

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made on the Effective Date between C2M and the Customer named in the Order Form.

Recitals

The Customer requests that C2M provide Hosting Services and IT Consultancy Services. C2M shall provide hosted technology platforms, personnel and information technology expertise to deliver the Services in accordance with the terms of this Agreement.

1. Definitions

1.1 In this Agreement the following words shall have the following meanings:

“Agreement”	means this Professional Services Agreement, the Order Form, SLA, DPA, Online Conduct Policy, Privacy Policy and any documents referred to therein, together;
“Business Hours”	means Monday to Friday 08:30 – 1800 UK local time (excluding UK Public Holidays;
“C2M”	means Cloud2Me Limited, company number 08423105, with its registered office at Old Post, 19 High Street, Nutfield, Surrey, Reading, RH1 4HH, England;
“Computer Virus”	means any programmes or data incorporated into software or data that disrupts or could disrupt the proper operation of a computer hardware system or the associated software;
“Confidential Information”	means all information passing from one party to the other party relating to the business of the disclosing party (whether disclosed before or after the date of this Agreement), including but not limited to trade secrets, drawings, know-how, research, techniques, source and object code, financial, business and marketing plans, business opportunities and projections, arrangements and agreements with third parties, Customer information, Customer Data and Customer information proprietary to Customers, formulae, suppliers, concepts not reduced to material form, designs, plans and models;
“Consequential Loss”	means pure economic loss, special, indirect or consequential loss, losses incurred by any user, customer or client of the Customer or other third party, losses arising from business interruption, loss of business revenue, goodwill, anticipated savings, losses whether or not occurring in the normal course of business, wasted management or staff time, loss or corruption of data;
“Consultancy Services”	means the IT consultancy services, set out in the Order Form;
“Customer Data”	means all materials, data or other content created or supplied by Customer or their users to C2M or stored at the Data Centre on behalf of the Customer;
“Customer”	means the Customer named in the Order Form who is entitled to use the Services;
“Data Centre”	means the premises from which C2M is to provide the Hosting Services;
“DPA”	means the data processing agreement available at https://www.cloud2me.co.uk/ts&cs/c2m-customer-dpa.pdf as amended from time to time;
“Effective Date”	means the date on which this Agreement and the provision of the Services shall commence, as set out in in the Order Form;
“End User Terms”	means the Microsoft end user licence terms set out in Appendix 1 of this Agreement;

“Expenses”	means out of pocket expenses incurred by C2M in acquiring anything necessary for it to provide the Services. It also includes reasonable travel and hotel accommodation expenditure incurred by Personnel in providing the Services; and any other expense authorised in advance by the Customer’s Administrator (defined in clause 7);
“Fees”	means the charges, set out in the Order Form to be paid by the Customer to C2M, for provision of the Services;
“Force Majeure”	means anything outside the reasonable control of a party including but not limited to, acts of God, fire, storm, flood, earthquake, explosion, accident, acts of the public enemy, terrorism, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, labour dispute, labour shortage, power shortage, transportation embargo, failure or delay in transportation, including without limitation where C2M ceases to be entitled to access the Internet or ceases to have access to the Internet for whatever reason, any act or omission (including laws, regulations, disapprovals or failures to approve) of any government or government agency;
“Hosting Services”	means the hosting services set out in the Order Form and described in more detail in the SLA;
“Initial Term”	means the minimum term of the Agreement as set out in the Order Form;
“IPRs”	means all intellectual property rights relating to or owned by either party anywhere in the world (including present and future intellectual property rights, whether registered or unregistered) including without limitation Confidential Information, business names or logos, domain names, copyright, database rights, patents, trademarks or service marks, designs, software, computer data, generic rights, software programmes and source code and all variations, modifications or enhancements to each of them together with any application or right to apply for registration, renewal, extension or protection of those rights;
“Materials”	means all materials owned by a party used in the provision of the Services, including without limitation software programmes and source code;
“Online Conduct Policy”	means C2M’s policy for online conduct setting out the terms and conditions on which the Customer agrees to utilise C2M’s network, systems, products and services available at https://www.cloud2me.co.uk/ts&cs/c2m-customer-ocp.pdf as amended from time to time;
“Order Form”	means the order form signed by the Customer and C2M setting out the Services ordered by the Customer;
“Out of Hours”	means all hours outside of Business Hours;
“Personnel”	means any employees, officer, agents or representatives, consultants or contractors of either party;
“Privacy Policy”	means the privacy policy of C2M available at https://www.cloud2me.co.uk/ts&cs/c2m-customer-pps.pdf as amended from time to time;
“Professional Services Agreement”	means this professional services agreement together with the End User Terms;
“Services”	means the Hosting Services and Consultancy Services together, set out in the Order Form, to be provided by C2M to the Customer;

