

OUR CUSTOMER TERMS

CLOUD SERVICES – MICROSOFT CLOUD SERVICES

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Certain words are used with the specific meanings set out below or in the General Terms section of Our Customer Terms.

1 ABOUT THE MICROSOFT CLOUD SECTION

- 1.1 This is the Microsoft Cloud Services section of Our Customer Terms. Depending on the nature of the products and services you are receiving under this Cloud Services section, provisions in other parts of the Cloud Services section may apply.
- 1.2 Unless you have entered into a separate agreement with us which excludes them, the General Terms section of Our Customer Terms also applies. See section one of the General Terms of Our Customer Terms at <http://www.telstra.com.au/customer-terms/business-government/index.htm> for more detail on how the various sections of Our Customer Terms are to be read together.
- 1.3 The Microsoft Cloud Services are available through the Telstra Apps Marketplace. To use the Telstra Apps Marketplace, you need an internet connection, and need to create an account in that marketplace. You also need to meet any minimum system requirements required to use that marketplace.
- 1.4 The Telstra Apps Marketplace part of the Cloud Services section of Our Customer Terms (available at <https://www.telstra.com.au/customer-terms/business-government/cloud-services>) governs your use of the Telstra Apps Marketplace.
- 1.5 The Microsoft Cloud Services are not available to Telstra Wholesale customers or for resale.

2 SUBSCRIPTION TERMS (NFP SUBSCRIPTIONS PURCHASED BEFORE 12 APRIL 2024 AND ALL OTHER SUBSCRIPTIONS PURCHASED BEFORE 10 MARCH 2022)

Term

- 2.1 You must subscribe to the relevant Microsoft Cloud Service on a month to month basis.
- 2.2 Unless you or we cancel your Microsoft Cloud Service subscription, your subscription will automatically renew on a month to month basis.

Charges

- 2.3 Without limiting any other charges payable by you under Our Customer Terms, you agree that we will charge you on a monthly basis for all for your Microsoft Cloud Services User Licences.
- 2.4 We may adjust the pricing for Microsoft Cloud Services twice a year to reflect currency fluctuations with the US dollar. Any changes will take effect on 1 February and 1 September each year. We will provide you with information about any changes during the preceding calendar month, and

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we will publish any updated price list here:

<https://cloudsight.zendesk.com/hc/en-us/sections/360000693237-Pricing>.

2.5 We will notify you at least 30 days in advance of any other price changes.

Changing licence numbers

2.6 If you wish to decrease the number of User Licences under your subscription, you may do so in the Telstra Apps Marketplace administration portal.

2.7 If you wish to increase the number of User Licences for your Microsoft Cloud Service subscription, your customer administrator or Support Partner will be able to do this through the Telstra Apps Marketplace administration portal. The additional User Licences will be included in your existing subscription and will be co-terminus with your existing User Licences. The additional User Licences will be charged at the current price for that User Licence Type.

Termination

2.8 If you wish to terminate your subscription to any Microsoft Cloud Service, you may do so in the Telstra Apps Marketplace administration portal.

2.9 Without limiting anything else in Our Customer Terms, if you cancel your subscription to a Microsoft Cloud Service at any time before the end of the first month of your subscription, you agree that we are not required to refund the monthly fees and any other amount that you have prepaid on account or in advance for the Microsoft Cloud Service for the first month.

2.10 No early termination charges will apply in relation to a Microsoft Cloud Services (unless we specify otherwise).

3 SUBSCRIPTION TERMS (NFP SUBSCRIPTIONS PURCHASED FROM 12 APRIL 2024 AND ALL OTHER SUBSCRIPTIONS PURCHASED FROM 10 MARCH 2022)

Term

3.1 You may subscribe to Microsoft Cloud Services on:

- a) a month to month basis; or
- b) an annual basis.

3.2 The term will apply to all User Licences under the subscription.

3.3 Unless you notify us you do not wish your Microsoft Cloud Service subscription to renew, your subscription will automatically renew at the end of each term:

- a) monthly if you subscribe on a month to month basis; or
- b) for a further 12 months if you subscribe on an annual basis.

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- 3.4 You may have a mix of annual and monthly subscriptions for the same Microsoft Cloud Services, but each subscription will have its own renewal dates.
- 3.5 You have a period of 7 days from the time your order is placed or renewed in the Telstra Application Marketplace (**Change Window**) to cancel your monthly or annual subscription.
- 3.6 You can move from monthly to annual at any time, but you can only move from annual to monthly at the time of renewal.
- 3.7 Unless otherwise stated, add-ons must be purchased for the same term type as the underlying Microsoft Cloud Service.

