

## Lenovo Framework Agreement

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BY A) CLICKING THE BOX INDICATING YOUR AGREEMENT TO THE LENOVO FRAMEWORK AGREEMENT FOR SERVICES; OR B) PLACING AN ORDER FOR SERVICES THROUGH LENOVO SALES OR IN A DEDICATED LENOVO PORTAL OR E-COMMERCE SITE ("PORTAL"), YOU REPRESENT AND WARRANT THAT YOU HAVE READ AND AGREE TO (AND ARE AUTHORIZED TO AGREE TO) THE TERMS OF THE LENOVO FRAMEWORK AGREEMENT FOR THE LEGAL ENTITY ON WHOSE BEHALF YOU ARE ACCEPTING ITS TERMS AND CONDITIONS AND THAT ANY REGISTRATION INFORMATION YOU PROVIDED IS TRUE AND CORRECT.

In this Agreement, in addition to the various terms defined elsewhere in this Agreement, the following terms shall be interpreted as follows:

- 1 **"Business Day"** means a day other than a day at the weekend or a bank holiday or public holiday in the country or territory where Customer is located.
- 2 **"Enterprise"** means a Party, and any entity that is controlled by, controls, or is under common control or ownership with such Party, including its sister companies, parent, Affiliates or subsidiaries.
- 3 **"Hardware Product"** means a physical programmable electronic Lenovo-branded or Third Party-branded device designed to process data and perform logic operations, as well as any related device and may include, without limitation, a personal computer, a server, a storage device, and any related accessory and device.
- 4 **"Machine"** means a Lenovo-branded Hardware Product (to be identified by a "Machine Type"), as well as its features, conversions or upgrades.
- 5 **"Machine Code"** means all code provided for a Machine (including, without limitation, a Machine's firmware and microcode), excluding code that is licensed under a license agreement other than the terms of this Agreement governing the use of Machine Code. The term "Machine Code" specifically includes any whole or partial copy of Machine Code, and any fix, patch, or replacement provided for Machine Code.
- 6 **"Materials"** means literary works or other works of authorship, such as code, documentation, reports, and similar works that Lenovo may deliver to Customer as part of the Services but excluding Program and other items available under their own license terms or agreements.
- 7 **"Order"** means an order for Products or Services submitted by Customer including but not limited to orders made through any Portal.
- 8 **"Price"** means, as applicable, the price payable for a Product or the charge payable for a Service.
- 9 **"Product"** means any Hardware Product or other equipment, including any related Program, which Lenovo provides to Customer and as more fully set forth in a Transaction Document.
- 10 **"Program"** means any Lenovo-branded or Third-Party software, whether pre-loaded or provided separately, whether licensed by Lenovo or provided by Lenovo under a Third-Party license. The term "Program" also includes related licensed materials, such as documentation, but excludes Machine Code.
- 11 **"Service"** means the performance of a task, the provision of advice or assistance, access to a resource such as an information database or software application, or maintenance support services that Lenovo makes available to Customer as described in an applicable Transaction Document or on the applicable webpage.
- 12 **"Subscription Period"** means the subscription period for a Product as set out in a Transaction Document or an Order, as may be extended or renewed.
- 13 **"Third Party"** means any legal entity or individual person which or who is not subject to the terms and conditions of this Agreement, and hence neither a Party nor an Affiliate of a Party.
- 14 **"Transaction Document"** means a separate subsequent document accepted by the Parties referencing this Agreement and which contains specific details and terms related to an individual transaction, such as an Order, service transaction, statement of work, supplement, product catalog, schedule, invoice, exhibit, change authorization, amendment or addendum. Each Transaction Document under this Agreement constitutes a separate and distinct agreement and is independent from other such agreements.

15 “**Transaction Term**” means the term of a Transaction Document as set forth in a Transaction Document.

## General Terms

### 1 Generally

By executing this Agreement, Customer agrees to the following General Terms, which shall apply to all Transaction Documents or Orders placed under this Agreement for Products and Services. Unless otherwise agreed to by the Parties in writing, all terms and conditions for any Program, whether Lenovo or Third-Party branded, will be governed by its own specific Lenovo or Third-Party license terms, as separately provided to or agreed by Customer in an Order or Transaction Document. In case, but to the extent only, of any conflict between any of the terms and conditions of this Agreement and those of the license agreement for any such Program, the latter will prevail solely as regards the Program.

### 2 Prices, Payment and Taxes

2.1 Prices and related costs for Products and Services shall be as set forth in the relevant Portal, Order or applicable Transaction Document. No other discounts, quantity entitlements, or promotions apply unless expressly agreed in writing by Lenovo.

2.2 Unless stated otherwise in a Transaction Document or Order, all amounts due to Lenovo on Services and Products are payable no later than thirty (30) days of Lenovo’s invoice issuance date. Time is of the essence for all of Customer’s payment obligations under this Agreement and each Transaction Document. Any amounts not received by Lenovo by their due date for payment shall be overdue. In the event payment is not received by Lenovo on or before the due date for payment, then Lenovo may, in addition to any other remedies available at equity or in law, at its option, elect to do any one or more of the following: (i) charge interest on the outstanding sum from the due date (both before and after any judgment) until paid in full (or, if less, the maximum amount permitted by applicable laws); (ii) suspend any further performance hereunder until such invoice is paid in full; or (iii) terminate this Agreement or the relevant Transaction Document. If Customer fails to take delivery of any Product on any scheduled delivery date, Lenovo shall store such Product as Customer’s agent, and Customer shall be invoiced on the 1st day of each month following such scheduled delivery for reasonable administration and storage costs. Customer shall not have any right to offset any obligation of Lenovo to Customer against any obligation of Customer to Lenovo.

