETS may, from time to time, upon reasonable notice, suspend the Services during any planned modification or maintenance of the Network, or where the service is suspended by a third party service provider undertaking any planned modification or maintenance. Other than as set out in any agreed SLA, ETS shall have no liability in relation to such suspension or disruption. ETS may also, at any time and without notice or liability to the Customer, suspend the Services because of an emergency (including Force Majeure Events) or upon instruction by a Competent Authority or for the Customer's or Users' own security.

9.2 Following any such planned or unplanned outage, ETS shall use reasonable endeavours to restore the Service as soon as reasonably practicable.

10. CHARGES, BILLING AND PAYMENT

10.1 The Customer shall pay the Charges to ETS for the provision of the Services, in accordance with the payment milestones described in the relevant Service Order, proposal or Statement of Work/ proposal (as the case may be), within thirty (30) days of the date of the invoice.

10.2 Unless stated otherwise in the relevant Service Schedule or Service Order, ETS shall bill the relevant Charges as follows:

10.2.1 Recurring Charges shall accrue from the Activation Date and are billed in advance;

10.2.2 Usage-Based Charges shall accrue from the Activation Date and are billed in arrears, on the basis of units of a Service actually consumed by the Customer in the preceding month (as confirmed by the relevant cloud service provider, where applicable); and

10.2.3 One-Time Charges shall be billed in accordance with the terms of the relevant Service Schedule and Service Order.

10.3 Any disputes that the Customer may have regarding an invoice shall be notified to ETS within ten (10) days from the date of the invoice, failing which the Customer shall be deemed to have accepted the invoice.

10.4 All Charges are exclusive of any tax including VAT or similar tax. VAT Laws and Regulations govern all documents including but not limited to tax invoice, debit/credit notes and others. Any VAT amount shall be paid upon receipt of a valid VAT invoice issued in accordance with VAT Law of the UAE and subject to evidence of the Tax Registration Number in the UAE.

10.5 Unless the Customer instructs ETS otherwise at the time payment is made, any payment the Customer makes may be applied by ETS towards any outstanding amount owed by the Customer to ETS. ETS shall be entitled to set-off any amounts ETS owes the Customer against any outstanding payments due from the Customer to ETS.

10.6 In the event that the Customer delays the payment as per the mutually agreed payment terms, the Customer shall be charged an additional cost by ETS at the rate of 1% per month for the unpaid invoice amount. Any fraction of a month shall be considered to be a full month for the purpose of calculation of the additional cost.

10.7 In the event the Customer's credit rating drops to a level below what ETS reasonably expects of its Customers, or if the Customer has received a notice of non-payment of undisputed Charges from ETS, then ETS reserves the right to discuss the revision of the billing and payment terms and, if necessary, agree alternative payment arrangements, including but not limited to:

10.7.1 for payments to be made in advance of processing any new orders; or

10.7.2 for a deposit amount to be paid in advance of processing any new orders.

11. CUSTOMER DATA

11.1 The Customer shall provide to ETS all information and assistance as ETS may reasonably require in order to provide the Services, perform its obligations under the Agreement and comply with Applicable Law.

11.2 ETS shall not use or disclose the Customer's data, except in connection with the performance of the Services, the exercise of its rights under the Agreement, or as required by Applicable Law. ETS shall not disclose the Customer's data to any third person except as follows:

11.2.1 to a Competent Authority if requested or if ETS believes, in good faith, that the Customer's conduct may violate Applicable Law;

11.2.2 as required by Applicable Law; or

11.2.3 in response to a court order or other compulsory legal process.

11.3 The Customer's data is and at all times shall remain the exclusive property of the Customer and will remain in the exclusive care, custody, and control of the Customer.

11.4 ETS will take reasonable and appropriate measures to prevent the unauthorized use or disclosure of any personal information provided by the Customer to ETS and will not share personal information of the Customer with any third party not involved in the provision of the Service without the consent of the Customer, other than as provided under the Agreement.

11.5 The Customer acknowledges that ETS may be required to disclose information about the Agreement or Services provided under the Agreement, or legally intercept a Service to comply with Applicable Law or the express instructions of a Competent Authority, in the interests of public or national security.

11.6 ETS's Privacy Policy applies to the provision of the Services and is available on the Digital Channels.

12. CONFIDENTIALITY

12.1 ETS and the Customer shall keep in confidence any information obtained under the Agreement which is designated as confidential by the other Party or ought to have been reasonably understood by the recipient due to the circumstances of disclosure, or the nature of the information itself to be proprietary or confidential to the owner or to a third party. Neither Party shall divulge Confidential Information to any person (other than its own employees and/or agents on a need to know basis) without the consent of the other Party, unless the Confidential Information: (i) is in the public domain other than in breach of this confidentiality requirement; (ii) is in the possession of the receiving Party before such divulgence has taken place; (iii) has been obtained from a third party who is free to divulge the same; or (iv) has to be disclosed as a result of a court order or as prescribed by a Competent Authority with jurisdiction over a Party.

12.2 Except as required by Applicable Law, the obligations of confidentiality in this Clause 16 shall continue for a period of: one (1) year (in respect of non-pricing information); or two (2) years (in respect of any pricing information), following the expiry or termination of the Agreement.

13. TERMINATION

13.1 **Termination for Cause.** ETS may terminate the Agreement and/or all or part of any Service:

13.1.1 if the Customer has breached the Applicable Laws and (if such breach is capable of remedy) has not remedied such breach within thirty (30) days from receipt of written notice from ETS to remedy such breach;

13.1.2 if the Customer has received notice of non-payment of undisputed Charges and payment of any invoiced undisputed amount remains overdue for a further thirty (30) days; or

13.1.3 immediately on written notice if:

13.1.3.1 the Customer suspends, or threatens to suspend payment of its debts, or is unable to pay its debts as they fall due or admits an inability to pay its debts;

13.1.3.2 ETS is required to do so under Applicable Law or upon request by a Competent Authority, or if required by necessity of an emergency situation; or ETS reasonably believes that the performance of any agreements, covenants, undertakings or obligations under the Agreement violate the Applicable Law.