“Renewal Period”	means the renewal period set out in the Order Form;
“SLA”	means the service level agreement of C2M available at https://www.cloud2me.co.uk/ts&cs/c2m-customer-sla.pdf as amended from time to time;
“Term”	means the duration of the Agreement, as set out in the Order Form;
“Website”	means the Customer’s website(s) hosted by C2M.

- 1.2 In this Agreement unless the context otherwise requires:
- 1.2.1. A reference to any documents is a reference to that document as varied, novated or replaced from time to time;
 - 1.2.2. The singular includes the plural and vice versa;
 - 1.2.3. A reference to a gender includes all other genders;
 - 1.2.4. A reference to a person or entity includes a natural person, a partnership, corporation, trust, association, an unincorporated body, authority or other entity;
 - 1.2.5. A reference to a person includes that person’s personal legal representative, successors and permitted assigns.
- 1.3 Headings have been inserted for convenience only and shall not affect the interpretation of this Agreement.

2. Provision of the Services

- 2.1. C2M will from the Effective Date provide the Services to the Customer during the Term pursuant to the terms of this Agreement.
- 2.2. The Hosting Services will be hosted within C2M’s cloud IT infrastructure at the Data Centre.
- 2.3. The Consultancy Services shall be provided from C2M’s offices unless otherwise agreed with the Customer in writing.
- 2.4. In providing the Services, C2M will:
 - 2.4.1. Devote Personnel to carry out essential duties, specified in Part I Table 1 of the Order Form to perform the Services;
 - 2.4.2. Ensure that such Personnel are suitably trained, possess a degree of skill and expertise which is necessary for delivering the Services and are qualified to carry out the tasks to which they are allotted in the performance of the Services and that such Personnel shall perform those tasks in a workmanlike and professional manner;
 - 2.4.3. Perform each element of the Services with the reasonable skill and care appropriate to a professional organisation engaged in the business of providing Hosting Services and Consultancy Services;
- 2.5. In providing the Consultancy Services, C2M shall procure that the Consultancy Services are provided, by its Personnel in accordance with the Customer’s IT security policy, health and safety policy and any other policies notified to C2M from time to time by the Customer which apply to persons permitted to access the Customer’s IT Systems.
- 2.6. Helpdesk Services will be provided during Business Hours. If the Customer requires C2M to provide Services Out of Hours, the Customer will notify C2M providing as much notice as possible, and C2M will use all reasonable endeavours to meet the Customer’s requirements.
- 2.7. Where any Services are provided Out of Hours at the Customer’s request, Out of Hours Service charges may be applied as set out in Part II Table 2 of the Order Form.
- 2.8. Any Services provided to Customer which include use or access to any Microsoft software shall be subject to the terms of the End User Terms.

3. Availability

- 3.1. The Hosting Services shall be provided in accordance with the Service Levels set out in the SLA. However, the Customer acknowledges that C2M’s systems, servers and equipment may from time to time be inoperative or only partly operational as a consequence of mechanical breakdown, maintenance, hardware or software upgrades, telecommunications connectivity problems or other causes outside of its control. In the event of any such interruptions the Customer will be informed in accordance with the SLA and will address the unavailability as set out in the SLA.

4. Term

- 4.1. This Agreement commences on the Effective Date and continues for the Initial Term. Upon expiry of the Initial Term, the Agreement renews automatically for successive Renewal

Periods until either party exercises its rights under the Agreement to terminate. Either party may terminate the Agreement for convenience prior to the start of a Renewal Period by giving the other at least 30 days notice in writing.

