Microsoft Supplier Services Agreement

This Microsoft Supplier Services Agreement ("*Agreement*") is between [insert Microsoft contracting entity name], a [insert place of incorporation] corporation ("*Microsoft*"), and [insert Supplier name], a [insert place of organization and entity type] ("*Supplier*"). This Agreement will be effective on the date noted below ("*Effective Date*").

This Agreement consists of:

- the following terms and conditions, including exhibits and attachments;

- applicable addenda and SOWs;

- the nondisclosure agreement between the parties dated Click here to enter a date. ("*NDA*"); and

- Policies.

Addresses and contact details

	Microsoft		Supplier
Address:	Click here to enter Microsoft contracting entity address	Address:	Click here to enter text.
Attention:	Click here to enter text.	Attention:	Click here to enter text.
Phone Number:	Click here to enter text.	Phone Number:	Click here to enter text.
E-Mail Address:	Click here to enter text.	E-Mail Address:	Click here to enter text.
		Supplier Number:	Click here to enter text.

Term

Effective Date:	**Click here to enter a date.**
Term:	5 years from the Effective Date

Agreed and accepted

Microsoft	Supplier
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

SECTION 1   Definitions

(a)   *"Affiliate(s)"* means any legal entity that directly or indirectly owns, is owned by, or is commonly owned with a party. "*Own*" means having more than 50% ownership or the right to direct the management of the entity.

(b)   *"Anti-Corruption Laws"* means all Laws against fraud, bribery, corruption, inaccurate books and records, inadequate internal controls, and/or money laundering, including the U.S. Foreign Corrupt Practices Act.

(c)   *"Claim(s)"* means any and all (1) third-party claims, actions, demands, lawsuits, or proceedings and (2) damages, costs (including reasonable fees of attorneys and other professionals), or liabilities of any kind (including any fine, penalty, judgement, or order issued by a governmental, regulatory, or judicial body), in each case arising out of or relating to that third-party claim, action, demand, lawsuit, or proceeding.

(d)   "*Confidential Information*" means all non-public information a party designates in writing or orally as being confidential, or which under the circumstances of disclosure would indicate to a reasonable person that it ought to be treated as confidential.

(e)   "*Data Protection Law"* means any Law applicable to Supplier or Microsoft, relating to data security, data protection, and/or privacy, including Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to processing of personal data and the free movement of that data ("*GDPR*"), and Cal. Civ. Code Title 1.81.5, § 1798.100 et seq. (California Consumer Privacy Act) ("*CCPA*"), and any implementing, derivative or related legislation, rule, regulation, and regulatory guidance, as amended, extended, repealed and replaced, or re-enacted.

(f)   *"Deliverables"* means all IP developed by Supplier (or a Subcontractor) for Microsoft under a SOW or as part of Services.

(g)   *"Excluded License"* means any software license requiring, as a condition of use, modification, or distribution that the software or other software combined or distributed with it be: (1) disclosed or distributed in source code form; (2) licensed to make derivative works; or (3) redistributable at no charge.

(h)   "*Intellectual Property*" or "*IP*" means any works of authorship, software programs, software applications, algorithms, models, protocols, specifications, discoveries, improvements, methods, processes, systems, technology, know-how, data, databases, inventions, and/or trade secrets and any updates, improvements, enhancements, corrections, or modifications thereto.

(i)   "*Intellectual Property Rights" or "IP Rights*" means all rights in Intellectual Property, existing under statute or at common law or equity, in force or recognized now or in the future in any jurisdiction, including:

   (1)   copyrights (and any neighboring/ancillary right), trade secrets, trademarks, service marks, patents, inventions, designs, logos, trade dress, moral rights, mask works, publicity rights, and database rights; and

   (2)   any application or right to apply for any of the foregoing rights, and all renewals, extensions, and restorations.

(j)   "*Law*" means all applicable laws, rules, statutes, decrees, decisions, orders, regulations, judgments, codes, enactments, resolutions, and requirements of any government authority

(federal, state, local, or international) having jurisdiction.

(k) "*Microsoft Materials*" means any tangible or intangible materials provided by or on behalf of Microsoft, or any of its Affiliates, to Supplier to perform Services, or obtained or collected by Supplier in connection with the Services (including hardware, software, source code, documentation, methodologies, know how, processes, techniques, ideas, concepts, technologies, reports, and data). Microsoft Materials include modifications to, or derivative works of, the foregoing materials, Personal Data, Trademarks, the inputs and prompts to an AI Model and the output (e.g., data, text, materials, images, or other content) generated by the AI Model (as defined below), and any data entered into any Supplier database as part of Services. Microsoft Materials do not include Microsoft products obtained by Supplier outside of and unrelated to this Agreement.

(l) "*Microsoft Project*" means any engagement where Supplier requires access to Microsoft's corporate network or facilities.

(m) "*Policies*" means policies, standards, procedures, requirements, and guidelines identified in this Agreement or made available to Supplier by Microsoft.

(n) "*Retained IP*" means any Supplier Materials that are combined with or necessary for the use, modification, or distribution of Deliverables or derivatives thereof.

(o) "*Retained IP Right*" means any Supplier IP Right (1) in Retained IP and (2) in the combination of such Retained IP with Deliverables or derivatives thereof.

(p) "*Sale*" and its cognates means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, an individual's Personal Data to a third party for monetary or other valuable consideration.

(q) "*Security Incident*" means any:

    (1)   accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Confidential Information, including Personal Data, transmitted, stored, or otherwise processed by Supplier or its Subcontractors; or

    (2)   Security Vulnerability (i) related to Supplier's handling of Confidential Information, including Personal Data, or (ii) impacting Microsoft products, services, software, network, or systems. "*Security Vulnerability*" means a weakness, flaw, or error found within a security system of Supplier or its Subcontractors that has a reasonable likelihood to be leveraged by a threat agent in an impactful way.

(r) "*Services*" means all services identified in a SOW or otherwise performed by Supplier under this Agreement.

(s) "*SOW(s)*" means any of the following:

    (1)   Microsoft purchase orders;

    (2)   electronic statements of work transmitted by Microsoft and signed by both parties; or

    (3)   written agreements signed by the parties' authorized representatives referencing, and subject to, this Agreement.

(t) "*Subcontractor(s)*" means a third party to whom Supplier delegates its obligations in connection with this Agreement, including a Supplier Affiliate not contracting directly with Microsoft.

(u) "*Supplier IP Rights*" means (1) Supplier's pre-existing or independently developed IP Rights, and (2) any third-party IP Rights with respect to which Supplier has sufficient rights to grant to Microsoft the license and sublicense rights contemplated in this Agreement.

(v) "*Supplier Materials*" means any IP created by a Supplier or a third party prior to or outside of the course of any SOW, but which may be necessary or useful for achieving the requirements of a SOW.

(w) "*Trademarks*" means trademarks, servicemarks, and logos identified and provided by Microsoft under a SOW.

SECTION 2   Services

(a) **SOW.** The parties will describe Services in one or more SOW. This Agreement applies to each SOW. Microsoft (or any Microsoft Affiliate) may enter into a SOW with Supplier (or any Supplier Affiliate) for Services under this Agreement. Local legal requirements will be documented separately in writing and agreed by the parties. Supplier will, at its own expense:

   (1)   obtain and maintain approvals, licenses, filings, or registrations necessary to perform Services; and

   (2)   comply with all Laws, including those specified in this Agreement.

(b) **Acceptance of Deliverables.** Unless otherwise agreed, Microsoft may evaluate each Deliverable (including any Retained IP) and accept or reject it within 15 business days after receipt. If Microsoft does not accept or reject within that time period, the Deliverable is deemed accepted. Supplier will fix rejected Deliverables within 10 business days after notice of rejection from Microsoft ("*Correction Period*"). If Supplier does not fix the Deliverable within the Correction Period, Microsoft will have no obligation with respect to that Deliverable and Supplier will promptly refund Microsoft Fees paid for that Deliverable within 15 days following the end of the Correction Period.

(c) **Delivery.** If Supplier delivers Services via a web-based portal (e.g., website) or mobile app ("*Services Portal*"), then Supplier grants Microsoft and its Affiliates a non-exclusive, worldwide, unlimited, fully paid, right to access and use such Services Portal for its and their business purposes during the term stated in the applicable SOW. This right extends to employees, contractors, consultants, outsourced workers, and interns engaged by Microsoft or its Affiliates to perform services. Unless otherwise agreed in writing by the parties, Supplier will provide the Services Portal in accordance with the service levels and related credit commitments applicable to its customers generally. If Supplier provides a Services Portal or other cloud service that is not incidental to delivery of the Services (i.e., if the Services Portal is made available by Supplier as a standalone product or service or otherwise not for purposes of facilitating Microsoft's receipt of the Services), the parties will enter into an addendum to this Agreement containing additional terms applicable to such Services. All terms applicable to Services apply to Services Portals, but a Services Portal is not a Deliverable unless expressly agreed by the parties in the SOW.

(d) **Compliance with Trade Laws.** The Services, parts, components, devices, software, technology and other materials provided under this Agreement (collectively, "*Items*") may be subject to applicable trade laws in one or more countries. The Supplier will comply with all relevant laws and regulations applicable to the import or export of the Items, including, but not limited to, trade laws and regulations such as the U.S. Export Administration Regulations or other end-user, end use, and destination restrictions by the U.S. and other governments, as well as sanctions regulations administered by the U.S. Office of Foreign Assets Control ("*Trade Laws*"). Microsoft

may suspend or terminate the Agreement immediately to the extent that Microsoft reasonably concludes that continued performance would violate Trade Laws or put it at risk of becoming subject to sanctions or penalties under Trade Laws. Supplier is responsible for ensuring compliance with the transfer or re-transfer of intangible items, such as technology. Supplier agrees to provide Microsoft with the import/export control classifications and information, including documentation, on the applicable import, export, or re-export authorizations, and all necessary information about the Items for any required import, export or re-export procedures and/or licenses, without additional cost to Microsoft. For additional information, see https://www.microsoft.com/en-us/exporting.