13.2 Either Party may terminate the Agreement:

13.2.1 if the other has materially breached its obligations under the Agreement and (if such breach is capable of remedy) has not remedied such breach, within thirty (30) days from receipt of written notice from the other Party to remedy such breach; or

13.2.2 immediately on written notice if:

i. the other has taken steps to enter, or enters into, any form of administration, insolvency, liquidation and/or an arrangement with the its creditors (or equivalent legal procedure in any relevant jurisdiction);

ii. the other suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or

iii. there is a change of Control of the other (except a merger or restructuring of ETS).

13.3 **Termination for Convenience**

13.3.1 Subject to (i) any notice period set out; and (ii) the payment of any Early Termination Charge due, the Customer may terminate the Agreement and/or all or part of a Service at any time by giving at least sixty (60) days' prior written notice to ETS.

13.3.2 ETS may terminate the Agreement and/or all or part of a Service at any time by giving at least ninety (90) days' prior written notice to the Customer. In such an event, the Customer shall not be liable for any Early Termination Charge that may otherwise apply.

13.3.3 **Microsoft Termination.** ETS may terminate the provision of the Microsoft Azure Services under the Agreement with immediate effect and without liability if Microsoft determines such termination is necessary to comply with the law or if Microsoft no longer permits the resale of the Microsoft Azure Services.

13.4 **Survival.** Without prejudice to Clause (Survival) of the Agreement, on termination or expiry of the Agreement for any reasons, the following sections of this Service Schedule shall survive and continue in full force and effect: Section 10 (Charges, Billing and Payment), Section 16 (Limits of Liability) and Section 13 (Termination).

14. CHANGE IN LAW

14.1 If, as a consequence of changes in Applicable Law, there is an increase in costs incurred by ETS in connection with the performance of its obligations under the Agreement, then such increase in cost will be discussed and any changes to the Charges shall be mutually agreed between the Parties in writing. Failure to achieve a mutual agreement on such changes within thirty (30) calendar days will give ETS the right to terminate the Agreement or any relevant Service Order immediately on written notice and without liability for such termination (except as otherwise provided for in the Agreement).

14.2 If, as a consequence of changes in Applicable Law, ETS's ability to deliver the Services or any part thereof to fulfil its obligations under the Agreement, becomes substantially adversely affected, or would put ETS in breach of Applicable Law, ETS shall notify the Customer with a view to offering an alternative Service or another solution. The Parties shall negotiate in good faith to agree on such alternative Service or solution. Failure to achieve a mutual agreement on such alternative Service or solution within thirty (30) calendar days will give ETS the right to terminate the Agreement or any relevant Service Order or any part thereof immediately on written notice and without liability for such termination (except as otherwise provided for in the Agreement).

15. REPRESENTATIONS, WARRANTIES AND DISCLAIMER

- 15.1 Each Party warrants and undertakes to the other that they have the right, power and authority to enter into the Agreement and to exercise their rights and perform their obligations under the Agreement.
- 15.2 Except as set out in Clause 19.1, or as otherwise expressly set out in the Agreement:
- 15.2.1 all warranties, terms and conditions that would otherwise be implied by statute or at common law are excluded to the fullest extent permitted by law; and
- 15.2.2 ETS does not provide any warranty regarding the adequacy of the Services and does not warrant that the Service will be uninterrupted or free from error.
- 15.3 **Exclusion of implied warranties.** Without prejudice to Clause 17 (Representation, Warranties and Disclaimer) of the Agreement, ETS does not warrant, guarantee or undertake that any Microsoft Azure Service will be uninterrupted, error-free or capable of withstanding all cyber-attacks or other unauthorised hacking or intrusions. ETS disclaims, to the extent permitted by applicable law, all warranties and any liability of ETS for any damages, whether direct, indirect, or consequential, arising from the Microsoft Azure Services. Further, where Microsoft makes available preview releases from time-to-time, such previews are provided “as is”, “with all faults” and “as available” (as further described in the Microsoft Terms) and any agreed SLAs shall not apply
- 16. LIMITATION OF LIABILITY**
- 16.1 Nothing in the Agreement shall exclude or limit the liability:
- 16.1.1 of either Party for (i) death or personal injury resulting from its negligence (or the negligence of its employees or agents acting in the course of their employment or agency); (ii) fraudulent misrepresentation; or (iii) any liability which cannot be excluded by law;
- 16.1.2 of the Customer, in respect of its obligations under Clause 9.9 (Customer Obligations); Clause 11.3 (IPR Licences); Clause 25.1 (Anti-Bribery and Anti-Corruption); Clause 25.2 (Export Controls); or any indemnification obligations.
- 16.2 Subject to Clause 16.1 and without prejudice to the Customer’s obligation to pay the Charges due under the Agreement, the following provisions of this Clause 20 set out the limitations on the liability of each Party (including any liability for the acts and omissions of its respective employees, agents and sub-contractors) to the other with respect to:
- 16.2.1 any breach of its contractual obligations arising under or in connection with the Agreement; and
- 16.2.2 any representation, statement, act or omission given, made or carried out under or in connection with the Agreement (whether such liability arises in contract, tort (including negligence and negligent misstatement), misrepresentation, breach of statutory duty or otherwise).
- 16.3 Subject to Clause 20.16.1, neither Party shall in any circumstance whether in contract, tort, under statute or otherwise (in each case including for negligence) be liable for any:
- i. loss of revenue;
 - ii. loss of actual or anticipated profits (including loss of profits on contracts);
 - iii. loss of the use of money;
 - iv. loss of anticipated savings;
 - v. loss of sales or business;
 - vi. loss of business opportunity or management time;
 - vii. loss of or damage to goodwill or reputation;
 - viii. loss of, damage to or corruption of data; or
 - ix. any indirect or consequential loss, costs, damages, charges or expenses howsoever caused (including, for the avoidance of doubt, where such loss or damage is of the type specified in (i) to (ix)).
- 16.4 Except as expressly stated otherwise in the Agreement 16.1, the liability of each Party (including its directors, employees, agents or sub-contractors) to the other Party whether in contract or tort (including negligence and negligent misstatement) or for misrepresentation, breach of statutory duty or otherwise arising in connection with the Agreement shall be limited to a maximum aggregate liability in any twelve (12) month period of one hundred percent (100%) of the Payments made by the Customer pursuant to the relevant Service Order during such twelve (12) month period.
- 16.5 The Customer acknowledges that ETS has no duty to any of the Customer’s Users or customers or any other recipient of any goods or services that the Customer supplies to third parties. Subject to Clause 20.1.1, ETS shall not be liable for any loss or damage that the Customer incurs as a result of claims made by any third party or any other recipient of any goods or services that the Customer supplies.
- 16.6 **ETS liability.** In no circumstances shall ETS’s liability to the Customer in respect of the Microsoft Azure Services be greater than Microsoft’s liability to ETS in respect of the Microsoft Azure Services. The Customer will not be entitled to recover losses or damages from ETS for a breach of the Microsoft Terms, save to the extent that ETS has recovered such losses or damages from Microsoft.
- 16.7 **Liability to the Customer’s customers.** ETS will not under any circumstances be liable to the Customer under the Agreement for any claim by any of the Customer’s customers arising out of the Customer’s failure to provide any services which it has agreed to provide to such customer (whether such failure arises as a result of the Customer’s negligence, breach of the Agreement or otherwise).
- 17. FORCE MAJEURE**
- 17.1 Neither Party shall be liable for failure to perform its obligations caused by or resulting from a force majeure event which shall include, but shall not be limited to: events which are unpredictable, unforeseeable, irresistible and beyond the Parties’ reasonable control, such as any extremely severe weather, flood, landslide, earthquake, storm, lightning, fire, explosion, epidemic, pandemic, riots, war or military operations, acts of God, acts of Government or state, civil disturbance, industrial

