

Service Specific Terms - Business Solutions

1. **Email Hosting.** If Client purchases Email Hosting, Email Encryption or Data Loss Prevention (“**DLP**”) Services, these additional terms apply.
 - 1.1. **Units.** Email Encryption is a Service that encrypts a Client designated email mailbox’s outgoing email. A “Unit” with respect to Email Encryption, Email Hosting or DLP is an email mailbox.
 - 1.2. With respect to Email Hosting Services, if Microsoft Corporation (“**Microsoft**”) increases the price that Microsoft charges for the underlying licenses or services Microsoft provides that are applicable to the Email Hosting Services, Smarsh may increase the price for the Email Hosting Services by the full amount of the price increase, regardless of whether the price increase occurs during the Initial Term.
 - 1.3. With respect to the Email Hosting Services, the retention of Email Hosting Service Client Data during the Term is subject to space limitations applicable to the Email Hosting Service plan purchased by Client. Email Hosting Service Client Data will be retained for a period of 30 days following the termination or expiration of the earlier of the Email Hosting Service termination or the termination or expiration of the Agreement.
 - 1.4. The following terms and conditions apply to Email Hosting Services.

MICROSOFT SOFTWARE USE – TERMS AND CONDITIONS

This document (“MSFT Terms”) concerns Your use of Microsoft software, which includes computer software provided to You by Smarsh or Intermedia as described below, and may include associated media, printed materials, and “online” or electronic documentation (individually or collectively “Licensed Products”).

1. DEFINITIONS.

For purposes of these MSFT Terms, the following definitions will apply:

“**Client Software**” means software that allows a Device to access or utilize the services

or functionality provided by the Server Software.

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

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

“**Redistribution Software**” means software described in Paragraph 6 (“Use of Redistribution Software”) below.

2. **OWNERSHIP OF LICENSED PRODUCTS.** The Licensed Products are licensed from an affiliate of the Microsoft Corporation (“Microsoft”). All title and intellectual property rights in and to the

Licensed Products (and the constituent elements thereof, including but not limited to any

images, photographs, animations, video, audio, music, text, and “applets” incorporated into the Licensed Products) are owned by Microsoft or its suppliers. The Licensed Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Licensed Products does not transfer any ownership of Licensed Products or any intellectual property rights to You.

3. **COPYRIGHT, TRADEMARK AND PATENT NOTICES.** You must not remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in or on the Licensed Products. You must include Microsoft’s copyright notice on any labels or documentation (including online documentation) that include the Licensed Products. You have no right under this Agreement to use any Microsoft logos in any manner whatsoever. Whenever a Licensed Product is first referenced in any written or visual communication, You must use the appropriate trademark, Licensed Product descriptor and trademark symbol (either [™] or [®]), and clearly indicate Microsoft’s (or Microsoft’s suppliers’) ownership of such marks. For information on Microsoft trademarks, including a listing of current trademarks, see <http://www.microsoft.com/trademarks>. You must not undertake any action that will interfere with or diminish Microsoft’s (or Microsoft’s suppliers’) right, title and/or interest in the trademark(s) or trade name(s). At Microsoft’s request, You must provide Microsoft with samples of all of Your written or visual materials that use a Licensed Product name.
4. **ANTI-PIRACY.** You must not engage in the manufacture, use, distribution or transfer of counterfeit, pirated or illegal software. You may not distribute or transfer Licensed Products to any party that You know is engaged in these activities. You must report to Microsoft any suspected counterfeiting, piracy or other intellectual property infringement in computer programs, manuals, marketing materials or other materials owned by Microsoft, its Affiliates and/or its licensors as soon as You become aware of it. You will cooperate with Microsoft in the investigation of any party suspected of these activities
5. **USE OF CLIENT SOFTWARE.** You may use the Client Software installed on Your Devices only in accordance with the instructions, and only in connection with the services, provided to You. The terms of this MSFT Terms permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during Your use of the ClientSoftware
6. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the services provided to You, You may have access to certain “sample,” “redistributable” and/or software development (“SDK”) software code and tools (individually and collectively “Redistribution Software”). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS (“SPUR”).** Microsoft does not permit You to use any Redistribution Software unless You expressly agree to and comply with such additional terms.
7. **COPIES.** You may not make any copies of the Licensed Products; provided, however, that You may
 - (a) make one (1) copy of Client Software on Your Device; and
 - (b) You may make copies of certain Redistribution Software in accordance with Paragraph 6 (Use of Redistribution Software).You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of Your agreement with Smarsh, upon notice from Smarsh or upon transfer of Your Device to another person or entity, whichever first occurs. You may not copy any printed materials accompanying the Licensed Products.
8. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the Licensed Products, except and only to the extent that applicable law, notwithstanding this limitation expressly permits such activity.

9. **NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute Licensed Products to any third party, and You may not permit any third party to have access to and/or use the functionality of the Licensed Products.
10. **TERMINATION.** Without prejudice to any other rights, Intermedia may terminate Your rights to use the Licensed Products if You fail to comply with these terms and conditions. In the event of termination or cancellation, You must stop using and/or accessing the Licensed Products, and destroy all copies of the Licensed Products and all of their component parts.
11. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES.
12. **PRODUCT SUPPORT.** Any product support for the Licensed Products is not provided by Microsoft or its affiliates or subsidiaries.
13. **NOT FAULT TOLERANT.** THE LICENSED PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE LICENSED PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.
14. **EXPORT RESTRICTIONS.** The Licensed Products are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and national laws that apply to the Licensed Products, including U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issue by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.
15. **DISCLOSURE OF INFORMATION.** You hereby consent to the provision of Your information regarding Your Account to Microsoft to the extent required under the terms of its license agreement with Microsoft.
16. **LIABILITY FOR BREACH.** You agree that You will also be legally responsible directly to Microsoft for any breach of these terms and conditions.
17. **OWA ACCESS RESTRICTIONS.** You acknowledge and agree that if You have an Outlook Web Access-only (OWA-only) Account (Basic SAL license), You are restricted from and will not use shared folders, shared calendars, shared contacts, shared tasks and public folders with respect to such access.