

## “MICROSOFT EXTENDED HARDWARE SERVICE PLUS WITH ON-SITE”

### Commercial Service Contract Terms & Conditions

**CONSUMER RIGHTS: FOR AUSTRALIAN CUSTOMERS, OUR GOODS AND SERVICES COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. FOR MAJOR FAILURES, YOU ARE ENTITLED TO CANCEL YOUR SERVICE CONTRACT WITH US AND TO A REFUND FOR THE UNUSED PORTION, OR TO COMPENSATION FOR ITS REDUCED VALUE. YOU ARE ALSO ENTITLED IF A FAILURE IS NOT RECTIFIED IN A REASONABLE TIME. IF THIS IS NOT DONE, YOU ARE ENTITLED TO A REFUND FOR THE GOODS AND TO CANCEL THE CONTRACT FOR THE SERVICE AND OBTAIN A REFUND OF ANY UNUSED PORTION. YOU ARE ALSO ENTITLED TO BE COMPENSATED FOR ANY OTHER REASONABLY FORESEEABLE LOSS OR DAMAGE FROM A FAILURE IN THE GOODS OR SERVICE. THE BENEFITS OFFERED BY THIS WARRANTY ARE IN ADDITION TO ANY CONSUMER GUARANTEES RELATING TO THE PRODUCT UNDER THE COMPETITION AND CONSUMER ACT 2010 (AUSTRALIAN CONSUMER LAW) AND ANY OTHER STATE AND TERRITORY LEGISLATION. THIS SERVICE CONTRACT IS AN ADDITIONAL GUARANTEE AND ITS TERMS DIFFER FROM THOSE STATUTORY GUARANTEES.**

Please keep this important terms and conditions document and **Purchase Order** together in a safe place, as these will be needed at time of a **Claim**. The information contained in this **Contract** document is intended to serve as a valuable reference guide to help **You** determine and understand what is **Covered** under **Your Contract**. For any questions regarding the information contained in this **Contract** or **Your Coverage** in general, please contact **Us**. The **Contract** is NOT an insurance product.

### DEFINITIONS

Throughout this **Contract**, the following capitalised and bolded words have the stated meaning –

