

# PRODUCT SCHEDULE

## Encryption for Microsoft® Office 365®

This Product Schedule (the "**Schedule**") between Company and customer ("**You**") is effective immediately and is issued pursuant to and incorporates by reference the terms and conditions of the Master Service Agreement (the "**MSA**") by and between Company and You.

All capitalized terms in this Schedule shall have the same meaning as set forth in the MSA, unless defined herein. In the event of a conflict or inconsistency between the terms of the MSA and the terms of this Schedule, the latter shall supersede and govern.

### 1. Company Services

Company reserves the right to modify or discontinue any feature or functionality of the Services, in whole or in part, at any time, provided that Company shall provide notice to You within a reasonable time period prior to any modification or discontinuance that will affect Your use of the Services. You understand that the Services may be unavailable at times due to regularly scheduled maintenance. Company shall use commercially reasonable efforts to schedule this maintenance during night, weekends or off-peak periods.

### 2. Software

To the extent any APIs (including any data collection agent) or other Company or third-party software (collectively "**Software**") are provided to You in connection with the Services, and subject to the payment of all Services fees due hereunder, Company grants to You a revocable, non-exclusive, non-assignable, non-transferable, and non-sublicensable limited right and license during the term of these Terms to download, install and use the Software, including any updates and/or modifications thereto ("**Updates**"), and any accompanying documentation, solely in connection with the applicable Services, and only by authorized end users. You shall be solely responsible for the installation and use of the Software, and Company shall have no obligation or responsibility with respect thereto.

### 3. Use of Services or Software

The transmission of any messages or other material which constitutes an infringement of any copyright or trademark or a violation of any national security law or any law or regulation regarding the transmission of obscene, threatening, harassing, or other offensive messages, or the violation of any other applicable statutes or regulations in the United States or in other countries in which the Services are used, or the Software is downloaded, is prohibited and may result in the discontinuance of Services, termination of the Terms and appropriate legal action.

### 4. Disclaimer of Warranties

NO THIRD PARTY SUPPLIER OF INFORMATION OR DATA SUPPLIED UNDER ANY INFORMATION FEATURE OF THE SERVICES MAKES ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO THE ACCURACY, ADEQUACY OR COMPLETENESS OF SUCH INFORMATION OR DATA AND SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

### 5. Technical Support

Company agrees to provide You with Company's standard technical support services for the Software that it makes generally available to customers, which may include periodic distribution of Updates. As Updates and new versions of the Software are made available, Company reserves the right to discontinue support for non-current releases and versions. Company shall provide You with reasonable notice of any such discontinuance.

## **6. Export Control**

You shall not export, re-export, use, or divert the Services or the Software to or on behalf of (a) any country that is subject to U.S. economic sanctions administered by the US Department of the Treasury's Office of Foreign Assets Control ("OFAC"), including but not limited to Cuba, Iran, Sudan, Syria and North Korea; (b) the government of any OFAC-sanctioned country, wherever located; or (c) persons or entities identified as "Specially Designated Nationals" by OFAC, or entities that are owned or controlled by a Specially Designated National. You shall not distribute or supply the Services or the Software to any person if You has reason to believe that such person intends to export, re-export or otherwise transfer the Services or the Software to, or use the Services or Software in or for the benefit of, any such OFAC-sanctioned countries, governments, persons, or entities. You shall not use the Services or the Software in connection with the commission of terrorist acts or the design, development, production, or use of nuclear, biological, or chemical weapons; missiles; or unmanned aerial vehicles. You shall not export, re-export, or transfer the Services or the Software to any person or entity with knowledge or reason to know that any of the prohibited activities identified in this section are intended by such person or entity. Without limiting the foregoing, You shall not commit any act which would, directly or indirectly, violate, or which may cause Company to violate, any United States or local law, regulation, treaty or agreement relating to the export or re-export of the Services or the Software, including without limitation those laws, regulations, treaties and agreements applicable to encryption services and encryption-based products. At Your expense, You shall obtain any government consents, authorizations, or licenses required for You to exercise its rights and to discharge its obligations under these Terms. Acknowledging that any data You may place on the Services or the Software may constitute an export of such data by You to one or more foreign jurisdictions, You shall not cause any such export of data in violation of the laws of the United States and/or such other foreign jurisdictions.