(e) **Anti-Corruption Laws.** Supplier will comply with all applicable Anti-Corruption Laws. While performing under this Agreement, Supplier will provide training to its employees on compliance with Anti-Corruption Laws and, upon request by Microsoft, will complete Microsoft's standard online training for supplier compliance with Anti-Corruption Laws.

(f) **Workplace safety and health.** Supplier will comply with (and will require, through contract, all Subcontractors to comply with) Laws related to workplace safety and health, including the Occupational Safety and Health Act of 1970 (OSHA) and parallel state laws approved under OSHA Section 18. Supplier will promptly notify Microsoft Employee Safety and Health Team at employeesafety@microsoft.com and Microsoft Global Security at (425) 706-0000 if Supplier encounters unsafe conditions or workplace hazards in a Microsoft-provided or controlled facility. Supplier will take appropriate safety measures until Microsoft is able to correct the hazard.

(g) **Affirmative Action Clause for Microsoft Suppliers on Covered Subcontracts for the United States government**

(1)   Contractors and suppliers doing business with Microsoft on a covered contract in the United States will comply with all Federal, State and local labor and employment laws.

(2)   **This contractor and subcontractor will abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), 60-741.5(a) and 29 CFR 471, Appendix A to Subpart A and incorporate the requirements of these regulations if applicable. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.**

(h) **Supplier to comply with Microsoft Policies.** Supplier will comply, at its own cost and expense, with the following as applicable to the Services provided.

(1)   Supplier will comply with the most current Supplier Code of Conduct at https://aka.ms/scoc and the most current Anti-Corruption Policy for Microsoft Representatives at http://aka.ms/microsoftethics/representatives, and any other Policies (e.g., physical or information security or artificial intelligence Policies) or training identified by Microsoft in a SOW or otherwise during the Term, (and will provide such training).

(2)   Supplier may only use Trademarks for Services and Deliverables in compliance with the

guidelines at https://www.microsoft.com/en-us/legal/intellectualproperty/Trademarks/Usage/General.aspx.

(3) Without limiting Microsoft's rights in Section 11, Supplier will participate in the Microsoft Supplier Security and Privacy Assurance ("*SSPA*") program, as required by Microsoft, including by attesting to Supplier's compliance status with respect to all applicable portions of Microsoft's then-current Supplier Data Protection Requirements (the "*DPR*") on an annual basis (or more frequently if additional portions of the DPR become applicable). See https://www.microsoft.com/en-us/procurement/supplier-contracting.aspx, Supplier Security & Privacy Assurance (aka.ms), for SSPA program details, including the program requirements and current DPR. Supplier will comply with the most recent DPR attestation that has been accepted by Microsoft in writing (which may be via email or through an online portal made available by Microsoft). If Microsoft has not provided written approval of Supplier's attestation to all applicable portions of the DPR, Supplier will comply with all applicable portions of the DPR (provided in the link above). Supplier's current SSPA attestation is available upon request from SSPAHelp (sspahelp@microsoft.com).

(4) Any device, product, website, web-based application, cloud service, software, mobile applications, or content developed or provided by or on behalf of Supplier or Supplier's Affiliate under this Agreement must comply with all legal accessibility requirements. For purchases with a User Interface (UI) this includes conformance to Level A and AA Success Criteria of the latest published version of the Web Content Accessibility Guidelines ("WCAG"), available at https://www.w3.org/standards/techs/wcag#w3c_all, Section 508 of the Rehabilitation act, available at https://www.section508.gov and the European standard EN 301 549 available at https://eur-lex.europa.eu/eli/dir/2016/2102/oj. Suggested documentation includes completion of the VPAT 2.4 INT: which incorporates all three of the above standards and is available at https://www.itic.org/policy/accessibility/vpat.

(5) Microsoft may change or promulgate new Policies. Supplier is bound by each new or changed Policy 30 days after Microsoft makes them available to Supplier unless Supplier notifies Microsoft during this period that the new or changed Policy will materially affect Supplier's performance. On Microsoft's receipt of such notice, the parties will discuss how to mitigate the effect on Supplier, and any mutually agreed mitigation will be set forth in an amendment. If the parties cannot agree, and the new or changed Policy is not required to comply with new or changed Law, Supplier may terminate this Agreement for convenience after delivering all remaining Services under all existing SOWs, and Supplier's compliance with the new or changed Policy will be deemed waived.

(i) Supplier's personnel and subcontracting

(1) Supplier will recruit, select, and train its personnel according to the applicable SOW. If required by Microsoft, Supplier personnel who develop or test Microsoft software or access Microsoft source code will receive training on Microsoft's security development lifecycle. At Microsoft's request, Supplier will promptly remove or replace any individual performing Services.

(2) Supplier is responsible for all wages, fringe benefits, social security and other payroll taxes, healthcare benefits reporting, unemployment insurance, workers' compensation insurance payments and disability benefits (including, where applicable, medical

coverage compliant with the Affordable Care Act), work schedules, work conditions, and similar matters of its employees, contractors, or other personnel performing Services.

(3)   Before assignment of a Supplier employee to provide Services, Supplier will be compliant with the immigration Law in the jurisdiction in which the Supplier employee will provide Services. For assignments in the United States, Supplier will ensure the Supplier employee has the proper work authorization and visa to perform a specific job at a particular work location, and proper postings have been made at worksites for applicable Labor Conditions Applications pursuant to 20 C.F.R. Section 655, Subpart H. If necessary, Supplier will coordinate with Microsoft through the approved Microsoft process to obtain supporting documents for personnel requiring verification letters from Microsoft in support of an immigration filing.

(4)   For personnel performing Services on a Microsoft Project, Supplier will:

(i)   ensure that any of its personnel receiving compensation that is taxable as U.S. source income under Sections 861 to 863 of the Internal Revenue Code of 1986, as amended, will be an employee of Supplier;

(ii)   ensure that its personnel use Microsoft sites or facilities only for business purposes within the scope of Service; and

(iii)   be responsible for loss, damage, theft, or disappearance of personal property belonging to its personnel.

(5)   Supplier will not subcontract Services to third parties without Microsoft's prior written consent. If Supplier subcontracts any Services to any Subcontractor, Supplier will:

(i)   be fully liable to Microsoft for any actions or inactions of Subcontractor;

(ii)   remain subject to all obligations under this Agreement;

(iii)   require the Subcontractor to agree in writing to terms no less protective of Microsoft than the terms of this Agreement applicable to the work performed by the Subcontractor, including the privacy and data protection terms in Section 6 and Exhibit A;

(iv)   require the Subcontractor to agree in writing that Microsoft is an intended third-party beneficiary of its agreement with Supplier;

(v)   require the Subcontractor, while performing Services, to be compliant with all immigration Laws in the jurisdiction in which the Subcontractor employee(s) will provide Services; and

(vi)   unless otherwise agreed, if Supplier fails to pay the Subcontractor, Microsoft may pay the Subcontractor and offset those amounts against amounts owed to Supplier.

(j)   Supplier equipment and technology. Unless otherwise agreed in an applicable SOW, Supplier will provide the equipment, technology, and infrastructure necessary to perform Services at its expense. Supplier will ensure such items are compatible with Microsoft's equipment, technology, and infrastructure as necessary to perform Services. Supplier will identify for Microsoft all third-party software used in conjunction with the Services.

SECTION 3   Ownership and use of the parties' respective IP

(a) **Ownership of pre-existing IP.** Each party will own and retain all rights to its pre-existing IP and any IP developed independently of Services performed under this Agreement, including any of such party's IP Rights therein.

(b) **Supplier's use of Microsoft Materials**

    (1)   License to use Microsoft Materials

        (i)   Microsoft grants Supplier a nonexclusive, revocable license under Microsoft's IP Rights in the Microsoft Materials to copy, use, and distribute Microsoft Materials provided to it only as necessary to perform Services in accordance with this Agreement. Microsoft retains all other interest in Microsoft Materials and related IP Rights. The license is not sublicensable to Subcontractors unless approved by Microsoft in accordance with this Agreement. Supplier will not Sell, share, license, or otherwise commercialize any Microsoft Materials.

        (ii)   If Microsoft Materials come with a separate license, the terms of that license will apply and those terms, including any applicable source code license form, control in the case of conflict with this Agreement.

        (iii)   Supplier will take reasonable precautions to protect and ensure against loss or damage, theft, or disappearance of Microsoft Materials.

    (2)   Microsoft may revoke the license to Microsoft Materials at any time for any reasonable business reason. The license will terminate automatically on the earlier of the expiration or termination of this Agreement or an applicable SOW. Supplier will promptly return any Microsoft Materials on request or termination of Supplier's license.

    (3)   Additional provisions

        (i)   Supplier will not modify, reverse engineer, decompile, or disassemble Microsoft Materials except as allowed by Microsoft to perform Services.

        (ii)   Supplier will leave in place and not alter or obscure proprietary notices and licenses contained in Microsoft Materials.

        (iii)   Unless otherwise specified in an applicable SOW, Supplier will maintain and use Microsoft Materials according to the manufacturer's specifications and instructions.