- **“Accidental Damage”**: refers to accidental damage from handling, meaning such as damage resulting from unintentionally dropping the **Covered Product**, liquid spillage, or in association with screen breakage.
- **“Breakdown”**: the mechanical and/or electrical failure of the **Covered Product** that results in it no longer being able to perform its intended function, including defects in materials or workmanship and not normal wear and tear, and that occurs during normal use of the **Product**.
- **“Claim(s)”**: a request for **Repair**, **On-Site Repair**, or **Replacement** in accordance with this **Contract** made by **You**.
- **“Coverage”, “Covered”, “Cover”**: has the meaning given in the “What is **Covered** – General” section of this **Contract**. The **Plan** is a guarantee for the **Covered Products** provided by **Microsoft**, it is NOT an insurance product.
- **“Covered Product(s)”, “Product(s)”**: the eligible **Microsoft** Surface series device(s) purchased by **You** that is/are to be **Covered** under this **Service Contract**, excluding Surface Hub and Surface Duo models.
- **“Limit(s) of Liability”**: **Our** maximum liability to **You** for any one **Claim** and in total during the **Term** of the **Plan** as detailed in the “**Coverage Plan Options**” section.
- **“Manufacturer”, “Microsoft”**: the original equipment **Manufacturer** of the **Product**, who is also the **Administrator** of this **Service Contract**. Website is [www.microsoft.com](http://www.microsoft.com).
- **“On-Site Repair”**: the actions **Our Service Provider** performs at **Your** designated physical address to **Repair Your Covered Product** following a **Covered Breakdown**.
- **“Plan”**: the specific “**Coverage Plan Options**” under this **Service Contract** that **You** have selected and purchased, as confirmed on **Your Purchase Order**.
- **“Product Purchase Price”**: the amount paid by **You** for the **Covered Product(s)** excluding any applicable taxes and/or fees, as indicated on **Your Purchase Order**.
- **“Purchase Order”**: a numbered document that confirms the purchase date of this **Contract** in respect of the **Covered Product(s)**, **Your** name and address, and the **Contract Coverage Term** period. This **Contract** is not valid without a **Purchase Order**.
- **“Repair”**: the actions **We** (or our authorised **Service Provider**) take to mend, remedy, or restore **Your Covered Product** to a sound functioning state following a **Covered Breakdown**. Parts used to **Repair** the **Covered Product** may be new, used, refurbished or non-original **Manufacturer** parts that perform to the factory specifications of the original **Product**.
- **“Replace”, “Replacement”**: an item supplied to **You** through **Our** arrangement in the event **We** determine the **Covered Product** is not suitable for **Repair**. **We** reserve the right to **Replace** the **Covered Product** with a new, rebuilt, or refurbished item of equal or similar features and functionality. **We** make no guarantee that a **Replacement** will be the same model, size, dimensions, or color as the previous **Covered Product**.
- **“Retailer”**: the seller that has been authorised by **Us** to sell this **Contract** to **You**.
- **“Service Contract”, “Contract”**: this document detailing all **Coverage** provisions, conditions, exclusions, and limitations for the **Microsoft** Extended Hardware Service **Plan** Plus with On-Site that has been provided to **You** upon purchase completion from **Our Retailer**.
- **“Service Provider”**: the **Repair** provider authorised by **Us** to **Repair Your Covered Product(s)** at **Your** designated physical address.
- **“Term”**: the period of time shown on **Your Purchase Order** which represents the duration in which the provisions of this **Contract** are valid.
- **“We”, “Us”, “Our”, “Provider”, “Administrator”**: the party or parties obligated to provide service under this **Contract** as the **Service Contract Provider**/obligor, as well as handle the administration under this **Contract** as the **Service Contract Administrator**, who is **Microsoft Pty. Ltd.**, 1 Denison St, North Sydney NSW 2060, Australia.
- **“You”, “Your”**: the purchaser/owner of the **Product(s) Covered** by this **Service Contract**.

### TERRITORY

This **Service Contract** is valid and eligible for purchase in Australia only.

## SERVICE CONTRACT TERM – EFFECTIVE DATE OF COVERAGE

**Coverage** for a **Breakdown** begins upon expiration of the **Manufacturer's** original parts and/or labor warranty and continues for the remainder of **Your Term** as shown on **Your Purchase Order** or until the **Limit of Liability** is reached, whichever is sooner. **Breakdown Coverage** is provided by **Microsoft** and **Claims** arising from **Breakdown** are payable by **Microsoft** pursuant to the terms of this **Contract**.

## PRODUCT ELIGIBILITY

In order to be eligible for **Coverage** under this **Contract**, the **Product** must: (i) be an eligible **Microsoft** Surface series device; (ii) be purchased from **Microsoft** or an authorised **Retailer**; and (iii) have a minimum twelve (12) month **Manufacturer's** warranty attached to the merchandise.

## WHAT IS COVERED – GENERAL

During the **Term** described in the “**Service Contract Term-Effective Date of Coverage**” section, in the event of a **Covered Claim**, at **Our** sole discretion, this **Contract** provides for (i) labor and/or parts required to **Repair** the **Covered Product**, including **On-Site Repair**; (ii) at **Our** sole discretion, **Replacement** of the **Covered Product** in lieu of such **Repair** or **On-Site Repair**; or (iii) a straight **Replacement** for the **Covered Product** if detailed under **Your Plan** description. Please refer to the “**Coverage Plan Options**” section that is applicable to **Your Plan** for full details. The **Plan** is a guarantee for the **Covered Products** provided by **Microsoft** and is NOT an insurance product.