Charges

- 3.8 For monthly subscriptions we will charge you per calendar month in advance.
- 3.9 For annual subscriptions you may elect to pay annually in advance or monthly in advance.
- 3.10 Charges will be pro-rated at the start and end of the subscription term.
- 3.11 We may adjust the pricing for Microsoft Cloud Services twice a year to reflect currency fluctuations with the US dollar. Any changes will take effect on 1 February and 1 September each year. We will provide you with information about any changes during the preceding calendar month, and we will publish any updated price list here <https://cloudsight.zendesk.com/hc/en-us/sections/360000693237-Pricing>.
- 3.12 We will notify you at least 30 days in advance of any other price changes.
- 3.13 User Licence fees are fixed for the subscription term including any User Licences added to the subscription during the subscription term but will move to the current pricing at the time of renewal.

Changing licence numbers

- 3.14 If you wish to increase the number of User Licences for your Microsoft Cloud Service subscription, your customer administrator or Support Partner will be able to do this at any time through the Telstra Apps Marketplace administration portal. Any additional User Licences will be included in your existing subscription and will be co-terminus with your existing User Licences. The Change Window does not apply to User Licences added mid-term. The additional User Licences will be charged at the same price as the other User Licences under the subscription.
- 3.15 You can decrease the number of User Licences under your subscription during the Change Window at renewal only. You may do so in the Telstra Apps Marketplace administration portal, and we will provide a pro-rate refund less any days used. If you want to reduce User Licences during the Change Window at the time of first purchase, you need to cancel the subscription and place a new order for the required User Licences.

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- 3.16 If you wish to decrease the number of User Licences under your subscription after the Change Window, changes will not take effect until renewal of your subscription term, and you will be charged for the full subscription term.

Termination

- 3.17 If you wish to terminate your subscription to any Microsoft Cloud Service, you may do in the Telstra Apps Marketplace administration portal.
- 3.18 If you cancel your subscription within the Change Window, we will provide a pro-rata refund less any days used.
- 3.19 Once the Change Window has expired any cancellation requests will be scheduled for the end of the current subscription term. You will be billed for the remainder of the subscription term and will continue to have access to your subscription until it expires.

4 MICROSOFT CLOUD SERVICE - TERMS OF USE

- 4.1 You must comply and ensure each of your Users comply with these Microsoft Cloud Service Terms of Use with respect to their access to and use of the Microsoft Cloud Services.
- 4.2 Except as otherwise permitted under these Microsoft Cloud Service Terms of Use, you must not and must ensure each of your Users do not access or use a Microsoft Cloud Service after the corresponding User Licence terminates, is cancelled or expires.

Definitions

- 4.3 In these Microsoft Cloud Service Terms of Use, the following words have the following special meanings:

Customer Data means all data (including all text, sound or image files and software) that is provided to us, our licensors or Microsoft by you (or on your behalf) through your or your Users' use of a Microsoft Cloud Service, including Output Content.

Input means all Customer Data that you provide, designate, select, or input for use by a generative artificial intelligence technology to generate or customise Output Content.

Metaprompts means instructions coded into a Microsoft Generative AI Service that provide directions to the service for generating Output Content.

Microsoft means Microsoft Regional Sales Corporation or a successor or assign.

Microsoft Cloud Service means any one of the Microsoft products that you purchase from us under the terms of this Microsoft Cloud Services section of Our Customer Terms.

Microsoft Customer Agreement means the Microsoft cloud agreement between you and Microsoft the terms of which you accept as a condition of

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using a Microsoft Cloud Service and which governs your use of that Microsoft Cloud Service.

Microsoft Generative AI Service means a Microsoft Cloud Service or feature of a Microsoft Cloud Service that uses generative artificial intelligence technologies to generate outputs.

Non-Microsoft Product means any software, data, service, website or other product licensed, sold or otherwise provided to you by an entity other than us or Microsoft, whether you obtained it via a Microsoft Cloud Service or elsewhere.

Output Content means any data, text, sound, video, image, code, or other content generated by a Microsoft Generative AI Service in response to Input.

User means any individual who accesses or uses a Microsoft Cloud Service under a Microsoft Customer Agreement.

User Licence means a User's subscription licence between you and Microsoft in respect of a specified Microsoft Cloud Service that is sold to you by us.

Amending the Terms of Use

- 4.4 We may update these Microsoft Cloud Service Terms of Use at any time. Subject to any right you may have to cancel your subscription to a Microsoft Cloud Service, you agree to the new terms by continuing to use the Microsoft Cloud Services after we notify you of them.