2.3 Prices do not include local taxes, value added tax, goods and services tax or similar taxes or tariffs. Customer shall pay any applicable sales, use or similar taxes, fees or duties on Services and Products, unless Customer provides exemption documentation to Lenovo. Customer becomes responsible for taxes on (i) Hardware Products and Programs pre-loaded on such Hardware Products from the date Lenovo has delivered them to the Lenovo-designated carrier for shipment to Customer, (ii) Programs from the date Lenovo has made such Program available or accessible to Customer, and (iii) Services from the date on which such Services are provided by Lenovo. Lenovo shall be solely responsible for paying all taxes on Lenovo’s net or gross income.

2.4 Customer shall pay the Prices and other payments properly invoiced under the Agreement without any abatement, deduction, set-off or any other abatement or reduction of any kind whatsoever including where there is any actual or alleged breach of this Agreement or a Transaction Document.

### 3 Licenses for Machine Code and Programs

3.1 Customer acknowledges that each Machine contains Machine Code. Regardless of the source from which Customer acquires a Machine, the Machine Code shall be subject to the terms of the license agreement included with the relevant Product. Customer’s use of Machine Code on a Machine is governed by the terms of the applicable Lenovo License Agreement, which is available on or through Lenovo’s support website at <https://support.lenovo.com/>, or otherwise will be provided upon request.

3.2 Programs may be provided by Lenovo to Customer or may be installed or pre-loaded onto the Products. Customer acknowledges and agrees that Programs are not licensed to Customer under this Agreement or a Transaction Document but are licensed solely on separate license agreements. Customer agrees to observe and be bound by the terms of the license agreements (and if required execute the license agreements electronically or by hand). Third Party Programs provided to Customer by Lenovo are licensed directly to

Customer by the relevant Third-Party provider and Lenovo accepts no responsibility for the quality, availability or performance of such Third-Party Programs and Customer's only remedies are against the relevant Third Party Program provider. The duration of such Program license agreements will be governed by their terms. Termination of a license agreement for Programs shall have no impact on any payments due in respect of the Services or Products.

#### **4 Specified Image**

4.1 The Parties may agree that Lenovo will install a specific "system image" consisting of a specified set of Customer-selected Programs and modules (a "**Specified Image**") requested and provided by Customer onto a Machine supplied under this Agreement.

4.2 Unless specifically agreed otherwise in writing: (a) Lenovo will act as Customer's agent when installing Specified Images; (b) Lenovo's warranty and other Machine-related obligations, including without limitation regarding technical performance, interoperability and Third Party rights compliance, shall be limited to Machines in their unmodified state; and (c) Lenovo shall only be liable to provide Product warranty service to Customer for any Machine on which a Specified Image is installed to the extent that the fault reported by Customer can be recreated on the Machine in its standard, unmodified state. Any faults should be reported to Lenovo in writing by Customer not later than ninety (90) days following delivery of the Machine to Lenovo's designated carrier, or the faults will be considered waived.

#### **5 Confidentiality**

5.1 Any non-public information which is received under this Agreement by one Party from the other and which is clearly marked as "confidential" ("**Confidential Information**") shall be (i) maintained in confidence during the term of this Agreement and for two (2) years following termination or expiration of this Agreement (or, if it is Confidential Information additionally marked as and comprising a "trade secret," for so long as it remains a trade secret under applicable law), (ii) used only for the purpose of fulfillment of the receiving Party's obligations under this Agreement, and (iii) protected during such periods against unauthorized disclosure by the receiving Party, except for the following permitted disclosures: (a) disclosure to the receiving Party's Affiliates, employees and contractors with a business "need to know" for the exercise of the receiving Party's rights or fulfillment of its obligations under this Agreement, provided that such further recipients are also obligated by the receiving Party to protect the Confidential Information to the same extent as the receiving Party under this Section 5 and (b) disclosure with the prior written consent of the disclosing Party. Further, the receiving Party is permitted to disclose any protected Confidential Information of the disclosing Party, to the extent required by law, on condition that in any such case the receiving Party promptly notifies the discloser (to the extent not prohibited by applicable law), to allow the disclosing Party a reasonable opportunity to seek a protective order. Confidential Information is provided with no warranty, and without liability as to its accuracy or completeness. Confidential Information disclosed to a Third Party, notwithstanding a valid consent provided under this Agreement or in the event of an unauthorized disclosure, remains Confidential Information under this Section 5. The terms of this Agreement are the Confidential Information of Lenovo.

5.2 Information shall not be considered "**Confidential Information**" under this Section 5, and the receiving Party is free to disclose it, if: (i) the information was already in the recipient's possession without obligation of confidentiality at the time of its receipt from the receiving Party; (ii) the information was independently developed by the receiving Party without use of the Confidential Information of the disclosing Party; (iii) the information was obtained from a third party without obligation of confidentiality to the disclosing Party; (iv) the information was or becomes publicly available through no breach of this Agreement by the receiving Party or its Affiliates, employees and contractors; or (v) the disclosing Party reveals the information to a third party without imposing an obligation of confidentiality on the third party.