For **Breakdown Claims We** will **Repair**, provide **On-Site Repair**, or **Replace Your Product** pursuant to the provisions of this **Contract**. If **We** decide to **Replace Your Product**, technological advances may result in a **Replacement** with a lower selling price than the previous **Covered Product**, and no reimbursement based on any **Replacement** item cost difference will be provided. Any and all parts or units **Replaced** under this **Contract** become **Our** property in their entirety. When a **Replacement** is applicable and provided in lieu of **Repair** or **On-Site Repair**, any non-standard accessories, attachments and/or peripherals that are integrated with the **Product**, but that were not provided and included by the **Manufacturer** in the packaging and with the original sale of the **Covered Product**, will not be included with such **Replacement**.

For more information regarding **On-Site Repair**, please review the Service Description at <http://aka.ms/ServiceDescription>.

## IMPORTANT NOTICES REGARDING COVERAGE UNDER THIS CONTRACT

- A. If **We** provide a **Replacement** to **You**, any or all of the following may apply:
  - ▶ **We** reserve the right to **Replace** a defective **Product** with a new, rebuilt, or refurbished item of equal or similar features and functionality which may not be the same model, size, dimension, or color as the previous **Product**;
  - ▶ Technological advances may result in a **Replacement** that has a lower retail or market price than the previous **Product**, and, in such situation, this **Contract** shall not provide **You** with any reimbursement for such a price difference; and
  - ▶ **We** reserve the right to request that you relinquish the defective **Product** to **Us** where any and all **Product** parts, components or entire units are **Replaced** under the provisions of this **Contract** and where **We** exercise this right, the defective **Product** shall become **Our** property in its entirety.
- B. **Coverage** for **Breakdown** described under this **Contract** shall not **Replace** or provide any duplicative benefits during any valid **Manufacturer's** warranty period. During such period, **Breakdown** claims covered under the **Manufacturer's** warranty are the sole responsibility of the **Manufacturer** and shall not be **Covered** under this **Contract** regardless of the **Manufacturer's** ability to fulfil its obligations.
- C. **Coverage** for **Breakdown** described under this **Contract** does not impact any rights or benefits for repair or replacement that exist at law, including under the consumer guarantees in the Australian Consumer Law.
- D. Access to **On-Site Repair**, drive (SSD) retention and advanced exchange shipping is provided separately to and in addition to any claims for **Manufacturer's** warranty or rights or benefits for repair or replacement that exist at law, including under the consumer guarantees in the Australian Consumer Law.
- E. **Coverage** under this **Contract** is limited to that which is specifically described in this document, as applicable to **Your Contract**. Anything not specifically expressed herein is not **Covered** (including but not limited to any training services provided separately by **Microsoft** or **Microsoft's** affiliates).
- F. **Your** responsibilities: It is **Your** responsibility to backup any/all software and/or data on a regular basis, especially prior to commencement of any services **Covered** under this **Contract**. Software and/or data transfer or restoration services are not **Covered**.

## COVERAGE PLAN OPTIONS

(As indicated on **Your Purchase Order** and applicable to **You**.)

Details regarding **Your Service Contract** can be found at <https://mybusinessservice.surface.com/>.

When purchased, this **Contract** provides the **Coverage** that is described in the “**What is Covered – General**” section, and subject to the following provisions:

### **COVERAGE**

**You** are protected for a maximum of two (2) **Claims** during the **Contract Term** for the **Repair**, **On-Site Repair**, or **Replacement** of **Your Product** in the event of a **Breakdown** subject to the **Limit of Liability**.

### **LIMIT OF LIABILITY**

During **Your Contract Term**, the cumulative maximum amount **We** are obligated to pay pursuant to this **Contract** shall not exceed the **Product(s) Purchase Price** as shown on **Your Purchase Order**. Once this limit is reached, **Coverage** under the **Plan** will end, regardless of any remaining time under the current **Term**.

### **ON-SITE REPAIR**

Once **We** determine **Your Covered Product** has a repairable **Breakdown** under this **Contract** and **On-Site Repair** is available, **We** may send an authorised **Service Provider** to perform **Repair(s)** at **Your** designated physical address. **On-Site Repair** may not be available for the first ninety (90) days after purchase of **Your Contract**. If a **Repair** of **Your Covered Product** is required within the first ninety (90) days after **Contract** purchase, **Microsoft** may

instead provide a **Replacement**.