Microsoft and application of Microsoft Customer Agreement

- 4.5 A copy of your Microsoft Customer Agreement is available on <https://www.microsoft.com/licensing/docs/customeragreement>.
- 4.6 By placing an order with us for Microsoft Cloud Services, you accept the terms of the Microsoft Customer Agreement. For the avoidance of doubt, the Microsoft Customer Agreement regulates the relationship between you and Microsoft. You agree that acceptance of the terms of the Microsoft Customer Agreement is a condition of the use of the Microsoft Cloud Service.
- 4.7 You acknowledge that Microsoft Customer Agreement incorporates the Online Services Terms, the SLAs and the Offer Details for your Microsoft Cloud Services (as each term is defined in the Microsoft Customer Agreement).
- 4.8 If you choose to purchase Microsoft Cloud Services from us, we will be your Reseller (as that term is defined in your Microsoft Customer Agreement) in relation to those Microsoft Cloud Services.
- 4.9 You acknowledge and agree that Microsoft can, in its discretion, refuse to agree to licence you to use the Microsoft Cloud Service. We have no control over, or liability in relation to, any such refusal.

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- 4.10 Microsoft is responsible for provisioning the Microsoft Cloud Services based on the information that you provide to us. We will provide you with administrative log-in credentials for accessing your Microsoft Cloud Services that Microsoft provides to us.

Territorial restriction

- 4.11 You acknowledge and agree that we are only permitted to supply User Licences to you if you are located in Australia.

No Commercial Resale

- 4.12 Without limiting anything else in Our Customer Terms or your Microsoft Customer Agreement, you must not:
- a) offer any Microsoft Cloud Service as a service bureau; or
 - b) make any Microsoft Cloud Service available to third parties on a commercial basis.

Delegated Admin Privileges (DAP)

- 4.13 With Delegated Admin Privileges (DAP), we can administer your account on your behalf. We can perform tasks such as adding users, resetting passwords and adding domains. By default, you will have DAP enabled upon transacting Microsoft licenses through us.
- 4.14 If you elect to disable DAP within your Microsoft tenancy, it is important to acknowledge that:
- Orders that don't get provisioned or updated through to Microsoft but are being billed through the Telstra Apps Marketplace are the responsibility of the customer to raise with the support team to be remediated;
 - Support provided on your service will be limited based on us having no access to your Microsoft tenancy.

Granular Delegated Admin Privileges (GDAP)

- 4.15 With Granular Delegated Admin Privileges (GDAP), we can administer your account on your behalf. We can perform tasks such as adding users, resetting passwords, adding domains and requesting Microsoft support on your behalf.
- 4.16 The Global Admin of your tenancy will be requested to accept the GDAP relationship with us to enable us to provide support for your Microsoft services with us.
- 4.17 If you do not accept the GDAP relationship request or subsequently disable GDAP within your Microsoft tenancy, it is important to acknowledge that:
- a) when ordering Azure subscriptions, we will not be able to complete your order; and

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- b) support provided on your Microsoft services with us will be limited as we will have no access to your Microsoft tenancy. Any service levels and service credits will not apply.

Third party programs

- 4.18 The Microsoft Cloud Services may include third party programs. Additional terms may apply to your use of those third party programs which will be notified to you by us, our suppliers or through the Microsoft Cloud Services. You must comply with any such additional terms.
- 4.19 The Microsoft Cloud Services may also contain third party open source programs that Microsoft, not the third party, licenses to you under Microsoft's licence terms. Notices, if any, for the third party open source programs are included for your information only.

Technical Limitations

- 4.20 The Microsoft Cloud Services are provided subject to certain technical limitations which only allow you to use the Microsoft Cloud Services in certain ways. You must not work around any applicable technical limitation.
- 4.21 You must comply (and must ensure that your Users comply) with all applicable technical limitations. For further information regarding the applicable technical limitations for each Microsoft Cloud Service, refer to your Microsoft Customer Agreement (and the Online Service Terms incorporated by the Microsoft Customer Agreement).

Intellectual Property Rights

- 4.22 The rights granted under these Microsoft Cloud Service Terms of Use do not give you or Users any right to use or exploit our patents or other intellectual property rights in software or devices that access that device.
- 4.23 Without limiting anything else in Our Customer Terms, all intellectual property rights in documentation provided to you by us for training or education, or other information about the Microsoft Cloud Service are owned by us, Microsoft or our suppliers. You are granted no rights under such intellectual property rights and must not copy such documentation unless permitted by Our Customer Terms. Any person that has valid access to your computer or internal network may copy and use such documentation for your internal reference purposes.
- 4.24 Additional intellectual property right restrictions may be contained in your Microsoft Customer Agreement.