5.3 The terms of this Section 5 supersede and replace the terms of any confidentiality or non-disclosure agreement entered into by and between the Parties prior to the Effective Date (an "**NDA**"), provided however that any such NDA shall remain effective in accordance with its terms with respect to any confidential information disclosed under it by the Parties prior to the Effective Date.

#### **6 Personal Information**

6.1 Lenovo will collect, access, retain and, as appropriate, share (collectively "Process") the names and contact information of Customer, as well as machine types and serial numbers of the Products sold to Customer

(collectively "Personal Information"). This Personal Information will be Processed by Lenovo in order to perform the obligations of this Agreement, including contractual warranties.

- 6.2 Lenovo will Process Personal Information of Customer consistent with its general website and product privacy statements available at <https://www.lenovo.com/us/en/privacy/> and/or, as applicable, privacy statements designed for a specific Lenovo Product or Service.
- 6.3 To perform its obligations pursuant to this Agreement in relation to the Products and Services, Lenovo may transfer Personal Information (i) from any country to any other country in the world where Lenovo and its Enterprise operate, and (ii) to Lenovo's Enterprise and Lenovo service providers acting on Lenovo's behalf in relation to this Agreement and/or the Products or Services.
- 6.4 Lenovo and Customer will comply with all data privacy or data protection laws applicable to their Processing of Personal Information pursuant to this Agreement.
- 6.5 Lenovo and Customer will have appropriate technical and organizational security measures in place to protect Personal Information from unauthorized access, use, or release.
- 6.6 If Customer accesses any Personal Information directly from a Lenovo order visibility platform or other data system, Customer (i) shall have in place appropriate administrative, physical, and technical controls to address threats to the confidentiality and security of Lenovo's platform or data system and associated information and (ii) shall not transfer across international borders any Personal Information it receives from Lenovo without Lenovo's express prior written consent.
- 6.7 Lenovo and Customer agree to cooperate as needed to address any actual or suspected Personal Information incident that may occur within the scope of this Agreement, including actual or suspected breaches of Personal Information, and to take any necessary steps to investigate, address, remediate and/or mitigate such incidents.
- 6.8 Furthermore, Lenovo and Customer agree to appropriately respond to any individual's requests to review, correct, amend or delete his or her Personal Information Processed within the scope of this Agreement.

## 7 Warranties

- 7.1 **Warranties for Machines:** Lenovo warrants that each Machine supplied under this Agreement is free from defects in materials and workmanship under normal use during the applicable warranty period. Unless Lenovo specifies otherwise, Lenovo's warranties for any Machine apply only in the country where it was acquired. Unless otherwise specified in a Transaction Document, the warranty period shall commence on the invoice's issuance date. During the warranty period, Lenovo shall provide repair and exchange service for the Machine, without charge, under the type of warranty service designated by Lenovo for the Machine. If a defect in materials or workmanship is discovered during the warranty period and Lenovo is unable either: (i) to repair the Machine; or (ii) to replace it with one that is at least functionally equivalent, Customer may return the Machine to Lenovo for a pro-rated refund. Lenovo may change components or parts of a Machine without notice, provided that the substituted components or parts provide equal or better performance. Any such change shall be at no additional cost to Customer and will not change Customer's rights under the warranty applicable to the Machine. Details of this limited warranty and the warranty period can be found at: <https://support.lenovo.com/US/en/warrantylookup/warrantypolicy>. Any conflicts between the terms of the limited warranty and the terms of this Agreement, the terms of this Agreement will prevail.
- 7.2 **Warranty for Services:** Lenovo warrants that it will perform each Service using reasonable care and skill and according to its current description, including any completion criteria, contained in this Agreement or a relevant Attachment or Transaction Document. Customer shall provide timely written notice to Lenovo of any failure to comply with this warranty not later than thirty (30) days after completion of the Service at issue identifying the failure with reasonable particularity, in order that Lenovo may take corrective action as specified in the following sentence. Lenovo will either correct the failure or provide a credit of the charges paid to Lenovo for the defective portion of the Services. Such corrective action shall be Customer's sole remedy for a breach of this Section 7.2.
- 7.3 **Warranty for Third Party Products:** Lenovo offers no warranty in respect of Third-Party Products under this Agreement. Where the supplier or producer of any Third-Party Product offers its own warranty, and to the

extent that Lenovo is free to do so, Lenovo will upon request endeavor to transfer associated warranty service and other rights to Customer, subject always to the applicable Third Party's terms and conditions.