## **7. License Terms**

You (i) acknowledge that Company's ability to provide the Services to You is contingent upon your continued compliance with certain terms and conditions and (ii) agree to the terms set forth on Appendix A attached hereto and all other policies, terms and agreements referenced therein.

## **8. Administrative Access to Microsoft Online Services account (including Your Office 365 account)**

In order for Company to perform the Services, You must grant administrative access to Company to Your Microsoft Online Services account (including Your Office 365 account). This provides Company with broad rights to access Your account, including enabling Company to route Your email through the encryption process. You will be required to acknowledge and agree to Microsoft's terms, conditions and disclaimers in connection with approving Company's request to be granted administrative access rights with respect to Your account, the current form of which is attached as Appendix B attached hereto. Further, You agree that Company will not be held responsible or made liable for any loss of personal data and/or damages caused in connection with or as a result of Company's status as an administrator of Your Microsoft Online Services account or any actions performed by Company in such role, unless such loss or damages are the direct result of Company's gross negligence or willful misconduct. You may disable Company's administrative access rights at any time through the Microsoft portal; however, Company will be unable to provide the Services to You at any time that Company does not hold administrative access rights to Your Microsoft Online Services account.

## **9. Restrictions on Usage**

Bulk outbound messaging that is not explicitly requested by the recipient is prohibited. The average monthly per end user encrypted mail limits are 240 outbound emails of 500kb in size (calculated monthly per customer) delivered through the encrypted message pickup centre; if You have business requirements beyond those limits, You must contact Company for written consent to exceed such limits. Messages are deleted after 30 days automatically from the message pickup centre, unless the parties agree in writing on an extended retention period and the pricing therefor.

## **10. Service Level Agreement**

The Company SLA does not cover Encryption for Office 365. Company does not offer a separate Service Level Agreement for Encryption for Office 365.

## **11. Customer Pricing**

Details of Your Service-specific pricing can be accessed via the administrator access point or other Company provided web portal.

## **12. Global Directory Services**

You agree to allow Company and its agents and subcontractors to collect and obtain consent from You and Your end users for collection of Your and their credentials (“Digital Credentials”), including digital certificates, and to use such Digital Credentials for the purpose of giving customers that subscribe to any secure mail, secure folder or other identity-related application services offered by Company or its subcontractors the ability to communicate securely with subscribers to other secure mail and other related secure messaging services operated by Company, its subcontractors or other service providers, and to utilize such Digital Credentials in connection with other Company and third-party software products, such as secure folder for the purpose of enabling end users the ability to encrypt information and to identify themselves.

*Microsoft and Office 365 are either registered trademarks or trademarks of Microsoft Corporation in the United States and/or other countries.*

## **APPENDIX A. TERMS OF SERVICE**

By using the encrypted message service (the "**Services**"), you are agreeing to the terms and conditions herein. Accordingly, please read them carefully.

### **End User License Agreement**

This encrypted message service (the "**Services**") is provided to you in part by Company. By using the Services, you are agreeing to the terms and conditions herein. Accordingly, please read them carefully.

#### **Using the Services**

1. In order to use the Services, you will be required to establish a user account (a "**User Account**"). To do so, you will need to provide us with certain information ("**Account Information**"). You agree that the Account Information you provide is true, accurate, current and complete. If any of your Account Information changes, you must update it by using the appropriate update mechanism once you are logged into your account.
2. You are solely responsible for all usage or activity on your User Account including, but not limited to, use of your User Account by any person who uses your Account Information, with or without authorization, or who has access to any computer on which your account resides or is accessible.
3. You agree to use the Services only for lawful purposes, and that you will not use the Services in any manner that interferes with its security, its normal operation or with any other user's use and enjoyment of the Services. You may not: (i) misuse the Services; or (ii) decompile, disassemble, decrypt, extract or otherwise attempt or assist others to reverse engineer or derive the source code related to the Services.
4. We reserve the right to suspend or stop providing the Services to you if you do not comply with these Terms of Service or if we are investigating suspected misconduct.

