21Vianet

 21Vianet Online Services Terms

 March 1, 2020

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Introduction

This document is Online Services Terms for Microsoft Azure, Microsoft Dynamics 365, Office 365, and Power BI operated by 21Vianet.

The parties agree that these Online Services Terms govern Customer’s use of the Online Services and set forth their obligations with respect to the processing and security of Customer Data and Personal Data by the Online Services. Separate terms, including different privacy and security terms, govern Customer’s use of Non-21Vianet Products (as defined below).

Service Level Agreements

Most Online Services offer a Service Level Agreement (SLA). For more information regarding the Online Services SLAs, please refer to the sites below:

<http://www.21vbluecloud.com/ostpt/>

Applicable Online Services Terms and Updates

When Customer renews or purchases a new subscription to an Online Service, the then-current Online Services Terms will apply and will not change during Customer’s subscription for that Online Service. When 21Vianet introduces features, supplements or related software that are new (i.e., that were not previously included with the subscription), 21Vianet may provide terms or make updates to the Online Services Terms that apply to Customer’s use of those new features, supplements or related software.

Electronic Notices

21Vianet may provide Customer with information and notices about Online Services electronically, including via email, through the portal for the Online Service, or through a web site that 21Vianet identifies. Notice is given as of the date it is made available by 21Vianet.

Prior Versions

The 21Vianet Online Services Terms provides terms for Online Services that are currently available. For earlier versions of the 21Vianet Online Services Terms, Customer may refer to <http://www.21vbluecloud.com/ostpt> or contact its reseller or 21Vianet Account Manager.

Clarifications and Summary of Changes

| Additions | Deletions |
| --- | --- |
|  |  |

21Vianet Online Services Product Availability (OSPA):

* Microsoft Dynamics 365: Minor format and spelling modifications for some SKU names.

Definitions

If any of the terms below are not defined in the 21Vianet Customer Agreement, they have the definitions below.

“21Vianet Customer Agreement” means the agreement under which Customer has purchased Online Services from 21Vianet.

“Core Online Services” means those Online Services listed in [Appendix A](#AppendixA_CoreOnlineServices) to the Data Protection Terms.

“China” means the People’s Republic of China, excluding Hong Kong and Macau Special Administrative Regions and Taiwan.

“Customer Data” means all data, including all text, sound, video, or image files, and software, that are provided to 21Vianet by, or on behalf of, Customer through Customer use of the Online Service. Customer Data does not include Support Data.

“External User” means a user of an Online Service that is not an employee, onsite contractor, or onsite agent of Customer or its Affiliates.

“General Data Protection Regulation” or “GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC.

“GDPR Terms” means the terms in Attachment 4, under which 21Vianet makes binding commitments regarding its processing of Personal Data as required by Article 28 of the General Data Protection Regulation.

“Instance” means an image of software that is created by executing the software’s setup or install procedure or by duplicating such an image.

“Licensed Device” means the single physical hardware system to which a license is assigned. For purposes of this definition, a hardware partition or blade is considered to be a separate device.

“Network Server” means a physical hardware server solely dedicated to Customer use and provides resource assistant to computers in a network.

“Non-21Vianet Product” means any third-party-branded software, data, service, website or product, unless incorporated by 21Vianet in a Product.

“Online Service” means services, features and Software identified in the 21Vianet Online Services Product Availability section. It does not include software and services provided under separate license terms (such as via gallery, marketplace, console, or dialog). The Online Services are operated by 21Vianet from data centers located in China.

“Operating System Environment” (OSE) means all or part of an operating system Instance, or all or part of a virtual (or otherwise emulated) operating system Instance, that enables separate machine identity (primary computer name or similar unique identifier) or separate administrative rights, and Instances of applications, if any, configured to run on all or part of that operating system Instance. There are two types of OSEs, physical and virtual. A physical hardware system can have one physical OSE and/or one or more virtual OSEs. The operating system Instance used to run hardware virtualization software or to provide hardware virtualization services is considered part of the physical OSE.

“OST” means these Online Services Terms.

“Personal Data” means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“Previews” means preview, beta or other pre-release features, data center locations, and services offered by 21Vianet for optional evaluation.

“SL” means subscription license.

 “Standard Contractual Clauses” means the standard data protection clauses for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, as described in Article 46 of the GDPR. The Standard Contractual Clauses are in [Attachment 3](#Attachment3).

“Subprocessor” means other processors used by 21Vianet to process data.

“Support Data” means all data, including all text, sound, video, image files, or software, that are provided to 21Vianet by or on behalf of Customer (or that Customer authorizes 21Vianet to obtain from an Online Service) through an engagement with 21Vianet to obtain technical support for Online Services covered under this agreement.

The terms “data subject”, “processing”, “processor”, and “supervisory authority” as used herein have the meanings given in the GDPR and the terms “data importer” and “data exporter” have the meanings given in the Standard Contractual Clauses.

General Terms

Licensing the Online Services

Customer must acquire and assign the appropriate subscription licenses required for its use of each Online Service. Each user that accesses the Online Service must be assigned a user SL or access the Online Service only through a device that has been assigned a device SL, unless specified otherwise in the [Online Service-specific Terms](#OnlineServiceSpecificTerms).

**License Reassignment**

Most, but not all, SLs may be reassigned. Except as permitted in this paragraph or in the [Online Service-specific Terms](#OnlineServiceSpecificTerms), Customer may not reassign an SL on a short-term basis (i.e., within 90 days of the last assignment). Customer may reassign an SL on a short-term basis to cover a user’s absence or the unavailability of a device that is out of service. Reassignment of an SL for any other purpose must be permanent. When Customer reassigns an SL from one device or user to another, Customer must block access and remove any related software from the former device or from the former user’s device.

**Multiplexing**

Hardware or software that Customer uses to pool connections; reroute information; reduce the number of devices or users that directly access or use the Online Service (or related software); or reduce the number of OSEs, devices or users the Online Service directly manages (sometimes referred to as “multiplexing” or “pooling”) does not reduce the number of licenses of any type (including SLs) that Customer needs.

Using the Online Services

Customer may use the Online Services as expressly permitted in 21Vianet Customer Agreement. 21Vianet reserves all other rights.

**Acceptable Use Policy**

Neither Customer, nor those that access an Online Service through Customer, may use an Online Service:

* in a way prohibited by law, regulation, governmental order or decree;
* to violate the rights of others;
* to try to gain unauthorized access to or disrupt any service, device, data, account or network;
* to falsify any protocol or email header information (e.g., “spoofing”);
* to spam or distribute malware;
* in a way that could harm the Online Service or impair anyone else’s use of it;
* in any application or situation where failure of the Online Service could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage; or
* to assist of encourage anyone to do any of the above.

Violation of the terms in this section may result in suspension of the Online Service. 21Vianet will suspend the Online Service only to the extent reasonably necessary. Unless 21Vianet believes an immediate suspension is required 21Vianet will provide reasonable notice before suspending an Online Service.

Use of Software with the Online Services

Customer may need to install certain software provided by 21Vianet in order to use the Online Services. If so, the following terms apply:

**Software License Terms**

Customer may install and use the software only for use with the Online Services. The [Online Service-specific Terms](#OnlineServiceSpecificTerms) may limit the number of copies of the software Customer may use or the number of devices on which Customer may use it. Customer’s right to use the software begins when the Online Service is activated and ends when Customer’s right to use the Online Service ends. Customer must uninstall the software when Customer’s right to use it ends. 21Vianet may disable it at that time.

**Validation, Automatic Updates, and Collection for Software**

21Vianet may automatically check the version of any of its software. Devices on which the software is installed may periodically provide information to enable 21Vianet to verify that the software is properly licensed. This information includes the software version, the end user’s user account, product ID information, a machine ID, and the internet protocol address of the device. If the software is not properly licensed, its functionality will be affected. Customer may only obtain updates or upgrades for the software from 21Vianet or authorized sources. By using the software, Customer consents to the transmission of the information described in this section. 21Vianet may recommend or download to Customer’s devices updates or supplements to this software, with or without notice. Some Online Services may require, or may be enhanced by, the installation of local software (e.g., agents, device management applications) (“Apps”). The Apps may collect data about the use and performance of the Apps, which may be transmitted to 21Vianet and used for the purposes described in this OST for Customer Data.

**Third-party Software Components**

The software may contain third party software components. Unless otherwise disclosed in that software, 21Vianet, not the third party, licenses these components to Customer under 21Vianet’s license terms and notices.

Technical Limitations

Customer may not reverse engineer, decompile, disassemble or work around technical limitations in any of the Online Services, except where applicable law permits it despite this limitation. Customer may not disable, tamper with or otherwise attempt to circumvent any billing mechanism, including any mechanism that meters Customer’s use of the Online Services. Customer may not rent, lease, lend, resell, transfer, or sublicense any software to or for third parties. Customer may not access or use the Online Services in any way that violates the rights of any third party or purports to subject any of 21Vianet’s suppliers to any obligations to third parties.

Import/Export Services

Customer’s use of any Import/Export Service is conditioned upon its compliance with all instructions provided by 21Vianet regarding the preparation, treatment and shipment of physical media containing its data (“storage media”). Customer is solely responsible for ensuring the storage media and data are provided in compliance with all laws and regulations. 21Vianet has no duty with respect to the storage media and no liability for lost, damaged or destroyed storage media.

Font Components

While Customer uses an Online Service, Customer may use the fonts installed by that Online Service to display and print content. Customer may only embed fonts in content as permitted by the embedding restrictions in the fonts and temporarily download them to a printer or other output device to print content.

Changes to and Availability of the Online Services

21Vianet may make commercially reasonable changes to each Online Service from time to time. 21Vianet may modify or terminate an Online Service in country where 21Vianet is subject to a government regulation, obligation or other requirement that (1) is not generally applicable to businesses operating there, (2) presents a hardship for 21vianet to continue operating the Online Service without modification, and/or (3) causes 21Vianet to believe these terms or the Online Service may conflict with any such requirement or obligation. If 21vianet terminates an Online Service for regulatory reasons, Customers will receive a credit for any amount paid in advance for the period after termination.