- 7.4 **Warranty for Programs:** With respect to any Programs delivered under this Agreement, the applicable warranty terms, if any, are set forth in the specific Program License terms.
- 7.5 **Specific Exclusions:** Except as otherwise agreed to in a Transaction Document, the warranties in this Section 7 (Warranties) and any Attachment hereto are made to and for the benefit solely of the specific buyer (whether Customer or the applicable Customer Affiliate) under this Agreement and are non-transferable. The warranties stated in this Agreement shall not apply to any Product or Service: (i) that: (a) has been subjected to misuse, accident, unauthorized modification, improper installation, damage or mishandling, or rendered inoperable due to willful or negligent acts or omissions; (b) has been operated in an unsuitable physical or operating environment or contrary to the applicable documentation published by Lenovo; (c) has been subjected to natural disasters, power surges or discharge, or unauthorized maintenance; or (d) is incapable of being tested by Lenovo under its normal test conditions; or (ii) that is sold for beta, evaluation, testing or demonstration purposes. Lenovo shall not be liable for claims arising from Customer's, its Affiliates' or their subcontractors', or any unauthorized Third Party's misuse, neglect, improper installation or testing, attempts to repair, or any other cause beyond the range of the intended use of the Products or Services. Except as expressly provided in an Attachment or Transaction Document, the warranties stated in this Agreement also: (x) do not include any technical support, such as assistance with "how-to" questions and those regarding Product set-up and installation; and (y) shall be voided by the removal or alteration of identification labels on a Product or its parts. Except as stated in a Transaction Document, in no event shall the warranties stated in this Agreement include any Lenovo responsibility for: (A) uninterrupted or error-free operation of any Product; (B) correction of any or all Program code defects; or (C) any loss of, or damage to, data caused by a Product.
- 7.6 **General Exclusions:** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES SET FORTH UNDER THIS SECTION 7 (WARRANTIES) AND ANY ATTACHMENT HERETO ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR SATISFACTORY QUALITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE, WHICH LENOVO HEREBY EXPRESSLY DISCLAIMS. UNLESS OTHERWISE EXPRESSLY SPECIFIED, ALL SOFTWARE, PRODUCTS, SERVICES, SUPPORT AND ALL THIRD-PARTY PRODUCTS AND SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, AND LENOVO MAKES NO WARRANTY THAT ANY PRODUCT WILL OPERATE ON AN UNINTERRUPTED OR ERROR-FREE BASIS. THIRD PARTY MANUFACTURERS, SUPPLIERS, DEVELOPERS, SERVICE PROVIDERS, LICENSORS OR PUBLISHERS MAY SEPARATELY PROVIDE THEIR OWN WARRANTIES TO CUSTOMER.

## 8 Scope of the Services

- 8.1 Service Descriptions for the Services available under this Agreement may be provided on a dedicated Portal, by notice or communication to you, and may be updated from time to time as such services evolve.
- 8.2 The Services described in this Agreement do not include the purchase or procurement of any licenses for Microsoft software or licenses for any other software unless otherwise agreed in a Transaction Document or Order, which may be purchased separately from Lenovo or from any Third Party.
- (1) Where the M365 subscription is purchased from a Third Party, it will not be possible to co-terminate the billing cycle. The Customer will be required to approve the dual reseller of the Microsoft Tenant to Lenovo in order for Lenovo to be able to deliver the Services.
- 8.3 In carrying out the Services under this Cloud Managed Services Attachment, Lenovo shall not be responsible to the Customer or to any Third Party for any of the following:
- (1) Any costs associated with any software, licensing or software renewal or upgrade fees;
- (2) Any costs associated with any Third party support or incident fees of any kind;

- (3) Any costs associated with any repairs or additional services necessitated by any alterations or modifications to any software installations made by Customer or a Third Party acting on Customer's behalf;
- (4) Any maintenance of Programs, whether acquired from Lenovo or a Third Party; and
- (5) Any software builds, operating system upgrades or data transfer for new desktops or laptops introduced into the Customer environment unless as a result of a change request approved by both Parties.

## **9 Service Levels and Exclusions**

- 9.1 Lenovo shall be responsible for delivering Services in accordance with any applicable Service Levels or Service Level Agreement.
- 9.2 Lenovo may use appropriate tools in order to measure and report the levels of performance of the Services that are subject to the Service Levels. Lenovo shall, on request, provide the Customer with a set of reports to verify Lenovo's performance and compliance with the Service Levels.
- 9.3 In the event of any failure of Lenovo to achieve the Service Levels, Lenovo shall escalate the matter within Lenovo and notify the Customer that an escalation has taken place.
- 9.4 Service Levels may be added or modified by the Parties at any time during the Term in accordance with any change request approved by both Parties.
- 9.5 Lenovo shall be relieved of any liability in respect of any deficiencies in the Services, for any failure to provide the Services to the Service Levels or for any loss, damage or expense suffered or incurred by the Customer to the extent resulting from:
  - (1) Customer acts or omissions;
  - (2) any defect or deficiency in the hardware, software, facilities, systems, network, environment, conditions including material modifications or the configuration of the same, provided by Customer (or not as the case may be) for performance of the Services by Lenovo;
  - (3) non-performance by a third party of its obligations under an agreement with the Customer relating to any third party products or services;
  - (4) any damage caused by errors or omissions in any information, instructions or scripts provided to Lenovo by the Customer in connection with the Services, or any actions taken by Lenovo at the Customer's direction;
  - (5) delay or withholding of an obligation by Customer on which Lenovo's performance is contingent, beyond the time period set forth in the service description or SOW (or beyond five (5) days, if a time period is not specified). In the event of such delay, the time for the performance of Lenovo's obligations shall be extended for the period of such delay in, or withholding of, performance;
  - (6) infringements of third party rights;
  - (7) failure by customer to implement corrective measures (either at the direction/advice of Lenovo or consistent with reasonable industry practices); or
  - (8) any other event outside the reasonable control of Lenovo.
- 9.6 In the event that Customer's business continuity plan is invoked (other than as a result of any act or omission of Lenovo or its subcontractors) and the invocation of the business continuity plan prevents Lenovo from being able to provide the Services in accordance with the Service Levels or Milestones, then the Service Levels will be temporarily suspended until such time as recovery actions.