5. Fees and Payments

- 5.1. All Fees, charges and payments payable under this Agreement are exclusive of VAT, unless stated otherwise in the Order Form.
- 5.2. From the Effective Date in consideration of the provision of the Services the Customer shall be invoiced and shall pay C2M the Fees set out in the Order Form.
- 5.3. The Base Cost shall be invoiced monthly in advance.
- 5.4. Additional Fees shall be invoiced monthly in arrears.
- 5.5. Invoices shall be payable by the Customer within 28 days of their issue date.
- 5.6. If the Customer believes that any invoice is incorrect, it must notify C2M in writing within 28 days of the invoice date, setting out its specific objections.
- 5.7. If the Customer fails to pay any sums properly due to C2M under this Agreement on the due date for payment, C2M may suspend further provision of the Services or refuse to complete or deliver any work or otherwise comply with the provisions of this Agreement on C2M's part, without notice, until the outstanding sum is paid in full.
- 5.8. C2M reserves the right to charge interest, at the statutory rate, on any unpaid invoice which is overdue and reserves the right to recover in addition all costs and legal fees in recovering overdue payments.

6. Expenses

- 6.1. The Customer acknowledges that there may be additional Expenses payable in relation to C2M providing the Services, which will be payable in addition to the Fees. The Customer will reimburse C2M for all Expenses incurred by C2M Personnel in performing the Services.
- 6.2. Reimbursement of Expenses of more than £150 is subject to the Expense in question having been approved in advance in writing by the Customer.
- 6.3. C2M shall issue invoices for Expenses monthly relating to the immediately preceding calendar month. Invoices shall be supported by reasonable evidence of the underlying Expenses having been incurred.
- 6.4. The Customer shall pay invoices relating to Expenses no later than 14 days after receipt of the applicable invoice.

7. Customer Administrators

- 7.1. The Customer will appoint up to two Customer Administrators to act on its behalf for the purposes of this Agreement and will notify C2M of the person(s) appointed and of any change in their appointment. The initial Customer Administrator(s) will be those named in the Order Form.
- 7.2. C2M will be responsible for the provision and quality of the Services and will liaise with the Customer Administrator(s) and provide all information and reports relating to the provision of the Services as may reasonably be requested by the Customer Administrator(s).

8. Insurance

- 8.1. C2M will obtain and maintain with a reputable insurance company for the Term and 12 months thereafter, sufficient insurance to cover its liabilities under the Agreement. On request C2M shall provide the Customer with proof that the insurance required is effective.

9. Warranties

- 9.1. Each party warrants to the other that it has:
 - 9.1.1. Authority to enter into and to perform its obligations under this Agreement;
 - 9.1.2. The ability to perform its obligations under this Agreement;
 - 9.1.3. Obtained all necessary consents and approvals required to enter into this Agreement.
- 9.2. The Customer warrants to C2M that:
 - 9.2.1. The use by C2M of any works, Customer Data or Customer Materials submitted by the Customer to C2M under this Agreement will not infringe the rights of any person or contravene any law;
 - 9.2.2. At the time of entering into this Agreement it is not relying upon any representation made by C2M which has not been expressly set out in the Agreement;

- 9.2.3. It shall install and maintain all Computer Virus protection software of not less than industry standard, and take all other reasonable steps to ensure that any software used in connection with the Services, and any material or data provided to C2M will be free from any Computer Virus and will not damage or corrupt any other data or systems;
- 9.2.4. It is solely responsible for communicating with persons who access its Website(s), use the Services or who the Customer communicates with via the Websites or Services and that it will not divert any Customer complaints or concerns to C2M, unless obliged to do so by mandatory applicable law.
- 9.3. C2M shall not be liable for any defects resulting from improper use of the Services by the Customer, its users or any third party.
- 9.4. C2M gives no condition, warranty, or undertaking and makes no representation to the Customer about the suitability of, or fitness of the Services for the Customer's purposes other than those conditions, warranties, undertakings or representations expressly set out in this Agreement.
- 9.5. With the exception of any rights the Customer may have under applicable law, all warranties, conditions and other terms implied by statute or common law are excluded from the terms of this Agreement to the fullest extent permitted by law.

