

EXHIBIT 1



February 27, 2014

SENT VIA EMAIL

Marc Touitou
CIO of San Francisco
Director of Department of Technology
City and County of San Francisco, Department of Technology
One South Van Ness, 2nd Floor
San Francisco, CA 94103
Marc.Touitou@sfgov.org

RE: Cloud Vantage Services Managed Deployment: Tenant Migration Exchange Statement of Services: Services Letter Agreement

Dear Mr. Touitou

The purpose of this agreement is to describe the scope of the gratuitous services Microsoft Corporation ("we", "us", or "our") will provide to the **City and County of San Francisco** ("you" or "CCSF") and to properly document that the provision of these services does not create a legal or moral obligation for you to pay us for such services. We waive any and all entitlement to compensation for services performed under this agreement. It is our intent that this agreement, including Attachments, be in compliance with applicable laws and regulations with respect to gratuitous services. It is specifically understood that all services and service deliverables provided under this agreement are for the sole benefit and use of **City and County of San Francisco** and are not provided to or for the benefit of any individual government employee.

We will provide the services described in Attachment A, "Scope of Work." We may, in our sole discretion, reduce the scope of work and alter the period of performance provided under this agreement. The Terms and Conditions in Attachment B are part of this agreement and apply to the services and service deliverables provided under this agreement.

If the terms of this agreement are acceptable to you, please sign in the space provided below and return to me.

Sincerely,

40 
David Gallagher
Director of Contracts

ACCEPTED AND AGREED.

City and County of San Francisco

By: _____

Title: _____

Date: _____

ATTACHMENT A "SCOPE OF WORK"

I. Introduction & Tasks

Microsoft Consulting Services (MCS) will perform the services identified in the Exhibit A, Statement of Work entitled: Cloud Vantage Services Managed Deployment: Tenant Migration Exchange Statement of Work ("SOW") which is attached hereto and incorporated by this reference for **the City and County of San Francisco**

II. Assumptions

The **City and County of San Francisco** personnel will be available to work with MCS to provide access to relevant data to facilitate timely completion of the tasks by MCS.

III. Staffing and Gratuitous services allocation

These gratuitous services do not include fees for products. Any changes to the project will be governed under the Change Management Process outlined in the Statement of Work. MCS plans to staff the engagement with MCS Resources.

<i>Milestone</i>	<i>Description</i>	<i>Total Gratuitous Services</i>
1	Deliver services described in the Cloud Vantage Services Managed Deployment: Tenant Migration Exchange Statement of Work	\$133,000.00 (inclusive all fees, expenses.)
Total Gratuitous Services to not exceed		\$133,000.00

IV. Period of Performance.

Services under this agreement will begin on or about after the date on page 1 is executed between the parties. The Expiration Date of this agreement is June 30, 2014 or such later date as mutually agreed to in writing by the parties.

ATTACHMENT B - TERMS AND CONDITIONS

1. Definitions. In this agreement, the following definitions apply:

"affiliate" means (i) with regard to you, any other agency, office, bureau, department, or other entity of the United States Government; and (ii) with regard to us, any legal entity that we own, which owns us, or which is under common ownership with us.

"contractor(s)" means any third party supplier or other provider of computer technology or related services;

"developments" means any computer code or materials (other than products, fixes or pre-existing work) developed by us or in collaboration with you which is provided to you in the course of performance of a statement of services;

"fixes" means product fixes, modifications or enhancements or their derivatives that we either release generally, (such as commercial product service packs) or that we provide to you when performing services (such as workarounds, patches, bug fixes, beta fixes and beta builds);

"open source license terms" means license terms that require computer code to be generally (i) disclosed in source code form to third parties; (ii) licensed to third parties for the purpose of making derivative works; or (iii) redistributable to third parties at no charge;

"pre-existing work" means computer code or materials (other than products and fixes) developed or otherwise obtained independently of the efforts of a party under a statement of services;

"product" means any computer code, web-based services, or materials comprising commercially released, pre-release or beta products (whether licensed for a fee or no charge) and any derivatives of the foregoing we make available to you for license which is published by us, our affiliates, or a third party;

"sample code" means software code provided by us for the purposes of illustration;

"service deliverables" means any computer code or materials, other than products or fixes that we leave with you at the conclusion of our performance of services;

"services" means all support, consulting and other services or advice, including any resulting deliverables provided to you under the terms and conditions of this agreement;

"statement of services" means the Scope of Work specified in Attachment A, including any amendment thereto.

2. Ownership and License

Ownership and License

a. Consulting services

- (1). Product.** All products related solutions and fixes provided under a statement of services shall be licensed according to the terms of the license agreement packaged with or otherwise applicable to such product. You are responsible for paying any licensing fees associated with commercial items.

