

# PRODUCT SCHEDULE

## Backup for Microsoft® 365

This Product Schedule (this “**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 (including without limitation any MSA that may have been assigned to Company by the original counter-party).

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 arrange for this maintenance to be scheduled 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 Your subscription to the Services described in this Schedule 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 in which 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

NEITHER COMPANY NOR ANY 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 EACH OF COMPANY AND SUCH THIRD-PARTY SUPPLIERS SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

### 5. Termination and Deletion of Data

If You terminate the Microsoft 365 backup Service (or if Company terminates Your subscription to such Service in accordance with the terms of the MSA), Your stored information and data will be permanently

and irrevocably purged immediately upon such termination. Company shall not be liable for any data requests following the date that Your data is purged, as described in the preceding sentence.

## 6. Technical Support

Company agrees to provide You with Company's standard technical support services for the Software that it makes generally available to customers of such Services, 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.

## 7. 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**"); (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 have 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. At Your expense, You shall obtain any government consents, authorizations, or licenses required for You to exercise Your rights and to discharge Your obligations under this Schedule. 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.

## 8. 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; (ii) agree that, by purchasing the Services and accepting the terms hereof, you are allowing Company (and any third party engaged by Company to assist in the performance and delivery of the Services) to use Your data as specified in the MSA, in this Schedule, and in any third-party terms of service applicable to the Services, as well as all other policies, terms and agreements referenced herein or therein; and (iii) authorize Company to accept, on Your behalf, any such third-party terms of service, policies, terms and agreements as may be required in connection with the Services (collectively, the "**Third-Party Terms**"). A copy of any Third-Party Terms accepted on Your behalf by Company in connection with the Services is available from Company upon written request from You.

## 9. Steps You Must Take for the Backup Service to Function Properly

- a. *You Must Grant Administrative Access to Your Microsoft Online Services Account (including Your Microsoft 365 Account)*

In order for Company to deliver the Services, You must grant administrative access to Company (or, directly or indirectly, to Company's delegate engaged for purposes of delivering the Services) (in either case, the "**Access Party**") to Your Microsoft Online Services account (including Your Microsoft 365 account). This includes (i) granting permissions to an application installed in Your Microsoft 365 account which is used to access resources required to perform backup services; and (ii) providing the Access Party with any passwords or other keys required for You to grant the access set forth herein. You represent and warrant that You have obtained and will obtain all required consents and authorizations from End Users (including without limitation any consents

and authorizations necessary to permit access to and use of End Users' email and system credentials), and have taken and will take all other steps, necessary to ensure that Company's provision of the Services complies with applicable law. You will provide Company with any other additional information as necessary to enable the performance of the Services. You are responsible for providing complete and accurate information to the Access Party. **Authorizing the Access Party as Your delegated administrator provides the Access Party with broad rights to access Your account**, including without limitation (i) enabling the Access Party to access content within Your account; (ii) granting the Access Party full administrative access to all of Your Microsoft services and subscriptions (such as setting up mailboxes or adding or removing users and groups); and (iii) providing the Access Party with expansive rights with respect to the handling and management of your data (including communications content), such as duplicating, migrating, deleting, editing, archiving or transferring such data. A delegated administrator could, because of its role, accidentally or intentionally harm You through loss or misuse of Your data. There is nothing in the system to prevent this. You will be required to acknowledge and agree to Microsoft's terms, conditions and disclaimers (which may be amended by Microsoft from time to time without notice) in connection with approving the request to grant administrative access rights with respect to Your account to the Access Party. This may include the Microsoft terms, conditions and disclaimers available at <https://www.microsoft.com/en-US/servicesagreement/>, as well as any other terms applicable to the delegation of administration to Your Microsoft Online Services account. Further, You agree that neither Company nor any other Access Party will be held responsible or made liable for any loss of personal data and/or damages caused in connection with or as a result of the Access Party's status as an administrator of Your Microsoft Online Services account or any actions performed by the Access Party in such role, unless such loss or damages are the direct result of the Access Party's gross negligence or willful misconduct. You may disable the Access Party's administrative access rights at any time through the Microsoft portal; however, the Services will not be able to be provided to You at any time that the Access Party does not hold administrative access rights to Your Microsoft Online Services account.

*b. You Must Maintain Minimum Requirements for Hardware, Software and Internet Connection*

In order to use the Services, Your computer hardware, software and internet connectivity must meet certain minimum requirements as may be specified in the Service documentation provided from time to time. Company bears no liability or responsibility if You cannot access or receive the Services due to a failure to meet such minimum requirements.

*c. After You Order the Services, You Must Then Activate the Services*

After You order the Services, You will still need to activate the Services through Company's administrative control panel or through Company's Onboarding team. Notwithstanding the fact that you have ordered the Services, no backups will run until this activation process has been completed. You may begin to be billed for the Services once You order the Services, regardless of when and whether You activate the Services. By default, the Service will apply to all users on Your Microsoft 365 tenant (and You will be responsible for all associated fees for all such users), regardless of whether such users' other Microsoft services are being purchased through Your Company account, unless and until You change such designation during the onboarding process or after the activation of the Service. If You fail to successfully activate the Services, Company will be unable to provide the Services to You. 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 Your failure to properly activate the Services.

*d. You Are Solely Responsible for Determining Certain Important Features and Terms Applicable to the Services*

As part of the activation process described above, You will be required to select certain important features and terms applicable to the Services, including:

- The region of the data center in which the backup data will reside;
- The retention period (i.e., the period for which backups will be retained);
- The frequency with which You desire the Services to be run on Your account; and
- Which users, Microsoft services, and objects (e.g., Mailbox, OneDrive, SharePoint, Teams) to backup.

You are solely responsible for selecting such settings. Company assumes no liability or responsibility for Your failure to properly configure the Service to meet Your business needs (e.g., by scheduling a one-time backup instead of recurring backups, by storing the backups in the wrong data center, or by failing to capture all desired content in your backups).

If You fail to activate the Services for one or more users, Microsoft services or objects on Your account, backups will not be created for them. In addition, the Services may not automatically apply to newly created users on Your account, unless You proactively configure the Services to apply to all newly created users.

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 Your failure to properly configure the Services.

## **10. Restrictions on Service**

Company's Backup Service does not create a backup of any Exchange Online Archive Mailboxes. Any data that is contained only in an Exchange Online Archive Mailbox (and not in the user's primary Microsoft Exchange Online mailbox) will not be backed up in connection with the Services. Chat messages within Microsoft Teams® are not backed up by the Service.

## **11. Service Level Agreement**

Company does not offer a separate Service Level Agreement for its Outlook Backup service.

## **12. Customer Pricing**

Details of Your Service-specific pricing can be accessed via the Company's administrative control panel or other Company-provided web portal.

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