10. Liability

- 10.1. Nothing in this Agreement excludes or limits the liability of either party for death or personal injury caused by their negligence (including the acts and omissions of their employees, agents or representatives) or from fraudulent misrepresentations or fraud.
- 10.2. Neither party shall be liable for any loss of profits (whether categorised as direct or indirect) arising out of or related to this Agreement, whether based on contract, tort (including negligence or breach of statutory duty) misrepresentation or otherwise, even if a party was advised of the possibility of such damages.
- 10.3. In no event shall either party be liable to the other whether arising under this Agreement or in tort (including negligence or breach of statutory duty), misrepresentation or otherwise arising, for any Consequential Loss, even if the party was advised of the possibility of such damages.
- 10.4. Subject to clause 10.1 to 10.3, the total liability of C2M to the Customer in aggregate whether in contract, tort or otherwise, including negligence or breach of statutory duty, misrepresentation or including any indemnity or contribution, arising in connection with this Agreement shall be limited to the Fees paid by the Customer to C2M in relation to the Services to which the claim relates during the 12 month period prior to the date on which any such claim arose.
- 10.5. Neither Party shall be liable to the other in respect of any matter concerning this Agreement unless reasonable details of such matter have been sent to the other party within twelve months after the date of termination of this Agreement.
- 10.6. The parties acknowledge and agree that in entering into this Agreement, each had recourse to its own skill and judgement and have not relied on any representation made by the other, their employees or agents.

11. Customer Data

- 11.1. C2M has no responsibility for the accuracy and/or functionality of the Customer Data or content in the form in which it is provided by the Customer or as modified upon and in accordance with the Customer's instructions for inclusion in the Hosting Services or Services.
- 11.2. If C2M reasonably forms the view that the Customer Data may be pornographic, defamatory, misleading or deceptive or otherwise in breach of any third party's rights or in contravention of applicable law, C2M may without notice or any liability remove that Customer Data from the Hosting Services and shall within 24 hours thereafter notify the Customer of its removal.
- 11.3. The Customer shall defend, indemnify and hold C2M and its affiliates, employees, directors, officers, sub-contractors, agents and third party providers harmless from and against any costs, losses, liabilities and expenses, including reasonable legal costs arising from any claim relating to or resulting directly or indirectly in connection with:
 - 11.3.1 Use of any Customer Data or content including but not limited to the posting, processing, transmission of Customer Data or content in the Hosting Services or storage at the Data Centre;

- 11.3.2 Any breach of the terms of this Agreement by the Customer's users;
- 11.3.3 Breaches of data protection law or regulations or the terms of the DPA by the Customer or its users.

12. IPRs

- 12.1. The parties acknowledge that this Agreement does not have the effect of transferring the ownership of any IPRs.
- 12.2. Any IPRs owned by either party and required for the performance by the other party of its obligations under this Agreement shall be licensed to that other party on a non-exclusive, royalty-free basis for the purpose of fulfilling that party's obligations under this Agreement and for the period during which the use of the IPR by that party pursuant to this Agreement is required.
- 12.3. Subject to clause 12.6 below, the Customer acknowledges and agrees that C2M will own all IPRs in connection with the C2M Materials and that all other IPRs in C2M Materials provided or created by C2M or on its behalf or provided by C2M will remain permanently with C2M regardless of whether such C2M Materials are in their original form or in a form modified for the Customer's use.
- 12.4. Subject to the Customer not being in breach of this Agreement, C2M grants the Customer a non-exclusive, royalty-free licence to use the C2M Materials for the Term.
- 12.5. The Customer may not modify the C2M Materials for any purpose without the prior written consent of C2M.
- 12.6. C2M acknowledges and agrees that the Customer will own:
 - 12.6.1 All IPR in Customer Data and the content in the Hosting Services; and
 - 12.6.2 All rights in connection with the Internet domain names attaching to the respective Website(s).
- 12.7. The Customer will procure for C2M a licence on a non-exclusive, royalty-free basis, to use any existing IPR owned by a third party and required for the performance by C2M of its obligations under this Agreement and for the period during which the use of those rights by C2M pursuant to this Agreement is required.

13. Marketing

- 13.1. The parties acknowledge and agree that C2M may use the Customer's names, logos, domain names and trademarks for the following purposes:
 - 13.1.1. Use on C2M's website;
 - 13.1.2. Use on C2M's written documentation;
 - 13.1.3. Data Centre signage to indicate Customer's servers and racks;
 - 13.1.4. In case studies.

14. Data Protection

- 14.1. Each party undertakes to comply with its obligations under relevant applicable data protection laws, principles and agreements.
- 14.2. To the extent that personal data is processed when the Customer or its users use the Services, the parties acknowledge that the C2M is a data processor and the Customer is a data controller.
- 14.3. The parties shall comply with their respective obligations under the terms of the DPA.
- 14.4. If a third party alleges infringement of its data protection rights, C2M shall be entitled to take measures necessary to prevent the infringement of a third party's rights from continuing.
- 14.5. Where C2M collects and processes personal data of the Customer, as a data controller, when providing the Services to the Customer, such collection and processing shall be in accordance with the Privacy Policy.