For information on availability, Customer may refer to the 21Vianet Online Services Product Availability section.

State secret representation and warranty*.*

Customer represents and warrants that Customer Data does not include state secrets or, if any Customer Data does constitute state secrets, that Customer has obtained necessary approvals to disclose those state secrets to 21Vianet and its Affiliates, contractors and suppliers.

Compliance with Laws

21Vianet will comply with all laws and regulations applicable to its provision of the Online Services, including applicable security breach notification laws, but not including any laws or regulations applicable to Customer or Customer’s industry that are not generally applicable to information technology services providers. Customer will comply with all laws applicable to Customer Data and use of the Online Services.

Customer acknowledges that under Chinese regulations:

* An Internet information service provider shall not produce, reproduce, publish or disseminate information that includes the following content (“Prohibited Content”).  Prohibited Content is content that:
	1. is against the basic principles determined by the Constitution;
	2. impairs national security, divulges State secrets, subverts State sovereignty or jeopardizes national unity;
	3. damages the reputation and interests of the State;
	4. incites ethnic hostility and ethnic discrimination or jeopardizes unity among ethnic groups;
	5. damages State religious policies or that advocates sects or feudal superstitions;
	6. disseminates rumors, disrupts the social order or damages social stability;
	7. disseminates obscenity, pornography, gambling, violence, homicide and terror, or that incites crime;
	8. insults or slanders others or that infringes their lawful rights and interests; and
	9. is otherwise prohibited by laws or administrative regulations.
* If an Internet information service provider discovers that information distributed on its website falls within the scope of the Prohibited Content, it shall promptly terminate the distribution, keep relevant records, and report to the relevant authorities.

Customer further agrees:

* If the business or organization Customer operates by using the Online Services is subject to permit or approval by related governmental authorities, Customer will obtain such related permit or approval, including without limitation:
	+ if Customer’s website provides non-operational Internet information services, Customer will make the filing for the non-operational website with the governmental authority; and
	+ if Customer‘s website provides operational Internet information services, Customer will obtain the VAT permit for operational website from the governmental authority.
* If Customer is an Internet information service provider using Online Services, Customer will keep records of the information provided, time of publishing and the Internet address or domain name, and assist in providing such information when inquired by related government authorities in accordance with applicable laws.

Customer will provide Customer’s real identity and contact information in registering for the Online Services and promptly update that information in the portal for the Online Service if it changes. 21Vianetwill use this information to contact Customer as detailed in the Privacy Statement. Customer warrants that the information Customer provides is true, complete and valid, and Customer is wholly responsible for the consequences if it is not.

Other

**Non-21Vianet Products**

21Vianet may make Non-21Vianet Products available to Customer through Customer’s use of the Online Services (such as through a store or gallery, or as search results. If Customer installs or uses any Non-21Vianet Product with an Online Service, Customer may not do so in any way that would subject 21Vianet’s or 21Vianet licensor’s intellectual property or technology to obligations beyond those expressly included in the 21Vianet Customer Agreement. For Customer’s convenience, 21Vianet may include charges for certain Non-21Vianet Product as part of Customer’s bill for Online Services. 21Vianet, however, assumes no responsibility or liability whatsoever for any Non-21vianet Product. Customer is solely responsible for any Non-21Vianet Product that it installs or uses with an Online Service or acquires or manages through an online store. Customer’s use of any Non-21Vianet Product shall be governed by the license, service, and/or privacy terms between Customer and the publisher of the Non-21Vianet Product (if any).

**Previews**

PREVIEWS ARE PROVIDED "AS-IS," "WITH ALL FAULTS," AND "AS AVAILABLE," as described herein. Previews may not be covered by customer support. We may change or discontinue Previews at any time without notice. We may also choose not to make a Preview service generally commercially available.

Unless otherwise noted in a separate agreement, Previews are not included in the SLA for the corresponding Online Service.

Providing “Feedback” (suggestions, comments, feedback, ideas, or know-how, in any form) to 21Vianet about Preview services is voluntary. 21Vianet is under no obligation to post or use any Feedback. By providing Feedback to 21Vianet, Customer (and anyone providing Feedback through Customer) irrevocably and perpetually grant to 21Vianet and its Affiliates, under all of its (and their) owned or controlled intellectual property rights, a worldwide, non-exclusive, fully paid-up, royalty-free, transferable, sub-licensable right and license to make, use, reproduce, prepare derivative works based upon, distribute, publicly perform, publicly display, transmit, and otherwise commercialize the Feedback (including by combining or interfacing products, services or technologies that depend on or incorporate Feedback with other products, services or technologies of 21Vianet or others), without attribution in any way and for any purpose.

Customer warrants that 1) it will not provide Feedback that is subject to a license requiring 21Vianet to license anything to third parties because 21Vianet exercises any of the above rights in Customer’s Feedback; and 2) it owns or otherwise controls all of the rights to such Feedback and that no such Feedback is subject to any third-party rights (including any personality or publicity rights).

**Competitive Benchmarking**

If Customer offers a service competitive to an Online Service, by using the Online Service, Customer agrees to waive any restrictions on competitive use and benchmark testing in the terms governing its competitive service. If Customer does not intend to waive such restrictions in its terms of use, Customer is not allowed to use the Online Service.

**Government Customers**

If Customer is a government entity, in compliance with applicable laws and regulations, 21Vianet and Customer acknowledge that the Online Services are for the sole benefit and use of Customer and not provided for the personal use or benefit of any individual government employee.

Data Protection Terms

This section of the Online Services Terms includes the following subsections:

* Scope
* Processing of Customer Data; Ownership
* Disclosure of Customer Data
* Processing of Personal Data; GDPR
* Data Security
* Security Incident Notification
* Data Transfers and Location
* Data Retention and Deletion
* Processor Confidentiality Commitment
* Notice and Controls on Use of Subprocessors
* How to Contact 21Vianet
* Appendix A – Core Online Services
* Appendix B – Security Measures

Scope

The terms in this section (“Data Protection Terms”) apply to all Online Services except Azure Stack, Microsoft Genomics, which are governed by the privacy and security terms in the applicable [Online Service-Specific Terms](#OnlineServiceSpecificTerms).

Previews may employ lesser or different privacy and security measures than those typically present in the Online Services. Unless otherwise noted, Previews are not included in the SLA for the corresponding Online Service, and Customer should not use Previews to process Personal Data or other data that is subject to legal or regulatory compliance requirements. The following terms in this section (“Data Protection Terms”) do not apply to Previews: Processing of Personal Data; GDPR, and Data Security.

Processing of Customer Data; Ownership

Customer Data will be used or otherwise processed only to provide Customer the Online Services including purposes compatible with providing those services. 21Vianet will not use or otherwise process Customer Data or derive information from it for any advertising or similar commercial purposes. As between the parties, Customer retains all right, title and interest in and to Customer Data. 21Vianet acquires no rights in Customer Data, other than the rights Customer grants to 21Vianet to provide the Online Services to Customer. This paragraph does not affect 21Vianet’s rights in software or services 21Vianet licenses to Customer.

Disclosure of Customer Data and Personal Data

21Vianet will not disclose Customer Data or Personal Data outside of 21Vianet or its affiliates, suppliers, or subcontractors except (1) as Customer directs, (2) as described in the OST or the Privacy Statement, or (3) as required by laws and regulations.

21Vianet will not disclose Customer Data or Personal Data to law enforcement unless required by laws and regulations. If law enforcement contacts 21Vianet with a demand for Customer Data or Personal Data, 21Vianet will attempt to redirect the law enforcement agency to request that data directly from Customer. If compelled to disclose Customer Data or Personal Data to law enforcement, 21Vianet will use commercially reasonable efforts to notify Customer and provide a copy of the demand unless legally prohibited from doing so.

Upon receipt of any other third-party request for Customer Data or Personal Data, 21Vianet will promptly notify Customer unless prohibited by laws and regulations. 21Vianet will reject the request unless required by laws and regulations to comply. If the request is valid, 21Vianet will attempt to redirect the third party to request the data directly from Customer.

21Vianet will not provide any third party: (a) direct, indirect, blanket or unfettered access to Customer Data or Personal Data; (b) platform encryption keys used to secure Customer Data or Personal Data or the ability to break such encryption; or (c) access to Customer Data or Personal Data if 21Vianet is aware that the data is to be used for purposes other than those stated in the third party’s request.

In support of the above, 21Vianet may provide Customer’s basic contact information to the third party.

Processing of Personal Data; GDPR

Personal Data provided to 21Vianet by, or on behalf of, Customer through use of the Online Service is also Customer Data. Pseudonymized identifiers may also be generated through Customer’s use of the Online Services and are also Personal Data. To the extent 21Vianet is a processor or subprocessor of Personal Data subject to the GDPR, the GDPR Terms in Attachment 4 govern that processing and the parties also agree to the following terms in this sub-section (“Processing of Personal Data; GDPR”):

**Processor and Controller Roles and Responsibilities**

Customer and 21Vianet agree that Customer is the controller of Personal Data and 21Vianet is the processor of such data, except when (a) Customer acts as a processor of Personal Data, in which case 21Vianet is a subprocessor or (b) stated otherwise in the Online Service-specific terms. 21Vianet will process Personal Data only on documented instructions from Customer. Customer agrees that its 21Vianet Customer Agreement (including the OST) along with Customer’s use and configuration of features in the Online Services is Customer’s complete and final documented instructions to 21Vianet for the processing of Personal Data. Any additional or alternate instructions must be agreed to according to the process for amending the 21Vianet Customer Agreement. In any instance where the GDPR applies and Customer is a processor, Customer warrants to 21Vianet that Customer’s instructions, including appointment of 21Vianet as a processor or subprocessor, have been authorized by the relevant controller.

**Processing Details**

The parties acknowledge and agree that:

* The subject-matter of the processing is limited to Personal Data within the scope of the GDPR;
* The duration of the processing shall be for the duration of the Customer’s right to use the Online Service and until all Personal Data is deleted or returned in accordance with Customer instructions or the terms of the OST;
* The nature and purpose of the processing shall be to provide the Online Service pursuant to the 21Vianet Customer Agreement;
* The types of Personal Data processed by the Online Service include those expressly identified in Article 4 of the GDPR; and
* The categories of data subjects are Customer’s representatives and end users, such as employees, contractors, collaborators, and customers.