9.7 The Customer acknowledges that there may be emergency situations where, acting in the best interests of the Customer and in good faith, Lenovo must interrupt or suspend the Services at short notice. In such situations Lenovo shall give the Customer as much notice as is reasonably possible of any such suspension or interruption and shall use its best endeavours to keep the time the System is not operating to a minimum and outside of core business hours and at a time agreed with the customer. Lenovo shall not be liable for any such emergency interruptions or suspensions and any service levels shall be suspended.

## **10 Prices and Payment**

10.1 Prices for the Services are set out in any applicable charges form or as stated in an applicable quote or Portal.

10.2 The standard monthly Charges shall be subject to the number of users having access to the particular M365 Managed Cloud Support Service in that month. In any event any amount in excess, or less, than the monthly fee due to increases or decreases in the User base will be subject to any agreed Change Control procedure. For avoidance of doubt, the full monthly User Charges will also be chargeable for part month usage that the M365 Managed Cloud Support Service is being accessed and not calculated on a pro rata basis.

10.3 Lenovo shall be entitled to payment via monthly standing order or direct debit payments or any other payment method as agreed between the Parties.

10.4 Lenovo shall monitor and/or audit the volumes referenced in an Order. Lenovo may conduct such activity through the use of electronic means, remote access and/or on-site inspection by Lenovo's personnel in order to authenticate Customer as the user of the Services and verify the Customer's billable volumes. Customer will take any actions reasonably required by Lenovo to permit such tracking of billable volumes and provide access to all necessary Equipment. If Lenovo is unable to monitor billable volumes for any reason, Customer shall pay an amount for the affected Service period based on Customer's average billable volumes during the previous three (3) months. Lenovo shall promptly notify Customer of an inability to electronically and or physically access any assets, as applicable, and work cooperatively to re-establish access. Once access is re-established, then Lenovo shall provide a corrected invoice for the affected Service Period.

10.5 The Customer shall allow Lenovo or its agents to access, inspect and audit the Customer's records, accounts and other relevant information and premises during normal business hours on Business Days and subject to a minimum of five (5) Business Days' notice and not more than two times in any rolling 12 month period, to the extent that is reasonably required for the purpose of verifying Customer's use and consumption levels in order to ensure that the correct amounts are charged to the Customer. Lenovo shall bear its own costs in connection with the audit or inspection provided however that if any such audit or inspection identifies any underpayments by the audited Party that are the fault of the audited Party then in addition to paying the full amount of such underpayment the audited Party shall reimburse the other Party for all reasonable costs and expenses incurred in connection with the audit or inspection. In the event that such audit reveals an overpayment by the audited party, the auditing party shall refund any such overpayment.

10.6 Customer shall be responsible for the accuracy of any representation it made as part of the due diligence pricing process and on which the pricing assumptions are based. In the event of any material deviation from such assumptions, Lenovo may equitably adjust the applicable Fees and the Services, to be consistent with the intent of each of Lenovo and Customer.

## **11 Reporting**

11.1 Service level reports related to the Services will be included within the regular reports where agreed.

## **12 Term and Termination**

12.1 This Service is delivered in accordance with the Term detailed in the Order or as agreed between the Parties.

## **13 Service Desk**

13.1 Lenovo will provide a Service Desk to manage the logging, prioritisation and resolution of all incidents and requests. (Catch and dispatch)

- 13.2 The Service Desk provides 24x7 support as part of M365 Cloud Managed Support.
- 13.3 The Service Desk is the single point of contact for all Service-related faults and requests for all Users.
- 13.4 Lenovo provides multiple methods for the creation of tickets on the Lenovo Ticket Management system. These are:
- (1) Online Portal;
  - (2) Email support;
  - (3) Phone support;
  - (4) Live web chat – via the support portal and Lenovo website.
- 13.5 The Service Desk will analyse the incident or request with the User and where possible resolve the Users request. Where more advanced skills or specialist tools are required, the Service desk will engage Lenovo's Level 2 M365 Advanced Services specialists who will resolve the Users request or incident.
- 13.6 Where necessary, the Level 2 specialist will engage with Microsoft to provide Level 3 support for incidents related to the Microsoft service.
- 13.7 The Service Desk retains ownership of all incidents or requests and remains the user's point of contact.
- 13.8 The Customer will be informed when Incidents and Requests are considered to be resolved by the Service Desk.
- 13.9 Service Desk team to ensure that all Incidents are completed. Incidents will not be left open to see if they reoccur.
- 13.10 All tickets will be assigned a Priority based upon their impact and urgency.

