

## SCHEDULE

### NCE SUBSCRIPTION SCHEDULE

#### 1. BACKGROUND

- 1.1 Where the Services include the provision of Microsoft products or services, including Microsoft 365, Dynamics 365, Power Platform and Windows 365 these will be provided pursuant to Microsoft's new commerce experience licensing programme "NCE". Subscription Services purchased through the NCE shall be referred to herein as NCE Subscription Services and shall be provided in accordance with and governed by the Order, this Schedule (which are hereinafter referred to as the "NCE Subscription Terms") and the agreement signed by the parties. Where no agreement exists or has expired, Cisilion's MSA shall prevail. A copy of which can be found here- <https://www.cisilion.com/456368482318-2/>.
- 1.2 To the extent applicable to the NCE Subscription Services, this Schedule shall take precedence over the MSA and other Schedules, and where there is a conflict between this Schedule and the Order, the Order shall prevail.

#### 2. DEFINITIONS USED IN THIS SCHEDULE

- 2.1 The following definitions in this paragraph 2.1 apply in these NCE Subscription Terms;

**Cap:** is the total monthly volume of Microsoft services which the Client is permitted to use.

**Customer Agreement:** a direct agreement between the Client and Microsoft, or a Microsoft Affiliate, which is a condition of the Cloud Solution Provider Program that the Client shall enter into to receive any Products or NCE Services including Online Services and which can be found at <https://www.microsoft.com/licensing/docs/customeragreement> and which may be updated from time to time, and such updates shall continue to form part of that agreement.

**Microsoft Affiliate(s):** means an entity that owns, is owned by, or is under common ownership with Microsoft. Ownership means control of more than 50% of the equity interests of, or the right to direct the management of, an entity for so long as such control exists.

**Minimum Users:** the minimum users as provisioned from time to time.

**Online Service:** any of the Microsoft-hosted online services subscribed to by Client.

**Product(s):** the Microsoft services, tools, software, hardware, or professional support or consulting services provided under the terms of the Microsoft customer agreement,

**Subscription(s):** the purchase of a Subscription Service.

**Third Party Distributor:** the third party who sells the Product(s) to the Client or Cisilion (as the case may be).

- 2.2 Except as defined in these NCE Subscription Terms, capitalised terms shall have the meanings given to them in the Master Services Agreement.

#### 3. SERVICE PROVISION

- 3.1 By submitting an Order for NCE Subscription Services, the Client (i) represents that any subscription commitments and requirements disclosed are complete and accurate in all respects; (ii) agrees to pay Cisilion for all Orders it submits for Products and the Subscription Services; (iii) agrees to the terms of the Agreement and the Order.
- 3.2 By placing an Order with Cisilion, the Client represents and warrants that the Client has accepted the Customer Agreement.
- 3.3 Once an order for a Subscription Services has been accepted by Cisilion:

- (a) Subscriptions shall continue for the duration of the applicable Term unless terminated in compliance with the Order or Clause 16 of the Agreement; and/or
- (b) where this relates to an annual or multi-year fixed term subscription, adjustments may only be made to increase the Minimum Commitment and not decrease (excluding monthly commit) below any current Minimum Commitment provisioned as more fully set out in the Agreement, these NCE Subscription Terms and the Order (as applicable to the NCE Subscription Services).

#### **4. CLIENT'S OBLIGATIONS**

- 4.1 The Client agrees and acknowledges to adhere to the terms of the Customer Agreement which govern the use of the Subscription Services and the Online Services.
- 4.2 If requested by Cisilion, the Client is responsible for providing Cisilion with any necessary information relating to the NCE Subscription Service or any Online Services promptly (and within any period notified to it by Cisilion) to enable Cisilion to comply with its reporting obligations to Microsoft. The Client acknowledges that any delays in responding with such necessary information may result in Microsoft suspending orders for the NCE Subscription Service or any Online Services, and Cisilion shall not be liable for the same.
- 4.3 The Client shall promptly report to Cisilion any suspected counterfeiting, theft, piracy, unauthorised access, or infringement of any IPR provided under these NCE Subscription Terms, including in the NCE Subscription Services or any Online Services, and shall promptly and reasonably cooperate with Cisilion in investigating such unauthorised activities.
- 4.4 Notwithstanding Clause 20.1 of the MSA, the Client undertakes to protect Confidential Information relating to, contained in, incorporating or otherwise concerning the NCE Subscription Services and/or Microsoft Products and/or services, at all times during the term of the MSA and for five (5) years thereafter.