        (iv)   Microsoft is not obligated to provide technical support, maintenance, or updates for Microsoft Materials.

        (v)   Microsoft Materials are provided as-is without warranty.

        (vi)   Supplier assumes the risk of loss, damage, unauthorized access or use, or theft or disappearance of Microsoft Materials in Supplier's (or its Subcontractors') care, custody, or control.

        (vii)   Supplier will take no action affecting Microsoft's, or the owner of Microsoft Materials if not Microsoft, title or interest in Microsoft Materials.

    (4)   Notwithstanding anything to the contrary in the Agreement, no Microsoft Materials, or other Microsoft IP or Confidential Information (including Deliverables), may be used by Supplier or an AI Model to customize, train, or otherwise improve, directly or indirectly, any artificial intelligence model or product (including the AI Model itself) without

Microsoft's express prior written consent. Notwithstanding anything to the contrary in this Agreement, including any SOW, any failure to obtain such consent is a material breach of this Agreement and Supplier's limitation of liability set forth in Section 9 of this Agreement will not apply to Claims based on a breach of this section. If Microsoft provides such consent, the parties will first enter into a separate agreement or addendum to this Agreement that addresses the terms under which such customization, training, or other improvement will occur and allocates between the parties' rights to and liabilities arising out of the results of such training, customization or improvements. "*AI Model*" means any artificial intelligence model (which includes any deep learning or machine learning model) used in connection with or incorporated into the Services. Supplier will not obtain any Microsoft Materials, or other Microsoft IP or Confidential Information through any methods or tools, including any data extraction, bots, or other scraping technology, not expressly authorized by this Agreement. Supplier will comply with all Microsoft Policies and requirements related to the use of AI Models and the responsible use of AI.

(c) **Supplier's use of non-Microsoft IP**

(1)   Supplier will obtain Microsoft's written consent before using Supplier Materials in a manner that would:

    (i)   cause them to be included in Deliverables;

    (ii)   alter or affect Microsoft's ownership interests in Deliverables; or

    (iii)   require a license under Supplier IP Rights or third-party IP Rights for the Deliverables to be used, modified, or distributed by Microsoft.

(2)   Supplier grants Microsoft and its Affiliates a worldwide, nonexclusive, perpetual, irrevocable, royalty-free, fully paid-up right and license, under all current and future Retained IP Rights, to:

    (i)   make, use, reproduce, format, modify, and create derivative works of the Retained IP;

    (ii)   publicly perform or display, import, broadcast, transmit, distribute, license, offer to sell and sell, rent, lease, or lend copies of the Retained IP and derivative works thereof;

    (iii)   combine the Retained IP and derivative works thereof with any software, firmware, hardware, or services; and

    (iv)   sublicense to third parties the foregoing rights, including the right to sublicense to further third parties.

(3)   In no event will Supplier use any Supplier Materials in any manner that implicates third-party IP under which Supplier does not have the rights necessary to grant Microsoft the license and sublicense set forth in Section 3(c)(2) above.

(d) **Ownership of Deliverables**

(1)   Subject to Supplier's Retained IP Rights, Deliverables are "work made for hire" under copyright Law. If Deliverables do not qualify as a work made for hire, Supplier assigns to Microsoft all right, title, and interest in and to the Deliverables, including all IP Rights therein. Supplier waives all moral rights in Deliverables.

(2)   Supplier will promptly disclose to Microsoft in writing any inventions, works of authorship, improvements, developments or discoveries conceived, authored, made, or reduced to practice by Supplier or its Subcontractors, either solely or in collaboration with others, in the performance of Services. At Microsoft's request and expense, Supplier will execute documents and take any other action reasonably necessary to evidence, perfect, or protect Microsoft's rights in the Deliverables. Supplier will cooperate with Microsoft in the filing and prosecution of copyright, trademark, or patent applications Microsoft elects to file on Deliverables or related inventions and designs. Supplier will not challenge, oppose, or interfere with Microsoft's applications prepared according to Microsoft's rights under this Agreement relating to the Deliverables, or file applications on its own behalf.

SECTION 4   Supplier compensation

(a)   Microsoft's payment of Fees

(1)   Microsoft will pay Supplier fees stated in each SOW ("*Fees*"). A Supplier rate card, if one is attached to this Agreement, will provide ceiling rates for Microsoft. Supplier is responsible for expenses it incurs unless agreed otherwise in a SOW. Supplier will not markup expenses Microsoft agrees to pay. Supplier will not offset against amounts Microsoft owes unless agreed otherwise in a SOW.

(2)   Unless agreed otherwise in a SOW, after Microsoft accepts Services and receives a proper and undisputed invoice, it will pay Fees and approved expenses:

(i)   net 10 days less a 2% discount on the invoiced amount; or

(ii)   net 60 days with no discount if Microsoft does not issue payment within 10 days.

(b)   MS Invoice. Supplier will invoice Microsoft using MS Invoice according to [SupplierWeb (microsoft.com)](). Supplier will not charge Microsoft for researching, reporting on, or correcting invoice-related errors. Supplier will not date its invoices earlier than the date Supplier may be paid under an applicable SOW. If a date is not specified in a SOW, Supplier may issue invoices monthly in arrears.

(c)   Disputed amounts. Microsoft may dispute any invoice amount (each, a "*Disputed Amount*") by providing written notice to Supplier. Partial payment is notice from Microsoft of a Disputed Amount. Microsoft will make commercially reasonable efforts to notify Supplier in writing of any Disputed Amount within 60 days of receiving the invoice. Microsoft's failure to provide notice or payment of an invoice does not waive any of its claims or rights. Microsoft will pay Supplier within 60 days from the date of dispute resolution.

(d)   Late invoices. Microsoft is not obligated to pay any invoice received 120 days or more after the date Supplier was required to invoice Microsoft under this Agreement or an applicable SOW. This does not apply to:

(1)   amounts paid after a dispute;

(2)   rejected invoices that are first received timely and then corrected;

(3)   invoices delayed due to Microsoft's actions or omissions; or

(4)   delays the parties have agreed to in writing.

(e)   Taxes. Except as otherwise provided below, the amounts to be paid by Microsoft to Supplier do

not include taxes. Microsoft is not liable for any taxes Supplier is legally obligated to pay, including net income or gross receipts taxes, franchise taxes, and property taxes. Microsoft will pay Supplier sales, use, or value added taxes it owes due to this Agreement that the Law requires Supplier to collect from Microsoft.

 (1) Microsoft will not be involved in the importation of the goods/services, and import taxes are the responsibility of the Supplier unless otherwise agreed in a SOW.

 (2) If Microsoft provides Supplier a valid exemption certification, Supplier will not collect the taxes covered by such certificate.

 (3) If the Law requires Microsoft to withhold taxes from payments to Supplier, Microsoft may withhold those taxes and pay them to the appropriate taxing authority. Microsoft will deliver to Supplier an official receipt for such taxes. Microsoft will use reasonable efforts to minimize taxes withheld to the extent allowed by Law.

 (4) Despite any other provision of this Agreement, this section governs the treatment of all taxes related to this Agreement.

SECTION 5 Term and termination

(a) **Term.** This Agreement commences on the Effective Date and will continue for the term on the first page of this Agreement unless it is:

 (1) terminated earlier according to its terms; or

 (2) extended by a written and signed amendment ("*Term*").

(b) **Termination for convenience.** Without prejudice to any other remedies, Microsoft may terminate this Agreement, any source code license form subject to this Agreement, or any SOW at any time without cause by giving 30 days' written notice. If Microsoft terminates for convenience, its only obligation is to pay for:

 (1) Services or Deliverables it accepts before the effective date of termination; and

 (2) Services performed where Microsoft retains the benefit after the effective date of termination.

(c) **Termination for cause**

 (1) Either party may terminate this Agreement, any source code license form subject to this Agreement, or any SOW on the other party's material breach of this Agreement or a SOW. The non-breaching party must give 30 days' written notice and the opportunity to cure its breach. Either party may immediately terminate this Agreement on written notice of a breach of Section 6 (Confidentiality, security, privacy and data protection, artificial intelligence, and publicity) or Exhibit A.

 (2) Microsoft may terminate this Agreement, any source code license form subject to this Agreement, or any SOW effective immediately upon written notice if Supplier breaches Sections 2(a) (SOW), 2(d) (Compliance with Trade Laws) through 2(j) (Supplier equipment and technology), 3 (Ownership and use of the parties' respective IP), 7 (Representations and warranties, disclaimer), 10 (Insurance), or 12(d) (Assignment), or if Supplier sells a substantial part of Supplier's assets to a third party.

(d) **Effect of termination.** Supplier will deliver to Microsoft any affected Deliverables in progress and all related data and materials. Supplier will assist Microsoft with a post-termination

transition at Microsoft's request. Supplier's assistance will not exceed 60 days. Microsoft will pay Supplier for its assistance at a rate no greater than the rate set forth in any SOW for comparable services. On termination or expiration of this Agreement, any SOWs signed when this Agreement is in effect continue under the terms of this Agreement until such SOWs are terminated or expire on the terms of the applicable SOW, however, no new SOWs or extensions of existing SOWs are permitted.

(e)   **Survival.** The provisions of this Agreement, including the applicable SOW, which by their terms require performance after the termination or expiration of this Agreement or have application to events that may occur after the termination or expiration of this Agreement, will survive such termination or expiration. All indemnity obligations and indemnification procedures will survive the termination or expiration of this Agreement.