**Data Subject Rights; Assistance with Requests**

21Vianet will make available to Customer in a manner consistent with the functionality of the Online Service and 21Vianet’s role as a processor Personal Data of data subjects and the ability to fulfill data subject requests to exercise their rights under the GDPR. 21Vianet shall comply with reasonable requests by Customer to assist with Customer’s response to such a data subject request. If 21Vianet receives a request from Customer’s data subject to exercise one or more of its rights under the GDPR in connection with an Online Service for which 21Vianet is a data processor or subprocessor, 21Vianet will redirect the data subject to make its request directly to Customer. Customer will be responsible for responding to any such request including, where necessary, by using the functionality of the Online Service. 21Vianet shall comply with reasonable requests by Customer to assist with Customer’s response to such a data subject request.

**Records of Processing Activities**

21Vianet shall maintain all records required by Article 30(2) of the GDPR and, to the extent applicable to the processing of Personal Data on behalf of Customer, make them available to Customer upon request.

Data Security

**Security Practices and Policies**

21Vianet will implement and maintain appropriate technical and organizational measures to protect Customer Data and Personal Data.  Those measures shall be set forth in a 21Vianet online security policy. 21Vianet will make that policy available to Customer, along with descriptions of the security controls in place for the Online Service and other information reasonably requested by Customer regarding 21Vianet security practices and policies.

In addition, those measures shall comply with the requirements set forth in ISO 27001, ISO 27002, and ISO 27018. 21Vianet will not eliminate ISO 27001, ISO 27002, ISO 27018, unless it is no longer used in the industry and it is replaced with a successor (if any).

**Customer Responsibilities**

Customer is solely responsible for making an independent determination as to whether the technical and organizational measures for an Online Service meets Customer’s requirements, including any of its security obligations under the GDPR or other applicable data protection laws and regulations. Customer acknowledges and agrees that (taking into account the state of the art, the costs of implementation, and the nature, scope, context and purposes of the processing of its Personal Data as well as the risks to individuals) the security practices and policies implemented and maintained by 21Vianet provide a level of security appropriate to the risk with respect to its Personal Data. Customer is responsible for implementing and maintaining privacy protections and security measures for components that Customer provides or controls (such as devices within a Microsoft Azure customer’s virtual machine or application).

**Auditing Compliance**

21Vianet will conduct audits of the security of the computers, computing environment and physical data centers that it uses in processing Customer Data and Personal Data, as follows:

* Where a standard or framework provides for audits, an audit of such control standard or framework will be initiated at least annually.
* Each audit will be performed according to the standards and rules of the regulatory or accreditation body for each applicable control standard or framework.
* Each audit will be performed by qualified, independent, third party security auditors at 21Vianet’s selection and expense.

If Customer requests, 21Vianet will provide Customer with each 21Vianet Audit Report. The 21Vianet Audit Report will be subject to non-disclosure and distribution limitations of 21Vianet and the auditor.

If Customer has entered into the Standard Contractual Clauses with 21Vianet or if the GDPR Terms apply, then Customer agrees to exercise its audit right by instructing 21Vianet to execute the audit as described in this section of the OST. If Customer desires to change this instruction, then Customer has the right to do so as set forth in the Standard Contractual Clauses and GDPR Terms, which change shall be requested in writing.

If the Standard Contractual Clauses apply, then this section is in addition to Clause 5 paragraph f and Clause 12 paragraph 2 of the Standard Contractual Clauses.

Nothing in this section of the OST varies or modifies the Standard Contractual Clauses or the GDPR Terms or affects any supervisory authority’s or data subject’s rights under the Standard Contractual Clauses or GDPR. 21Vianet is an intended third-party beneficiary of this section.

Security Incident Notification

If 21Vianet becomes aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer Data or Personal Data while processed by 21Vianet (each a “Security Incident”), 21Vianet will promptly and without undue delay (1) notify Customer of the Security Incident; (2) investigate the Security Incident and provide Customer with detailed information about the Security Incident; (3) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Security Incident.

Notification(s) of Security Incidents will be delivered to one or more of Customer’s administrators by any means 21Vianet selects, including via email. It is Customer’s sole responsibility to ensure Customer’s administrators maintain accurate contact information on each applicable Online Services portal. Customer is solely responsible for complying with its obligations under incident notification laws applicable to Customer and fulfilling any third-party notification obligations related to any Security Incident.

21Vianet shall make reasonable efforts to assist Customer in fulfilling Customer’s obligation under GDPR Article 33 or other applicable law or regulation to notify the relevant supervisory authority and data subjects about such Security Incident.

21Vianet’s obligation to report or respond to a Security Incident under this section is not an acknowledgement by 21Vianet of any fault or liability with respect to the Security Incident.

Customer must notify 21Vianet promptly about any possible misuse of its accounts or authentication credentials or any security incident related to an Online Service.

Data Location

21Vianet will store Customer Data only in China.

Data Retention and Deletion

At all times during the term of Customer’s subscription, Customer will have the ability to access, extract and delete Customer Data stored in each Online Service.

Except for free trials services, 21Vianet will retain Customer Data that remains stored in Online Services in a limited function account for 90 days after expiration or termination of Customer’s subscription so that Customer may extract the data. After the 90-day retention period ends, 21Vianet will disable Customer’s account and delete the Customer Data and Personal Data within an additional 90 days, unless 21Vianet is permitted or required by applicable law to retain such data or authorized in this agreement.

The Online Service may not support retention or extraction of software provided by Customer. 21Vianet has no liability for the deletion of Customer Data or Personal Data as described in this section.

Processor Confidentiality Commitment

21Vianet will ensure that its personnel engaged in the processing of Customer Data and Personal Data (i) will process such data only on instructions from Customer, and (ii) will be obligated to maintain the confidentiality and security of such data even after their engagement ends.

Notice and Controls on use of Subprocessors

21Vianet may hire third parties to provide certain limited or ancillary services on its behalf. Customer consents to the engagement of these third parties and 21Vianet Affiliates as Subprocessors. The above authorizations will constitute Customer’s prior written consent to the subcontracting by 21Vianet of the processing of Customer Data and Personal Data if such consent is required under the Standard Contractual Clauses or the GDPR Terms.

21Vianet is responsible for its Subprocessor’s compliance with 21Vianet’s obligations in the OST. 21Vianet makes available information about Subprocessors on a 21Vianet website. When engaging any Subprocessor, 21Vianet will ensure via a written contract that the Subprocessor may access and use Customer Data or Personal Data only to deliver the services 21Vianet has retained them to provide and is prohibited from using Customer Data or Personal Data for any other purpose. 21Vianet will ensure that Subprocessors are bound by written agreements that require them to provide at least the level of data protection required of 21Vianet by the OST.

From time to time, 21Vianet may engage new Subprocessors. 21Vianet will give Customer notice (by updating the website and provide Customer with a mechanism to obtain notice of that update) of any new Subprocessor at least 14-days in advance of providing that Subprocessor with access to Customer Data or Personal Data. However, with respect to Core Online Services, 21Vianet will give Customer notice (by updating the website and provide Customer with a mechanism to obtain notice of that update) of any new Subprocessor at least 6-months in advance of providing that Subprocessor with access to Customer Data.

If Customer does not approve of a new Subprocessor, then Customer may terminate any subscription for the affected Online Service without penalty by providing, before the end of the relevant notice period, written notice of termination that includes an explanation of the grounds for non-approval. If the affected Online Service is part of a suite (or similar single purchase of services), then any termination will apply to the entire suite. After termination, 21Vianet will remove payment obligations for any subscriptions for the terminated Online Service from subsequent invoices to Customer or its reseller.

How to Contact 21Vianet

If Customer believes that 21Vianet is not adhering to its privacy or security commitments, Customer may contact customer support via <https://www.azure.cn/zh-cn/support/contact/> or mail to 21Vianet. 21Vianet’s mailing address is:

**21Vianet Cloud Compliance**

Shanghai Blue Cloud Technology Co., Ltd. (“21Vianet”)

12-14F, Building 6, No.6 Jiuxianqiao Road, Beijing Electronics Zone, Chaoyang District, Beijing 100015, China

Appendix A – Core Online Services

The term “Core Online Services” applies only to the services in the table below, excluding any Previews.

| Online Services |
| --- |
| Microsoft Dynamics 365 Core Services | The following services, each as a standalone service or as included in a Dynamics 365 branded plan or application: Dynamics 365 Customer Service Enterprise, Dynamics 365 Customer Service Professional, Dynamics 365 Field Service, Dynamics 365 Supply Chain Management, Dynamics 365 Finance, Dynamics 365 Sales Enterprise, and Dynamics 365 Sales Professional. Dynamics 365 Core Services do not include (1) Dynamics 365 Services supported devices or software, which includes but is not limited to Dynamics 365 for apps, tablets, phones, or any of these; (2) LinkedIn Sales Navigator; or (3) except as expressly defined in the licensing terms for the corresponding service, any other separately-branded service made available with or connected to Dynamics 365 Core Services. |
| Office 365 Services | The following services, each as a standalone service or as included in an Office 365-branded plan or suite: Exchange Online Archiving, Exchange Online Protection, Exchange Online, , Office 365 Advanced Threat Protection, Office Online, OneDrive for Business, Outlook Customer Manager, Project Online (except Roadmap), SharePoint Online and Skype for Business Online. Office 365 Services do not include Office 365 ProPlus, PSTN Services, any client software, or any separately branded service made available with an Office 365-branded plan or suite, such as a Bing or a service branded “for Office 365.” |
| Microsoft Azure Core Services | API Management, App Service (API Apps, Mobile Apps, Web Apps), Application Gateway, Automation, Azure Active Directory, Azure Cache for Redis, Azure Cosmos DB (formerly DocumentDB), Azure Database for MySQL, Azure Database for PostgreSQL, Azure Databricks, Azure Kubernetes Service, Azure Resource Manager, Backup, Batch, Cloud Services, Computer Vision, Content Moderator, Event Hubs, Express Route, Functions, HDInsight, Import/Export, IoT Hub, Key Vault, Load Balancer, Media Services, Microsoft Azure Portal, Multi-Factor Authentication, Notification Hubs, Power BI Embedded, Scheduler, Service Bus, Service Fabric, Site Recovery, SQL Data Warehouse, SQL Database, SQL Server Stretch Database, Storage, Stream Analytics, Traffic Manager, Virtual Machines, Virtual Machine Scale Sets, Virtual Network, and VPN Gateway  |
| Microsoft Cloud App Security | The cloud service portion of Microsoft Cloud App Security. |
| Microsoft Power Platform Core Services | The following services, each as a standalone service or as included in an Office 365 branded plan or suite: Microsoft Power BI. Microsoft Power Platform Core Services do not include any client software, including but not limited to Power BI Report Server, the Power BI mobile applications, or Power BI Desktop. |