disputes, malicious damage, accident, national or local emergency, or material adverse network failure (“**Force Majeure Events**”).

17.2 If the Force Majeure Event continues for more than sixty (60) days, either Party may terminate the affected Service without liability to the other Party.

18. NOTICES

18.1 Any notice or other communication in connection with this Agreement shall be given in writing and in English and shall be delivered by hand, registered post, pre-paid recorded delivery, pre-paid special delivery or courier.

18.2 A notice to ETS shall be sent to the following address, or such other person or address as ETS may notify to the Customer from time to time: , United Arab Emirates.

18.3 A notice to the Customer shall be sent to the address in the Customer’s details mentioned in this Agreement or such other address as the Customer may notify to ETS from time to time.

18.4 Unless provided otherwise in the Agreement, a notice shall be effective upon receipt and shall be deemed to have been received: (i) on the second working day after posting or at the time recorded by the delivery service; or (ii) at the time of delivery, if delivered by hand or courier.

19. ASSIGNMENT AND TRANSFERS

19.1 ETS may assign or transfer the Agreement or any or all of its rights or obligations under the Agreement to one of its group companies or to any successor company at any time. ETS shall notify the Customer of any such assignment or transfer.

19.2 The rights and obligations of the Customer under the Agreement are personal to the Customer and shall not be assigned (whether absolutely or by way of security and whether in whole or in part) without the prior written consent of ETS.

20. COMPLIANCE

20.1 Anti-Bribery and Anti-Corruption

20.1.1 Neither Party shall, directly or indirectly through a third party, in relation to the Agreement give, receive, promise, attempt to give or to receive or in any way facilitate, the giving and/or receiving of anything of value to any person for the purpose of effecting any of the following:

20.1.1.1 to secure an improper advantage for either Party;

20.1.1.2 to induce or influence any person to take any action or refrain from taking any action to obtain or retain business for either Party;

20.1.1.3 to induce or influence any person to use his/her influence with any government or public international organization, or any department, agency or other instrumentality thereof, for either purpose described in (i) and (ii) of this Clause 25.1.

20.1.2 An ‘improper advantage’ shall mean an advantage that is not legitimately due. For the purposes of clarity no account should be taken of the fact that such actions may be, or perceived to be, customary or officially tolerated.

20.1.3 Notwithstanding anything to the contrary in the Agreement, if there has been a breach of this Clause 25.1 by either Party, such a breach shall be deemed a material breach of the Agreement, and the non-defaulting Party shall have the right to terminate the Agreement with immediate effect without prejudice to its rights under the Agreement or at law, including, but not limited to, the right to claim damages.

20.2 Export Controls

20.2.1 Nothing in the Agreement is intended, and nothing herein should be interpreted or construed, to induce or require either party hereto to act in any manner which is inconsistent with, penalised or prohibited under any laws or regulations applicable to such party which relate to international boycotts of any type.

20.2.2 Neither Party shall be obliged to perform any obligation otherwise required by the Agreement if this would be in violation of, inconsistent with, or expose such Party to punitive measures under, any laws or regulations applicable to the parties relating to export controls (the “**Trade Restrictions**”).

20.2.3 Where any performance by a party would be in violation of, inconsistent with, or expose such Party to punitive measures under, the Trade Restrictions, such party (the “**Affected Party**”) shall, as soon as reasonably practicable give written notice to the other party (the “**Non Affected Party**”) of its inability to perform. Once such notice has been given the Affected Party shall be entitled:

20.2.3.1 immediately to suspend the affected obligation until such time as the Affected Party may lawfully discharge such obligation; and/or

20.2.3.2 where the inability to discharge the obligation continues (or is reasonably expected to continue) until the end of the contractual time for discharge thereof, the Non-Affected Party shall have the option to terminate the Agreement in writing on notice to the Affected Party.

20.3 Anti-Money Laundering

Each Party represents and warrants on behalf of itself and any of its representatives (including its executive officers, directors, agents, contractors, sub-contractors and professional representatives) that:

20.3.1 it and any of its Affiliates and/or aforementioned representatives will refrain from engaging, whether directly or indirectly, in improper and/or illegal conduct, including money-laundering and terrorist financing; and will comply with any Applicable Law that prohibits engaging in or facilitating financial transactions that promote or conceal unlawful activity in any jurisdiction (“Applicable **Anti-Money Laundering Laws**”).