- (2). **Pre-existing work.** All pre-existing work will remain the sole property of the party providing the pre-existing work. During the performance of services, each party grants to the other party (and our contractors as necessary) a temporary, non-exclusive license to use, reproduce and modify any of its pre-existing work provided to the other party solely for the performance of such services. Except as may be otherwise explicitly set forth in a statement of services, upon payment in full, we grant you a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify (if applicable) our pre-existing work in the form delivered to you as part of the service deliverables, only for your internal governmental purposes. The perpetual license to our pre-existing work that we leave to you at the conclusion of our performance of the services is conditioned upon your compliance with the terms of this agreement and the statement of services.
- (3). **Developments.** Except as may be otherwise explicitly set forth in a statement of services, upon payment in full, we grant you joint ownership in the developments. You agree to exercise your rights for your internal governmental purposes only and you will not resell or distribute the developments to any third party. Each party will be the sole owner of any modifications that it makes based upon the developments.

b. Product support services

- (1) **Materials.** All rights in any materials developed by us (other than software code) and provided to you in connection with product support services shall be owned by us except to the extent such materials constitute your pre-existing work. Upon payment in full, we grant you a non-exclusive, perpetual, fully paid-up license to use, reproduce and modify the materials solely for your internal governmental operations and without any obligation of accounting or payment of royalties.
- (2) **Sample Code.** We grant you a nonexclusive, perpetual, royalty-free right to use and modify any sample code and to reproduce and distribute the object code form of the sample code, provided that you agree: (i) to not use our name, logo, or trademarks to market your software product in which the sample code is embedded; (ii) to include a valid copyright notice on your software product in which the sample code is embedded; and (iii) to be completely responsible for any costs or damages that arise or result from the use or distribution of the sample code.

c. General ownership and license provisions.

- (1). **Affiliates rights.** Except as may be otherwise explicitly set forth in a statement of services, you may sublicense rights to the services deliverables granted hereunder to your affiliates, but you or your affiliate(s) may not further sublicense these rights. Any sublicense of the service deliverables as permitted by this section must be consistent with the license terms of this agreement.
- (2). **Open source license restrictions.** Because certain third party software is subject to open source license terms, the license rights that each party has granted to any computer code (or any intellectual property associated therewith) do not include any license, right, power or authority to incorporate, modify, combine and/or distribute that computer code with any other computer code in a manner which would subject the other's computer code to open source license terms.

Furthermore, each party warrants that it will not provide or give to the other computer code that is governed by open source license terms.

(3). **Reservation of rights.** All rights not expressly granted in this Section are reserved.

4. Restrictions on use. You may not:

- a) Rent, lease, lend, host, or otherwise distribute service deliverables or fixes, except as otherwise provided in a statement of services; or
- b) Reverse engineer, de-compile or disassemble service deliverables or fixes, except to the extent expressly permitted by applicable law despite this limitation.

Any product, fixes and service deliverables licensed under this agreement are subject to U.S. export jurisdiction. You must comply with all domestic and international export laws and regulations that apply to the products, fixes and service deliverables. Such laws include restrictions on destinations, end-users, and end-use. For additional information, see <http://microsoft.com/exporting>.

5. Supportability. We may add support for new products or discontinue support for existing products from time-to-time. If we discontinue support for a product, we will inform you six months in advance of the discontinuation by posting the information at <http://support.microsoft.com> or any successor site. If we sell a product to another company, we will give you notice of the sale and at the time of such notice will either (i) arrange for the other company to continue the support; or (ii) continue support ourselves for 90 days to give you time to make alternative arrangements.

There may be cases where your implementation of our products cannot be effectively supported. As part of providing the support services, we will notify you if we reach that conclusion. If you do not modify the implementation to make it effectively supportable within 30 calendar days after the notice, we will not be obligated to provide additional support services for that implementation, however we will continue to provide support for your other supportable implementations covered by the statement of services.

For statements of services for product support, we will use commercially reasonable efforts to provide the support services for those products covered in the statement of services, provided they are validly licensed by you.

6. Confidentiality. Subject to the trade secret and public records laws of your state:

a. Confidential information. Confidential information means information marked or otherwise identified in writing by a party as proprietary or confidential or that, under the circumstances surrounding the disclosure, ought in good faith to be treated as proprietary or confidential. It includes, but is not limited to, non-public information regarding either party's products, features, marketing and promotions, and the terms of this agreement.