Appendix B – Security Measures

21Vianet has implemented and will maintain for Customer Data in the Core Online Services the following security measures, which, in conjunction with the security commitments in the OST (including the GDPR Terms), are 21Vianet’s only responsibility with respect to the security of that data.

| Domain | Practices |
| --- | --- |
| Organization of Information Security | **Security Ownership**. 21Vianet has appointed one or more security officers responsible for coordinating and monitoring the security rules and procedures.**Security Roles and Responsibilities**. 21Vianet personnel with access to Customer Data are subject to confidentiality obligations.**Risk Management Program**. 21Vianet performed a risk assessment before processing the Customer Data or launching the Online Services service.21Vianet retains its security documents pursuant to its retention requirements after they are no longer in effect. |
| Asset Management | **Asset Inventory**. 21Vianet maintains an inventory of all media on which Customer Data is stored. Access to the inventories of such media is restricted to 21Vianet personnel authorized in writing to have such access.**Asset Handling**- 21Vianet classifies Customer Data to help identify it and to allow for access to it to be appropriately restricted.- 21Vianet personnel must obtain 21Vianet authorization prior to storing Customer Data on portable devices, remotely accessing Customer Data, or processing Customer Data outside 21Vianet’s facilities. |
| Human Resources Security | **Security Training**. 21Vianet informs its personnel about relevant security procedures and their respective roles. 21Vianet also informs its personnel of possible consequences of breaching the security rules and procedures. 21Vianet will only use anonymous data in training. |
| Physical and Environmental Security | **Physical Access to Facilities**. 21Vianet limits access to facilities where information systems that process Customer Data are located to identified authorized individuals.**Physical Access to Components**. 21Vianet maintains records of the incoming and outgoing media containing Customer Data, including the kind of media, the authorized sender/recipients, date and time, the number of media and the types of Customer Data they contain.**Protection from Disruptions**. 21Vianet uses a variety of industry standard systems to protect against loss of data due to power supply failure or line interference.**Component Disposal**. 21Vianet uses industry standard processes to delete Customer Data when it is no longer needed. |
| Communications and Operations Management | **Operational Policy**. 21Vianet maintains security documents describing its security measures and the relevant procedures and responsibilities of its personnel who have access to Customer Data.**Data Recovery Procedures**- On an ongoing basis, but in no case less frequently than once a week (unless no Customer Data has been updated during that period), 21Vianet maintains multiple copies of Customer Data from which Customer Data can be recovered.- 21Vianet stores copies of Customer Data and data recovery procedures in a different place from where the primary computer equipment processing the Customer Data is located.- 21Vianet has specific procedures in place governing access to copies of Customer Data.- 21Vianet reviews data recovery procedures at least every twelve months.- 21Vianet logs data restoration efforts, including the person responsible, the description of the restored data and where applicable, the person responsible and which data (if any) had to be input manually in the data recovery process.**Malicious Software**. 21Vianet has anti-malware controls to help avoid malicious software gaining unauthorized access to Customer Data, including malicious software originating from public networks.**Data Beyond Boundaries**- 21Vianet encrypts, or enables Customer to encrypt, Customer Data that is transmitted over public networks.- 21Vianet restricts access to Customer Data in media leaving its facilities.**Event Logging**. 21Vianet logs, or enables Customer to log, access and use of information systems containing Customer Data, registering the access ID, time, authorization granted or denied, and relevant activity. |
| Access Control | **Access Policy**. 21Vianet maintains a record of security privileges of individuals having access to Customer Data.**Access Authorization**- 21Vianet maintains and updates a record of personnel authorized to access 21Vianet systems that contain Customer Data. - 21Vianet identifies those personnel who may grant, alter or cancel authorized access to data and resources. - 21Vianet ensures that where more than one individual has access to systems containing Customer Data, the individuals have separate identifiers/log-ins.**Least Privilege**- Technical support personnel are only permitted to have access to Customer Data when needed. - 21Vianet restricts access to Customer Data to only those individuals who require such access to perform their job function.**Integrity and Confidentiality**- 21Vianet instructs 21Vianet personnel to disable administrative sessions when leaving premises 21Vianet controls or when computers are otherwise left unattended.- 21Vianet stores passwords in a way that makes them unintelligible while they are in force.**Authentication**- 21Vianet uses industry standard practices to identify and authenticate users who attempt to access information systems.- Where authentication mechanisms are based on passwords, 21Vianet requires that the passwords are renewed regularly.- Where authentication mechanisms are based on passwords, 21Vianet requires the password to be at least eight characters long.- 21Vianet ensures that de-activated or expired identifiers are not granted to other individuals.- 21Vianet monitors, or enables Customer to monitor, repeated attempts to gain access to the information system using an invalid password.- 21Vianet maintains industry standard procedures to deactivate passwords that have been corrupted or inadvertently disclosed.- 21Vianet uses industry standard password protection practices, including practices designed to maintain the confidentiality and integrity of passwords when they are assigned and distributed, and during storage.**Network Design**. 21Vianet has controls to avoid individuals assuming access rights they have not been assigned to gain access to Customer Data they are not authorized to access. |
| Information Security Incident Management | **Incident Response Process**- 21Vianet maintains a record of security breaches with a description of the breach, the time period, the consequences of the breach, the name of the reporter, and to whom the breach was reported, and the procedure for recovering data.- For each security breach that is a Security Incident, notification by 21Vianet (as described in the “Security Incident Notification” section above) will be made without undue delay and, in any event, within 72 hours.- 21Vianet tracks, or enables Customer to track, disclosures of Customer Data, including what data has been disclosed, to whom, and at what time. |
| Business Continuity Management | - 21Vianet maintains emergency and contingency plans for the facilities in which 21Vianet information systems that process Customer Data are located.- 21Vianet’s redundant storage and its procedures for recovering data are designed to attempt to reconstruct Customer Data in its original or last-replicated state from before the time it was lost or destroyed. |

Online Service Specific Terms

If an Online Service is not listed below, it does not have any Online Service-specific terms.

Microsoft Azure Services

**Service Level Agreement**

Refer to <http://www.21vbluecloud.com/ostpt/> .

**Definitions**

 “Customer Solution” means an application or any set of applications that adds primary and significant functionality to the Microsoft Azure Services and that is not primarily a substitute for the Microsoft Azure Services.

“Microsoft Azure Services” means the Microsoft services and features identified at https://www.azure.cn/zh-cn/support/service-dashboard/, except those licensed separately. “Microsoft Azure Services” includes any open source components incorporated by Microsoft in those services and features.

**Limitations**

Customer may not

* resell or redistribute the Microsoft Azure Services, or
* allow multiple users to directly or indirectly access any Microsoft Azure Service feature that is made available on a per user basis (e.g., Active Directory Premium). Specific reassignment terms applicable to a Microsoft Azure Service feature may be provided in supplemental documentation for that feature.

**Retirement of Services or Features**

21Vianet will provide Customer with 12 months’ notice before removing any material feature or functionality or discontinuing a service, unless security, legal or system performance considerations require an expedited removal. This does not apply to Previews

**Hosting Exception**

Customer may create and maintain a Customer Solution and, despite anything to the contrary in the 21Vianet Customer Agreement, combine Microsoft Azure Services with Customer Data owned or licensed by Customer or a third party, to create a Customer Solution using the Microsoft Azure Service and the Customer Data together. Customer may permit third parties to access and use the Microsoft Azure Services in connection with the use of that Customer Solution. Customer is responsible for that use and for ensuring that these terms and the terms and conditions of the 21Vianet Customer Agreement are met by that use.

**Use of Software within Microsoft Azure**

For Microsoft software available within a Microsoft Azure Service, 21Vianet grants Customer a limited license to use the software only within the Microsoft Azure Service.

**Data Center Availability**

Usage of data centers in certain regions may be restricted to Customers located in or near that region. For information on service availability by region, please refer to https://www.azure.cn/zh-cn/home/features/what-is-azure/

**Sharing**

The Microsoft Azure Services may provide the ability to share a Customer Solution and/or Customer Data with other Azure users and communities, or other third parties. If Customer chooses to engage in such sharing, Customer agrees that it is giving a license to all authorized users, including the rights to use, modify, and repost its Customer Solution and/or the Customer Data, and Customer is allowing 21Vianet to make them available to such users in a manner and location of its choosing.

**Marketplace**

Microsoft Azure enables Customer to access or purchase Non-21Vianet Products through features such as the 21Vianet Azure Marketplace, subject to separate terms available at <https://docs.azure.cn/zh-cn/articles/azure-marketplace/publishagreement> .

 21Vianet Compute Pre-Purchase (CPP)

For Compute Pre-Purchase (CPPs) purchased through Online Service Premium Agreement (OSPA) for China East 1 Data Center or China North 1 Data Center, the CPPs can be deployed flexibly in East 1 Data Center or North 1 Data Center. Furthermore, once the purchased CPPs are successfully deployed in China East 1 Data Center or China North 1 Data Center, it represents the purchased CPPs have been successfully deployed.

Microsoft Azure Stack

Microsoft Azure Stack is a Microsoft Azure Service.

