

Product Schedule – Cloud Server

This Product Schedule (the “**Schedule**”), effective immediately and between Xband Enterprises, Inc. (“**Xband Enterprises**”) and _____ (“**You**”) is issued pursuant to and incorporates by reference the terms and conditions of the Master Service Agreement (the “**MSA**”) by and between Xband Enterprises and You.

1. Xband Enterprises Services

- “Cloud Server System” means the Xband Enterprises Cloud Server service made available to customers to provide Cloud Server machine instances they can use in their operations in exchange for Cloud Server fees.
- “Cloud Server” means Your unique virtual machine instance available to you in exchange for the Cloud Server Fees.
- “Cloud Server Fees” means the fees for Your Cloud Server the server instance for the monthly billing period in which the failure occurred.
- “vCPU” means virtual CPU resource assigned to the Cloud Server virtual machine instance.
- “Memory” means the memory resource assigned to the Cloud Server virtual machine instance.
- “Storage” means the storage resource assigned to the Cloud Server virtual machine instance.
- “Server Migration” is a chargeable service assessed on creation of a server designated as a target for
 - customer environment migration.
- “Backup X week GB” is a retention policy for the backup of a Cloud Server virtual machine instance.
- “MS SQL XYZ” means a product from the Microsoft SQL family of products, available for you to use on the Cloud Server virtual machine instance under the terms and conditions outlined below.
- “Additional IP address” means an additional public IP address that can be assigned to the Cloud Server virtual machine instance.
- “VPN Tunnels” means the ability to set VPN tunnels within the virtual network defined for the account where the Cloud Server virtual machine instance resides.
- “Additional Bandwidth fee” is a fee assessed for amount of outbound traffic in GB the Cloud Server virtual machine instance generated per month.

2. Restrictions

You shall not, for yourself or through any affiliate, agent, or other third party, extract images, software, or commercial licenses of Cloud Server machine instances outside of the Cloud Server System when those images have commercial software add-ons containing licenses provided by Xband Enterprises for the software to operate properly.

Xband Enterprises has the right during the term of the MSA, at its own expense and not more than once each calendar year, to audit Your processes, procedures, records, and other documentation relevant to establish Your compliance with the restrictions in this Section 2; provided that: (a) any such inspection and audit will be conducted at Your place of business during regular business hours with reasonable notice of

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the audit, in such a manner as not to interfere with Your normal business activities, and (b) if any audit should disclose a noncompliance by You, then You shall promptly take such actions as necessary to comply with this Section 2 and Xband Enterprises reserves the right to terminate the MSA or this Schedule immediately due to Your material breach.

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3. Customer Pricing

Details of service specific pricing as negotiated between You and Xband Enterprises can be accessed via the Host Pilot or other Xband Enterprises provided web portal.

4. General Terms

All capitalized terms in this Schedule shall have the same meaning as set forth in the MSA, unless defined herein. In the event of a conflict or inconsistency between the terms of the MSA and the terms of this Schedule, the latter shall supersede and govern.

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1 APPENDIX A. MICROSOFT SOFTWARE USE – TERMS AND CONDITIONS

This document (hereinafter, “Appendix A”) concerns Your use of Microsoft software, which includes computer software provided to You by Xband Enterprises as described below, and may include associated media, printed materials, and “online” or electronic documentation (individually or collectively “Licensed Products”). Xband Enterprises does not own the Licensed Products and the use thereof is subject to certain rights and limitations of which Xband Enterprises needs to inform You. Your right to use the Licensed Products is subject to Your agreement with Xband Enterprises, and to Your understanding of, compliance with and consent to the following terms and conditions, which Xband Enterprises does not have authority to vary, alter or amend.

DEFINITIONS.

For purposes of this Appendix, the following definitions will apply:

“**Client Software**” means software that allows a Device to access or utilize the services or functionality provided by the Server Software.

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

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

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

2. **OWNERSHIP OF LICENSED PRODUCTS.** The Licensed Products are licensed to Xband Enterprises from an affiliate of the Microsoft Corporation (“Microsoft”). All title and intellectual property rights in and to the Licensed Products (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text, and “applets” incorporated into the Licensed Products) are owned by Microsoft or its suppliers. The Licensed Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Licensed Products does not transfer any ownership of Licensed Products or any intellectual property rights to You.
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4. **ANTI-PIRACY.** You must not engage in the manufacture, use, distribution or transfer of counterfeit, pirated or illegal software. You may not distribute or transfer Licensed Products to any party that You know is engaged in these activities. You must report to Microsoft any suspected counterfeiting, piracy or other intellectual property infringement in computer programs, manuals, marketing materials or other materials owned by Microsoft, its Affiliates and/or its licensors as soon as You become aware of it. You will cooperate with Microsoft in the investigation of any party suspected of these activities.

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5. **USE OF CLIENT SOFTWARE.** You may use the Client Software installed on Your Devices by Xband Enterprises only in accordance with the instructions, and only in connection with the services, provided to You by Xband Enterprises. The terms of this Appendix A permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during Your use of the Client Software.
6. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the services provided to You by Xband Enterprises, You may have access to certain “sample,” “redistributable” and/or software development (“SDK”) software code and tools (Individually and collectively “Redistribution Software”). **YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS (“SPUR”) APPLICABLE TO XBAND ENTERPRISES, WHICH TERMS MUST BE PROVIDED TO YOU BY XBAND ENTERPRISES.** Microsoft does not permit You to use any Redistribution Software unless You expressly agree to and comply with such additional terms, as provided to You by Xband Enterprises.
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9. **NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute Licensed Products to any third party, and You may not permit any third party to have access to and/or use the functionality of the Licensed Products.
10. **TERMINATION.** Without prejudice to any other rights, Xband Enterprises may terminate Your rights to use the Licensed Products if You fail to comply with these terms and conditions. In the event of termination or cancellation, You must stop using and/or accessing the Licensed Products, and destroy all copies of the Licensed Products and all of their component parts.
11. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** ANY WARRANTIES, LIABILITY FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY XBAND ENTERPRISES AND NOT BY MICROSOFT OR ITS AFFILIATES OR SUBSIDIARIES.
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13. **NOT FAULT TOLERANT.** THE LICENSED PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE Licensed Products COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, PROPERTY OR ENVIRONMENTAL DAMAGE.
14. **EXPORT RESTRICTIONS.** The Licensed Products are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and national laws that apply to the Licensed Products, including U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issue by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.

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DISCLOSURE OF INFORMATION. You hereby consent to Xband Enterprises providing information regarding Your Account to Microsoft to the extent it is required to do so under the terms of its license agreement with Microsoft.

15. **LIABILITY FOR BREACH.** In addition to any liability You may have to Xband Enterprises, You agree that You will also be legally responsible directly to Microsoft for any breach of these terms and conditions.