#### **5. CHARGES**

- 5.1 Fixed Term Subscriptions.
  - (a) Products sold under fixed-term Subscriptions are sold for a term as specified in the Order. The Order shall specify if such Subscriptions are to be billed on a monthly or annual basis.
  - (b) Any subsequent adjustments to annual Subscriptions (e.g. adding users) made mid-billing cycle will be invoiced and paid at the time of placing the order for additional users.
  - (c) Any subsequent adjustments to monthly Subscriptions (e.g. adding users) made mid-billing cycle will be calculated and post-billed at the subsequent invoice.
- 5.2 For the avoidance of doubt, Cisilion may increase any Charges related to the Subscription Services in line with any increases imposed upon Cisilion by Microsoft or Third Party Distributor. For the avoidance of doubt: (i) the prices for Products may change without notice; and (ii) Cisilion will not be required to provide any prior notice before the effectiveness of a decrease or increase in Product Charges that relates to a currency fluctuation event.
- 5.3 Where applicable, Client shall pay for and is responsible for monitoring its consumption of the Services. For the avoidance of doubt, this includes payment for all usage where the Client has knowingly or unknowingly subscribed to additional consumption Subscriptions. Any licences initiated or activated in error will still be charged to the Client.
- 5.4 If the Client utilises Subscriptions in excess of those stated in an Order and/or any applicable cap, the Client shall pay to Cisilion the Charges and other expenses in accordance with its actual usage.
- 5.5 If the Client utilises the Subscriptions before the end of the Order Term, the Client shall pay to Cisilion the Charges and other expenses in accordance with the Order Term, irrespective of the usage. In this event, Cisilion shall invoice the Client for the balance of the Order Term at the end of the Order Term.



- 5.6 Cisilion may change credit or payment terms for unfilled orders if, in Cisilion's reasonable opinion, the Client's financial condition, previous payment record, or relationship with Cisilion merits such change.

## **6. INTELLECTUAL PROPERTY RIGHTS**

- 6.1 The Client acquires only such limited rights to use the Products as is explicitly described in the Customer Agreement. Any use by the Client of these rights beyond the scope permitted by the Customer Agreement shall constitute a material breach hereof.
- 6.2 Cisilion is not liable for defects in, or delays related to the Products.
- 6.3 For the avoidance of doubt, if a claim for infringement concerns the Product, the separate terms and conditions of the Customer Agreement shall apply and is a separate action between the Client and Microsoft.

## **7. CANCELLATION**

- 7.1 Subject to paragraph 6.2, where the Client has procured Products or Online Services from Cisilion, the Client may cancel the applicable order in line with the terms set out by Microsoft if the Client notifies Cisilion in writing within forty eight (48) hours of placing the initial order for the applicable Microsoft Products or Online Services. For such notice to cancel to be effective, it must be received by Cisilion within the hours of 9am – 4pm (GMT) on a Business Day.
- 7.2 The Client acknowledges and accepts that any cancellation pursuant to paragraph 6.1 will only be accepted if submitted by Cisilion within Microsoft's designated cancellation period for the applicable Online Service or Product and is approved by Microsoft and/or the Third Party Distributor (if applicable) and is in accordance with any other requirements of Microsoft and/or Third Party Distributor (if applicable) at the time of cancellation. If cancellation is approved by Microsoft and/or Third Party Distributor, then the order will be cancelled.
- 7.3 Depending on the service or product being cancelled, if and to the extent any credit of the purchase price (in full or pro-rata) is issued by Microsoft or the Third Party Distributor (if applicable) to Cisilion, on receipt of the same, Cisilion will pass on any such credit to the Client less any Microsoft and/or Third Party Distributor handling fee as a proportion of the value of any order submitted and approved after the designated period for the relevant Product or Online Service. Cisilion is not liable to the Client if Microsoft and/or Third Party Distributor do not issue a credit.