### **COVERAGE OF REPLACEMENT PRODUCT**

A **Replacement** provided under this **Plan** will be automatically considered as the **Covered Product** referenced throughout the provisions of this **Contract**, and **Coverage** for such **Replacement** will continue for the remainder of **Your** current **Contract Term** (assuming there is remaining time under **Your** current **Term** and that the **Limit of Liability** has not been reached). A **Replacement** will not extend **Your** current **Contract Term**.

### **DRIVE (SSD) RETENTION**

In the event of a **Covered Breakdown**, **Your** serviced **Covered Product** will include a new solid-state drive (SSD) at no additional charge, and you will have the option to retain your original SSD. This option is only available on **Microsoft** devices in which the SSD is marketed as removable on the technical specifications sheet on the **Product** page for **Your Covered Product**.

### **NEXT BUSINESS DAY – ADVANCED EXCHANGE SHIPPING**

If it is determined that a **Covered Breakdown** cannot be repaired or **On-Site Repair** is unavailable, and **Your Covered Product** is not damaged, **You** may be eligible for next business day/advanced exchange shipping service. This service provides for overnight carrier delivery service of a **Replacement** (determined by **Us**) to **Your** location on file as follows:

- a) One (1) business day following authorisation of **Your Claim**, if **Your Claim** is authorised before 2:30 p.m. AET local time; or
- b) Two (2) business days if **Your Claim** is authorised after 2:30 p.m. AET local time.

The overnight carrier delivery service is subject to the following:

- a) If **You** intend to use the next business day service, **You** will need to confirm the availability of the overnight carrier in **Your** location PRIOR to the purchase of this **Contract**. **You** can confirm this using the website: <https://docs.microsoft.com/en-us/surface/surface-next-business-day-replacement> which sets out the postal codes whereby this service is available in; and
- b) Availability of **Microsoft's** authorised overnight delivery carriers.

For the purpose of this provision, "business day" refers to Monday through Friday, excluding standard public holidays.

If **We** are unable to **Repair** or perform **On-Site Repair** of **Your Product** and choose to provide a **Replacement**, **We** may provide advanced exchange service. If **We** provide advanced exchange service, the **Replacement Product** will be delivered to **You** in advance of **Our** receipt of the defective **Product**. In exchange, the defective **Product** must be returned to us undamaged and within ten (10) calendar days of confirmed delivery receipt of the **Replacement Product**, or such longer period as agreed with **Us**. If the defective **Product** is not returned to **Us** within the required or agreed timeframe, **You** will be assessed a non-returned device fee equal to the **Manufacturer's** retail price of the **Replacement Product**.

### **PLACE OF SERVICE**

For all **Covered Claims**, this **Contract** provides **On-Site Repair** at **Your** designated location (as available), pre-paid shipping of the affected **Product** to the servicing location designated by the **Administrator**, as well as shipping of the **Repaired Product** (or **Replacement**, if applicable) back to **Your** registered location on file.

### **LIMITATION OF LIABILITY**

In addition to that which is noted in the "**Coverage Plan** Options" section as applicable to **Your Plan**, neither **We**, the **Retailer**, nor **Service Provider** (as applicable) shall be liable for any incidental or consequential damages including but not limited to: (i) property damage, lost time, lost data, or lost income resulting from a defined **Breakdown**, any non-defined mechanical/electrical failure, training services provided separately by **Microsoft** or its affiliates, or any other kind of damage of or in association with the **Covered Product**, including but not limited to any non-covered equipment used in association with the **Covered Product**; (ii) delays in rendering **Covered** services or the inability to render service for any reason; (iii) the unavailability of any parts/components; (iv) any costs incurred by **You** associated with customised installations to fit the **Covered Product** such as third-party stands, mounts or customised alcoves and the like; or (v) a **Replacement** that is a different model, size, dimension or color as the previous **Covered Product**. **We** shall not assume any liability or damage to property or injury or death to any party(ies) arising out of the operation, maintenance or use of the **Covered Product** or a **Replacement** provided under the provisions of this **Contract**. **We** shall not be liable for any and all **Pre-Existing Conditions** (as defined in the "What is Not **Covered-Breakdown** Exclusions" section) known to **You**, including any inherent **Product** flaws.