- 20.3.2 It has in place anti-money laundering procedures which comply with Applicable Anti-Money Laundering Laws; and
 - 20.3.3 It shall notify other Party promptly and in any event no longer than 3 days, in writing, of any suspicious activity under Applicable Anti-Money Laundering Laws, of which it becomes aware relating to the transaction involving the other Party.
- 20.4 Notwithstanding any other provision of this Agreement, breach of any of the provisions in this Clause 25.1, 25.2 and 25.3 is a material breach and, without prejudice to any other right or remedy under this Agreement or at Applicable Law, will subject to termination as per Clause 17.2 of this Agreement.
- 20.5 **Data Protection**
- 20.5.1 ETS may process personal data when providing the Services and for the performance of its duties as set out in the Agreement. ETS is committed to ensuring personal data is stored safely and in compliance with all applicable data protection legislation in force from time to time in the UAE. ETS uses reasonable endeavours to keep all personal data secure, using technical and organisational measures to protect the personal data, taking into account the nature of the Services.
 - 20.5.2 Prior to any transfer of personal data from the Customer to ETS, the Customer shall ensure that it has given any necessary notices to, and obtained any required consents from, the data subjects, to enable the lawful transfer of personal data to ETS.

21. GENERAL

- 21.1 **Amendment to the Agreement:** Notwithstanding anything to the contrary in the Agreement, ETS may make amendments to the Agreement at any time and with immediate effect as required to comply with the reseller agreement between Microsoft and ETS or to reflect amendments made by Microsoft to such reseller agreement
- 21.2 **No Partnership or Joint Venture.** Both Parties are independent contracting parties for the purpose of this Agreement. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another party, nor authorize any Party to make or enter into any commitments for or on behalf of any other Party. Without releasing it from any of its obligations, ETS may at any time, without notice, subcontract the provision of the Services to one or more of its group companies or subcontractors.
- 21.3 **Announcements.** Each Party shall, prior to making or permitting any person to make any public announcement concerning the Agreement, inform the other Party of its intention to do so, provide information about the content of the announcement; and allow a reasonable time for the other Party to object to the announcement. The requirement to inform of a public announcement shall not apply where such announcement is required by Applicable Law, any Competent Authority, the Abu Dhabi Securities Exchange (ADX), or the UAE Securities and Commodities Authority (SCA)).
- 21.4 **Third Parties.** The Parties acknowledge that the rights in this Agreement are intended solely for the benefit of the Parties, their successors and permitted assigns and that, unless expressly set out in the Agreement, no third party shall have any right to enforce the terms of this Agreement.
- 21.5 **Waiver.** Failure to exercise, or any delay in exercising, any right or remedy provided under the Agreement or by law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall preclude or restrict the further exercise of that right or remedy.
- 21.6 **Severance.** If any provision of the Agreement (or part of any provision) becomes invalid, illegal or unenforceable, the validity and enforceability of the other provisions of the Agreement shall not be affected. In such circumstances the Parties shall negotiate in good faith to amend such provision such that as amended, it achieves as nearly as possible the same commercial effect, as the provision which is found to be invalid, illegal or unenforceable.
- 21.7 **Entire Agreement.** The Agreement as expressly stated in the documents forming it, constitutes the entire agreement between the Parties and supersedes all previous negotiations, representations, proposals, understandings or agreements, whether written or oral, relating to the subject matter of the Agreement.
- 21.8 **Survival.** Notwithstanding any provision of this Agreement to the contrary, the provisions of Clauses 11, 12, 15, 15, 25 and 26, and any other provisions which expressly or impliedly survive termination of the Agreement for any reason whatsoever, shall continue in full force and effect after termination.
- 21.9 **Governing Law.** Any dispute, conflict or claim that might arise out of or in connection with this Agreement or its subject matter, existence, negotiation, validity, termination or enforceability (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the UAE.
- 21.10 **Jurisdiction.** Each Party irrevocably agrees that the courts of the United Arab Emirates shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

Service Schedule

Microsoft Azure Service Terms

(Microsoft Azure Cloud Computing Platform & Services)

1. SCHEDULE TO THE AGREEMENT

- 1.1 The Customer's use of the Microsoft Azure Services set out in this Service Schedule ("**Service Schedule**") is subject to and governed by the terms contained in the Agreement.
- 1.2 In addition to any other terms and conditions of the Customer's Agreement with ETS, this Service Schedule shall apply when the Customer purchases Microsoft Azure Services from ETS.

2. SERVICES

- 2.1. The Microsoft Cloud Solution Provider (CSP) program enables ETS to resell Microsoft Azure to customers. This may be a stand-alone offering or provided as part of a larger solution incorporating other ETS products and services.
- 2.2. Before ETS can place an order on the Customer's behalf, the Customer must accept the applicable Microsoft Terms such that ETS can confirm the Customer's acceptance and provide Customer on-boarding information to Microsoft. If confirmation is not provided, ETS will be unable to create new orders for the Customer. The Microsoft Terms shall apply between the Customer and ETS in respect of the Microsoft Azure Services and the Microsoft Terms are hereby incorporated into the Agreement by reference.
- 2.3. The Customer shall:
 - 2.3.1. comply with the Microsoft Terms (as they may be amended from time to time);
 - 2.3.2. indemnify ETS and hold ETS harmless against any costs, liability, damages, claims or expenses arising out of any breach by the Customer of the Microsoft Terms, save to the extent caused solely by ETS's negligence or ETS's breach of the Agreement;
 - 2.3.3. notify ETS in writing if the Customer becomes aware of any factors or circumstances that constitute (or may constitute) a breach by the Customer or Microsoft of the Microsoft Terms; and
 - 2.3.4. provide to ETS, if requested, such information or materials relating to the Microsoft Azure Services, as reasonably requested by ETS to verify the Customer's compliance with the Microsoft Terms.
- 2.4. ETS will be entitled to enforce the Microsoft Terms against the Customer directly and the Customer will be liable to ETS if the Customer is in breach of the Microsoft Terms.
- 2.5. Remedies for service level failure shall be provided by ETS for those Microsoft Azure Services the Customer purchases directly through ETS, provided that the Customer shall notify ETS of any service level failure by the end of the billing cycle in which the service incident occurred. The current Customer SLA offered by Microsoft can be found at <http://azure.microsoft.com/support/legal/sla/>.
- 2.6. Notwithstanding Clause 16.4 (Limitation of Liability) of the Agreement, in no circumstances shall:
 - 2.6.1. ETS's liability to the Customer in respect of the Microsoft Azure Services be greater than Microsoft's liability to the Customer would have been pursuant to the Microsoft Terms; and
 - 2.6.2. the Customer's liability to ETS in respect of the Microsoft Azure Services be greater than the Customer's liability to Microsoft would have been pursuant to the Microsoft Terms.
- 2.7. The Customer confirms that the technical and organisational measures provided by Microsoft shall be adequate for the purposes of its requirements in respect of the protection of personal data and Clause 23 (Compliance) of the Agreement, where applicable, as regards the Microsoft Azure Services.
- 2.8. Some Microsoft Azure Services may include limits and maximum resources known as "Usage Quotas", which may change periodically. The Customer should refer to <https://docs.microsoft.com/en-us/azure/azure-subscription-service-limits> for the latest information on such Usage Quotas.