Confidential information does not include information which: (i) the recipient developed independently; (ii) the recipient knew before receiving it from the other party; or (iii) is or subsequently becomes publicly available or is received from another source, in both cases other than by a breach of an obligation of confidentiality.

b. Use of confidential information. For a period of five years after initial disclosure, neither party will use the other's confidential information without the other's written consent except in furtherance of this relationship or as expressly permitted by this agreement or disclose the other's confidential information, except (i) to obtain advice from legal or financial consultants, or (ii) if compelled by law, in which case the party compelled to make the disclosure will use its best efforts to give the other party notice of the requirement so that the disclosure can be contested.

Each party will take reasonable precautions to safeguard the other's confidential information. Such precautions will be at least as great as those each party takes to protect its own confidential information. Each party may disclose the other's confidential information to its employees, consultants or contractors only on a need-to-know basis, provided that such employees, consultants or contractors are subject to confidentiality obligations no less restrictive than those

contained herein. When confidential information is no longer necessary to perform any obligation under any statement of services, each of us will return it to the other or destroy it at the other's request.

Either party may provide suggestions, comments or other feedback to the other with respect to the other's products and services. Feedback is voluntary and the party receiving feedback may use it for any purpose without obligation of any kind except that the party receiving feedback will not disclose the source of feedback without the consent of the party providing it.

d. Cooperation in the event of disclosure. Each party will immediately notify the other upon discovery of any unauthorized use or disclosure of the other party's confidential information and will cooperate in any reasonable way to help the other regain possession of the confidential information and prevent further unauthorized use or disclosure.

e. Knowledge base. We may use any technical information we derive from providing services related to our products for problem resolution, troubleshooting, product functionality enhancements and fixes, for our knowledge base. We agree not to identify you or disclose any of your confidential information in any item in the knowledge base.

7. Warranty.

a. Services. We warrant that the services will be performed with professional care and skill.

b. NO OTHER WARRANTIES. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM AND EXCLUDE ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE PRODUCTS, FIXES, SERVICE DELIVERABLES, RELATED MATERIALS AND SERVICES. WE WILL NOT BE LIABLE FOR ANY SERVICE(S) OR PRODUCT(S) PROVIDED BY THIRD PARTY VENDORS, DEVELOPERS OR CONSULTANTS IDENTIFIED OR REFERRED TO YOU BY US UNLESS SUCH THIRD PARTY PRODUCTS OR SERVICES ARE PROVIDED UNDER WRITTEN AGREEMENT BETWEEN YOU AND US, AND THEN ONLY TO THE EXTENT EXPRESSLY PROVIDED IN THIS AGREEMENT.

8. Defense of infringement and misappropriation claims. We will defend you against any claims made by an unaffiliated third party that any service deliverable infringes its patent, copyright or trademark, or misappropriates its trade secret, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent):

You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance in defending the claim, and we will reimburse you for reasonable out of pocket expenses that you incur in providing that assistance. The terms "misappropriation" and "trade secret" are used as defined in the Uniform Trade Secrets Act.

Our obligations will not apply to the extent that the claim or adverse final judgment is based on (i) computer code or materials (e.g. specifications) you provide;; (ii) your use of a fix or service deliverable after we notify you to discontinue use due to such a claim; (iii) your combining a fix or service deliverable with a non-Microsoft product, data or business process; (iv) damages attributable to the value of the use of a non-Microsoft product, data or business process; (v) an alteration of fixes or service deliverables by someone other than us or our contractors; (vi) your distribution of the services deliverable to, or its use for the benefit of, any third party other than as permitted by an applicable statement of services; (vii) your use of our trademark(s) without express written consent to do so; or (viii) any trade secret claim that is as result of your acquiring a trade secret (a) through improper means; (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (c) from a person (other than us or our affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret. You will reimburse us for any costs or damages that result from these actions.

If we receive information concerning an infringement claim related to a fix or service deliverable, we may, at our expense and without obligation to do so, either (i) procure for you the right to continue to use the allegedly infringing fix or service deliverable as permitted by the applicable statement of services; or (ii) modify the fix or service deliverable or replace it with a non-infringing functional equivalent, to make it non-infringing, in which case you will stop using the allegedly infringing fix or service deliverable immediately. If as a result of an infringement claim, your use of a fix or service deliverable is enjoined by a court of competent jurisdiction, we will, at our option, either i) procure the right to continue its use; ii), modify it to make it non-infringing; iii) replace it with a non-infringing functional equivalent; or iv) refund the amount paid for the infringing fix or service deliverable and terminate your license for (or as applicable your ownership rights in) the infringing fix or service deliverable.

If any other type of third party claim is brought against you regarding our intellectual property, you must notify us promptly in writing. We may, at our option, choose to treat these claims as being covered by this Section 8. This Section 8 provides your exclusive remedy for third party infringement and trade secret misappropriation claims.