### **WHAT IS NOT COVERED – BREAKDOWN EXCLUSIONS**

THIS **CONTRACT** DOES NOT **COVER ANY CLAIM** IN CONNECTION WITH OR RESULTING FROM:

- a) **Accidental Damage**.
- b) **Pre-Existing Conditions** incurred or known to **You** ("**Pre-Existing Conditions**" refers to damages or defects associated with the **Product** that existed at the time this **Contract** was purchased).
- c) Improper packaging and/or transportation by **You** or **Your** representative resulting in damage to the **Product** while it is in transit, including improperly securing the **Product** during transportation.
- d) Any indirect loss whatsoever including but not limited to: (i) property damage, lost time, lost data or lost income resulting from a defined **Breakdown** event, any non-defined mechanical/electrical failure, training services provided separately by **Microsoft** or its affiliates, or any other kind of damage of or in association with the **Product** including, but not limited to any non-covered equipment used in association with the **Product**; (ii) delays in rendering services or the inability to render service for any reason; (iii) the unavailability of any parts/components; (iv) any costs incurred by **You** associated with customised installations to fit the **Product** such as third party stands, mounts, or customised alcoves and the like; or (v) a **Replacement Product** that is a different model, size, dimension or color as the previous **Product**.
- e) Modifications, adjustments, alterations, manipulation, or **Repairs** made by anyone other than a **Service Provider** authorized by **US** or other than in accordance with **Manufacturer's** specifications.
- f) Damage from freezing, overheating, rust, corrosion, warping or bending.

- g) Wear and tear, or gradual deterioration of **Product** performance.
- h) The intentional treatment of the **Product** in a harmful, injurious, malicious, reckless, or offensive manner which results in its damage and/or failure.
- i) Damage to or malfunction of **Your Product** caused by or attributed to the operation of a software virus or any other software-based malfunction.
- j) Loss, theft, or malicious mischief or disappearance.
- k) Fortuitous events, including, but not limited to riot, nuclear radiation, war/hostile action or government act, or intent, radioactive contamination, environmental conditions, exposure to weather conditions or perils of nature, collapse, explosion, or collision of or with another object, fire, any kind of precipitation or humidity, lightning, dirt/sand or smoke, or other telecommunications malfunction.
- l) Lack of performing the **Manufacturer's** recommended maintenance, operation, or storage of the **Product** in conditions outside of the **Manufacturer's** specifications or instructions.
- m) **Product(s)** that are subject to a **Manufacturer's** recall, warranty, rework to **Repair** design or component deficiencies, improper construction, or **Manufacturer** error regardless of the **Manufacturer's** ability to pay for such **Repairs**.
- n) **Product(s)** that have removed or altered serial numbers.
- o) Cosmetic damage however caused to **Your Product**, including marring, scratching, and denting unless such cosmetic damage results in loss of functionality.
- p) Normal periodic or preventive maintenance, adjustment, modification, or servicing.
- q) Accessories and peripherals (such as detachable keyboard, digital pen), or attachments.
- r) Cost of component parts not covered by the **Product's** original **Manufacturer's** warranty, or any non-operating / non-power-driven part, including, but not limited to plastic parts or other parts such as accessory cables, batteries (except as may be otherwise stated in this **Contract**), connectors, cords, fuses, keypads, plastic body or molding, switches, and wiring.
- s) Liability or damage to property or to any person arising out of the operation, maintenance, or use of the **Product**.
- t) Any cost arising as a result of the failure of any item that is intended to be a consumable item.
- u) Any **Claim** where **Your Purchase Order** has not been provided.
- v) Any **Claim** for the restoration of software or data, or for retrieving data from **Your Product**.
- w) Any loss, damage, liability, or expense directly or indirectly caused by or contributed to, or arising from, the use or operation, as a means for inflicting harm, of any computer, computer system, computer software program, malicious code, computer virus or process or any other electronic system.
- x) Any **Claim** or benefit under this **Contract** to the extent the provision of such cover, payment of such **Claim** or provisions of such benefit would expose **Us** to any sanctions, prohibition, or restriction under United Nations resolutions.