3. CHARGES AND PAYMENT

- 3.1. ETS will:
 - 3.1.1. ensure that Microsoft invoices ETS, not the Customer, for all fees incurred by the Customer in relation to the Microsoft Azure Services procured directly through a new service provision and/or transferred to ETS as part of implementation of the Customer solution;
 - 3.1.2. pay to Microsoft any invoice for fees (including all applicable taxes) in accordance with any timescales required by Microsoft;
 - 3.1.3. prepare and issue to the Customer on or around the last working day of each first week of the following calendar month an invoice detailing the fees incurred by the Customer during the preceding calendar month;
 - 3.1.4. ensure that the invoice issued to the Customer is in UAE Dirham with currency conversion being calculated using the prevailing rate used by Microsoft on the day of invoice generation;
 - 3.1.5. apply any currency spot buying, hedging or other process to reduce the risk of currency fluctuations as ETS may agree with the Customer;
 - 3.1.6. provide by the end of the relevant calendar month access to details of Microsoft Azure Services used by the Customer in the preceding calendar month and the fees applicable to those Microsoft Azure Services.
- 3.2. In the event that the Customer requires ETS to provide specific information as part of an invoice (such as purchase order numbers and/or billing contacts), the Customer will provide ETS with such information to enable ETS to submit valid invoices to the Customer.
- 3.3. The Customer will pay to ETS the fees detailed in an invoice submitted to the Customer by ETS, which is based on the Microsoft Azure Service Charges for the period in question and which are properly due in accordance with Section 5.1.3, within thirty (30) days of receipt of that invoice. If the Customer considers that an invoice is incorrect, the Customer will notify ETS as soon as is reasonably practicable and ETS shall discuss with the Customer the correction of the invoice, where appropriate. Where ETS agrees with the Customer that there needs to be an adjustment to the invoice, the difference between the agreed sum and the invoiced sum shall be added to or deducted from (as applicable) the following month's invoice.
- 3.4. **Usage Service Charge.** When the Service Schedule relating to applies, this Section 5.4 will apply instead of Clause 5.2 (Charges, Billing and Payment) of this Agreement. When the Customer places a Service Order, ETS will invoice the Customer every month for the Usage-Based Charges incurred from the use of Microsoft Azure Services using online Microsoft prices listed on <https://azure.microsoft.com/en-us/pricing/calculator/> or if agreed any discounted price listed in the Service Order. Those invoices will be payable within thirty (30) days of the date on which they are issued.
- 3.5. **Microsoft Software Licensing.** Where any price increase is imposed by Microsoft in respect of Microsoft software and/or services and such increase does not apply solely to the Customer, ETS may make a reasonable apportionment of such charge to the Customer. ETS will give the Customer advance written notice of any such increase, together with any equivalent price increase notice received from Microsoft.

- 3.6. **Payment of invoices.** When the Service Schedule relating to Microsoft Services applies, this Section 5.6 will apply instead of Clause 5.3 (Charges, Billing and Payment) of the Agreement. Unless the Customer disputes an invoice with good cause, the Customer shall pay each ETS invoice in UAE Dirhams within thirty (30) days of the date on which that invoice is issued or within such alternative period as is expressly stated in the Agreement (the "Due Date"). The Customer will not be entitled to deduct or off-set any amount that ETS may owe to the Customer against an ETS invoice.
- 3.7. **Variation in Charges.** With reference to Clause 11 (Charges, Billing and Payment) of the Agreement, Microsoft Service Charges are variable and as such cannot be predicted. ETS reserves the right to pass on to the Customer any price increase or decreased imposed by Microsoft with respect to the Microsoft Azure Services.
- 3.8. **Cancellation fee.** If a subscription permits early termination and Customer cancels the subscription before the end of the subscription or billing period, Customer may be charged a cancellation fee as levied by Microsoft.
- 3.9. **Recurring Payments.** For subscriptions that renew automatically, Customer authorizes ETS to charge Customer's payment method periodically for each subscription or billing period until the subscription is terminated.
- 3.10. **Partner Administrator privileges and access to Customer Data.** If Customer agrees to provide ETS with administrator privileges, that Partner will be the primary administrator of the Online Services
- 3.11. Customer consents to ETS providing the Partner with Customer Data and Administrator Data for purposes of provisioning, administering and supporting (as applicable) the Online Services. Partner may process such data according to the terms of Partner's agreement with Customer, and its privacy commitments. Customer has the option to remove any access given to the partners. ETS does not mandate the Customer to assign ETS appropriate access for the sole purpose of earning partner earned credit from Microsoft.

Service Schedule

Microsoft Online Services

1. SCHEDULE TO THE AGREEMENT

- 1.1. The Customer's use of the Microsoft Online Services set out in this Service Schedule ("**Service Schedule**") is subject to and governed by the terms contained in the ETS Agreement.
- 1.2. In addition to any other terms and conditions of the Customer's Agreement with ETS, this Service Schedule shall apply when the Customer purchases Microsoft Online Services from ETS.