Reallocation of User Licences

- 4.25 Your rights to reassign User Licences (if any) will be as stated in your Microsoft Customer Agreement or otherwise communicated to you by Microsoft.
- 4.26 If you are permitted to reassign a User Licence from one User to another, you must remove the software or block access from the former User's device.

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Service suspension rights

4.27 Without limiting any other right we or Microsoft may have, we may suspend the supply of a Microsoft Cloud Service (in whole or in part):

- a) if Microsoft suspends or terminates your licence to use the Microsoft Cloud Services under the Microsoft Customer Agreement;
- b) if you or a User uses the Microsoft Cloud Service in a way that we believe:
 - (i) is fraudulent;
 - (ii) poses a direct or indirect threat to our security or network capability, functionality or integrity or anyone else's use of the Microsoft Cloud Service; or
 - (iii) is illegal or likely to be found illegal;
- c) in an emergency or if there are reasonable grounds to believe there is a threat or risk to the security of a Microsoft Cloud Service or integrity of our or our supplier's network;
- d) if we reasonably believe it is necessary to prevent unauthorised access to any customer's data;
- e) for Microsoft Cloud Service maintenance, if we reasonably believe it is necessary or desirable to do so to maintain or restore any part of the network;
- f) if we reasonably believe it is necessary to comply with a legal requirement; or
- g) if we reasonably believe that you have breached Our Customer Terms.

4.28 Excessive use of a Microsoft Generative AI Service may result in temporary throttling of your access to the Microsoft Generative AI Service.

4.29 If we suspend a Microsoft Cloud Service:

- a) we will provide advance notice before suspending the Microsoft Cloud Service, except where we or Microsoft reasonably believe an immediate suspension is required. We will provide at least 30 days' notice before suspending a Microsoft Cloud Service for non-payment;
- b) we will provide you with the reason for such suspension at your request;
- c) you and your Users may not be able to access any data through that Microsoft Cloud Service during the suspension period;
- d) the suspension will only apply to the minimum necessary portion of the Microsoft Cloud Service and will only be in effect for as long as is

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reasonably necessary to address the issues which gave rise to the suspension; and

- e) we may cancel your Microsoft Cloud Service subscription and instruct Microsoft to delete your Customer Data without any retention period, if you do not fully address the reasons for the suspension within 30 days after we suspend your online service.

4.30 Microsoft may disable your subscription including for legal or regulatory reasons and as set out in your Microsoft Customer Agreement. We have no control over, and no liability in relation to, any such disablement.

4.31 Without limiting anything else in Our Customer Terms, if:

- a) you cancel your subscription to a Microsoft Cloud Service in accordance with Our Customer Terms; or
- b) your subscription to a Microsoft Cloud Service is suspended (unless the suspension is at your request, for a material breach by the you, due to a system or network outage, or because we reasonably believe that you are a credit risk),

we will:

- c) except for the first month of the subscription term, refund to you any unused portion of your total monthly fees and any other amount you have prepaid on account or in advance for Microsoft Cloud Service which have not been provided to you; and
- d) deduct from your refund any amounts that you owe to us, such as charges you incurred before the cancellation.

Availability of Microsoft Cloud Services

4.32 You acknowledge that availability of the Microsoft Cloud Services, some service functionality, and language versions varies by country.

4.33 Your Users may only use the Microsoft Cloud Services and the functionality of the Microsoft Cloud Services that is made available in Australia. Links to information regarding availability are contained in the Online Service Terms that form part of your Microsoft Customer Agreement.

Responsibility for Your Accounts

4.34 Without limiting anything else in Our Customer Terms, you are responsible for:

- a) passwords for Users, if any;
- b) all activity with your Microsoft Cloud Service accounts, including that of Users; and
- c) dealings with third parties (other than our subcontractors) that take place through your Microsoft Cloud Service account or associated accounts.

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- 4.35 You must keep and ensure each User keeps your accounts and all non-public authentication credentials associated with your accounts (for example, passwords) confidential.
- 4.36 You must notify us right away about any possible misuse of your accounts or authentication credentials, or any security incident related to the Microsoft Cloud Service.