**YOU ARE RESPONSIBLE FOR BACKING UP ALL SOFTWARE AND DATA ON A REGULAR BASIS AND PRIOR TO COMMENCEMENT OF ANY REPAIR OR ON-SITE REPAIR. THIS CONTRACT DOES NOT COVER RESTORATION OF SOFTWARE OR DATA, OR DATA RETRIEVAL TO/FROM YOUR COVERED PRODUCT, AND IF WE ARE UNABLE TO TRANSFER SUCH SOFTWARE AND DATA TO ANY REPLACEMENT DEVICE THAT MAY BE PROVIDED TO YOU. IN NO EVENT WILL WE BE RESPONSIBLE FOR THE RESTORATION OF SOFTWARE OR DATA, OR FOR RETRIEVING DATA FROM ANY PRODUCT.**

IF **YOUR PRODUCT** EXPERIENCES AN OCCURRENCE THAT IS EXCLUDED FROM **COVERAGE** UNDER THIS SECTION, OR IN THE EVENT OF A SERVICE INCIDENT WHEREIN THERE IS A "NO PROBLEM FOUND" DIAGNOSIS FROM **US** OR **OUR** AUTHORISED **SERVICE PROVIDER**, THEN **YOU** ARE RESPONSIBLE FOR ALL COSTS IN ASSOCIATION WITH SUCH SERVICE, INCLUDING ANY REASONABLE SHIPPING AND/OR **ON-SITE REPAIR** SERVICING COSTS.

#### HOW TO FILE A CLAIM

**IMPORTANT: THE SUBMISSION OF A CLAIM DOES NOT AUTOMATICALLY MEAN THAT THE BREAKDOWN TO YOUR PRODUCT IS COVERED UNDER YOUR SERVICE CONTRACT. IN ORDER FOR A CLAIM TO BE CONSIDERED, YOU WILL NEED TO FIRST CONTACT US FOR INITIAL DIAGNOSIS OF THE PROBLEM WITH YOUR PRODUCT. THERE IS NO COVERAGE UNDER THIS CONTRACT IF YOU MAKE UNAUTHORISED REPAIRS.**

Please have **Your Purchase Order** readily available and call **Us** at the telephone number found at <https://aka.ms/GlobalSupportPhoneNumbers> or visit <https://mybusinessservice.surface.com/>. **Our** authorised representatives will promptly obtain details regarding the issue **You** are experiencing with the **Product** and will first attempt to resolve the situation over the telephone and/or remotely. If **We** are unsuccessful in resolving the issue over the telephone and/or remotely, **You** will be provided with a **Claim** service request number and further instructions on how to obtain service for **Your Product**.

Please do not take or return **Your Product** to the **Retailer** or **Service Provider** or send **Your Product** anywhere unless **We** instruct **You** to do so. If **You** are instructed by **Us** to take the **Product** to an authorised servicer near **You** or to a **Retailer** or **Service Provider**, or if **You** are instructed to mail-in the **Product** elsewhere (such as an authorised depot center), please be sure to include all of the following with **Your Product**:

- a) The defective **Product**;
- b) A copy of **Your Purchase Order**;
- c) A brief written description of the problem **You** are experiencing with the **Product**; and
- d) A prominent notation of **Your Claim** service request number that **We** gave to **You**.

NOTE: If **We** require **You** to mail the **Product** elsewhere, **We** will provide **You** specific instructions on how to mail the **Product**. For mail-in service, **We** will pay for shipping to and from **Your** location if **You** follow all instructions. **You** are urged to use caution when transporting and/or shipping the **Product**, as **We** are not liable for any freight charges or damages due to improper packaging by **You**. **You** can check with **Us** whether **On-Site Repair** and/or **Advanced Exchange Shipping** is available.