15. Equipment and Access

- 15.1. The Customer must provide, at its own cost, all telecommunications services, computers and other equipment or services necessary to enable it to have access to the Hosting Services. The Customer must comply with all rules, laws and regulations that apply to the communications means by which the Customer obtains access to the Hosting Services.

16. Online Conduct

Cloud2Me Ltd - Professional Services Agreement 1.3

16.1. The Customer acknowledges that it will comply with C2M's Online Conduct Policy. The Online Conduct Policy is a standard policy for the conduct of C2M's business and is necessary for the orderly and efficient provision of its Hosting Services to Customers.

17. Personnel and Sub-Contractors

17.1. C2M may in its sole discretion, but subject to the provisions of the DPA in relation to personal data, sub-contract the performance of its obligations under this Agreement.

18. Non-Solicitation

18.1. Unless the parties agree otherwise during the Term and for the period of six months after termination of the Agreement, neither party will induce any person employed by or acting on behalf of the other party in connection with this Agreement to enter the employ of that party. If either party is in breach of this condition, it recognises that the other party will suffer substantial damage and will pay to the other party by way of liquidated damages a sum equal to six months gross salary paid to that person in the immediately preceding six months. This clause shall not otherwise restrict the right of an employee to accept or change employment.

19. Termination

19.1. Without limiting its other rights or remedies, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

19.1.1. The other party commits a material breach of its obligations under this Agreement and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing of the breach;

19.1.2. The other ceases, or threatens to cease to carry on business; or is unable to pay its debts; or passes a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of insolvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect; or has an administrator appointed or documents are filed with court in respect of such appointment or notice is served of an intention to appoint an administrator by that party or its directors or by a qualifying floating charge holder as provided in the Insolvency Act 1986; or has a receiver or manager or similar official appointed over the whole or substantial part of its undertaking or assets; or makes a voluntary arrangement with its creditors or becomes subject to an administration order; or is affected by a similar event under the law of any other jurisdiction;

19.1.3. A Force Majeure event last more than 28 days.

19.2. Without limiting its other rights or remedies C2M may terminate this Agreement by giving notice in writing to the Customer:

19.2.1. If the Customer fails to pay any amount due to C2M under this Agreement and does not make payment within 7 days after receiving notice requiring the Customer to do so;

19.2.2. If the Customer fails to perform any of its obligations and such failure is not remedied by the Customer within 14 days after receipt by it of notice in writing requiring the default to be remedied;

19.2.3. If the Customer fails to comply with the Online Conduct Policy;

19.2.4. If any warranties or representations made by the Customer contained in this Agreement are false or inaccurate in any material way.

19.3. Termination of this Agreement for any reason whatsoever shall not prejudice either party's rights accrued prior to termination. Any clauses which by their nature should survive termination of this Agreement shall survive and shall remain in full force and effect.

19.4. Following termination of the Agreement, the Customer shall remain liable to pay all Fees (at the rate included in the last invoice issued before notice to terminate was received by C2M) and all Expenses for the remainder of the remaining Term, regardless of any early termination, unless C2M is in material breach of the Agreement. All licences granted under the Agreement shall terminate on the effective date of termination and C2M shall:

19.4.1. Cease providing the Services to the Customer and immediately deactivate all Customer accounts;

19.4.2. Return all Customer Data in accordance with the terms of the SLA and the DPA;

19.4.3. Be entitled to delete all Customer Data from its live systems 30 days after the effective date of termination of the Agreement.

20. Confidential Information

- 20.1. A receiving party may use the Confidential Information of a disclosing party only for the purposes of this Agreement and must keep confidential all Confidential Information disclosed to it, except where the recipient of Confidential Information is required to disclose the Confidential Information by law to any regulatory, governmental or other authority with relevant powers to which either party is subject.
- 20.2. Either party may disclose the Confidential Information of the other party to those of its employees and agents who need to know the Confidential Information for the purposes of this Agreement, but only if the employees or agents are bound by confidentiality undertakings equivalent to those set out in this Agreement.
- 20.3. The parties' obligations to keep information confidential will survive termination of the Agreement.
- 20.4. The obligations of confidentiality under this Agreement do not extend to information that:
 - 20.4.1. Was in the receiving party's lawful possession before the negotiations leading to this Agreement; or
 - 20.4.2. Is, or after the Effective Date, becomes public knowledge (otherwise than as a result of the receiving party's breach of this Agreement); or
 - 20.4.3. Is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - 20.4.4. Is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - 20.4.5. Is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