## **8. LIMITATION OF LIABILITY**

- 8.1 For the avoidance of doubt, the terms set out in the Customer Agreement govern the rights and responsibilities of the Client and Microsoft in relation to the use of the Subscription Services and Online Services and Cisilion excludes any and all liability in relation to the use of the Products. All other services which fall outside the Subscription Services and Online Services are governed by the terms of the Agreement and shall take precedence over the terms of the Customer Agreement should any conflict arise over the use of such services.
- 8.2 Notwithstanding anything, to the contrary in the Agreement, the Client shall indemnify Cisilion from and against any claims, including but not limited to claim for licence fees that directly or indirectly arise from the Client's use of the Subscription Services or reporting under the Agreement.

## **9. TERM & TERMINATION**

- 9.1 Subject to paragraph 2.3, fixed term Subscriptions for Products will automatically renew at the end of the applicable Subscription term for a term equal to the initial Subscription term, unless the Client gives at least thirty (30) days' prior written notice in the case of monthly terms, and ninety (90) days' prior written notice in the case of annual or multi-annual terms, of non-renewal. Such notice to expire at the next renewal date.



- (a) Certain NCE Subscriptions or Products may not automatically renew at the end of their term. Cisilion will use reasonable endeavours to inform the Client where such NCE Subscriptions or Products will require manual renewal or repurchase at the end of its term. For the avoidance of doubt, Cisilion is not responsible for, and has no liability in relation to, the Client being unlicensed as a result of any non-automatic renewal of NCE Subscriptions or Product licences.
  - (b) If an NCE Subscription Service or seat-based Online Service subscription is not renewed at the end of the subscription term, access to the applicable software or Online Service will continue following expiration for thirty (30) days and may continue thereafter for successive one-month periods until cancelled ("Extended Term"). Microsoft may invoice for the Extended Term at the then-current published price for a monthly subscription plus a five percent (5 %) uplift, which Cisilion shall include in its subsequent invoice to the Client. Microsoft will provide Cisilion an opportunity to opt out of the Extended Term on behalf of the Client prior to the expiration date, which Cisilion shall communicate to Client, and the Client may request instead that the applicable subscription either be renewed automatically or disabled immediately upon expiration.
- 9.2 The Client's perpetual licences and licences granted on a subscription basis will continue for the duration of the subscription period(s) set out in the Order notwithstanding termination of the Agreement, subject to the terms of these NCE Subscription Terms and the Agreement (as applicable). Unless otherwise specified in the applicable the Order (as applicable to the NCE Subscription Services), the Client shall remain liable for any and all payments due in respect of the licences until the end of the respective subscription period.
- 9.3 Termination of the licences will not affect any other Services provided under these NCE Subscription Terms or the Agreement.
- 9.4 Cisilion shall not be liable whatsoever to the Client following any termination or suspension of the Subscription Services for legal, regulatory or any other reason by Microsoft or the Third Party Distributor.
- 9.5 Cisilion may terminate the NCE Subscription Services immediately on giving written notice to the Client if:
  - (a) payment of any amount due from the Client under these NCE Subscription Terms is overdue by ten (10) Business Days or more provided that Cisilion has given the Client ten (10) days' written notice of such failure to pay;
  - (b) upon termination by Microsoft or the Third Party Distributor of the licence(s); and/or
  - (c) in accordance with the Customer Agreement.
- 9.6 On termination of the Agreement for any reason, in addition as provided in the Agreement:
  - (a) for metered Products billed periodically based on usage, the Client must immediately pay for unpaid usage as of the termination date; and
  - (b) if Microsoft is in breach, and the Client is entitled, the Client will receive a credit for any Subscription Services fees, including amounts paid in advance for unused consumption for any usage period after the termination date.

