



Microsoft Hosting IT Services Terms and Conditions

1. How these Terms and Conditions work
 - 1.1 These Terms and Conditions incorporate the Master Services Terms and Conditions (the "**MSTC**") which are available on Our Website and apply to the Hosting Services you have asked us to provide. Please see clause 1 of the MSTC for details of how the Order Form, MSTC and these Terms and Conditions work together to govern our provision of the Hosting Services to you.
 - 1.2 The defined terms below also apply in these Terms and Conditions

Hosting Services means any Hosted Exchange, Hosted Sharepoint, Hosted CRM, Hosted Blackberry Enterprise and Hosted Lync services and any other hosting services to be provided by us as described in an Order (and **Hosting Service** means any one of the Hosting Services);

"Licence Terms" in respect of Microsoft Software, those licensing conditions and restrictions set out in Schedule 1, and in respect of Parallels as set out in Schedule 2 in each case as changed from time to time by the relevant Licensor and communicated to you by us posting the changed terms on Our Website;

Microsoft Microsoft Ireland Operations Limited of 70 Sir Rogerson's Quay, Dublin 2, Ireland;

Microsoft Software Software licensed by Microsoft;

Parallels Parallels International GmbH, Vordergasse 49, 8200 Schaffhausen, Switzerland.

Parallels Software Software licensed by Parallels;

Scheduled Maintenance means maintenance in respect of Services which we expect to have to make;

Service Credit has the meaning given to it in clause 3.1.

2. What we will do
 - 2.1 We will provide the Hosting Services in accordance with the Agreement.

3. What happens if our Hosting Services are unavailable
- 3.1 If the Hosting Services are unavailable for reasons other than due to:
 - (a) a Customer Failure;
 - (b) Scheduled Maintenance outside Business Hours or where we have given you 7 days notice; or
 - (c) a fault affecting any telecommunications service connecting the edge device(s) of the Customer's information technology network to the edge device(s) of the information technology network from which we provide Hosting Services (whether via the public switched telecommunications network or otherwise (including via any services we provide));

we will credit to your account an amount calculated in accordance with this clause 3 ("**Service Credit**").

- 3.2 Subject to clause 14.1 of the MSTC the Service Credit will be your only remedy in respect of any unavailability of the Hosting Services.
- 3.3 For each whole period of 30 minutes in which the Hosting Services are unavailable in respect of a Customer, you will receive a Service Credit of 10% of the Charges for the Hosting Services you have paid for the month in which the unavailability occurred (calculated on a pro-rate basis as appropriate), up to a maximum total of 100% of those Charges for that month.

4. Specific Terms which apply for different Hosting Services

- 4.1 All Hosting Services and Software made available for the use of your Customers pursuant to the Agreement are provided subject to all Charges being paid and the Licence Terms. You must observe and comply with and you must ensure that all End-Users observe and comply with these Licence Terms, including any restrictions on the use, copying, decompilation and transfer of the Software.

5. Liability

- 5.1 We will be liable for loss of or damage to your data where:
 - (a) we have failed to carry out scheduled back-ups (once every 24 hours); or
 - (b) we have lost or damaged back-up tapes or other media upon which your data is stored; or
 - (c) we have otherwise failed to comply with the Data Security Policy to the extent that the same is relevant to the provision of the Services;

provided always that you have:

- (i) taken all reasonable measures that a prudent and responsible data controller would take to ensure the safety, security and integrity of its data, and to mitigate the risk or any loss of or damage to such data; and

- (i) notified us of such loss or damage within twenty four hours of such event occurring.

5.2 You acknowledge and agree that we do not represent or act as agent of Parallels, Microsoft or any other Licensor in providing the Software or Services contemplated by this Service Document, or give or imply any representations, warranties, conditions, covenants or guarantees on their behalf.

1. **Audit**

1.1 Subject to the following provisions of this clause, in the event that we uncover a shortage in payment of the Charges or any Software licensing inconsistency or inaccuracy, you shall acquire the necessary additional licences within 30 days at the relevant unit price of such additional licences. You shall pay to us 115% of the unit price for each Microsoft Software product which was not appropriately licensed. In such circumstances we shall presume that such unreported use of the relevant Software began upon commencement of the relevant Order unless you can reasonably demonstrate a different scope and duration of usage.