21. Force Majeure

- 21.1. Excluding non-payment, neither party shall be liable for any delay in performing any of its obligations under this Agreement if such delay is caused by Force Majeure, and the non-performing party's obligation to perform in accordance with this Agreement will be suspended for the duration of the Force Majeure.
- 21.2. As soon as reasonably practicable after an event of Force Majeure arises, the party affected by the Force Majeure event must notify the other party of the extent to which the notifying party is unable to perform its obligations under this Agreement.

22. Assignment

- 22.1. No party may assign or transfer its rights under this Agreement without the prior written consent of the other party, such consent shall not be unreasonably withheld.
- 22.2. Notwithstanding the aforesaid, C2M shall be entitled to assign the Agreement to:
 - 22.2.1. Any company in C2M's group of companies; or
 - 22.2.2. Any entity that purchases the shares or assets of C2M as the result of a merger, takeover or similar event.

22. Relationship between the Parties

- 22.1. C2M and the Customer are independent contractors and nothing in this Agreement will be construed as creating an employer-employee relationship.

23. Miscellaneous

- 23.1. This Agreement constitutes the whole agreement and understanding between the parties and supersedes all prior agreements, representations, negotiations and discussions between the parties relating to the subject matter of this Agreement.
- 23.2. Should a provision of this Agreement be invalid or become invalid then the legal effect of the other provisions shall be unaffected. A valid provision is deemed to have been agreed which comes closest to what the parties intended commercially and shall replace the invalid provision. The same shall apply to any omissions.
- 23.3. No failure or omission by either party to enforce any of the terms and conditions of this Agreement shall be construed as a waiver of such terms and conditions.
- 23.4. In the event of any inconsistency between the content of the Professional Services Agreement, the Order Form, the SLA and the DPA, the Online Conduct Policy and the Privacy

Policy, the Order Form shall prevail followed by the Professional Services Agreement, the SLA, the DPA, the Online Conduct Policy and then the Privacy Policy.

- 23.5. Amendments to, or notices to be sent under this Agreement, shall be in writing and shall be deemed to have been duly given if sent by registered post to a party at the address given for that party in the Order Form. Notwithstanding the aforesaid, C2M may change or modify the terms of this Agreement upon giving the Customer 30 days' notice via email. All changes shall be deemed to have been accepted by the Customer unless the Customer terminates the Agreement prior to the expiry of the 30 day period. If the Customer gives notice to terminate solely due to a price increase, C2M can agree at its sole discretion to waive the price increase and the Agreement will continue without the Fee increase being applied.
- 23.6. Except as expressly set out in the End User Terms and then in relation only to use of any Microsoft software, nothing contained in this Agreement is intended to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 or by any third party pursuant to rights that a third party may have under any applicable law.

24. Dispute Resolution

- 24.1. The parties will use their respective reasonable efforts to negotiate in good faith and settle any dispute that may arise out of or in relation to this Agreement and any breach of it.
- 24.2. If any such dispute cannot be settled amicably through ordinary negotiations of the sales directors of each party, the dispute shall be escalated in writing to the chief technology officer of C2M and the chief financial officer of the Customer who shall in good faith try and resolve the dispute. If the dispute or difference is not resolved within 14 days of the dispute being escalated the parties shall then be entitled to pursue their claim in accordance with clause 25 below.

25. Governing Law and Jurisdiction

- 25.1. This Agreement shall be governed by and construed in accordance with the laws of England and Wales. The courts of England shall have exclusive jurisdiction for the settlement of all disputes arising under this Agreement.

Appendix 1

END USER TERMS

TERMS AND CONDITIONS REGARDING USE OF MICROSOFT SOFTWARE

This document governs the use of Microsoft software, which may include associated software, media, printed materials, and "online" or electronic documentation (individually and collectively, "Products") provided by Cloud2Me Limited (hereinafter referred to as "C2M"). C2M does not own the Products and the use thereof is subject to certain rights and limitations of which C2M must inform the Customer. The Customer's right to use the Products is subject to the agreement with C2M, and to the Customer's understanding of, compliance with, and consent to the following terms and conditions, which C2M does not have authority to vary, alter, or amend.