2. SERVICES

- 2.1. The Microsoft Terms shall apply between the Customer and ETS in respect of the Microsoft Services and the Microsoft Terms are hereby incorporated into the terms of the Agreement by reference.
- 2.2. The Customer shall:
 - 2.2.1. comply with the Microsoft Terms (as they may be amended from time to time);
 - 2.2.2. indemnify ETS and hold ETS harmless against any costs, liability, damages, claims or expenses arising out of any breach by the Customer of the Microsoft Terms, save to the extent caused solely by ETS's negligence or ETS's breach of the Agreement;
 - 2.2.3. notify ETS in writing if the Customer becomes aware of any factors or circumstances that constitute (or may constitute) a breach by the Customer or Microsoft of the Microsoft Terms; and
 - 2.2.4. provide to ETS, if requested, such information or materials relating to the Microsoft Services, as reasonably requested by ETS to verify the Customer's compliance with the Microsoft Terms.
- 2.3. ETS will be entitled to enforce the Microsoft Terms against the Customer directly and the Customer will be liable to ETS if the Customer is in breach of the Microsoft Terms.
- 2.4. Remedies for service level failure shall be provided by ETS for those Microsoft Services the Customer purchases directly through ETS, provided that the Customer shall notify ETS of any service level failure by the end of the billing cycle in which the service incident occurred. The current Customer SLA offered by Microsoft can be found at <http://www.aka.ms/csla>.
- 2.5. Notwithstanding Clause 18.4 (Limitation of Liability) of the Agreement, in no circumstances shall:
 - 2.5.1. ETS's liability to the Customer in respect of the Microsoft Services be greater than Microsoft's liability to the Customer would have been pursuant to the Microsoft Terms; and
 - 2.5.2. the Customer's liability to ETS in respect of the Microsoft Services be greater than the Customer's liability to Microsoft would have been pursuant to the Microsoft Terms.
- 2.6. The Customer confirms that the technical and organisational measures provided by Microsoft shall be adequate for the purposes of its requirements in respect of the protection of personal data under Clause 23 (Compliance) of the Agreement, where applicable, as regards the Microsoft Services.
- 2.7. Customer's use of certain Microsoft Services may require the Customer to have a qualifying base licence on the Customer's hardware unit. The applicable requirements are set out in the product specific terms and incorporated into the Microsoft Terms. On request from ETS, the Customer shall provide proof that it has properly obtained the prerequisite Microsoft Software prior to the provision of the Services by ETS.

3. CHARGES AND PAYMENT

- 3.1. ETS will:
 - 3.1.1. ensure that Microsoft invoices ETS, not the Customer, for all fees incurred by the Customer in relation to the Microsoft Services procured directly through a new service provision and/or transferred to ETS as part of implementation of the Customer solution;
 - 3.1.2. pay to Microsoft any invoice for fees (including all applicable taxes) in accordance with any timescales required by Microsoft;
 - 3.1.3. prepare and issue to the Customer on or around the last working day of each calendar month an invoice detailing the fees incurred by the Customer during the preceding calendar month (from the 24th of the previous month to the 23rd of the current month);
 - 3.1.4. ensure that the invoice issued to the Customer is in UAE Dirham with currency conversion being calculated using the prevailing rate used by Microsoft on the day of invoice generation;

- 3.1.5. apply any currency spot buying, hedging or other process to reduce the risk of currency fluctuations as ETS may agree with the Customer;
- 3.1.6. prepare and issue to the Customer by the end of the relevant calendar month a report detailing the Microsoft Services used by the Customer in the preceding calendar month and the fees applicable to those Microsoft Services
- 3.2. In the event that the Customer requires ETS to provide specific information as part of an invoice (such as purchase order numbers and/or billing contacts), the Customer will provide ETS with such information to enable ETS to submit valid invoices to the Customer.
- 3.3. The Customer will pay to ETS the fees detailed in an invoice submitted to the Customer by ETS, which is based on the Microsoft Service Charges for the period in question and which are properly due in accordance with Section 5.1.3, within thirty (30) days of receipt of that invoice. If the Customer considers that an invoice is incorrect, the Customer will notify ETS as soon as is reasonably practicable and ETS shall discuss with the Customer the correction of the invoice, where appropriate. Where ETS agrees with the Customer that there needs to be an adjustment to the invoice, the difference between the agreed sum and the invoiced sum shall be added to or deducted from (as applicable) the following month's invoice.
- 3.4. **Recurring Service Charge.** When this Service Schedule applies, this Section 3.4 will apply instead of Clause 10.2 (Charges, Billing and Payment) of the Agreement. When the Customer places a Service Order, ETS will invoice the Customer for the Recurring Service Charge listed in the Service Order. That invoice will be payable within thirty (30) days of the date on which it is issued. Following ETS's initial invoice, ETS will invoice the Customer for each further instalment of the Recurring Service Charge monthly in advance, each further invoice being payable within thirty (30) days of the date on which it is issued.
- 3.5. **Microsoft Software Licensing.** Where ETS provides software via a rental model using Microsoft Licensing Agreements, ETS reserves the right to pass on to the Customer any price increase imposed by Microsoft where the software provided is solely used for the provision of the Services to the Customer. Where any such increase does not apply solely to the Customer, then ETS may make a reasonable apportionment of such charge to the Customer. ETS will give the Customer advance written notice of any such increase, together with any equivalent price increase notice received from Microsoft.
- 3.6. **Payment of invoices.** When this Service Schedule applies, this Section 3.6 will apply instead of Clause 10.4 (Charges, Billing and Payment) of the Agreement. Unless the Customer disputes an invoice with good cause, the Customer shall pay each ETS invoice in UAE Dirhams within thirty (30) days of the date on which that invoice is issued or within such alternative period as is expressly stated in the Agreement (the "Due Date"). The Customer will not be entitled to deduct or off-set any amount that ETS may owe to the Customer against an ETS invoice.
- 3.7. **Variation in Charges.** With reference to Clause 10 (Charges, Billing and Payment) of the Agreement, Microsoft Service Charges are variable and as such cannot be predicted with 100% certainty.

Service Schedule

Managed Cloud Services

1. SCHEDULE TO THE AGREEMENT

- 1.1 The Customer's use of the ETS Managed Cloud Services set out in this Service Schedule ("Service Schedule") is subject to and governed by the terms contained in the ETS Agreement.
- 1.2 In addition to any other terms and conditions of the Customer's Agreement with ETS, this Service Schedule shall apply when the Customer purchases ETS Managed Cloud Services from ETS.

2. COMMENCEMENT AND DURATION

- 2.1 Unless specified otherwise in the Service Order, the Minimum Term for this Service Schedule shall be a period of one month from the Activation Date, unless terminated sooner in accordance with the terms of the Agreement.
- 2.2 This Service Schedule shall automatically review at the end of the Minimum Term for successive monthly periods unless and until terminated in accordance with the Agreement.