2. **General**

2.1 Clauses 3.2, 5 and 6 will continue to be in force even if this Order has terminated.

2.2 Clauses 4, 5.2 and 6 of these Terms and Conditions may not be varied save with the prior consent of each distributor or reseller we have contracted with directly, whose services form part of the Services.

Schedule 1

TERMS AND CONDITIONS REGARDING USE OF MICROSOFT SOFTWARE

End-User License Terms

TERMS AND CONDITIONS REGARDING USE OF MICROSOFT SOFTWARE

This document governs the use of Microsoft software, which may include associated media, printed materials, and "online" or electronic documentation (individually and collectively, "Licensed Products") provided by Green Cloud Hosting Limited (hereinafter referred to as "Company"). Company does not own the Licensed Products and the use thereof is subject to certain rights and limitations of which Company must inform you. Your right to use the Licensed Products is subject to the terms of your agreement with Company, and to your understanding of, compliance with, and consent to the following terms and conditions, which Company does not have authority to vary, alter, or amend.

1 DEFINITIONS

"**Client Software**" means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

"**Device**" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," server or other electronic device.

"**Server Software**" means software that provides services or functionality on a computer acting as a server.

"**Software Documentation**" means any end user document included with server software.

"**Software Redistribution**" means the software described in Paragraph 4 ("Use of Redistribution Software") below.

2 OWNERSHIP OF LICENSED PRODUCTS

The Licensed Products are licensed to Company from an affiliate of the Microsoft Corporation (collectively "Microsoft"). All title and intellectual property rights in and to the Licensed Products (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Licensed Products) are owned by Microsoft or its suppliers. The Licensed Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Licensed Products does not transfer any ownership of the Licensed Products or any intellectual property rights to you.

3 USE OF CLIENT SOFTWARE.

You may use the Client Software installed on your Devices by Company only in accordance with the instructions, and only in connection with the services, provided to you by Company. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during your use of the Client Software.

4 USE OF REDISTRIBUTION SOFTWARE

In connection with the services provided to you by Company, you may have access to certain "sample", "redistributable" and/or software development ("SDK") software code and tools (individually and collectively "Redistribution Software"). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH**

CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS ("SPUR") APPLICABLE TO COMPANY, WHICH TERMS MUST BE PROVIDED TO YOU BY COMPANY. Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by Company.

5 COPIES

You may not make any copies of the Licensed Products; provided, however, that you may (a) make one copy of Client Software on your Device as expressly authorized by Company; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Company, upon notice from Company or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Licensed Products.

6 LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY

You may not reverse engineer, decompile, or disassemble the Licensed Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

7 NO RENTAL

You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Licensed Products to any third party, and may not permit any third party to have access to and/or use the functionality of the Licensed Products except for the sole purpose of accessing the functionality of the Licensed Products in the form of software services in accordance with the terms of this agreement and any agreement between you and Company.

8 TERMINATION.

Without prejudice to any other rights, Company may terminate your rights to use the Licensed Products if you fail to comply with these terms and conditions. In the event of termination or cancellation of your agreement with Company or Company's agreement with Microsoft under which the Licensed Products are licensed, you must stop using and/or accessing the Licensed Products, and destroy all copies of the Licensed Products and all of its component parts.

9 NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT

ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY COMPANY AND NOT BY MICROSOFT, ITS AFFILIATES OR SUBSIDIARIES.

10 PRODUCT SUPPORT

11 Any support for the Licensed Products is provided to

you by Company and is not provided by Microsoft, its affiliates or subsidiaries.

12 NOT FAULT TOLERANT

THE LICENSED PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE LICENSED PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.

13 EXPORT RESTRICTIONS

The Licensed Products are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and U.S. laws that apply to the Licensed Products, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by the U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.

14 LIABILITY FOR BREACH

In addition to any liability you may have to Company, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and condition.

Schedule 2

PARALLELS SOFTWARE

Your rights to use the Parallels Software are non-exclusive and non-transferable. You shall only use the Parallels Software for the purposes of utilising your Services and for no other purpose. You shall comply with and include within the Customer Contract any end user licence agreement for the Parallels Software which is set out on Our Website from time to time.