Microsoft Azure Stack Privacy

The 21Vianet Privacy Statement located at http://www.21vbluecloud.com/ostpt/ applies to Customer’s use of Microsoft Azure Stack. If a 21Vianet Customer uses Microsoft Azure Stack software or services that are hosted by a Reseller, such use will be subject to Reseller’s privacy practices, which may differ from 21Vianet’s.

To the extent 21Vianet is a processor or subprocessor of personal data in connection with Azure Stack, 21Vianet makes to all customers, effective August 1st, 2018, the commitments in (a) the “Processing of Personal Data; GDPR” provision of the “Data Protection Terms” section of the Online Services Terms and (b) the European Union General Data Protection Regulation Terms in Attachment 4 of the Online Services Terms.

Use of Microsoft Azure Stack

Customer may use Microsoft Azure Stack only on the hardware on which it is preinstalled. Microsoft Azure Stack includes Windows Server, Windows Software Components and SQL Server Technology, each of which are subject to the Included Technologies section of the Product Terms and may not be used outside of Microsoft Azure Stack.

Use of the Default Provider Subscription

The subscription created for the system administrator during the Azure Stack deployment process (the default provider subscription) may be used solely to deploy and manage the Azure Stack infrastructure; it may not be used to run any workload that does not deploy or manage Azure Stack infrastructure (e.g. it may not be used to run any application workloads).

Cognitive Services

Limit on Customer use of service output

Customer will not, and will not allow third parties to: (i) use Cognitive Services or data from Cognitive Services to create, train, or improve (directly or indirectly) a similar or competing product or service.

Microsoft Translator Attribution

When displaying automatic translations performed by Microsoft Translator, Customer will provide reasonably prominent notice that the text has been automatically translated by Microsoft Translator.

**Cognitive Services in Containers**

Cognitive Services features that are available in containers are designed to connect to a billing endpoint. The containers and the billing endpoint are licensed to Customer under this agreement as Online Services. The containers are needed to use the billing endpoint and are also subject to the terms for use of software with an Online Service in this agreement. The containers include material that is confidential and proprietary to 21Vianet. Customer agrees to keep that material confidential and to promptly notify 21Vianet of any possible misuse. The containers are not subject to the Data Protection Terms because the operating environment of the containers is not under 21Vianet’s control. Customer must configure the containers it uses to communicate with the billing endpoint so that the billing endpoint meters all use of those containers. Provided Customer enables such metering and subject to any applicable transaction limits, Customer may install and use any number of containers (1) on Customer's hardware devices that are dedicated to Customer's exclusive use, and (2) in Customer's Microsoft Azure Service accounts.

Inactive Cognitive Services Configurations and Custom Models

For the purposes of data retention and deletion, a Cognitive Services configuration or custom model that has been inactive may at 21Vianet’s discretion be treated as an Online Service for which the Customer’s subscription has expired. A configuration or custom model is inactive if for 90 days (1) no calls are made to it; (2) it has not been modified and does not have a current key assigned to it and; (3) Customer has not signed in to it.

Microsoft Azure Plans

Azure Active Directory Basic

Customer may, using Single Sign-On, pre-integrate up to 10 SAAS Applications/Custom Applications per user SL. All 21Vianet as well as third party applications count towards this application limit.

Azure Active Directory Premium

Customer may, using Single Sign-On, pre-integrate SaaS Applications/Custom Applications. Customer may not copy or distribute any data set (or any portion of a data set) included in the Microsoft Identity Manager software that is included with a Microsoft Azure Active Directory Premium (P1 and P2) User SL.

External User Allowance

For each User SL (or equivalent Subscription License Suite) Customer assigns to a user, Customer may also permit up to five additional External Users to access the corresponding Azure Active Directory service level.

Microsoft Dynamics 365 Services

Notices

The Bing Maps Notice in [Attachment 1](#Attachment1) applies.

**Service Level Agreement**

Refer to <http://www.21vbluecloud.com/ostpt/>.

External Users

External Users of Dynamics 365 Services do not need a SL to access the Online Service. This exemption does not apply to (1) contractors or agents of Customer or its Affiliates, or (2) External Users using Dynamics 365 client software with Dynamics 365 Services other than services or components included in Dynamics 365 Supply Chain Management and Dynamics 365 Finance.

Administration Portal

Customers with Dynamics 365 Supply Chain Management and Dynamics 365 Finance may deploy and manage the Online Service through Microsoft Dynamics Lifecycle Services (or its successor), which is subject to separate terms.

Mixed deployments of Dynamics 365 services

Customers may mix (i) Dynamics 365 Sales Professional and Enterprise licenses or (ii) Dynamics 365 Customer Service Professional and Enterprise licenses, or (iii) Dynamics 365 Finance or Supply Chain Management licenses if,

* Each Online Service is deployed under a separate instance, and
* Licensed users only access instances for which they are entitled.

Dynamics 365 Supply Chain Management and Dynamics 365 Finance Source Code

Customer may modify for its internal use the application source code for Dynamics 365 Supply Chain Management and Dynamics 365 Finance.

Prerequisites for Dynamics 365 Team Member SLs

Only customers licensed for Dynamics 365 Plan, Dynamics 365 Customer Engagement Plan, Dynamics 365 Unified Operations Plan, Dynamics 365 for Customer Service, Dynamics 365 for Field Service, or Dynamics 365 for Sales may acquire Dynamics 365 Team Members SLs.

Dynamics 365 for Unified Operations - Order Lines Add-On

Users or devices do not require a SL to: (i) execute indirect transactions (not through a client UI) utilizing an OData or DIXF integration; and (ii) update data only in any of the order line operations tables specified in the table below. The number of allowed transactions is limited to the number of order lines licensed.

|  |  |  |
| --- | --- | --- |
| **Order Lines**  | **Order Lines Type** | **Operations Table** |
| Sales | Sales Order Lines | SALESLINE |
| Invoicing | Free Text Invoice | CUSTINVOICELINE |
| Invoicing | Vendor Invoice | VENDINVOICEINFOLINE |
| Purchasing | Purchase Order | PURCHLINE |
| Accounting | General Journal | LEDGERJOURNALTRANS |
| Cost Accounting | Cost Entries | CAMDATACOSTOBJECTCOSTENTRY |

Office 365 Services

**Core Features for Office 365 Services**

During the term of Customer’s subscription, the Office 365 Services will substantially conform to the Core Features description provided (if any) in the Office 365 service-specific sections below, subject to Product restrictions or external factors (such as the recipient, message rate, message size and mailbox size limits for e-mail; default or Customer-imposed data retention policies; search limits; storage limits; Customer or end user configurations; and meeting capacity limits). 21Vianet may permanently eliminate a functionality specified below only if it provides Customer a reasonable alternative functionality.

**Administration Portal**

Customer will be able to add and remove end users and domains, manage licenses, and create groups through the 21Vianet Online Services Portal or its successor site.

 Exchange Online

Data Loss Prevention

Exchange Online Archiving for Exchange Online

Exchange Online Archiving for Exchange Server

Exchange Online K1

Exchange Online (Plan 1 and Plan 2)

**Core Features for Office 365 Services – Exchange Online**

Exchange Online or its successor service will have the following [Core Features](#CoreFeaturesforOffice365Services) capabilities:

**Emails**

An end user will be able to send email messages, receive email messages that originate from within and outside of Customer’s organization, and access the end user’s mailbox.

**Mobile and Web Browser Access**

Through the Microsoft Exchange ActiveSync protocol or a successor protocol or technology, Exchange Online will enable an end user to send and receive emails and update and view calendars from a mobile device that adequately supports such a protocol or technology. An end user will be able to send email messages, receive email messages that originate from within and outside of Customer’s organization, and access the end user’s mailbox, all from within a compatible web browser.

**Retention Policies**

Customer will be able to establish archive and deletion policies for email messages.

**Deleted Item and Mailbox Recovery**

Customer will be able to recover the contents of a deleted mailbox and an end user will be able to recover an item that has been deleted from one of the end user’s email folders.

**Multi-Mailbox Search**

Customer will be able to search for content across multiple mailboxes within its organization.

**Calendar**

An end user will be able to view a calendar and schedule appointments, meetings, and automatic replies to incoming email messages.

**Contacts**

Through an Exchange Online-provided user interface, Customer will be able to create and manage distribution groups and an organization-wide directory of mail-enabled end users, distribution groups, and external contacts.

**Core Features for Office 365 Services – Exchange Online Archiving**

Exchange Online Archiving or its successor service will have the following [Core Features](#CoreFeaturesforOffice365Services) capabilities:

**Storage**

Customer will be able to allow an end user to store email messages.

**Retention Policies**

Customer will be able to establish archive and deletion policies for email messages distinct from policies that an end user can apply to the end user’s own mailbox.

**Deleted Item and Mailbox Recovery**

Customer, through Office 365 support services, will be able to recover a deleted archive mailbox, and an end user will be able to recover an item that has been deleted from one of the end user’s email folders in the end user’s archive.

**Multi-Mailbox Search**

Customer will be able to search for content across multiple mailboxes within its organization.

**Legal Hold**

Customer will be able to place a “legal hold” on an end user’s primary mailbox and archive mailbox to preserve the content of those mailboxes.

**Archiving**

Archiving may be used for messaging storage only with Exchange Online Plans 1 and 2.

**Archiving for Exchange Server**

Users licensed for Exchange Server 2013 Standard Client Access License may access the Exchange Server 2013 Enterprise Client Access License features necessary to support use of Exchange Online Archiving for Exchange Server.

Smartphone and Tablet Devices

Each user to whom Customer assigns an Exchange Online User SL may (i) use Microsoft Outlook for mobile devices for commercial purposes and (ii) sign in to Microsoft Outlook with their org ID on up to five smartphones and five tablets.

Exchange Online Plan 2 from Exchange Hosted Archive Migration

Exchange Online Plan 2 is a successor Online Service to Exchange Hosted Archive. If Customer renews from Exchange Hosted Archive into Exchange Online Plan 2 and has not yet migrated to Exchange Online Plan 2, Customer’s licensed users may continue to use the Exchange Hosted Archive service subject to the terms of the March 2011 Product Use Rights until the earlier of Customer’s migration to Exchange Online Plan 2 or the expiration of Customer’s Exchange Online Plan 2 User SLs. The Product Use Rights is located http://www.21vbluecloud.com/ostpt

**Office 365 Data Loss Prevention Device License**

If Customer is licensed for Office 365 Data Loss Prevention by Device, all users of the Licensed Device are licensed for the Online Service.