SECTION 6   **Confidentiality, security, privacy and data protection, artificial intelligence, and publicity**

(a)   **Confidentiality**

     (1)   Information shared under this Agreement is Confidential Information and subject to the NDA. Section 6(a)(2) applies if information related to Services was shared before execution of the NDA, no NDA exists, or the NDA terminates or ceases to be in effect.

     (2)   During the Term plus 5 years, the parties will hold in strictest confidence and not use or disclose to any third party (except to a Microsoft Affiliate) any Confidential Information of the other party.

     (3)   On expiration or termination of the Agreement or applicable SOW, or on request by Microsoft or Microsoft's Affiliate, Supplier will without undue delay: (i) return all Microsoft Confidential Information (including copies thereof) to Microsoft or the applicable Microsoft Affiliate; or (ii) where requested by Microsoft or its Affiliate, destroy the Microsoft Confidential Information (including copies thereof) and certify its destruction, in each case unless the Law expressly requires otherwise or the parties otherwise expressly agree in writing. For any Microsoft Confidential Information that Supplier retains after expiration or termination of the Agreement (for example, because Supplier is legally required to retain the information), Supplier will continue to comply with all terms of this Agreement applicable to that Confidential Information, including all confidentiality obligations, and those applicable terms will survive such termination or expiration.

     (4)   A party will consult with the other if it questions what comprises Confidential Information. Confidential Information excludes information known to a party before the disclosing party's disclosure to the receiving party, or information publicly available through no fault of the receiving party.

     (5)   Notwithstanding anything to the contrary in this Section 6(a), all Personal Data shared in connection with this Agreement is Confidential Information.

(b)   **Security, privacy and data protection**

     (1)   Supplier will, at its expense, implement and maintain appropriate technical and organizational measures to protect Confidential Information, including Personal Data, against accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Confidential Information, including Personal Data, transmitted, stored or

otherwise processed, and will, as soon as commercially and technologically practicable, remediate any material vulnerabilities of which Supplier becomes aware. Supplier's security procedures must include risk assessment and controls for:

(i)   system access;

(ii)   system and application development and maintenance;

(iii)   change management;

(iv)   asset classification and control;

(v)   incident response, physical and environmental security;

(vi)   disaster recovery/business continuity; and

(vii)   employee training.

Those measures will be set forth in a Supplier security policy. Supplier will make that policy available to Microsoft, along with descriptions of the security controls in place for the Services, upon Microsoft's request and other information reasonably requested by Microsoft regarding Supplier security practices and policies.

(2)   Supplier will comply with the privacy and data protection requirements in Exhibit A.

(3)   Without limiting Supplier's obligations under the Agreement, including the DPR, on becoming aware of any Security Incident, Supplier will:

(i)   notify Microsoft without undue delay of the Security Incident (in any case no later than it notifies any similarly situated customers of Supplier and in all cases before Supplier makes any general public disclosure (e.g., a press release));

(ii)   promptly investigate or perform required assistance in the investigation of the Security Incident and provide Microsoft with detailed information about the Security Incident, including a description of the nature of the Security Incident, the approximate number of Data Subjects affected, the Security Incident's current and foreseeable impact, and the measures Supplier is taking to address the Security Incident and mitigate its effects; and

(iii)   promptly take all commercially reasonable steps to mitigate the effects of the Security Incident or assist Microsoft in doing so.

Supplier will comply with this Section 6(b)(3) at Supplier's cost unless the Security Incident arose from Microsoft's negligent or willful acts or Supplier's compliance with Microsoft's express written instructions.

(c)   Artificial Intelligence. To the extent the Services include the use of artificial intelligence technology, Supplier will, at its expense, implement and maintain appropriate technical and organizational measures to ensure such artificial intelligence technology complies with all Laws and industry standards, including standards and policies related to the ethical or responsible use of artificial intelligence technology. Supplier's artificial intelligence program and Services must include:

(1)   the ability to explain the algorithms and logic involved in the decision-making process and the output of each AI Model;

(2)   the likely outcome of each AI Model with respect to end users;

(3)   change management to maintain compliance with Laws and industry standards; and

(4)   employee training on Supplier's obligations with respect to artificial intelligence technology.

Those measures will be set forth in a Supplier policy. Supplier will make that policy available to Microsoft, along with descriptions of the controls in place for the artificial intelligence technology, upon Microsoft's request and other information reasonably requested by Microsoft regarding Supplier practices and policies.

(d)   Notifications.

(1)   Supplier must obtain Microsoft's written approval before notifying any governmental entity, individual, the press, or other third party of a Security Incident or in connection with Supplier's use of artificial intelligence technology including an AI Model (an "*AI Inquiry*") that affected or reasonably could affect Microsoft, including any Confidential Information that Supplier received from Microsoft or Processed on behalf of Microsoft. For any disclosure of a Security Incident or AI Inquiry to a third party, Supplier will, as part of its notification to Microsoft, disclose the identity of the third party and a copy of the notification (if the notification to the third party has not been sent, Supplier will provide a draft to Microsoft). Supplier will permit Microsoft to offer edits or updates to the notification. Microsoft's release of information about an AI Model in relation to an AI Inquiry is not a breach of Microsoft's confidentiality obligations in this Agreement.

(2)   Notwithstanding anything to the contrary in this Section 6(d), Supplier may notify a third party about a Security Incident affecting Personal Data if it is under a legal obligation to do so, provided that Supplier must: (A) make every effort to give Microsoft prior notification, as soon as possible, if it intends to disclose the Security Incident to a third party; and (B) if it is not possible to give Microsoft such prior notification, notify Microsoft immediately once it becomes possible to give notification.

(e)   Publicity. Supplier will not issue press releases or other publicity related to Supplier's relationship with Microsoft or this Agreement without prior written approval from the Microsoft representative executing this Agreement (or such representative's successor if applicable).

SECTION 7   Representations and warranties, disclaimer

Supplier continuously represents and warrants that:

(a)   it has full rights and authority to enter into, perform under, and grant the rights in, this Agreement;

(b)   its performance will not violate any agreement or obligation between it and any third party;

(c)   Deliverables, Supplier Materials, and Supplier IP or third-party IP provided to Microsoft under this Agreement:

(1)   are not governed, in whole or in part, by an Excluded License; and

(2)   will not be subject to license terms requiring (i) Microsoft products, services, or documentation incorporating or derived from such Deliverables, Supplier Materials, Supplier IP or third-party IP, or (ii) Microsoft Materials or Microsoft IP, to be licensed or shared with any third party;

(d)   Services will be performed professionally and be at or above industry standard;

(e)   Services, Deliverables, Supplier Materials, and Supplier IP or third-party IP provided to Microsoft under this Agreement will not:

      (1)   to the best of Supplier's knowledge, infringe any third-party patent, copyright, trademark, trade secret, or other proprietary right; or

      (2)   contain viruses or other malicious code that will degrade or infect any Deliverables, products, services, software, or Microsoft's network or systems; and

(f)   Supplier will comply with Law, including Data Protection Law, artificial intelligence Laws, and Anti-Corruption Laws.

EXCEPT AS SET FORTH IN THIS AGREEMENT, SERVICES ARE PROVIDED AS-IS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SUPPLIER DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, WHETHER ARISING BY A COURSE OF DEALING, USAGE OR TRADE PRACTICE OR COURSE OF PERFORMANCE.

SECTION 8   Indemnification and other remedies

(a)   **Indemnification by Supplier.** Supplier will defend, indemnify, and hold Microsoft, its Affiliates, and their respective successors, directors, officers, employees, and agents (each a "*Microsoft Indemnified Party*") harmless from and against all Claims to the extent such Claims arise out of or relate to:

      (1)   Supplier's or its Subcontractors' breach of Sections 7(a) or 7(b);

      (2)   Supplier's or its Subcontractors' negligent or willful acts or omissions resulting in bodily injury, including mental injury, or death to any person or loss, disappearance, or damage to tangible or intangible property;

      (3)   Supplier's or its Subcontractors' infringement, misuse, or misappropriation of third-party IP or IP Rights or Microsoft IP or IP Rights;

      (4)   Supplier's or its Subcontractors' breach of any confidentiality, security, privacy, data protection, artificial intelligence, or publicity obligations under this Agreement, including Section 6 (Confidentiality, security, privacy and data protection, artificial intelligence, and publicity) and Exhibit A;

      (5)   Supplier's or its Subcontractors' tax obligations or non-compliance with Law; or

      (6)   actions by Supplier personnel against Microsoft for wages, fringe benefits, other compensation, or similar claims, and claims challenging Supplier's right to dismiss its personnel.

Supplier will not be liable under this Section 8(a) (Indemnification by Supplier) to the comparative extent that Claims result from:

          (i)   a Microsoft Indemnified Party's negligent or willful acts or omissions; or

          (ii)   Supplier's strict compliance with Microsoft's express instructions that could not be reasonably performed in a non-infringing manner.

(b)   **Indemnification by Microsoft.** Microsoft will defend, indemnify, and hold Supplier, its Affiliates, and their respective successors, directors, officers, employees, and agents (each a "*Supplier Indemnified Party*") harmless from and against all Claims to the extent that such Claims arise out of or relate to:

(1)   Microsoft's negligent or willful acts or omissions resulting in bodily injury, including mental injury, or death to any person or loss, disappearance, or damage to tangible or intangible property; or

(2)   Microsoft's non-compliance with Law.

Microsoft will not be liable under this Section 8(b) (Indemnification by Microsoft) to the comparative extent that Claims result from a Supplier Indemnified Party's negligent or willful acts or omissions.