9. Limitations of liability.

a. Limitation on direct damages. There may be situations in which you have a right to claim damages or payment from us. Except as otherwise specifically provided in this paragraph, whatever the legal basis for your claims, our total liability (and that of our contractors) will be limited, to the maximum extent permitted by applicable law, to direct damages up to the amount you have paid under the applicable statement of services for the services giving rise to the claims. In the event services or any service deliverables are provided to you on a gratuitous or no-charge basis, our total liability to you will not exceed US\$5000. The limitations contained in this paragraph will not apply with respect to the following:

- (i) our obligations under Section 8;
- (ii) our liability for damages for gross negligence or willful misconduct, to the extent caused by us or our agent and awarded by a court of final adjudication; and
- (iii) our obligations under Section 6.

b. NO LIABILITY FOR CERTAIN DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY NOR THEIR AFFILIATES, SUPPLIERS OR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, DAMAGES FOR LOSS OF PROFITS OR REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION), ARISING IN CONNECTION WITH THIS AGREEMENT, ANY STATEMENT OF SERVICES, SERVICES, SERVICE DELIVERABLES, FIXES, PRODUCTS, OR ANY OTHER MATERIALS OR INFORMATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. THIS EXCLUSION OF LIABILITY DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATION, REDISTRIBUTION OR OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS.

c. Application. Except as specified expressly in this Section 9, the limitations and exclusions of liability for damages in this agreement apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory.

10. Insurance. We will procure and maintain the following insurance coverage at all times when performing services on your premises under this agreement via either commercial insurance, self-insurance, a combination of the two or any other similar risk financing alternative:

- a) Commercial General Liability covering bodily injury and tangible property damage liability with a limit of not less than U.S. \$2,000,000 each occurrence;
- b) Workers' Compensation (or maintenance of a legally permitted and governmentally-approved program of self-insurance) covering Microsoft employees pursuant to applicable state workers' compensation laws for work-related injuries suffered by our employees;
- c) Employer's Liability with limits of not less than U.S. \$1,000,000 per accident;

- d) Professional Liability/Errors & Omissions Liability covering damages arising out of negligent acts, errors, or omissions committed by us or our employees in the performance of services, with a limit of liability of not less than U.S. \$2,000,000 per claim; and
- e) Automobile Liability (if vehicles are brought on your premises or used in the performance of the services) with \$2,000,000 combined single limit per occurrence, for bodily injury and property damage combined covering owned, non-owned and hired vehicles.

We will provide you with evidence of coverage on request.

11. Miscellaneous.

a. Entire agreement. The agreement, including the attachments hereto, constitute the entire agreement concerning the subject matter hereof, and supersede any other prior and contemporaneous communications. This agreement can be changed only by an amendment signed by both parties.

b. Independent contractor. We provide our services as an independent contractor, and will be responsible for any and all social security, unemployment, workers' compensation and other withholding taxes for all of our employees. You and we are free to develop products independently without the use of the other's confidential information. Neither you nor we are obligated to restrict the future work assignments of people who have had access to confidential information. In addition, you, we and these people are free to use the information that these people remember related to information technology, including ideas, concepts, know-how or techniques, so long as confidential information of the other party is not disclosed in violation of this agreement in the course of such use. This use shall not grant either party any rights under the other's copyrights or patents and does not require payment of royalties or separate license.

c. Right to subcontract. We may use contractors to perform services and we will be responsible for their performance subject to the terms of this agreement.

d. Assignment. Neither party may assign this agreement or any portion of it without the written consent of the other..

e. Survival. The sections regarding ownership and license, restrictions on use, fees, confidentiality, no other warranties, defense of infringement and misappropriation claims, limitations of liability, term and termination, and miscellaneous of this agreement will survive any termination or expiration of this agreement or any statement of services.

f. Severability. If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend the agreement to give effect to the stricken clause to the maximum extent possible.

g. Waiver. No waiver of any breach of this agreement or statement of services will be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

h. Force Majeure. To the extent that either party's performance is prevented or delayed, either totally or in part, for reasons beyond that party's control, then that party will not be liable, so long as it resumes performance as soon as practicable after the reason preventing or delaying performance no longer exists.

i. Cost or Pricing Data/Commercial items. We will not, under any circumstances, accept work that would require the submission of cost or pricing data.

j. Non-exclusivity. This agreement (including any statement of services incorporating these terms) is non-exclusive. Nothing contained in it requires you to license, use or promote Microsoft software or services exclusively. You may, if you choose, enter into agreements with other parties to license, use or promote non-Microsoft software or services.

k. Applicable law; dispute resolution. This agreement together with the applicable statement of services will be governed by the laws of your state, without giving effect to its conflict of law provisions.

ATTACHMENT A

TENANT MIGRATION SERVICES STATEMENT OF WORK