**Service Level Agreement**

There is no SLA for Office 365 Advanced Threat Protection or Office 365 Threat Intelligence.

Office 365 Applications

Office 365 Business

Office 365 ProPlus

Visio Online (Plan 1 and 2)

**Service Level Agreement**

There is no SLA for Visio Online.

**Installation and Use Rights**

Each user to whom Customer assigns a user SL must have a work or school account in order to use the software provided with the subscription. These users:

* may activate the software provided with the SL on up to five concurrent OSEs for local or remote use;
* may also install and use the software, with shared computer activation, on a shared device, a Network Server, or on shared servers on Microsoft Azure or with a Qualified Multitenant Hosting Partner. A list of Qualified Multitenant Hosting Partners and additional deployment requirements are available at [www.office.com/sca](http://www.office.com/sca). This shared computer activation provision does not apply to Customers licensed for Office 365 Business; and
* must connect each device upon which user has installed the software to the Internet at least once every 30 days or the functionality of the software may be affected.
* may use Internet-connected Online Services provided as part of ProPlus.  Additionally, if permitted by Customer, users may elect to use connected services subject to terms of use other than this OST and with respect to which 21Vianet is a data controller, as identified in product documentation.

**Smartphone and Tablet Devices**

Each user to whom Customer assigns an Office 365 Business or Office 365 ProPlus User SL may (i) use Microsoft Office for mobile devices for commercial purposes and (ii) sign in to Microsoft Office with their org ID on up to five smartphones and five tablets.

**The following terms apply only to Office 365 ProPlus**

**Office Home & Student 2013 RT Commercial Use**

The commercial use restriction for Office Home & Student 2013 RT is waived for each Office 365 ProPlus User SL. Except as provided in this section, the terms provided with the Office Home & Student 2013 RT License will govern.

**Office Online Server**

For each Office 365 ProPlus subscription, Customer may install any number of copies of Office Online Server on any Server dedicated to Customer’s use. Each Office 365 ProPlus user may use the Office Online Server software. This provision does not apply to Customers that license this Product under any 21Vianet agreements that cover Online Services only.

Office Online

**Core Features for Office 365 Services**

Office Online or its successor service will have the following [Core Features](#CoreFeaturesforOffice365Services) capabilities:

An end user will be able to create, view, and edit documents in Microsoft Word, Excel, PowerPoint, and OneNote file types that are supported by Office Online or its successor service.

**External Users**

External Users invited to site collections via Share-by-Mail functionality do not need user SLs with Office Online.

OneDrive for Business

**External Users**

External Users invited to site collections via Share-by-Mail functionality do not need user SLs with OneDrive for Business. / [General Terms](#GeneralTerms)

Project Online

Project Online Essentials

Project Online Professional

Project Online Premium

**Installation and Use Rights for Project application**

Each user to whom Customer assigns a Project Online Professional or Project Online Premium user SL must have a Microsoft Account in order to use the software provided with the subscription. These users:

* may activate the software provided with the SL on up to five concurrent OSEs for local or remote use;
* may also install and use the software, with shared computer activation, on a shared device, a Network Server, or on shared servers on Microsoft Azure or with a Qualified Multitenant Hosting Partner. A list of Qualified Multitenant Hosting Partner and additional deployment requirements is available at www.office.com/sca.; and
* must connect each device upon which user has installed the software to the Internet at least once every 30 days or the functionality of the software may be affected.

**Use of SharePoint Online**

Rights to the SharePoint Online functionality provided with a Project Online Professional or Premium User SL are limited to storing and accessing data in support of Project Online.

SharePoint Online

Duet Enterprise Online for Microsoft SharePoint and SAP

SharePoint Online K1

SharePoint Online (Plan 1 and 2)

**Core Features for Office 365 Services**

SharePoint Online or its successor service will have the following [Core Features](#CoreFeaturesforOffice365Services) capabilities:

**Collaboration Sites**

An end user will be able to create a web browser-accessible site through which the end user can upload and share content and manage who has permission to access that site.

**Storage**

Customer will be able to set storage capacity limits for a site created by an end user.

**External Users**

External Users invited to site collections via Share-by-Mail functionality do not need user SLs with SharePoint Online F1, Plan 1 and Plan 2.

**Storage Add-on SLs**

Office 365 Extra File Storage is required for each gigabyte of storage in excess of the storage provided with user SLs for SharePoint Online Plans 1 and 2.

Skype for Business Online

Skype for Business Online (Plan 1 and Plan 2)

Audio Conferencing

Calling Plan

Common Area Phone

Communication Credits

Phone System

**Core Features for Office 365 Services**

Skype for Business Online Plan 2 or their successor services will have the following [Core Features](#CoreFeaturesforOffice365Services) capabilities:

**Instant Messaging**

An end user will be able to transfer a text message to another end user in real time over an Internet Protocol network.

**Presence**

An end user will be able to set and display the end user’s availability and view another end user’s availability.

**Online Meetings**

An end user will be able to conduct an Internet-based meeting that has audio and video conferencing functionality with other end users.

**Notices**

The H.264/MPEG-4 AVC and/or VC-1 Notices in [Attachment 1](#Attachment1) apply.

**External Users and users not authenticated by Skype for Business Online**

user SLs are not required for External Users and users not authenticated by the Skype for Business Online service.

**Common Area Phones**

A Common Area Phone is a device that makes and receives only voice calls and is shared by multiple users who do not log into the device with their Office 365 credentials. 21Vianet’s Common Area Phone offering is a device SL. Each Common Area Phone Licensed Device may be accessed and used by any number of users.

Other Online Services

Microsoft Power BI

Notices

The Bing Maps, H.264/AVC Visual Standard, VC-1 Video Standard, MPEG-4 Part 2 Visual Standard, and MPEG-2 Video Standard Notices in [Attachment 1](#Attachment1) apply.

Definitions

“Customer Application” means an application or any set of applications that adds primary and significant functionality to the Embedded Capabilities and that is not primarily a substitute for any portion of Microsoft Power BI services.

“Embedded Capabilities” means the Power BI APIs and embedded views for use by an application.

Hosting Exception for Embedded Capabilities

Customer may create and maintain a Customer Application and, despite anything to the contrary in the 21Vianet Customer Agreement, combine Embedded Capabilities with Customer Data owned or licensed by Customer or a third party, to create a Customer Application using the Embedded Capabilities and the Customer Data together. Any Power BI content accessed by the Customer Application or its end users must be stored in Microsoft Power BI Premium capacity. Customer may permit third parties to access and use the Embedded Capabilities in connection with the use of that Customer Application. Customer is responsible for that use and for ensuring that these terms and the terms and conditions of the 21Vianet Customer Agreement are met by that use.

Limitations

Customer may not

* resell or redistribute the Microsoft Power BI services, or
* allow multiple users to directly or indirectly access any Microsoft Power BI feature that is made available on a per user basis.

Access without a User SL

A User SL is not required to view content in Power BI Premium capacity that is shared through the embed APIs or embedded views functionality. With Power BI Premium P series only, a User SL is also not required to view content in Power BI Premium capacity that is shared through the apps or email subscription features.

Publish to Web

Customer may use the publish to web functionality to share content only on a publicly available website. Customer may not use this functionality to share content internally. 21Vianet or its suppliers may display content published through the publish to web functionality on a public website or gallery.

21Vianet Online Services Product Availability (OSPA)

Microsoft Azure

Please refer to [https://www.azure.cn/](https://www.azure.cn/a)

Microsoft Dynamics 365

**Microsoft Dynamics 365 available services minimum order requirement qualification:**

| **Dynamics 365 Online ServicesQualifies toward minimum order requirement** | **Additional Dynamics 365 Online Services Does not qualify toward minimum order requirement** |
| --- | --- |
| * Customer Engagement:
	+ Dynamics 365 Customer Service
	+ Dynamics 365 Sales
	+ Dynamics 365 Field Service
* Unified Operations:
	+ Dynamics 365 Finance
	+ Dynamics 365 Supply Chain Management
 | * All lower-level SKU’s:
	+ Dynamics 365 Sales Attach
	+ Dynamics 365 Customer Service Attach
	+ Dynamics 365 Field Services Attach
	+ Dynamics 365 Finance Attach
	+ Dynamics 365 Supply Chain Management Attach
	+ Dynamics 365 Team Members
	+ Dynamics 365 Sales Pro
	+ Dynamics 365 Sales Pro Attach
	+ Dynamics 365Customer Services Pro
	+ Dynamics 365 Customer Services Pro Attach
	+ Dynamics 365 Unified Operations – Device
	+ Dynamics 365 Unified Operations – Activity
	+ Dynamics 365 Add-ons (e.g. Additional Database Storage)
 |

Office 365

Customer may use the Online Services as expressly permitted in 21Vianet Customer Agreement. 21Vianet reserves all other rights.