#### **14 Customer Obligations**

- 14.1 Customer shall be solely responsible, at its own expense, for establishing, maintaining, and operating Customer's Equipment, environment and connection to the internet (the speed of which may have a significant impact on the responsiveness of any Services), including all computer hardware and software, properly configured web browsers, modems and access lines.
- 14.2 Customer acknowledges and agrees that without prompt and adequate cooperation, Lenovo may not be able to perform the Services or, if performed, the Service may be materially altered or any Milestones delayed. Accordingly, Customer will promptly and reasonably provide Lenovo with all cooperation necessary for Lenovo or its subcontractors, to perform the Services. If Customer does not provide reasonably adequate cooperation in accordance with the foregoing, Lenovo will not be responsible for any commensurate failure to perform the Service and Customer will not be entitled to a refund.
- 14.3 Customer shall provide Lenovo with access to required data for the performance of the Services. If Lenovo is required to process any Personal Data (as defined in the Data Processing Addendum attached ("DPA")) of Customer, or Lenovo's Privacy Statement, Customer shall ensure it has the legal right to do so in accordance with the DPA, including by obtaining Data Subject's consent, and carrying out appropriate Data Protection Impact or Legitimate Interest Assessments as applicable. Where Lenovo's processing of such Personal Data triggers an international transfer of Data under GDPR (for example where Customer's personnel or subcontractors are based outside the European Economic Area), Customer shall ensure Lenovo has the right to transfer such Personal Data.
- 14.4 Customer will complete a backup of all existing data, software and programs on all affected systems prior to and during the delivery of any Service. Customer should make regular backup copies of the data stored on all affected systems as a precaution against possible failures, alterations, or loss of data. Lenovo will not be responsible for the restoration or reinstallation of any programs or data. Customer must backup its data before



Lenovo performs any remedial, upgrade or other work on Customer's systems. If applicable law prohibits exclusion of liability for lost data, then Lenovo will only be liable for the cost of commercially reasonable and customary efforts to recover the lost data from Customer's last available backup.

- 14.5 These Services may require Lenovo to access hardware or software that is not manufactured or sold by Lenovo. Some manufacturers' warranties may become void if Lenovo or anyone else other than the manufacturer works on the hardware or software. Customer will ensure that Lenovo's performance of Services will not affect such warranties or, if it does, that the effect will be acceptable to Customer. Lenovo does not take responsibility for third party warranties or for any effect that the Services may have on those warranties.

## **15 Termination**

Following termination of any of the Services, on request Lenovo shall deliver to the Customer all of its Customer Data or may destroy or, if the Customer requests in writing, arrange for the destruction of such data (subject to applicable Data Protection Laws). Lenovo shall deliver the Customer Data (in a format and on the media reasonably agreed between the parties) or, if requested by the Customer, dispose of such Customer Data in a manner agreed in writing with the Customer providing the Customer reasonable information as to the process of such destruction. Any delivery or destruction of Customer Data shall only be made provided that the Customer has given Lenovo adequate notice of its instruction and has at that time, paid all Charges outstanding at and resulting from termination (whether or not due at the date of termination). The Customer shall pay all reasonable expenses incurred by Lenovo in returning or disposing of Customer Data where allowed under applicable law.

## **16 Export Regulations**

- 16.1 Any use, export, re-export, or transfer in-country, either directly or indirectly, of Products, Programs and technical data supplied by Lenovo under this Agreement is subject to applicable export laws and regulations, including without limitation those of the United States and the European Union. Customer is responsible for compliance with all applicable export laws and regulations when using, exporting, re-exporting, or transferring in-country, directly or indirectly, any such Product, Program or technical data. Customer shall defend, indemnify and hold Lenovo and its Affiliates harmless from any claim, damage, liability or expense (including but not limited to reasonable attorneys' fees, costs of investigation, and costs of defense) arising out of or in connection with any violation of this Section.

- 16.2 This Agreement shall immediately terminate in the event Customer is listed as a restricted party on any sanctions list including, but not limited to, the United Nations Sanctions List, United States Treasury Department's Office of Foreign Asset Control Specially Designated National List; and the United States Department of Commerce's Denied Parties List, Entity List, or Unverified List. Lenovo shall have no further obligations under this Agreement until Customer is no longer designated a restricted party.

## **17 Force Majeure**

Except for payment obligations, neither Party shall be liable to the other for any failure or delay in the performance of its obligations, to the extent such failure or delay is caused by: fire, flood, earthquakes, or other elements of nature; acts of war; terrorism, riots, strikes, labor stoppages, civil disorders, rebellions or revolutions; epidemics, communication line or power failures; governmental laws, court orders or regulations; or any other cause beyond its reasonable control.

## **18 Intellectual Property Rights**

- 18.1 Lenovo and its suppliers retain ownership of all their pre-existing intellectual property as well as intellectual property rights that were developed outside of this Agreement and any modifications or enhancements of such intellectual property that may be made under this Agreement. To the extent they are embedded in any Materials, such intellectual property is licensed in accordance with their separate licenses provided to or agreed with Customer.
- 18.2 As between the Parties, Lenovo and its suppliers shall own all intellectual property rights in and to the Materials created as part of a Services transaction and the Programs. Lenovo grants Customer an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform and distribute copies of these Materials only to Customer's Affiliates.