(c)   Indemnification procedures. The indemnified party will:

(1)   provide the indemnifying party with reasonably prompt notice of Claims;

(2)   permit the indemnifying party through mutually acceptable counsel to answer and defend Claims; and

(3)   provide the indemnifying party with reasonable information and assistance to help the indemnifying party defend Claims at the indemnifying party's expense.

An indemnified party may employ separate counsel and participate in the defense of a Claim at its own expense.

(d)   Acknowledgment of fault and settling Claims. Neither party will stipulate, admit, or acknowledge fault or liability by the other without their prior written consent. The indemnifying party will not settle any Claim or publicize any settlement without the other party's prior written consent.

(e)   Industrial insurance immunity. Supplier waives immunity under industrial insurance Law, such as Title 51 of the Revised Code of the State of Washington, U.S., except to the extent prohibited by Law and solely regarding bodily injury or death Claims.

(f)   Other remedies. In addition to all other remedies available to Microsoft:

(1)   if use of Services or Deliverables under this Agreement is enjoined or injunction is threatened, Supplier, at its expense, will notify Microsoft and immediately:

(i)   procure for Microsoft the right to continue using such Services and Deliverables; or

(ii)   replace or modify such Services and Deliverables so they are non-infringing and useable to Microsoft's satisfaction.

If Supplier does not comply with this Section 8(f)(1), then in addition to any amounts reimbursed under this Section 8 (Indemnification and other remedies), Supplier will refund all amounts paid by Microsoft for infringing Services and Deliverables and pay reasonable costs to transition Services to a new supplier.

(2)   Supplier will pay Microsoft the fair market value of Microsoft Materials or property if Supplier misappropriates or fails to return such items according to this Agreement.

SECTION 9   Limitations of liability

(a)   AS PERMITTED BY LAW AND SUBJECT TO SECTION 9(b) BELOW, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF DATA, REVENUE, OR PROFITS), WHETHER FORESEEABLE OR UNFORESEEABLE, ARISING OUT OF THIS AGREEMENT REGARDLESS OF WHETHER THE LIABILITY

IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTIES, OR OTHERWISE, AND EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. ADDITIONALLY, NEITHER PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY WILL EXCEED THE GREATER OF:

(1) $2,000,000 USD OR THE EQUIVALENT IN LOCAL CURRENCY; OR

(2)   THE ACTUAL FEES PAID BY MICROSOFT IN THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE.

(b)   THE LIMITATIONS ON LIABILITY IN SECTION 9(a) DO NOT APPLY TO LIABILITY ARISING FROM:

(1)   A PARTY'S DUTY TO INDEMNIFY THE OTHER UNDER THIS AGREEMENT;

(2)   A BREACH OF A PARTY'S CONFIDENTIALITY, SECURITY, PRIVACY, DATA PROTECTION, ARTIFICIAL INTELLIGENCE, AND PUBLICITY OBLIGATIONS UNDER THIS AGREEMENT;

(3)   INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF IP RIGHTS IN CONNECTION WITH THIS AGREEMENT; OR

(4)   WILLFUL MISCONDUCT OR FRAUD.

SECTION 10   Insurance

Supplier will maintain sufficient insurance coverage to meet obligations required by this Agreement and by Law. Supplier's insurance must include the following coverage (or the local currency equivalent) to the extent the Agreement creates risks generally covered by these insurance policies.

Table A1 – Required Insurance Coverage

Coverage	Form	Limit[1]
Commercial general liability, including contractual and product liability[2]	Occurrence	$2,000,000 USD
Automobile liability	Occurrence	$2,000,000 USD
Privacy and cybersecurity liability, as reasonably commercially available (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs)	Per claim	$2,000,000 USD
Workers' compensation	Statutory	Statutory
Employer's liability	Occurrence	$500,000 USD
Professional liability/E&O, covering third-party proprietary rights infringement (e.g., copyright and trademark) if reasonably commercially available	Per claim[3]	$2,000,000 USD

NOTES:

[1]   All limits per claim or occurrence unless statutory requirements are otherwise may be converted to local currency.

[2]   Supplier will name Microsoft, its subsidiaries, and their respective directors, officers, and employees as additional insureds in the Commercial general liability policy, to the extent of contractual liability assumed by Supplier in Section 8 (Indemnification and other remedies).

[3]   With a retroactive coverage date no later than the effective date of this Agreement or the applicable SOW. Supplier will maintain active policy coverage or an extended reporting period providing coverage for claims first made and reported to the insurer within 12 months after this Agreement terminates or expires or the applicable SOW is fulfilled.

Supplier must obtain Microsoft's prior written approval for any deductible or retention in excess of $100,000 USD per occurrence or accident. Supplier will deliver to Microsoft proof of the insurance coverage required under this Agreement on request. Supplier will promptly buy additional coverage, and notify Microsoft in writing, if Microsoft reasonably determines Supplier's coverage is less than required to meet its obligations.

SECTION 11   Reports, audits, and inspections

(a)   Reports. Reports Supplier provides to Microsoft will be accurate, complete, and timely. Supplier will correct errors or omissions in any report within 5 days after becoming aware of the error or omission. Upon request from Microsoft, Supplier will promptly provide Microsoft with a Software Bill of Materials ("*SBOM*") for all software provided under this Agreement. Each SBOM will meet the minimum requirements established by the U.S. Department of Commerce or otherwise set forth by Law.

(b)   Financial statements. If not publicly available, upon Microsoft's request, Supplier will provide Microsoft, and Microsoft's approved, designated third-party service provider, with its most recent Financial Statements. A "*Financial Statement*" means a balance sheet as of the last day of the calendar quarter or fiscal year, an income statement, statement of cash flows, and any related notes for the quarter and year-to-date, prepared under GAAP, international financial representation standards, or other generally accepted accounting principles in Supplier's jurisdiction. Supplier must note any departure in the quarterly Financial Statements from these principles. Supplier's authorized officer will acknowledge the Financial Statements' completeness and accuracy by signature.

(c)   Audits, inspections, and refunds

(1)   For the Term plus 4 years, Supplier will keep usual and proper records and books of account relating to compliance with and performance under this Agreement, quality and performance reports related to Services, the Processing of Personal Data, and as otherwise required for legal compliance ("*Supplier Records*"). During this period, Microsoft may audit Supplier and inspect Supplier facilities to verify its records and Agreement compliance, including privacy, security, export compliance, accessibility and taxes. Microsoft or its designated independent consultant or certified public accountant ("*Auditor*") will conduct audits and inspections. Microsoft will provide reasonable notice (15 days except in emergencies) to Supplier before the audit or inspection and will instruct the Auditor to avoid disrupting Supplier's operations, including consolidating audits where practical. Supplier will provide reasonable access to Microsoft or its Auditor to facilitate the audit, including access to Microsoft contracts, Supplier Records and facilities. Supplier will permit Microsoft or its Auditor to copy records for evidence, except to the extent prohibited by Law.

(2)   Supplier will reimburse Microsoft for overpayments discovered by auditors. If Supplier overcharged Microsoft 5% or more during an audited period, it will immediately refund Microsoft all overpayments plus pay interest at 0.5% per month on such overcharge.

(3)   For audits related to Anti-Corruption Laws, in addition to the obligations above, Supplier will maintain books, documents, records, papers, and other materials related to this Agreement (*"Relevant Records"*), and internal controls to prevent bribes and assure accurate financial statements and reporting. Supplier will not have undisclosed or unrecorded accounts, or false, misleading, incomplete, inaccurate, or artificial entries in the Relevant Records. Relevant Records and relevant employees will be available to Microsoft or its Auditor. Microsoft may exercise its rights under this provision at any time if it in good faith believes Supplier or its representatives violated this Agreement's Anti-Corruption Laws obligations.

(4)   Nothing in this Section 11(c) limits Microsoft's right to audit Supplier under Exhibit A,

Section 8(g).

SECTION 12   Miscellaneous

(a)   Relationship. The parties are independent contractors. Supplier's employees and Subcontractors are not Microsoft employees. Supplier is solely responsible for hiring, supervising and directing its personnel. Supplier is solely responsible for hiring, supervising and directing its personnel. Supplier will provide Microsoft with satisfactory proof of independent contractor status upon request. This Agreement does not create an exclusive relationship between the parties and Microsoft does not commit to acquiring any minimum amount of Services from Supplier. There are no third-party beneficiaries under this Agreement unless provided otherwise.

(b)   Jurisdiction and governing Law. This Agreement is governed by Washington State Law (disregarding conflicts of law principles), and the parties consent to exclusive jurisdiction and venue in the state and federal courts in King County, Washington. Neither party will claim lack of personal jurisdiction or forum non conveniens in these courts. In any action or suit related to this Agreement, the prevailing party is entitled to recover its costs including reasonable attorneys' fees.

(c)   No waiver. A party's delay or failure to exercise any right or remedy is not a waiver of that or any other right or remedy.

(d)   Assignment. Supplier will not sell, assign, transfer, pledge, or encumber this Agreement or any right, or delegate any duty or obligation under this Agreement, by assignment or operation of Law, without Microsoft's prior written consent. Microsoft will not unreasonably withhold such consent. Supplier will be deemed to have assigned this Agreement if Supplier engages in a change of control transaction. Microsoft may assign this Agreement to any of its Affiliates. This Agreement will inure to the benefit of and bind all permitted successors, assigns, receivers, and trustees of each party. Any attempted assignment that violates this provision is a material breach and is void.