1. DEFINITIONS.

"Client Software" means software that is installed on a Device that allows the Device to access or utilize the Products.


"Device" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone," server or any other hardware where software can be installed that would allow End User to interact with the Product.

"End User" means an individual or legal entity that obtains Software Services directly from C2M, or indirectly through a Software Services Reseller.

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

"Software Services" means services that C2M provides to the Customer that make available, display, run, access, or otherwise interact, directly or indirectly, with the Products. C2M must provide these services from data center(s) through the Internet, a telephone network or a private network, on a rental, subscription or services basis, whether or not C2M receives a fee. Software Services exclude any services involving installation of a Product directly on any End User device to permit an End User to interact with the Product.

2. **OWNERSHIP OF PRODUCTS.** The Products are licensed to C2M from an affiliate of the Microsoft Corporation (collectively "Microsoft"). Microsoft Products are protected by copyright and other intellectual property rights. Products and other Product elements including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Products are owned by Microsoft or its suppliers. The Customer may not remove, modify or obscure any copyright trademark or other proprietary rights notices that are contained in or on the Products. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Customer's possession, access, or use of the Products does not transfer any ownership of the Products or any intellectual property rights to the Customer.
3. **USE OF CLIENT SOFTWARE.** The Customer may use the Client Software installed on its Devices only in accordance with its agreement with C2M and the terms under this document, and only in connection with the Software Services, provided to the Customer by C2M. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during the installation and/or use of the Client Software.
4. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the Software Services provided to the Customer by C2M, the Customer may have access to certain "sample," "redistributable" and/or software development software code and tools (individually and collectively "Redistribution Software"). The Customer may use, copy and/or install the Redistribution Software only in accordance with the terms of its agreement with C2M and this document and/or its agreement with C2M.
5. **COPIES.** The Customer may not make any copies of the Products; provided, however, that the Customer may (a) make one copy of Client Software on its Device as expressly authorized by C2M; and (b) the Customer may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). The Customer must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of its agreement with C2M, upon notice from C2M or upon transfer of its Device to another person or entity, whichever occurs first. The Customer may not copy any printed materials accompanying the Products.
6. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** The Customer may not reverse engineer, decompile, or disassemble the Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.
7. **NO RENTAL.** The Customer may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Products to any third party, and may not permit any third party to have access to and/or use the functionality of the Products except for the sole purpose of accessing the functionality of the Products in the form of Software Services in accordance with the terms of this agreement and any agreement between the Customer and C2M.
8. **TERMINATION.** Without prejudice to any other rights, C2M may terminate the Customer's rights to use the Products if the Customer fails to comply with these terms and conditions. In the event of termination or cancellation of the Customer's agreement with C2M or C2M's agreement with Microsoft under which the Products are licensed, the Customer must stop using and/or accessing the Products, and destroy all copies of the Products and all of their component parts within thirty (30) days of the termination of its agreement with C2M.
9. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** Microsoft disclaims, to the extent permitted by applicable law, all warranties and liability for damages by Microsoft or its suppliers for any damages and remedies whether direct, indirect



or consequential, arising from the Software Services. Any warranties and liabilities are provided solely by C2M and not by Microsoft, its affiliates or subsidiaries.

- 10. PRODUCT SUPPORT.** Any support for the Software Services is provided to the Customer by C2M or a third party on C2M's behalf and is not provided by Microsoft, its suppliers, affiliates or subsidiaries.
- 11. NOT FAULT TOLERANT.** The Products are not fault-tolerant and are not guaranteed to be error free or to operate uninterrupted. The Customer must not use the Products in any application or situation where the Product(s) failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use").
- 12. EXPORT RESTRICTIONS.** The Products are subject to U.S. export jurisdiction. C2M must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information see <https://www.microsoft.com/exporting/>.
- 13. LIABILITY FOR BREACH.** In addition to any liability the Customer may have to C2M, the Customer agrees that it will also be legally responsible directly to Microsoft for any breach of these terms and conditions.
- 14. INFORMATION DISCLOSURE.** The Customer must permit C2M to disclose any information requested by Microsoft under the Customer's agreement. Microsoft will be an intended third party beneficiary of the Customer's agreement with C2M, with the right to enforce provisions of the Customer's agreement with C2M and to verify the Customer's compliance.