- 18.3 Each Party agrees to reproduce the copyright notice and any other legend of ownership on any copies made under the licenses granted in this Section.
- 18.4 Each Party grants the other only the licenses and rights expressly specified in this Agreement. Unless agreed by the Parties in a separate license agreement, no other licenses or rights to Products (including licenses or rights under any patent, copyright, trademark or any other intellectual property right) are granted either directly, by implication, or otherwise by either Party.
- 18.5 The rights and licenses granted to Customer under this Agreement may be terminated by Lenovo if Customer fails to fulfil its applicable payment obligations.
- 18.6 Unless otherwise agreed, neither Party grants the other the right to use its or any of its Affiliates' trademarks, trade names, logos or other designations in any promotion or publication without prior written consent.

## **19 Intellectual Property Indemnification**

- 19.1 If a Third-Party files a lawsuit against Customer claiming that a Lenovo-branded Product infringes that party's patents or copyrights (hereinafter referred to as a "**Claim**" for the purposes of this Section 19, Lenovo will indemnify Customer against that Claim at Lenovo's expense. At Lenovo's option, Lenovo may also defend Customer against that Claim at Lenovo's expense.
- 19.2 Lenovo's obligations under this Section are conditioned on the following: (1) Customer promptly notifies Lenovo in writing of the Claim; (2) if Lenovo elects to defend, Lenovo will solely control the conduct of the defense and any settlement of the Claim and Customer must fully and timely cooperate with Lenovo and provide Lenovo with all reasonably requested authority, information and assistance in connection with defense of the Claim; and (3) Customer is and remains in compliance with the terms of this Agreement, including Customer's obligations under this Section. Lenovo will not be responsible for any costs, expenses or compromise incurred or made by Customer in connection with a Claim without Lenovo's prior written consent.
- 19.3 If such a Claim is made or appears likely to be made, and Customer maintains an inventory of Products, Customer shall permit Lenovo, in Lenovo's sole discretion, to: (1) enable Customer to continue to use and sell the Products; (2) modify the Products so that they are non-infringing; (3) replace the Products with non-infringing, functionally-equivalent products; or (4) provide a credit to Customer equal to the Prices paid for infringing Product in the twelve (12) month period prior to the date the credit is paid to the Customer.
- 19.4 Lenovo shall have no obligation regarding any Claim based on: (1) anything Customer or a Third Party on Customer's behalf provides which is incorporated into, or combined with a Product; (2) modification of a Product by Customer or a Third Party on Customer's behalf; (3) the combination, operation, or use of a Product with any products not provided by Lenovo as a system, or the combination, operation, or use of a Product with any product, data, apparatus or business method that Lenovo did not provide; (4) Lenovo's compliance with Customer's specifications or requirements; or (5) infringement by a Third Party product alone and used by Customer, as opposed to its combination with Products; or (6) any standard essential patent ((1) through (6) are collectively the "**Customer Obligations**"). Customer will defend and indemnify Lenovo for all costs and damages arising from infringement claims against Lenovo based upon the Customer Obligations provided that (a) Lenovo promptly notifies Customer in writing of such claim; (b) Customer will solely control the conduct of the defense and any settlement of such claim and Lenovo must fully and timely cooperate with Customer and provide Customer with all reasonably requested authority, information and assistance in connection with defense of the claim; and (c) no settlement of such claim shall be made without Lenovo's prior written consent if the settlement would result in a payment from Lenovo or in any ongoing obligation or restriction on Lenovo or a Product.
- 19.5 The foregoing is Lenovo's entire obligation to Customer, and Customer's exclusive remedy, regarding any Claim.

## **20 Limitation of Liability**

- 20.1 Except as expressly stated in this Agreement, neither Enterprise shall be liable to the other Enterprise for any of the following even if informed of their possibility or foreseeable and whether the claim arises in contract, tort, (including negligence) or otherwise: (1) third-party claims for damages; (2) loss of, or damage to, data;

(3) special, incidental, indirect, punitive, exemplary or consequential damages; or (4) loss of profits, business, revenue, goodwill or anticipated savings; (5) loss of use; or (6) wasted management time.

- 20.2 The maximum cumulative liability of either Enterprise to the other Enterprise for all actions arising out of or related to this Agreement and all Transaction Documents issued hereunder, regardless of the form of the action or the theory of recovery, shall be limited to actual direct damages, not to exceed the total amount paid or payable by Customer and the Enterprise of which it is a part to Lenovo and the Enterprise of which it is a part for under this Agreement in the twelve (12) months preceding the date the first claim arose.
- 20.3 The provisions of Section 20 of this Agreement shall also limit the liability of Lenovo, its subcontractors, suppliers and program developers, collectively, to Customer and the Enterprise of which it is a part.
- 20.4 The provisions of Sections 18.1 and 18.2 of this Agreement shall not apply to (i) either Party's obligations under Section 19 of this Agreement (Intellectual Property Indemnification); (ii) Customer's obligation under Section (Export Regulations); (iii) all Prices, costs, expenses, and charges due or otherwise payable by Customer and the Enterprise of which it is part to Lenovo and the Enterprise of which it is part, under this Agreement from time to time; (iv) damage to tangible property.
- 20.5 The provisions of this Section shall not apply to the extent prevented or restricted by mandatory applicable law (including without limitation in relation to fraud, death and personal injury caused by negligence or fraudulent misrepresentation).