3. SERVICE DESCRIPTION

- 3.1 ETS shall provide the Customer with the Managed Cloud Services as set out in the applicable Service Order.
- 3.2 The Managed Cloud Service provided by ETS is a support model within the overall cloud solution, whereby the Customer can subscribe to different levels of Support and other Managed Cloud Services, as required. The Managed Cloud Services may comprise: implementation and commissioning; ongoing management; monitoring; and support, in relation to ETS Services and solutions described in the Service Order.
- 3.3 Where the Customer has purchased the Managed Cloud Services, ETS will operate the Customer environment. Once ETS has completed the on-boarding configuration, ETS deals with the day-to-day support of the Customer environment, addressing incident and change management as well as day-to-day management.
- 3.4 The specific Managed Cloud Services offered at different demarcations levels ("platform-level", "operating system level", etc...) shall be as specified in the relevant Service Order.
- 3.5 Managed Cloud Services do not extend to issues at the Customer site and exclude ETS Professional Services (such as project-related Services, migration projects, custom third party application integration, external security audits, end-user volume activities and other chargeable service requests. Where purchased, these shall be provided subject to the relevant Professional Services Schedule).

4. OBLIGATIONS AND RESTRICTIONS

- 4.1 Services Management Agent. The Customer agrees that it will not disrupt or interfere with any services management software agent(s) that ETS installs on its Services. ETS agrees that its agents will use only a minimal amount of computing resources, and will not interfere with the Customer's use of the Services. ETS will use the agents to track system information so that it can more efficiently manage various service issues. The Customer's Services will become "Unsupported" if they disable or interfere with ETS services management software agent(s). The Customer agrees that ETS may access their Services to reinstall services management software agents if they are disabled.

5. RESPONSE TIMES AND SERVICE LEVEL AGREEMENT

- 5.1 ETS will provide the Managed Cloud Service to the Customer in accordance with the Agreement:
 - 5.1.1 to a standard of any service level which is expressly set out in or incorporated within the relevant Service Order ("SLA"); and
 - 5.1.2 using reasonable care and skill, consistent with international standards adopted by similar service providers to ETS, providing similar services to similar customers.
- 5.2 Where an SLA has been agreed and is applicable to the provision of the Managed Cloud Service:
 - 5.2.1 the Customer's sole and exclusive remedy for ETS's failure to meet those guarantees for which Service Credit(s) are provided, will be the payment of Service Credit(s) in accordance with the terms of the Agreement;
 - 5.2.2 the Customer agrees that the Service Credit(s) are reasonable and proportionate to the Customer's legitimate interest in the Managed Cloud Service being performed in accordance with Section 6.1;
 - 5.2.3 the maximum Service Credit(s) for failures to meet any applicable SLA(s) for any calendar month shall be as set out in the relevant Service Order;
 - 5.2.4 where the Customer is in breach of the Agreement (other than an act or omission referred to in Clause 6.2.5 below) at the time of the event giving rise to the Service Credit, the Customer is not entitled to Service Credits until the Customer has remedied the breach; and
 - 5.2.5 if the Service Credit(s) would not have accrued but for the Customer's breach of the Agreement or action or omission, no Service Credit(s) shall be due.

6. CHARGES AND PAYMENT

- 6.1 The Customer shall pay when due the Charges for the Managed Cloud Services in accordance with Clause 11 of the Master Cloud Services Agreement and the relevant Service Order. ETS shall invoice all components of the Managed Cloud Services by way of direct billing.
- 6.2 Where ETS provides software via a rental model using service provider licensing agreements or similar, ETS reserves the right to pass on to the Customer any price increase or decrease imposed by the relevant software provider where the software provided is solely used for the provision of the Managed Cloud Services to the Customer. Where any such increase does not apply solely to the Customer, then ETS may make a reasonable apportionment of such increases to the Customer. ETS will give the Customer advance written notice of any such increase, together with any equivalent price increase notice received from the supplier concerned.

7. ADDITIONAL TERMS FOR SPECIFIC SERVICES

7.1 Third Party Cloud Services.

- 7.1.1 ETS shall provide the Managed Cloud Services and Support in respect of environments under ETS's responsibility as specified in the Service Order, including any ETS Services and any third party cloud software and services purchased by the Customer as part of the Services.

7.1.2. Where the Services include third party cloud software and services purchased by the Customer, as described in Clause 9.1 (Licences ETS Provides) of the Master Cloud Services Agreement, the applicable Service Schedule shall also apply.

7.2. IP Addresses

7.2.1. Any Internet Protocol address (Dynamic IP or Static IP), email address or hostname assigned to the Customer by ETS may be changed, withdrawn or reassigned at any time in the sole discretion of ETS. The Customer has no property or other rights in any such IP addresses, emails or host names. Any such addresses must be used solely in connection with the Managed Cloud Services for which they are assigned. If that Service is discontinued, the Customer's right to use such addresses ceases immediately and the addresses revert to ETS. The Customer further warrants that any domain name registered or administered on its behalf by ETS shall not contravene the trademark or other Intellectual Property Rights of any third party and that the Customer shall comply with the rules of the applicable domain name authority.

7.2.2. Upon expiration or termination of the Agreement, the Customer must discontinue use of the IP addresses and server names provided by ETS through the Agreement and assigned by ETS in connection with Managed Cloud Services.

8. LIMITS OF LIABILITY

8.1. **Liability to the Customer's customers.** ETS will not under any circumstances be liable to the Customer under the Agreement for any claim by any of the Customer's customers arising out of the Customer's failure to provide any services which it has agreed to provide to such customer (whether such failure arises as a result of the Customer's negligence, breach of the Agreement or otherwise).

8.2. **Liability for third party providers.** ETS will not under any circumstances be liable to the Customer under the Agreement for any claim by the Customer arising as a result of a failure caused by ETS's third party providers.

8.3. **Data.** In the event that the Customer data is corrupted or lost or sufficiently degraded as to be unusable due to a breach by ETS of its obligations under the Agreement after its receipt or creation by ETS or during any processing of the Customer data in accordance with the Services, the Customer shall have the option, as its sole remedy, to require ETS to restore or procure the restoration of Customer's data to the last available restoration point.