#### **Intellectual Property**

5. You acknowledge and agree that Company or its licensors own all right, title and interest in and to the Services, and that these Terms of Service do not grant to you any right, title or interest in or to the Services, other than the limited ability to use the Services (subject to the terms and conditions herein). You may not remove, obscure, or alter any copyright or other legal notices displayed in or along with the Services.

#### **Indemnification**

6. You agree to indemnify Company, and its affiliates, directors, officers, employees, agents, licensors, suppliers, content providers, and the like (collectively, the "**Affiliates**"), and to defend and hold each of them harmless, from any and all claims and liabilities (including legal fees) which may arise from your breach of these Terms of Service.

#### **Disclaimers and Limitation of Liability**

7. The Services display some content that is not Company's. This content is the sole responsibility of the person or entity that makes it available to you through the Services. We are not responsible for any such content.
8. THE SERVICES ARE PROVIDED TO YOU ON "AS IS" BASIS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, COMPANY

DOES NOT REPRESENT OR WARRANT THAT: (A) THE SERVICES WILL MEET YOUR REQUIREMENTS; (B) OPERATION OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; OR (C) ERRORS OR OTHER DEFECTS IN THE SERVICES WILL BE CORRECTED. COMPANY HEREBY DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS AND IMPLIED, INCLUDING ANY IMPLIED WARRANTIES, REPRESENTATIONS OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

9. IN NO EVENT SHALL COMPANY OR ANY OF ITS AFFILIATES, BE LIABLE FOR ANY GENERAL, INCIDENTAL, DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR OTHER DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF PROFITS OR ANY OTHER PECUNIARY LOSS) IN CONNECTION WITH ANY CLAIM, LOSS, DAMAGE, ACTION, SUIT OR OTHER PROCEEDING ARISING UNDER OR OUT OF YOUR USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THE SERVICES, EVEN IF COMPANY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE. IN ANY EVENT, COMPANY'S TOTAL MAXIMUM AGGREGATE LIABILITY UNDER THESE TERMS OF SERVICE OR ARISING FROM YOUR USE OF, RELIANCE UPON, ACCESS TO, OR EXPLOITATION OF THE SERVICES, SHALL BE LIMITED TO £10.

#### **Dispute Resolution/Arbitration**

10. Any controversy, dispute, claim, or difference ("Claim") arises whatsoever between Company and you will be referred to and determined by arbitration to the exclusion of the courts. If you have a Claim, you should give written notice to arbitrate to Company at Company's notice address set forth in Your Master Service Agreement with Company, with a copy to 4101 Yonge Street, Suite 708, Toronto, ON, Canada M2P 1N6, attention: legal department. Arbitration will be conducted by one arbitrator pursuant to the laws and rules relating to commercial arbitration in the Province of Ontario that are in effect on the date of said notice. You agree to waive any right you may have to commence or participate in any class action against Company related to any claim where such waiver is permitted. Where applicable, you also agree to opt out of any class proceedings against Company.
11. These Terms of Service shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein (without reference to conflicts of laws principles), and you hereby consent to the non-exclusive jurisdiction of the courts of such jurisdiction. These Terms of Service constitute the entire understanding between the parties with respect to the Services and supersedes and replaces any and all prior written or verbal understandings.

#### **Modifying and Terminating the Services**

12. You can stop using the Services at any time. Company may also stop providing the Services to you, or correct, update, modify, enhance, or replace the Services from time to time.

#### **General**

13. All references in this Agreement to "Company", "we", "us", "our" and like terms should be interpreted accordingly. The insertion of headings is for convenience of reference only and shall not affect the construction or interpretation of these Terms of Service. These Terms of Service is the entire agreement between you and Company with respect to the Services, and your use of same. Sections 6 through 11, and 13 shall survive any termination or expiration of these Terms of Service for any reason. You may not sub-license, transfer, sell or assign your User Account, and/or these Terms of Service to any third party. The parties have expressly required that these

Terms of Service be set forth and executed in the English language. Les parties aux presentes ont expressment exige que la presente conventions soient redigées en la langue anglaise.

## **APPENDIX B. MICROSOFT TERMS OF DELEGATED ADMINISTRATION**

By delegating administrative authority to your Microsoft Online Services account (including your Office 365 account) to Company, you will agree to the terms and conditions herein (as they may be changed from time to time by Microsoft). Accordingly, please read them carefully.