**Coverage** is only provided for eligible services that are conducted by the **Service Provider**, **Retailer**, or depot center which has been authorised by **Us**. If **Your Term** expires during the time of an approved **Claim**, **Breakdown Coverage** under this **Contract** will be extended until the date in which the approved **Claim** in progress has been fulfilled completely in accordance with the terms and conditions of this **Contract**.

## RENEWABILITY

Coverage under this **Service Contract** is not renewable.

## TRANSFERABILITY

Coverage under this **Service Contract** cannot be transferred to any other party or product.

## CANCELLATION

### **YOUR RIGHT TO CANCEL**

**You** may cancel this **Contract** at any time by informing **Us** of the cancellation request at the details below.

**You** may write to **Us** at Contract Cancellations, **Microsoft** Pty. Ltd., 1 Denison St, North Sydney NSW 2060, Australia, phone **Us** on the phone number found at <https://aka.ms/GlobalSupportPhoneNumbers>, or via email at [msepbus@microsoft.com](mailto:msepbus@microsoft.com).

If **Your** cancellation request is within thirty (30) days of the **Contract** purchase date, **You** will receive a one hundred percent (100%) refund of the **Contract** purchase price/fee paid by **You**, minus any **Claims** paid by **Us**.

If **Your** cancellation request is made after thirty (30) days from the **Contract** purchase date, **You** will receive a pro-rata refund of the **Contract** purchase price/fee paid by **You**, minus any **Claims** paid by **Us**.

### **OUR RIGHT TO CANCEL**

If **We** cancel this **Contract**, **We** will provide written notice to **You** at least thirty (30) days prior to the effective date of cancellation. Such notice will be sent to **Your** address in **Our** file (email or physical address as applicable), with the reason for and effective date of such cancellation. If **We** cancel this **Contract**, **You** will receive a pro-rata refund based upon the same criteria as outlined above and no cancellation fee applies.

**We** may only cancel this **Contract** for the following reasons:

- a) non-payment of the **Contract** purchase price/fee by **You**,
- b) deliberate misrepresentation by **You**, or
- c) substantial breach of duties under this **Contract** by **You** in relation to the **Product** or its use.

## COMPLAINTS PROCEDURE

It is always **Our** intention to provide **You** with first-class service. However, if **You** are not happy with the service, please notify one of **Our** representatives at the telephone number found at <https://aka.ms/GlobalSupportPhoneNumbers>, or via email at: [msepbus@microsoft.com](mailto:msepbus@microsoft.com).

**We** will reply within five (5) working days from when **We** receive **Your** complaint. If it is not possible to give **You** a full reply within this time (for example, because a detailed investigation is required), **We** will give **You** an interim response telling **You** what is being done to deal with **Your** complaint, when **You** can expect a full reply and from whom. In most cases **Your** complaint will be resolved within four (4) weeks unless exceptional circumstances apply.

## PRIVACY AND DATA PROTECTION

### **DATA PROTECTION**

**We** are committed to protecting and respecting **Your** privacy in accordance with the current Data Protection Legislation ("Legislation"). For the purposes of the Legislation, the Data Controller is **Microsoft**. The information **We** collect is protected under the *Privacy Act 1998 (Cth)* and the Australian Privacy Principles. By purchasing this **Contract**, **You** agree that **We** may collect and process data on **Your** behalf when **We** provide the services contemplated under this **Contract**. Below is a summary of the main ways in which **We** process **Your** personal data. For more information, please see **Our** privacy policy on **Our** website at <https://privacy.microsoft.com>.