(e)   Force majeure. Except for Supplier's business continuity (i.e., disaster recovery) obligations under this Agreement, neither party is liable for failing to perform its obligations under this Agreement due to acts of God, natural disasters, war, civil disturbance, or government action where the cause is beyond the party's reasonable control ("*Force Majeure Event*"). A Force Majeure Event does not include difficulty in obtaining labor, materials, or transport, or a strike, lock-out, trade dispute, or labor disturbance where Supplier is a direct party. The party affected by a Force Majeure Event will provide written notice to the other party within a commercially reasonable time and use best efforts to resume performance as soon as reasonably possible. If Supplier does not complete Services due to a Force Majeure Event within 3 weeks after the start of the Force Majeure Event, or an alternate date specified in an applicable SOW or this Agreement, whichever is earlier, then (1) Microsoft may choose not to purchase or pay for those Services, and (2) Supplier will promptly refund any pre-paid Fees.

(f)   Severability. If a court of competent jurisdiction determines that any Agreement provision is illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect.

(g)   Insolvency. The insolvency or adjudication of bankruptcy, the filing of a voluntary petition in bankruptcy, or the making of an assignment for the benefit of creditors by either party will be a material breach of this Agreement. "*Insolvency*" means either (1) the party's liabilities exceed its assets, each fairly stated, or (2) the party's failure to timely pay its business obligations in the

regular course of business.

(h)   **Entire agreement, precedence, and amendment.** This Agreement supersedes all prior and contemporaneous communications, whether written or oral, regarding the subject matter covered in this Agreement. Any preceding agreement (master, framework, or otherwise) that was previously executed between the parties (each a "*Prior Agreement*") and listed in an exhibit to this Agreement (if any) is terminated, except that any SOWs signed when the Prior Agreement was in effect continue until such SOWs are terminated or expire under the terms of the applicable SOW, however, no new SOWs or extensions to existing SOWs are permitted under the Prior Agreement. If there is a conflict between any parts of this Agreement not resolved by its terms, the following order of precedence will apply:

     (1)   this Agreement, including any addenda, exhibits, and Microsoft Policies referenced herein;

     (2)   a signed SOW, except if this Agreement or the SOW provides that a particular section of the SOW takes precedence over a particular section of this Agreement; and

     (3)   Microsoft purchase order terms and conditions.

This Agreement may be modified only by a written agreement signed by authorized representatives of both parties. However, Microsoft may unilaterally modify the Policies identified in Section 2(h) (Supplier to comply with Microsoft Policies). This Agreement does not replace any separate written license agreement between Microsoft and Supplier, and any conflicts with licensing of Microsoft Materials will be resolved as provided in Section 3(b)(1)(ii). Neither Microsoft nor any Microsoft Affiliate is bound in any way by any online terms or agreements accepted in connection with login or access to the Services or any Services Portal; no such terms will amend this Agreement. This Agreement will be construed as if it is drafted by all the parties. No presumption or burden of proof will arise favoring or disfavoring any party by virtue of authorship of any of the provisions of this Agreement. Supplier hereby acknowledges that it has (i) been provided an opportunity to seek the advice of counsel prior to executing this Agreement, (ii) participated in the drafting and negotiating of this Agreement, and (iii) performed any necessary due diligence to determine whether it can comply with the terms set forth herein (regardless of whether Supplier is the drafter of such terms).

(i)   **Notices**. All notices under this Agreement will be in writing, deemed given when received (unless otherwise specified), and sent by electronic mail, physical mail (e.g., registered or certified mail), or courier service to the person and address provided on the first page of this Agreement (or as the recipient has otherwise designated through a previous notice given in accordance with this Section).

(j)   **Counterparts**. The parties may execute this Agreement in any number of counterparts. Each counterpart is an original and all counterparts constitute one agreement binding both parties. Facsimile and electronic signatures will be binding for all purposes.

(k)   **Construction.** Neither party has entered this Agreement in reliance on any promise, representation, or warranty not contained herein. This Agreement will be interpreted according to its plain meaning without presuming that it should favor either party. Lists of examples following "including," "e.g.," "for example," or the like are interpreted to include "without limitation," unless qualified by words such as "only" or "solely." URLs are understood to also refer to successors, localizations, and information or resources linked from within websites at those URLs.

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SECTION 1   Scope, Order of Precedence, and Term

(a)   This Exhibit modifies and supplements the terms and conditions in the Agreement as they relate to Supplier's Processing of Personal Data and compliance with Data Protection Law. The SOW designates the Supplier's status as a Controller or a Processor. Notwithstanding anything to the contrary in the Agreement, if there is a conflict between this Exhibit and the Agreement, this Exhibit will control. This Exhibit will be attached to and incorporated into the Agreement.

(b)   This Exhibit applies only to the extent that Supplier receives, stores, or Processes Personal Data or Confidential Information in connection with the Services.

SECTION 2   Definitions

(a)   All capitalized terms not defined in this Exhibit will have the meanings set forth in the Agreement.

(b)   The following terms have the definitions given to them in the CCPA: "*Business*," *"Business Purpose,"* "*Sale*," *"Share,"* "*Service Provider*," "*Contractor*," and "*Third Party*."

(c)   "*Controller*" means the entity that determines the purposes and means of the Processing of Personal Data. "Controller" includes a Business, Controller (as that term is defined in the GDPR), and equivalent terms in Data Protection Laws, as context requires.

(d)   "*Data Exporter*" means the party that (1) has a corporate presence or other stable arrangement in a jurisdiction that requires an International Data Transfer Mechanism and (2) transfers Personal Data, or makes Personal Data available to, the Data Importer.

(e)   "*Data Importer*" means the party that is (1) located in a jurisdiction that is not the same as the Data Exporter's jurisdiction and (2) receives Personal Data from the Data Exporter or is able to access Personal Data made available by the Data Exporter.

(f)   "*Personal Data Incident*" means any:

   (1)   destruction, alteration, use, loss, disclosure of, or access to Personal Data transmitted, stored, or otherwise processed by Supplier or its Subcontractors that is not authorized by law or this Agreement or any other breach of the protection of Personal Data; or

   (2)   Security Vulnerability related to Supplier's handling of Personal Data. *"Security Vulnerability"* means a weakness, flaw, or error found within a security system of Supplier or its Subcontractors that has a reasonable likelihood to be leveraged by a threat agent in an impactful way.

(g)   "*Data Subject*" means an identifiable natural person who can be identified, directly or indirectly, in particular by referencing an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

(h)   *"De-identified Data"* means information that cannot reasonably be linked to an identified or identifiable individual.

(i)   "*EEA*" means the European Economic Area.

(j)   "*Personal Data*" means any information relating to an identified or identifiable natural person ("*Data Subject*") and any other data or information that constitutes personal data or personal information under any applicable Data Protection Law. An identifiable natural person is one who

can be identified, directly or indirectly, in particular by referencing an identifier such as a name, an identification number, location data, an online identifier, or one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

(k) "*Process*" or "*Processing*" means any operation or set of operations that a party performs on Personal Data, including collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

(l) "*Processor*" means an entity that processes Personal Data on behalf of another entity. "Processor" includes Service Provider, Contractor, Processor (as that term is defined in the GDPR), and equivalent terms in Data Protection Laws, as context requires.

(m) "*Protected Health Information*" or "*PHI*" means Microsoft Personal Data that is protected by the Health Information Portability and Accountability Act (HIPAA).

(n) *"Pseudonymous Data"* means information that cannot be attributed to a specific individual without the use of additional information provided that it is kept separately and subject to appropriate technical and organizational measures to ensure that it is not attributed to the individual.

(o) "*Sensitive Data*" means the following types and categories of data: (1) data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, immigration or citizenship status, or trade union membership; genetic data; (2) biometric data; (3) data concerning health, including protected health information governed by the Health Insurance Portability and Accountability Act; (4) data concerning a natural person's sex life or sexual orientation; (5) government identification numbers (e.g., SSNs, driver's license); (6) payment card information; (7) nonpublic personal information governed by the Gramm Leach Bliley Act; (8) an unencrypted identifier in combination with a password or other access code that would permit access to a data subject's account; (9) personal bank account numbers; (10) data related to children; and (11) precise geolocation.

(p) "*Standard Contractual Clauses*" means the European Union standard contractual clauses for international transfers from the European Economic Area to third countries, Commission Implementing Decision (EU) 2021/914 of 4 June 2021, available at https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc_en.

(q) "*Subprocessor*" means a Processor engaged by a party who is acting as a Processor.

SECTION 3   Description of the Parties' Personal Data Processing Activities and Statuses of the Parties

(a) Schedule 1 describes the purposes of the parties' Processing, the types or categories of Personal Data involved in the Processing, and the categories of Data Subjects affected by the Processing.

(b) Schedule 1 lists the parties' statuses under relevant Data Protection Law.

(c) The subject matter and duration of the Processing, the nature and purpose of the Processing, and the type of Personal Data and categories of Data Subjects may be more specifically described in a statement of work, Microsoft purchase order, or written agreement signed by the parties' authorized representatives, which forms an integral part of the Agreement; if this is the case, the more specific description will control over Schedule 1.

SECTION 4   International Data Transfer

(a)   Some jurisdictions require that an entity transferring Personal Data to a recipient in another jurisdiction take extra measures to ensure that the Personal Data has special protections if the law of the recipient's jurisdiction does not protect Personal Data in a manner equivalent to the transferring entity's jurisdiction (an "*International Data Transfer Mechanism*"). The parties will comply with any International Data Transfer Mechanism that may be required by applicable Data Protection Law, including the Standard Contractual Clauses.

(b)   If the International Data Transfer Mechanism on which the parties rely is invalidated or superseded, the parties will work together in good faith to find a suitable alternative.