### **Terms of Delegated Administration**

**Last updated: October 2010**

**WARNING:** If you choose to authorize a partner to be your delegated administrator, the partner will have full administrative access to **all your services and subscriptions**. This includes functions such as setting up mailboxes, adding or removing users and groups, or data migration.

#### **Note of caution regarding authorizing a delegated administrator**

If you (the "customer") opt to authorize a delegated administration partner, do so carefully. Microsoft provides customers who may not wish to perform certain administration functions on their Microsoft Online Services account(s) the ability to authorize a delegated administrator to perform these functions. Before doing so, you must read and agree to these terms.

#### **What functions may a delegated administrator perform?**

A person or entity authorized as a delegated administrator can perform all administrative operations related to a customer's Microsoft Online Services account(s), just as the customer would be permitted to do.

These administrative operations can include, but are not limited to, creation of user accounts, creation of e-mail boxes, or addition / deletion / editing / copying / archiving / transfer of data / transformation of data.

#### **What are some benefits of selecting a delegated administrator?**

Selecting a delegated administrator familiar with administering Microsoft Online Services accounts may free customer from having to learn to perform these functions itself and may enable customer to obtain support services from the delegated administrator.

#### **What are some risks of selecting a delegated administrator?**

Because a delegated administrator will have full administrative access to a customer's account, the delegated administrator will have access to all customer data.

Depending on the nature of the subscription or service, customer may suffer direct or indirect harm if the delegated administrator fails to provide certain functions for customer, e.g., if the delegated administrator does not perform timely backup of data or the delegated administrator does not timely provision new mailboxes for customer employees.

A delegated administrator could, because of its role, accidentally or intentionally harm customer through loss or misuse of customer's data. There is nothing in the system to prevent this.

Microsoft does not approve, monitor, or manage the delegated administrator.

If customer elects to de-authorize a previously authorized delegated administrator, Microsoft will make all reasonable attempts to do so promptly. However, this removal is not instantaneous and during this processing time the delegated administrator will continue to have full access to the customer's subscriptions.

#### **How do I disable a delegated administrator?**

You may disable a delegated administrator's access to your account at any time.

To disable a delegated administrator's access, see Remove a Delegated Administrator in the online Help.

#### **Additional terms**

The option to authorize a partner to perform delegated administration is for customer's convenience only. Customer is not obligated to select or authorize a delegated administrator and, if a delegated

administrator is selected, customer may de-authorize the delegated administrator at any time. Selection of a delegated administrator will not affect or alter the relationship between customer and any other partners (except to the extent such delegated administrator selection is to replace an existing delegated administrator).

The relationship between customer and a delegated administrator is defined by the separate oral or written agreement(s) between them. Microsoft has no involvement in the customer/delegated administrator relationship. In the event of an issue arising from a delegated administrator's services or failure to provide services, customer's sole recourse is with the delegated administrator.

Microsoft bears no responsibility whatsoever for acts or omissions of a delegated administrator. Customer's selection or non-selection of a delegated administrator will not alter the relationship between Microsoft and Customer as spelled out in the applicable agreement for Microsoft Online Services, except as stated in these Terms.

#### DISCLAIMER OF WARRANTIES

MICROSOFT DOES NOT ENDORSE AND MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES PROVIDED BY A PARTNER (IF ANY). WITHOUT LIMITING THE FOREGOING, MICROSOFT DISCLAIMS ANY AND ALL LIABILITY ARISING OUT OF CUSTOMER'S USE OF A PARTNER. ALL PARTNER SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND.

#### LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER MICROSOFT NOR ANY OF ITS AFFILIATES OR SUPPLIERS WILL BE LIABLE FOR DAMAGES (INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES, DAMAGES FOR LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION) ARISING FROM OR IN CONNECTION WITH ANY ACT OR OMISSION BY A PARTNER PROVIDING SERVICES TO CUSTOMER.

Customer explicitly acknowledges that it:

- understands the partner it authorizes will have full administration privileges for customer's account, including the ability to access or migrate any or all of customer's data;
- understands that Microsoft is not responsible for any acts or omissions of the partner that customer has authorized; and
- has read and understands these terms.