### **HOW WE USE YOUR PERSONAL DATA AND WHO WE SHARE IT WITH**

**We** will process the personal data, being any information relating to an identified or identifiable natural person, **We** hold about **You** in the following ways:

- a) For the purposes of handling **Claims** and any other related purposes. This may include decisions made via automated means, this is for the performance of the **Contract** between **Us** and **You**.
- b) For research or statistical purposes, for **Our** legitimate interests: for **Us** to analyse historic activity, to improve rating algorithms, and to help predict future business impact, to further commercial interests, to enhance product offering and to develop new systems and processes and for legal obligations based on a jurisdiction outside of Australia.
- c) To provide **You** with information, products or services that **You** request from **Us** or which **We** feel may interest **You**, where **You** have consented to be contacted for such purposes.
- d) To notify **You** about changes to **Our** service, this is for **Our** legal and regulatory obligations.
- e) To safeguard against fraud, money laundering, terrorist financing and to meet general legal or regulatory obligations, this is required to meet **Our** legal and regulatory obligations based on a jurisdiction within Australia.



### **DISCLOSURE OF YOUR PERSONAL DATA**

**We** may disclose **Your** personal data to third parties involved in providing products or services to **Us**, or to service providers who perform services on **Our** behalf. These include group companies, agents, third party administrators, insurers, credit agencies, fraud detection agencies, solicitors/barristers, accountants, regulatory authorities, and as may be required by law.

### **YOUR RIGHTS**

**You** have the right to:

- a) Object to the processing of **Your** personal data for direct marketing purposes at any time;
- b) Object to the processing of **Your** personal data where processing is based on **Our** legitimate interests;
- c) Access and obtain a copy of the personal data in **Our** control and information about how and on what basis this personal data is processed;
- d) Request erasure of **Your** personal data;
- e) Ask to update or correct any inadequate, incomplete, or inaccurate data;
- f) Restrict the processing of **Your** data;
- g) Ask **Us** to provide **Your** personal data to **You** in a structured, commonly used, machine-readable format, or **You** can ask to have it "ported" directly to another data controller, but in each case only where the processing is based on **Your** consent or on the performance of a contract with **You** and the processing is carried out by automated means;
- h) Lodge a complaint with the local data protection authority; and
- i) Withdraw **Your** consent at any time where processing is based on **Your** consent, without affecting the lawfulness of processing based on consent before its withdrawal.

### **RETENTION**

Except where **We** are required by law to destroy or de-identify **Your** data, **Your** data will not be retained for longer than is necessary and will be managed in accordance with **Our** data retention policy. In most cases the retention period will be for a period of ten (10) years following the expiry of the **Contract**, or business relationship with **You**, unless **We** are required to retain the data for a longer period due to business, legal or regulatory requirements.

If **You** have any questions concerning **Our** use of **Your** personal data, please contact **Us** at <https://privacy.microsoft.com>.

## **GENERAL PROVISIONS**

- A. **Subcontract; Assign.** **We** may subcontract or assign performance of **Our** obligations to third parties, but **We** shall not be relieved of **Our** obligations to **You** when doing so.
- B. **Waiver; Severability.** The failure of any party to require performance by the other party of any provision hereof will not affect the full right to require such performance at any time thereafter, nor will the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of these terms and conditions will be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity will not render these terms and conditions unenforceable or invalid as a whole and in such event, such provisions will be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.
- C. **Notices.** **You** expressly consent to be contacted, for any and all purposes, at any telephone number, or physical or electronic address **You** provide **Us** or via your **Microsoft** account. All notices or requests pertaining to this **Contract** will be in writing and may be sent by any reasonable means including by mail, email, SMS text message or recognised commercial overnight courier. Notices to **You** are considered delivered when sent to **You** by email, SMS text message or by notification to your Microsoft account, when delivered by a commercial courier, or seven (7) days after mailing to the street address **You** provided.
- D. **Law.** The governing law for the **Contract** is the law in the State of Victoria, Australia whose courts have non-exclusive jurisdiction to hear any disputes between the parties to this **Contract**.

## **ENTIRE AGREEMENT**

This **Service Contract**, including the terms, conditions, limitations, exceptions and exclusions, and **Your Purchase Order**, constitute the entire agreement between **Us** and **You** and no representation, promise or condition not contained herein shall modify these items, except as required by law.

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