**Office 365 Available Services Table.** The following are the Enterprise Online Services and Additional Online Services available.

| **Enterprise Online Services** | **Additional Online Services** |
| --- | --- |
| * Office 365 Enterprise E1
* Office 365 Enterprise E3
* Office 365 Enterprise E4
* Office 365 ProPlus
 | * Exchange Online Plan 1
* Exchange Online Plan 2
* SharePoint Online Plan 1
* SharePoint Online Plan 2
* Skype for Business Online Plan 1
* Skype for Business Online Plan 2
* Exchange Online Kiosk
* Office 365 Enterprise F1
* Project Online Essentials
* Project Online Professional
* Project Online Premium
* Visio Online Plan 2
* Visio Online Plan 1
* Power BI Pro
* Power BI Premium EM1
* Power BI Premium EM2
* Power BI Premium EM3
* Power BI Premium P1
* Power BI Premium P2
* Power BI Premium P3
* Office 365 Extra File Storage
* Exchange Online Archiving for Exchange Online
* Office 365 Plan E3 Step Up from Office 365 Plan E1
* Office 365 Plan E1 Step Up from Exchange Online Plan 1
* Office 365 Enterprise E4 Step Up from Office 365 Enterprise E3
* Office 365 Enterprise E3 Step Up from SharePoint Online Plan 2
* Office 365 Enterprise E3 Step Up from Exchange Online Plan 1
* Office 365 Enterprise E3 Step Up from Exchange Online Kiosk
* Office 365 Enterprise E3 Step Up from Office 365 Pro Plus
* Office 365 Enterprise E3 Step Up from Office 365 Enterprise F1
* Exchange Online Plan 2 Step Up from Exchange Online Plan 1
* Exchange Online Plan 1 Step Up from Exchange Online Kiosk
* Project Online Premium Step Up from Project Online
* Project Online Professional Step Up from Project Pro for Office 365
* Project Online Premium Step Up from Project Online Professional
* Azure Active Directory Premium P1
* Azure Active Directory Premium P2
 |

**Office 365 Feature Add-on.** The following are the qualifying services required to purchase the available Feature Add-on Subscription Licenses listed in the Available Services Table.

| **Qualifying Subscription License** | **Feature Add-on** |
| --- | --- |
| * Office 365 Enterprise E1
* Office 365 Enterprise E3
* Office 365 Enterprise E4
* SharePoint Online Plan 1
* SharePoint Online Plan 2
 | * Office 365 Extra File Storage
 |
| * Office 365 Enterprise E1
* Office 365 Enterprise F1
* Exchange Online Kiosk
* Exchange Online Plan 1
 | * Exchange Online Archiving for Exchange Online
 |

**Office 365Step-up Subscription Licenses Availability.** The following are the qualifying services required to purchase the available Step-Up Subscription Licenses listed in the Available Services Table.

|  |  |  |
| --- | --- | --- |
| **Step Up From (Qualifying Subscription License)** | **Step Up To** | **Step Up Subscription Licenses** |
| * Office 365 Enterprise E1
 | * Office 365 Enterprise E3
 | * Office 365 Plan E3 Step Up from Office 365 Plan E1
 |
| * Office 365 Enterprise E3
 | * Office 365 Enterprise E4
 | * Office 365 Enterprise E4 Step Up from Office 365 Enterprise E3
 |
| * SharePoint Online Plan 2
 | * Office 365 Enterprise E3
 | * Office 365 Enterprise E3 Step Up from SharePoint Online Plan 2
 |
| * Exchange Online Plan 1
 | * Office 365 Enterprise E1
 | * Office 365 Enterprise E1 Step Up from Exchange Online Plan 1
 |
| * Exchange Online Plan 1
 | * Exchange Online Plan 2
 | * Exchange Online Plan 2 Step Up from Exchange Online Plan 1
 |
| * Exchange Online Plan 1
 | * Office 365 Enterprise E3
 | * Office 365 Enterprise E3 Step Up from Exchange Online Plan 1
 |
| * Exchange Online Kiosk
 | * Office 365 Enterprise E3
 | * Office 365 Enterprise E3 Step Up from Exchange Online Kiosk
 |
| * Office 365 Pro Plus
 | * Office 365 Enterprise E3
 | * Office 365 Enterprise E3 Step Up from Office 365 Pro Plus
 |
| * Office 365 Enterprise F1
 | * Office 365 Enterprise E3
 | * Office 365 Enterprise E3 Step Up from Office 365 Enterprise F1
 |
| * Exchange Online Kiosk
 | * Exchange Online Plan 2
 | * Exchange Online Plan 1 Step Up from Exchange Online Kiosk
 |
| * Project Online
 | * Project Online Premium
 | * Project Online Premium Step Up from Project Online
 |
| * Project Online Pro for Office 365
 | * Project Online Professional
 | * Project Online Professional Step Up from Project Pro for Office 365
 |
| * Project Online Professional
 | * Project Online Premium
 | * Project Online Premium Step Up from Project Online Professional
 |

Office 365 for Academic

**Office 365 for Academic Available Services Table**. The following is the Office 365 for Academic Online Services available.

| 1. **Office 365 Academic Online Services**Qualifies toward minimum order requirement
 | 1. **Additional Office 365 Online Services for student offers**Does not qualify toward minimum order requirement
 |
| --- | --- |
| * Office 365 Education for Faculty
* Office 365 Education for Students
* Office 365 ProPlus for Faculty
* Office 365 ProPlus for Students
* Project Online Essentials for Faculty
* Project Online Essentials for Students
* Project Online Professional for Faculty
* Project Online Professional for Students
* Project Online Premium for Faculty
* Project Online Premium for Students
* Visio Online Plan 1 for Faculty
* Visio Online Plan 1 for Students
* Visio Online Plan 2 for Faculty
* Visio Online Plan 2 for Students
* Exchange Plan 1 for Alumni
 | * Office 365 ProPlus for Student Advantage
* Azure Active Directory Premium P1
* Azure Active Directory Premium P2
 |

21Vianet Product Availability Definitions

Microsoft Azure definition list:

Any reference in this agreement to “day” will be a calendar day.

“Annual Monetary Commitment” means the portion of the Monetary Commitment allocated annually through the Agreement term.

“Anniversary date” means the anniversary of the Effective Date each year this agreement is in effect.

“Commitment Rates” mean prices for all Services usage up to the Annual Monetary Commitment.

“Communities” means one or more forum(s) that we or an Affiliate may establish for customers or the general public to obtain information or collaborate regarding the use of the Services, as may be accessible via the Portal or at an alternate website we identify.

“Consumption Rates” mean prices for all Services usage in excess of the Annual Monetary Commitment. Consumption Rates may also be referred to as “Overage Rates” or “Overage” in other 21Vianet or Azure documents.

 “Customer Solution” means the application(s) you run with Services.

“Effective Date” means the date we provide you with confirmation of your first order.

 “Expiration Date” means the last day of the month, thirty-six (36) full calendar months from the Effective Date.

“Limited Offering” means a limited quantity of Services offered for a limited term for no charge or for a nominal charge (for example, a trial for 1 RMB).

“Monetary Commitment” means the total monetary amount you commit to pay over the term of the subscription for your use of the eligible Services.

 “Previews” means preview, beta, or other pre-release versions of the Services or Software offered to obtain customer feedback.

“Privacy Statement” means the Privacy Statement published at the Licensing Site, or at alternate sites that we identify.

“Reseller” means a reseller authorized by 21Vianet to resell Subscriptions under this program and engaged by you to provided pre- and post-transaction assistance related to this agreement.

 “Subscription” means an enrollment for Services for a defined Term.

“Term” means the duration of this agreement, which will expire the last day of the month, thirty-six (36) full calendar months from the Effective Date unless it is renewed for an additional thirty-six (36) month period.

Office 365 definition list:

Any reference in this agreement to “day” will be a calendar day.

“Anniversary date” means the anniversary of the Effective Date each year this agreement is in effect.

“Communities” means one or more forum(s) that we or an Affiliate may establish for customers or the general public to obtain information or collaborate regarding the use of the Services, as may be accessible via a website we identify.

 “Effective Date” means the date we provide you with confirmation of your agreement.

 “Initial Expiration Date” means the last day of the month, thirty-six (36) full calendar months from the Effective Date.

“Privacy Statement” means the Privacy Statement published at the Licensing Site, or at alternate sites that we identify.

“Reseller” means a reseller authorized by 21Vianet to resell Subscription Licenses under this program and engaged by you to provide pre- and post-transaction assistance related to this agreement.

 “Step-up Subscription License” means a Subscription License for a higher level edition of a Service that may be acquired only when you have the lower level edition of the Service and a qualifying license. Contact your Reseller for a list of available Step-up Subscription Licenses and qualifying services.

“Subscription” means the right to use the Services for a fixed term.

“Subscription License” means the right of a single End User to access and use the Services and to download, install and use the Software during the fixed term of the Subscription.

“Term” means the duration of this agreement, which commences on the Effective Date and will expire the last day of the month, thirty-six (36) full calendar months from the Effective Date, unless it is renewed for an additional thirty-six (36) month period.

Attachment 1 – Notices

Bing Maps

The Online Service or its included software includes use of Bing Maps, which is not operated by 21Vianet. Any content provided through Bing Maps, including geocodes, can only be used within the product through which the content is provided. Customer’s use of Bing Maps is governed by third party terms and conditions, including the Bing Maps End User Terms of Use available at [go.microsoft.com/?linkid=9710837](http://go.microsoft.com/?linkid=9710837) and the Microsoft Privacy Statement available at [go.microsoft.com/fwlink/?LinkID=248686](http://go.microsoft.com/fwlink/?LinkID=248686).

Notice about Azure Media Services H.265/HEVC Encoding

Customer must obtain its own patent license(s) from any third party H.265/HEVC patent pools or rights holders before using Azure Media Services to encode or decode H.265/HEVC media.

Notice about H.264/AVC Visual Standard, VC-1 Video Standard, MPEG-4 Part 2 Visual Standard and MPEG-2 Video Standard

This software may include H.264/AVC, VC-1, MPEG-4 Part 2, and MPEG-2 visual compression technology. MPEG LA, L.L.C. requires this notice:

THIS PRODUCT IS LICENSED UNDER THE AVC, THE VC-1, THE MPEG-4 PART 2 AND MPEG-2 VISUAL PATENT PORTFOLIO LICENSES FOR THE PERSONAL AND NON-COMMERCIAL USE OF A CONSUMER TO (i) ENCODE VIDEO IN COMPLIANCE WITH THE ABOVE (VIDEO STANDARDS) AND/OR (ii) DECODE AVC, VC-1, MPEG-4 PART 2 AND MPEG-2 VIDEO THAT WAS ENCODED BY A CONSUMER ENGAGED IN A PERSONAL AND NON-COMMERCIAL ACTIVITY AND/OR WAS OBTAINED FROM A VIDEO PROVIDER LICENSED TO PROVIDE SUCH VIDEO. NO LICENSE IS GRANTED OR SHALL BE IMPLIED FOR ANY OTHER USE. ADDITIONAL INFORMATION MAY BE OBTAINED FROM MPEG LA, L.L.C. REFER TO [www.mpegla.com](http://www.mpegla.com).