## **21 Term and Termination**

- 21.1 Either Party may terminate the service early without cause upon thirty (30) days prior written notice to the other Party. Either Party may terminate the service early if the other Party or its Affiliate, as applicable, materially breaches the terms of this Agreement; provided the Party alleged not to be in compliance is given written notice of the non-compliance and not less than thirty (30) days to cure, except in the event of a non-payment in which case only ten (10) days to cure shall be required.
- 21.2 Each Transaction Document is subject to the applicable Transaction Term set out therein and any transaction validly initiated under this Agreement shall remain governed by the terms and conditions of this Agreement until completion, notwithstanding any early termination of this Agreement, unless otherwise agreed by the Parties in writing.
- 21.3 Any terms of this Agreement which expressly or by their nature survive the expiration or termination of this Agreement, including but not limited to section 18 (Intellectual Property Rights) and section 20 (Limitation of Liability) of this Agreement (General Terms), shall survive the expiration or termination of this Agreement.

## **22 Assignment**

Except as otherwise set forth in this Agreement, neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party.

## **23 Governing Law and Venue**

- 23.1 The Agreement and all orders issued hereunder shall be governed under the laws of the country in which the Lenovo Affiliate that provided Products and Services to the Customer Affiliate is located, without regard to its conflict of law principles.
- 23.2 Any dispute relating to this Agreement shall be brought before the competent courts where Lenovo's main offices are located in such country and the Parties submit exclusively to such jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

## **24 Miscellaneous**

- 24.1 Unless otherwise agreed herein or otherwise, additional or different terms, Product descriptions, statements of work or similar documents shall become part of this Agreement if agreed in a signed written document executed by the Parties or where expressly stated as incorporated by agreement, reference or under acceptance of such through a Portal or Order.

- 24.2 Lenovo provides different ways to purchase Products and Services, depending on the region and/or choice of Customer: "Direct" purchase means that the Product or Service is available for purchase directly from Lenovo or one of its Affiliates and subject to this Agreement; and "Indirect" purchase means that the Product or Service is available for purchase from a Lenovo reseller. Indirect purchase of Products or Services from a reseller shall be subject to such terms and conditions, as well as prices, as Customer and reseller may agree. Lenovo shall not be responsible for: (i) the actions of any such reseller; (ii) any obligation that such reseller may have to Customer; or (iii) any Third Party product or service that such reseller may supply to Customer.
- 24.3 In the event, but only to the extent, of any conflict between the provisions of this Agreement, and those of any of its Attachments or any other document incorporated into or incorporating this Agreement, the following order of precedence shall apply:
- (1) any subsequent Transaction Document created under, and referring to, this Agreement shall prevail as to the specific Products or Services referenced therein; provided that, to the extent there is any conflict among Transaction Documents, the most recently executed Transaction Document will prevail over any other previously executed Transaction Documents;
  - (2) any Attachment to this Agreement
  - (3) General Terms
  - (4) Portal Verbiage
- 24.4 The Parties shall endeavor in good faith to amicably resolve any dispute arising out of or in connection with this Agreement and will cooperate to escalate any disputes to their management teams, as appropriate.
- 24.5 Customer may not bring an action arising out of or related to this Agreement more than one (1) year after the cause of action arose. The rights and obligations of each Party are valid only in the jurisdiction in which the transaction is performed or, if Lenovo agrees, where the Product is placed in productive use, except that all licenses are valid as specifically granted. Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.
- 24.6 The Parties are independent contractors. Neither this Agreement nor any transaction hereunder shall create the relationships of principal and agent, joint venturers, partners, or employer or employee as between Customer and Lenovo or their respective Affiliates.
- 24.7 Either Party may enter into similar agreements with others to develop, acquire, or provide competitive products and services.
- 24.8 Except as expressly set forth in this Agreement, no Third-Party beneficiaries are intended to this Agreement and to the fullest extent permitted by applicable law: (i) no right or cause of action arises or is created, irrespective of whether in contract, tort, under the law or otherwise, in favor of any Third Party under this Agreement or any transaction hereunder; and (ii) no Third Party shall have any right to enforce any of the terms and conditions of this Agreement or of any agreement associated with any transaction hereunder, except that Lenovo's suppliers may avail themselves of Section 20 of this Agreement (Limitation of Liability).
- 24.9 Customer is responsible for selecting the Products and Services that meet its needs and for the results obtained from the use of the Products and Services, including Customer's decision to implement any recommendation concerning Customer's business practices and operations. Customer may not and shall not rely on Lenovo for any of the foregoing.
- 24.10 Where approval, acceptance, consent or similar action by Customer is required under this Agreement, such action will not be unreasonably delayed, conditioned or withheld.
- 24.11 The English versions of this Agreement and the Transaction Documents, regardless of whether a translation in any other language is or shall be made, shall be the only authentic ones. Any translation of this Agreement or a Transaction Document in another language prepared for any reason shall be a non-binding accommodation of no legal effect, and the English version of this Agreement or a Transaction Document, including any amendments thereto, shall govern.
- 24.12 This Agreement may be amended solely by an amendment in writing signed by both Parties or through any change control process described in a Transaction Document.

**By placing an order, you accept and are bound to the terms and conditions of this Agreement**