9. TERMINATION

9.1. **Termination Assistance.** Where the Agreement is terminated for any reason, ETS's sole duty to provide termination assistance shall be to allow the Customer to access the Customer data for the purposes of transferring this to the Customer or to a replacement service provider. ETS may at its discretion provide such other termination assistance as the parties shall agree in these circumstances but shall not be obliged to do so.

Service Schedule

Professional Services

1. SCHEDULE TO THE MULTICLOUD AGREEMENT

- 1.1. The Customer's use of the ETS Professional Services set out in this Service Schedule ("Service Schedule") is subject to and governed by the terms contained in the ETS Agreement.
- 1.2. In addition to any other terms and conditions of the Customer's Agreement with ETS, this Service Schedule shall apply when the Customer purchases ETS Professional Services from ETS.

2. DEFINITIONS

- 2.1. The capitalised terms in this Service Schedule are as defined in the Agreement, unless expressly defined otherwise in this Service Schedule. In this Schedule, the following definitions apply, unless the context otherwise requires:
 - "**Deliverable**" means a tangible item of work product to be provided by ETS to the Customer as expressly set forth in the Service Order.
 - "**Professional Services**" such professional services as may be specified in the Service Order and further described in Section 4.2.

3. COMMENCEMENT AND DURATION

- 3.1. The Term for this Service Schedule shall be the period of time necessary to deliver the relevant Professional Services, as specified in the Service Order, unless terminated sooner in accordance with the terms of the Agreement.

4. SERVICE DESCRIPTION

- 4.1. ETS shall perform the Professional Services and provide the Deliverables (if any) during the term of this Service Schedule as per the scope defined in the Service Order.
- 4.2. The Professional Services may comprise: project-related services, migration projects, custom third party application integration, external security audits, end-user volume activities and such other service requests in relation to ETS Services and solutions described in the Service Order.
- 4.3. The specific Professional Services offered shall be as specified in the relevant Service Order.
- 4.4. Deliverables under this Professional Services Schedule do not include Licensed Software as referenced in the Agreement and related Service Schedules and the Professional Services do not include maintenance and support services provided by ETS, which will be provided pursuant to a Managed Cloud Service Schedule.

5. OBLIGATIONS AND RESTRICTIONS

- 5.1. **Project Manager.** Customer will appoint an individual to be Customer's "Project Manager" and will authorize the individual to be the Customer's primary contact regarding the Professional Services and to make binding decisions on behalf of Customer. Customer will promptly notify ETS of the appointment of Customer's Project Manager and any replacement of Customer's Project Manager.
- 5.2. **Access and Facilities.** If ETS personnel perform work at Customer's premises, Customer will provide ETS personnel with reasonable access to Customer's computer systems and premises during normal business hours, reasonably required onsite workspace, office support services and supplies, and reasonably requested use of equipment and communications facilities, including Internet access.
- 5.3. **Reasonable Assistance/Information.** Customer will reasonably cooperate with and assist ETS to perform the Professional Services and create and deliver Deliverables, and will promptly perform the duties and tasks specified in the Service Order and other reasonable tasks as requested by ETS. Customer will timely provide ETS with all information reasonably requested by ETS in connection with ETS's performance of its work under this Service Schedule. Customer will ensure that all information provided to ETS is accurate and complete.

6. RIGHTS IN DELIVERABLES

- 6.1. Subject to the provisions of this Service Schedule and Customer's full and final payment of all applicable Charges, ETS grants to Customer a non-exclusive, non-sublicensable, non-transferable, restricted and limited licence to use each Deliverable for Customer's internal business operations only (the "License Grant"). The License Grant will subsist unless and until terminated in accordance with the Agreement.
- 6.2. Notwithstanding any other provision of the Agreement: (a) ETS and ETS's licensors own and will retain all rights, title and interests throughout the world in, to and associated with each Deliverable and all related IPR; and (b) a Deliverable is licensed, not sold, to Customer, and Customer will not acquire any right, title or interest in, to or associated with a Deliverable or any related intellectual property rights except for the limited license to use the Deliverable expressly set forth in the License Grant.
- 6.3. Customer acknowledges that ETS and its licensors and their respective successors, assigns and licensees have and will retain the unlimited and unrestricted right to use and commercialise each Deliverable and all knowledge, know-how, information, materials and creations of any kind learned, derived or created in the course of the performance of the Services. ETS reserves all rights that are not expressly granted in this Service Schedule.

7. CHARGES AND PAYMENT

- 7.1. Unless the Agreement expressly states otherwise, schedules, quantities and fees specified in the Service Order are reasonable estimates based upon information known to ETS when the Service Order is prepared. The amount of Professional Services performed by ETS may be more or less than the amount estimated in the Service Order, and the Customer agrees to pay for all Professional Services performed in accordance with the Agreement. If the amount of the Professional Services and applicable fees will materially exceed an estimate in the Service Order, ETS will notify the Customer in a timely manner.
- 7.2. The Customer shall pay when due the Charges for the Professional Services in accordance with Clause 11 of the Agreement and the relevant Service Order. ETS shall invoice all components of the Professional Services by way of direct billing.
- 7.3. Where ETS provides software via a rental model using service provider licensing agreements or similar, ETS reserves the right to pass on to the Customer any price increase imposed by the relevant software provider where the software provided is solely used for the provision of the Professional Services to the Customer. Where any such increase does not apply solely to the Customer, then ETS may make a reasonable apportionment of such increases to the Customer. ETS will give the Customer

advance written notice of any such increase, together with any equivalent price increase notice received from the supplier concerned.

- 7.4. If the Service Order specifies that ETS personnel will travel to Customer's premises outside the personnel's metropolitan area of their principal office in order to perform the Professional Services, then the Customer will reimburse ETS for the reasonable, out-of-pocket travel, lodging and incidental expenses incurred by those ETS personnel.

8. ETS PERSONNEL

- 8.1. ETS will assign personnel (employees, consultants and subcontractors) proficient with ETS's Services and solutions, to perform the Professional Services.
- 8.2. During the term of the Agreement and for twelve (12) months after the term of this Service Schedule, the Customer will not solicit the employment or services of any ETS personnel involved in performing the Professional Services.
- 8.3. ETS may in its discretion engage subcontractors to assist ETS to perform its obligations under this Service Schedule, provided that ETS is and will remain fully responsible for all Professional Services and Deliverables.