For clarification purposes, this notice does not limit or inhibit the use of the software for normal business uses that are personal to that business which do not include (i) redistribution of the software to third parties, or (ii) creation of content compliant with the VIDEO STANDARDS technologies for distribution to third parties.

Attachment 2 – Subscription License Suites

Not applicable. Please refer to 21vianet Online Services Product Availability section.

Attachment 3 – The Standard Contractual Clauses (Processors)

Execution of the 21Vianet Customer Agreement by Customer includes execution of this Attachment 3, which is countersigned by 21Vianet. To opt out of the “Standard Contractual Clauses”, Customer must send the following information to 21Vianet in a written notice (under terms of the 21Vianet Customer Agreement):

* the full legal name of the Customer and any Affiliate that is opting out;
* if Customer has multiple 21Vianet Customer Agreements, the 21Vianet Customer Agreement to which the Opt Out applies; and
* a statement that Customer (or Affiliate) opts out of the Standard Contractual Clauses.

In countries where regulatory approval is required for use of the Standard Contractual Clauses, the Standard Contractual Clauses cannot be relied upon under European Commission 2010/87/EU (of February 2010) to legitimize export of data from the country, unless Customer has the required regulatory approval.

Beginning May 25, 2018 and thereafter, references to various Articles from the Directive 95/46/EC in the Standard Contractual Clauses below will be treated as references to the relevant and appropriate Articles in the GDPR.

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection, Customer (as data exporter) and 21Vianet n (as data importer, whose signature appears below), each a “party,” together “the parties,” have agreed on the following Contractual Clauses (the “Clauses” or “Standard Contractual Clauses”) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

**Clause 1: Definitions**

(a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

(b) 'the data exporter' means the controller who transfers the personal data;

(c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) 'the subprocessor' means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) 'the applicable data protection law' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) 'technical and organisational security measures' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

**Clause 2: Details of the transfer**

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 below which forms an integral part of the Clauses.

**Clause 3: Third-party beneficiary clause**

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

**Clause 4: Obligations of the data exporter**

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;

(b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 below;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

**Clause 5: Obligations of the data importer**

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,

(ii) any accidental or unauthorised access, and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11; and

(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

**Clause 6: Liability**

1. The parties agree that any data subject who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract of by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

**Clause 7: Mediation and jurisdiction**

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

**Clause 8: Cooperation with supervisory authorities**

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.

2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.

3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any sub-processor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

**Clause 9: Governing Law.**

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

**Clause 10: Variation of the contract**

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

**Clause 11: Subprocessing**

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.

2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.

4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

**Clause 12: Obligation after the termination of personal data processing services**

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

**Appendix 1 to the Standard Contractual Clauses**

**Data exporter**: Customer is the data exporter. The data exporter is a user of Online Services as defined in the section of the OST entitled “Data Protection Terms.”

**Data importer:** The data importer is 21Vianet, an operator of Microsoft Azure, Microsoft Dynamics 365, Office 365, and Microsoft Power BI services in China.

**Data subjects**: Data subjects include the data exporter’s representatives and end-users including employees, contractors, collaborators, and customers of the data exporter. Data subjects may also include individuals attempting to communicate or transfer personal information to users of the services provided by data importer.

**Categories of data**: The personal data transferred includes e-mail, documents and other data in an electronic form in the context of the Online Services.

**Processing operations**: The personal data transferred will be subject to the following basic processing activities:

**a. Duration and Object of Data Processing**. The duration of data processing shall be for the term designated under the applicable 21Vianet Customer Agreement between data exporter and the 21Vianet entity to which these Standard Contractual Clauses are annexed (“21Vianet”). The objective of the data processing is the performance of Online Services.

**b. Scope and Purpose of Data Processing**. The scope and purpose of processing personal data is described in the Security Practices and Policies section of the OST. Processing may take place in any jurisdiction where data importer or its sub-processors operate data centers and management/support facilities.

**c. Customer Data Access**. For the term designated under the applicable 21Vianet Customer Agreement data importer will at its election and as necessary under applicable law implementing Article 12(b) of the EU Data Protection Directive, either: (1) provide data exporter with the ability to correct, delete, or block Customer Data, or (2) make such corrections, deletions, or blockages on its behalf.

**d. Data Exporter’s Instructions**. For Online Services, data importer will only act upon data exporter’s instructions as conveyed by 21Vianet.

**e. Customer Data Deletion or Return**. Upon expiration or termination of data exporter’s use of Online Services, it may extract Customer Data and data importer will delete Customer Data, each in accordance with the OST applicable to the agreement.

**Subcontractors**: The data importer may hire other companies to provide limited services on data importer’s behalf, such as providing customer support. Any such subcontractors will be permitted to obtain Customer Data only to deliver the services the data importer has retained them to provide, and they are prohibited from using Customer Data for any other purpose.

**Appendix 2 to the Standard Contractual Clauses**

Description of the technical and organizational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c):

1. **Personnel**. Data importer’s personnel will not process Customer Data without authorization. Personnel are obligated to maintain the confidentiality of any Customer Data and this obligation continues even after their engagement ends.

2. **Data Privacy Contact**. The data privacy officer of the data importer can be reached at the following address:

 Shanghai Blue Cloud Network Technology Co., Ltd. (“21Vianet”)

 12-14F, Building 6, No.6 Jiuxianqiao Road, Beijing Electronics Zone, Chaoyang District

 Beijing 100015, China

3. **Technical and Organization Measures**. The data importer has implemented and will maintain appropriate technical and organizational measures, internal controls, and information security routines intended to protect Customer Data, as defined in the Security Practices and Policies section of the OST, against accidental loss, destruction, or alteration; unauthorized disclosure or access; or unlawful destruction as follows: The technical and organizational measures, internal controls, and information security routines set forth in the Security Practices and Policies section of the OST are hereby incorporated into this Appendix 2 by this reference and are binding on the data importer as if they were set forth in this Appendix 2 in their entirety.

Signature of 21Vianet appears on the following page.

**Signing the Standard Contractual Clauses, Appendix 1 and Appendix 2 on behalf of the data importer:**

Signature: Wing-Dar ker



Title: President

Shanghai Blue Cloud Technology Co., Ltd. (“21Vianet”)

12-14F, Building 6, No.6 Jiuxianqiao Road, Beijing Electronics Zone, Chaoyang District Beijing 100015, China

Attachment 4 – European Union General Data Protection Regulation Terms

21Vianet makes the commitments in these GDPR Terms, to all customers effective May 25, 2018. These commitments are binding upon 21vianet with regard to Customer regardless of (1) the version of the OST that is otherwise applicable to any given Online Services subscription or (2) any other agreement that references this attachment.

For purposes of these GDPR Terms, Customer and 21Vianet agree that Customer is the controller of Personal Data and 21Vianet is the processor of such data, except when Customer acts as a processor of Personal Data, in which case 21Vianet is a subprocessor. These GDPR Terms apply to the processing of Personal Data, within the scope of the GDPR, by 21Vianet on behalf of Customer. These GDPR Terms do not limit or reduce any data protection commitments 21Vianet makes to Customer in the Online Services Terms or other agreement between 21Vianet and Customer. These GDPR Terms do not apply where 21Vianet is a controller of Personal Data.

**Relevant GDPR Obligations: Articles 28, 32, and 33**

**1.** 21Vianet shall not engage another processor without prior specific or general written authorisation of Customer. In the case of general written authorisation, 21Vianet shall inform Customer of any intended changes concerning the addition or replacement of other processors, thereby giving Customer the opportunity to object to such changes. (Article 28(2))

**2.** Processing by 21Vianet shall be governed by these GDPR Terms under European Union (hereafter “Union”) or Member State law and are binding on 21Vianet with regard to Customer. The subject-matter and duration of the processing, the nature and purpose of the processing, the type of Personal Data, the categories of data subjects and the obligations and rights of the Customer are set forth in the Customer’s licensing agreement, including these GDPR Terms. In particular, 21Vianet shall:

**(a)** process the Personal Data only on documented instructions from Customer, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by Union or Member State law to which 21Vianet is subject; in such a case, 21Vianet shall inform Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;

**(b)** ensure that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

**(c)** take all measures required pursuant to Article 32 of the GDPR;

**(d)** respect the conditions referred to in paragraphs 1 and 3 for engaging another processor;

**(e)** taking into account the nature of the processing, assist Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer’s obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR;

**(f)** assist Customer in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR, taking into account the nature of processing and the information available to 21Vianet;

**(g)** at the choice of Customer, delete or return all the Personal Data to Customer after the end of the provision of services relating to processing, and delete existing copies unless Union or Member State law requires storage of the Personal Data;

**(h)** make available to Customer all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by Customer or another auditor mandated by Customer.

21Vianet shall immediately inform Customer if, in its opinion, an instruction infringes the GDPR or other Union or Member State data protection provisions. (Article 28(3))

**3.** Where 21Vianet engages another processor for carrying out specific processing activities on behalf of Customer, the same data protection obligations as set out in these GDPR Terms shall be imposed on that other processor by way of a contract or other legal act under Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the GDPR. Where that other processor fails to fulfil its data protection obligations, 21Vianet shall remain fully liable to the Customer for the performance of that other processor's obligations. (Article 28(4))

**4.** Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Customer and 21Vianet shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk, including inter alia as appropriate:

**(a)** the pseudonymisation and encryption of Personal Data;

**(b)** the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;

**(c)** the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and

**(d)** a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing. (Article 32(1))

**5.** In assessing the appropriate level of security, account shall be taken of the risks that are presented by processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise processed. (Article 32(2))

**6.** Customer and 21Vianet shall take steps to ensure that any natural person acting under the authority of Customer or 21Vianet who has access to Personal Data does not process them except on instructions from Customer, unless he or she is required to do so by Union or Member State law. (Article 32(4))

**7.** 21Vianet shall notify Customer without undue delay after becoming aware of a personal data breach. (Article 33(2)). Such notification will include that information a processor must provide to a controller under Article 33(3) to the extent such information is reasonably available to 21Vianet.