(c)   The parties agree that by executing this Agreement they also execute the Standard Contractual Clauses, which will be incorporated by reference and form an integral part of this Agreement. The parties agree that, with respect to the elements of the Standard Contractual Clauses that require the parties' input, Schedules 1 and 2 contain information relevant to the Standard Contractual Clauses' Annexes. The parties agree that, for Personal Data of Data Subjects in the United Kingdom, Switzerland, or another country specified in Schedule 1, they adopt the modifications to the Standard Contractual Clauses listed in Schedule 1 to adapt the Standard Contractual Clauses to local law, as applicable.

SECTION 5   Mutual Obligations of the Parties

(a)   **Compliance**. The parties will comply with their respective obligations under Data Protection Law and their privacy notices, including by providing the same level of privacy protection that is required of Businesses under the CCPA.

(b)   **Information.** Upon request, Supplier will provide reasonably relevant information to Microsoft to enable Microsoft to fulfill its obligations (if any) to conduct data protection assessments or prior consultations with data protection authorities.

(c)   **Notification.** Supplier will notify Microsoft if it determines that it can no longer meet its obligations under applicable Data Protection Law.

(d)   **Cooperation.** If Supplier receives any type of request or inquiry from a governmental, legislative, judicial, law enforcement, or regulatory authority, or faces an actual or potential claim, inquiry, or complaint in connection with Parties' Processing of Personal Data provided to Supplier by or on behalf of Microsoft, its affiliates, or its respective end users, or obtained or collected by Supplier in connection with the purposes described in Schedule 1 (collectively, an "*Inquiry*"), then Supplier will notify Microsoft without undue delay, but in no event later than ten (10) business days, unless such notification is prohibited by applicable law. Supplier will promptly provide Microsoft with information relevant to the Inquiry, including any information relevant to the defense of a claim, to enable Microsoft to respond to the Inquiry.

(e)   **Confidentiality**. Supplier will ensure that persons authorized to Process the Personal Data have committed themselves to confidentiality obligations no less protective than those set forth in the Agreement or are under an appropriate statutory obligation of confidentiality.

(f)   **Security Controls**. Supplier will abide by Schedule 2 and take all measures required in accordance with good industry practice and by Data Protection Law relating to data security (including pursuant to Article 32 of the GDPR). Supplier will implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk.

(g)   **Obligations Related to PHI**. If Supplier's engagement involves the Processing of PHI, Supplier

must have a Business Associate Agreement and/or other required agreement in place with Microsoft.

SECTION 6   **Supplier's Obligations as Independent Controller (if applicable).** If Supplier is a Controller of Personal Data that is collected, exchanged, or otherwise Processed in connection with Supplier's performance of the Agreement (see Schedule 1), then:

(a)   Supplier acknowledges and agrees that Supplier is independently responsible for compliance and will comply with applicable Data Protection Law (e.g., obligations of Controllers);

(b)   Supplier will not Sell Personal Data;

(c)   Supplier agrees to be responsible for providing notice to Data Subjects as may be required by applicable Data Protection Law (e.g., GDPR Articles 13 and 14, as applicable) and responding, as required by Data Protection Laws such as Chapter III of GDPR, to Data Subject's requests to exercise their rights and identifying a lawful basis of Processing (e.g., consent or legitimate interest);

(d)   Supplier agrees that will keep Pseudonymous Data separate from any additional information necessary to make such Pseudonymous Data attributable to a specific individual and will subject such Pseudonymous Data to appropriate technical and organizational measures to ensure that it is not attributed to specific individual; and

(e)   Supplier agrees that it will take reasonable measures to ensure that De-identified Data cannot be associated with a specific consumer or household, publicly commit to maintain the De-identified Data in de-identified form and not attempt to reidentify it, and contractually commit any Subprocessors to do the same**.**

SECTION 7   **Supplier's Obligations as Third Party (if applicable).** If Supplier Processes Personal Data as a Third Party under the CCPA in connection with Supplier's performance of the Agreement (see Schedule 1), then:

(1)   Supplier will Process Personal Data only for the limited and specific business purpose(s) described in Schedule 1.

(2)   Supplier agrees that the Personal Data is made available only for the limited and specified purpose(s) set forth in the contract, and that Supplier may use the information only for those purposes.

(3)   Supplier will not Sell or Share Personal Data made available to it by Microsoft .

(4)   Supplier will allow Microsoft to take reasonable and appropriate steps to ensure that Supplier uses the Personal Data that it received from, or on behalf of, Microsoft in a manner consistent with Microsoft's obligations under the CCPA.

(5)   Supplier will allow Microsoft, upon notice, to take reasonable and appropriate steps to stop and remediate any unauthorized use of Personal Data.

SECTION 8   **Supplier's Obligations as a Processor, Contractor, Subprocessor, or Service Provider**

Supplier will have the obligations set forth in this Section 8 if it Processes the Personal Data of Data Subjects in its capacity as Microsoft's Processor, Contractor, or Service Provider; for clarity, these obligations do not apply to Supplier in its capacity as an Independent Controller, Business, or Third Party.

(a)   **Scope of Processing**

(1)   Supplier will Process Personal Data solely to (i) provide Services to Microsoft (and where

applicable for the Business Purposes specified in the applicable SOW, (ii)carry out its obligations under the Agreement, and (iii) carry out Microsoft's documented instructions. Supplier will not Process Personal Data for any other purpose, unless required by applicable law, and will not Sell or Share Personal Data that it collects or obtains pursuant to the Agreement.

(2)   Processing any Personal Data outside the scope of the Agreement and this Exhibit will require prior written agreement between Supplier and Microsoft by way of written amendment to the Agreement.

(3)   Supplier will notify Microsoft if it believes that it cannot follow Microsoft's instructions or fulfill its obligations under the Agreement because of a legal obligation to which Supplier is subject, unless Supplier is prohibited by law from making such notification.

(4)   Supplier is prohibited from retaining, using, or disclosing the Personal Data (1) for any purpose other than the Business Purposes specified in Schedule 1, including retaining, using, or disclosing the Personal Data for a commercial purpose other than carrying out Microsoft's instructions; (2) outside of the Parties' direct business relationship, unless permitted by applicable Data Protection Law, or (3) by combining Personal data that Supplier receives from, or on behalf of, Microsoft with Personal Data that it receives from, or on behalf of, another person or persons, or collects from its own interaction with the Data Subject, provided that Supplier may combine Personal Data to perform any Business Purposes permitted by applicable Data Protection Law. Supplier certifies that it understands with and will comply with the prohibitions set forth in this paragraph (9)(a)(iv).

(5)   Supplier will allow Microsoft, upon notice, to take reasonable and appropriate steps to stop and remediate any unauthorized use of Personal Data.

(b)   Obligations Regarding Pseudonymous Data and De-identified Data

(1)   Supplier agrees that will keep Pseudonymous Data separate from any additional information necessary to make such Pseudonymous Data attributable to a specific individual and will subject such Pseudonymous Data to appropriate technical and organizational measures to ensure that it is not attributed to specific individual;

(2)   Supplier agrees that it will (i) take reasonable measures to ensure that De-identified Data cannot be associated with a specific consumer or household, (ii) commit to maintain the De-identified Data in de-identified form and not attempt to reidentify it, and (iii) contractually commit any Subprocessors to do the same.

(c)   Data Subjects' Requests to Exercise Rights. Supplier will promptly inform Microsoft if Supplier receives a request from a Data Subject to exercise their rights with respect to their Personal Data under applicable Data Protection Law. Supplier will not respond to such Data Subjects except to acknowledge their requests. Supplier will provide Microsoft with assistance, upon request, to help Microsoft to respond to a Data Subject's request. Microsoft will notify the Supplier of any consumer request that the Supplier must comply with and will provide information necessary for compliance.

(d)   Supplier's Subprocessors. Supplier will not engage a Subprocessor without Microsoft's prior written authorization. Supplier will be liable for the acts or omissions of its Subprocessors to the same extent as Supplier would be liable if performing the services of the Subprocessor directly under this Exhibit, except as otherwise set forth in the Agreement. Supplier will require

Subprocessors to agree in writing to terms no less protective than the terms in this Exhibit.

(e)   **Personal Data Incident**

    (1)   Without limiting Supplier's obligations under the Agreement, including the DPR and this Exhibit with respect to Personal Data, on becoming aware of any Personal Data Incident, Supplier will:

        (i)   notify Microsoft without undue delay of the Personal Data Incident (in any case no later than it notifies any similarly situated customers of Supplier and in all cases before Supplier makes any general public disclosure (e.g., a press release));

        (ii)   promptly investigate or perform required assistance in the investigation of the Personal Data Incident and provide Microsoft with detailed information about the Personal Data Incident, including a description of the nature of the Data Incident, the approximate number of Data Subjects affected, the Personal Data Incident's current and foreseeable impact, and the measures Supplier is taking to address the Personal Data Incident and mitigate its effects; and

        (iii)   promptly take all commercially reasonable steps to mitigate the effects of the Personal Data Incident, or assist Microsoft in doing so.

    (2)   Supplier will comply with this Section 8(e) at Supplier's cost unless the Personal Data Incident arose from Microsoft's negligent or willful acts or Supplier's compliance with Microsoft's express written instructions.

    (3)   Supplier must obtain Microsoft's written approval before notifying any governmental entity, individual, the press, or other third party of a Personal Data Incident that affected or reasonably could affect Personal Data that Supplier received from Microsoft or Processed on behalf of Microsoft. Notwithstanding anything to the contrary in this Exhibit, Supplier may notify a third party about a Personal Data Incident affecting Personal Data if it is under a legal obligation to do so, provided that Supplier must: (i) make every effort to give Microsoft prior notification, as soon as possible, if it intends to disclose the Personal Data Incident to a third party; and (ii) if it is not possible to give Microsoft such prior notification, notify Microsoft immediately once it becomes possible to give notification. For any disclosure of a Data Incident to a third party, Supplier will, as part of its notification to Microsoft, disclose the identity of the third party and a copy of the notification (if the notification to the third party has not been sent, Supplier will provide a draft to Microsoft). Supplier will permit Microsoft to offer edits or updates to the notification.

(e)   **Deletion and Return of Personal Data**. On expiration or termination of the Agreement or applicable SOW, or upon request by Microsoft or Microsoft's Affiliate, Supplier will without undue delay: (1) return all Microsoft Personal Data (including copies thereof) to Microsoft or the applicable Microsoft Affiliate; or (2) on request by Microsoft or its Affiliate, destroy all Microsoft Personal Data (including copies thereof) and certify its destruction, in each case unless the Law expressly requires otherwise or the parties otherwise expressly agree in writing. For any Microsoft Personal Data that Supplier retains after expiration or termination of the Agreement (for example, because Supplier is legally required to retain the information), (A) Supplier will continue to comply with all terms of the Agreement applicable to that Personal Data, including all the data security and privacy provisions in this Exhibit, and those applicable terms will survive such expiration or termination, and (B) Supplier must De-identify or aggregate Personal Data (if

any) to the extent feasible. All Personal Data is Microsoft Confidential Information.

(g)   **Audits.** Without limiting any of Microsoft's existing audit rights under the Agreement (if any), Supplier will make available to Microsoft all information necessary to demonstrate compliance with Data Protection Law and allow for and contribute to audits, including inspections, conducted by Microsoft or another auditor mandated by Microsoft.

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Schedule 1: Description of the Processing and Subprocessors

Processing Activity	Status of the Parties	Categories of Personal Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Categories of Sensitive Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Applicable SCCs Module
Supplier Processes Personal Data to provide the Services.	Microsoft is a Controller. Supplier is a Processor.	• Location data • IP address • Device preferences & personalization • Service usage for websites, webpage click tracking • Social media data, social graph relationships • Activity data from connected devices such as fitness monitors • Contact data such as name, address, phone number, email address, date of birth, dependent and emergency contacts • Fraud and risk assessment, background check • Insurance, pension, benefit detail • Candidate resumes, interview notes/feedback • Metadata and telemetry • Payment instrument data • Credit card no. & expiration date • Bank routing information • Bank account number • Credit requests – Line of credit • Tax documents and identifiers • Investment data	• Data related to children • Genetic data • Biometric data • Health data • Racial or ethnic origin • Political opinions • Religious or philosophical beliefs • Trade union membership • A natural person's sex life or sexual orientation • Immigration status (visa, work authorization, etc.) • Government Identifiers (passport, driver's license, visa, social security numbers, national identify numbers)	Module 2 Module 3, if Microsoft acts as a Processor to another Controller

Processing Activity	Status of the Parties	Categories of Personal Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Categories of Sensitive Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Applicable SCCs Module
		• Corporate cards • Expense data • Azure tenant, M365 tenant • Xbox Live, OneDrive Consumer • Customer originated support ticket • Billing data • e-commerce data • Event registration • Training • Globally Unique Identified (GUID) • Passport User ID or Unique Identifier (PUID) • Hashed End-User Identifiable Information (EUII) -Session IDs • Device IDs • Diagnostic Data • Log Data		
The parties Process Personal Data of their employees to, e.g., administer and provide the Services; manage invoices; manage the Agreement and resolve any disputes relating to it; respond and/or raise general queries; comply with their respective regulatory obligations; and create and administer web-based accounts.	Microsoft is a Controller. Supplier is a Processor.	• Employee name, title, and other contact information • Employee IDs • Device and/or activity Data related to a Microsoft's employees' clicks, presses, or other interactions with Supplier's hardware and software	None	Module 2 Module 3, if Microsoft acts as a Processor to another Controller
Supplier collects or receives Personal Data as a	Microsoft is a Controller.	• Location data • IP address • Device preferences &	• Data related to children • Genetic data • Biometric data	Module 1

Processing Activity	Status of the Parties	Categories of Personal Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Categories of Sensitive Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Applicable SCCs Module
Controller/Third Party.	Supplier is a Controller/ Third Party.	personalization • Service usage for websites, webpage click tracking • Social media data, social graph relationships • Activity data from connected devices such as fitness monitors • Contact data such as name, address, phone number, email address, date of birth, dependent and emergency contacts • Fraud and risk assessment, background check • Insurance, pension, benefit detail • Candidate resumes, interview notes/feedback • Metadata and telemetry • Payment instrument data • Credit card no. & expiration date • Bank routing information • Bank account number • Credit requests – Line of credit • Tax documents and identifiers • Investment data • Corporate cards • Expense data • Azure tenant, M365 tenant • Xbox Live, OneDrive	• Health data • Racial or ethnic origin • Political opinions • Religious or philosophical beliefs • Trade union membership • A natural person's sex life or sexual orientation • Immigration status (visa, work authorization etc.) • Government Identifiers (passport; driver's license; visa; social security numbers; national identify numbers)	

Processing Activity	Status of the Parties	Categories of Personal Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Categories of Sensitive Data that May Be Processed *The categories listed are descriptive and do not necessarily mean that the parties are processing each category of data listed.*	Applicable SCCs Module
		Consumer • Customer originated support ticket- • Billing data • e-commerce data • Event registration • Training • Globally Unique Identified (GUID) • Passport User ID or Unique Identifier (PUID) • Hashed End-User Identifiable Information (EUII)-Session IDs • Device IDs • Diagnostic Data • Log Data		

Subprocessors

Supplier uses the Subprocessors listed in a statement of work or written agreement signed by the parties' authorized representatives when it acts as a Processor.

Information for International Transfers

Frequency of Transfer

Continuous for all Personal Data.

Retention Periods

As Controllers, the parties retain Personal Data for as long as they have a business purpose for it or for the longest time allowable by applicable law.

As a Processor, Supplier retains Personal Data it collects or receives from Microsoft for the duration of the Agreement and consistent with its obligations in this DPA.

For the purpose of the Standard Contractual Clauses:

- Clause 7: The parties do not adopt the optional docking clause.

- Clause 9, Module 2(a), if applicable: The parties select Option 1. The time period is 30 days.

- Clause 9, Module 3(a), if applicable: The parties select Option 1. The time period is 30 days.

- Clause 11(a): The parties do not select the independent dispute resolution option.

- Clause 17: The parties select Option 1. The parties agree that the governing jurisdiction is Republic of Ireland.

- Clause 18: The parties agree that the forum is the High Court in Dublin, Ireland.

- Annex I(A): The data exporter is the Data Exporter (defined above) and the data importer is the Data Importer (defined above).

- Annex I(B): The parties agree that Schedule 1 describes the transfer.

- Annex I(C): The competent supervisory authority is the Irish Data Protection Commission.

- Annex II: The parties agree that Schedule 2 describes the technical and organizational measures applicable to the transfer.

For the purpose of localizing the Standard Contractual Clauses:

- Switzerland

  o The parties adopt the GDPR standard for all data transfers.

  o Clause 13 and Annex I(C): The competent authorities under Clause 13, and in Annex I(C), are the Federal Data Protection and Information Commissioner and, concurrently, the EEA member state authority identified above.

  o Clause 17: The parties agree that the governing jurisdiction is Republic of Ireland.

  o Clause 18: The parties agree that the forum is the High Court in Dublin, Ireland. The parties agree to interpret the Standard Contractual Clauses so that Data Subjects in Switzerland are able to sue for their rights in Switzerland in accordance with Clause 18(c).

  o The parties agree to interpret the Standard Contractual Clauses so that "Data Subjects" includes information about Swiss legal entities until the revised Federal Act on Data Protection becomes operative.

- United Kingdom

  o "UK SCC Addendum" means the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses issued by the UK's Information Commissioner's Office under S119A(1) Data Protection Act 2018, as modified by the Information Commissioner's office from time to time, available at https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/international-data-transfer-agreement-and-guidance/.

  o For transfers from the United Kingdom that are not subject to an adequacy decision or exception, the parties hereby incorporate the UK SCC Addendum by reference and, by signing this DPA, also enter into and agree to be bound by the Mandatory Clauses of the UK SCC Addendum.

  o The parties agree that the following information is relevant to Tables 1 – 4 of the UK SCC Addendum and that by changing the format and content of the Tables neither party intends to reduce the Appropriate Safeguards (as defined in the UK SCC Addendum).

    ▪ Table 1: The parties' details, key contacts, data subject contacts, and signatures are in the signature block of the DPA.

- Table 2: The selected SCCs, Modules and Selected Clauses are described in Schedule 1.

- Table 3: The list of parties, description of transfer, and list of sub-processors are described in Schedule 1. The Technical and Organizational measures to ensure the security of the data are described in Schedule 2.

- Table 4: Neither party may end the UK SCC Addendum when the Approved Addendum changes.

- Clause 17 of the Standard Contractual Clauses: The parties agree that the governing jurisdiction is the United Kingdom.

- Clause 18 of the Standard Contractual Clauses: The parties agree that the forum is the courts of England and Wales. The parties agree that Data Subjects may bring legal proceedings against either party in the courts of any country in the United Kingdom.

Schedule 2: Technical and Organizational Security Measures

Supplier will comply with Microsoft's DPR as agreed in Section 2(h)(3) of the Agreement.