Updates

- 4.37 Microsoft may update or supplement the Microsoft Cloud Services licensed to you. You acknowledge and agree that we have no control of, and no liability in relation to, any such update or supplement, including where any such update or supplement would cause detriment to you.
- 4.38 If Microsoft modify the functionality or features of, or update, your Microsoft Cloud Service applications licensed to you as part of your Microsoft Cloud Service, you acknowledge that:
- a) some previously available functionality or features may change or may no longer be available to you and your Users; and
 - b) if you do not use the updated application or software, some or all features may not be available to you and your Users and the use of the application and software may be interrupted.
- 4.39 If Microsoft provides additional functionality for a Microsoft Cloud Service, additional licence terms and/or fees may apply. We will tell you beforehand if any additional terms or fees will apply to your ongoing use of a Microsoft Cloud Service.

Use of Other Web Sites and Services

- 4.40 You and each User may need to use Microsoft or Microsoft-approved web sites and services to access and use the Microsoft Cloud Service. You may also choose to use certain Microsoft applications that you obtain from the Microsoft Office store or other Microsoft marketplace. The terms of use that come with those sites, applications or services (as applicable) will apply to your use of them.

Third Party Content and Services

- 4.41 To the extent permitted by law, we are not responsible for any third party content you or Users access directly or indirectly via the Microsoft Cloud Service.
- 4.42 You are responsible for your dealings and any dealings of Users with any third party (including advertisers) related to the Microsoft Cloud Service (including the delivery of and payment for goods and services).

Non-Microsoft Products

- 4.43 Your use of any Non-Microsoft Product will be governed by separate terms between you and the third party providing that Non-Microsoft Product.

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- 4.44 You understand that neither we nor Microsoft assume any responsibility or liability whatsoever for the Non-Microsoft Product.
- 4.45 You are solely responsible for any Non-Microsoft Product that you install or use with the Microsoft Cloud Service. We are not a party to and are not bound by any terms governing your use of any Non-Microsoft Product.
- 4.46 If you install or use any Non-Microsoft Product with the Microsoft Cloud Service, then you, not Microsoft or us, direct and control the installation and use of it in the Microsoft Cloud Service through your use of application programming interfaces and other technical means that are part of the Microsoft Cloud Service. We will not run or make any copies of such Non-Microsoft Product outside of our relationship with you.
- 4.47 If you install or use any Non-Microsoft Product with the online service, you may not do so in any way that would subject our or Microsoft's intellectual property or technology to obligations beyond those set out in Our Customer Terms.

Your materials

- 4.48 You may be able to submit Customer Data for use in connection with the Microsoft Cloud Service.
- 4.49 When you submit Customer Data for use in connection with any Microsoft Cloud Service that enables communication or collaboration with third parties, you acknowledge that those third parties may then be able to:
- a) use, copy, distribute, display, publish, and modify your Customer Data;
 - b) publish your name in connection with the Customer Data; and
 - c) facilitate others' ability to do the same.

Some Microsoft Cloud Services may offer functionality that restricts third parties' ability to do so. It is your responsibility to make use of that functionality as appropriate for your intended use of the Customer Data.

- 4.50 You must secure all rights in your Customer Data necessary for us to provide you the Microsoft Cloud Service without violating the rights of any third party, or otherwise obligating Microsoft or us to you or any third party. Neither we nor Microsoft accepts or will accept any obligations set out in any separate license or other agreement that may apply to your Customer Data or use of the Microsoft Cloud Service
- 4.51 You are responsible for all Customer Data and other content sent using and/or included in the Microsoft Cloud Service.
- 4.52 As between you and us, you retain all right, title and interest in and to your Customer Data. We acquire no rights in Customer Data other than the rights you grant to us (if any) for the applicable Microsoft Cloud Service. This does not apply to software or services that we license to you.

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4.53 Microsoft's rights and obligations in relation to your Customer Data will be set out in your Microsoft Customer Agreement.

Use of Customer Data

4.54 You consent to us and Microsoft using and disclosing Customer Data:

- a) to ensure compliance by you and your Users with Our Customer Terms;
- b) as required or authorised by law;
- c) to protect our rights or the rights of others;
- d) to provide the Microsoft Cloud Service to you;
- e) to provide troubleshooting for the Microsoft Cloud Service;
- f) to improve the Microsoft Cloud Service; and/or
- g) as otherwise provided in Our Customer Terms.

4.55 You are responsible for responding to requests by a third party regarding your use of the Microsoft Cloud Service (such as a request to take down content under applicable legislation).

Acceptable Use

4.56 Without limiting anything else in Our Customer Terms, and in addition to any restrictions in your Microsoft Customer Agreement, you must not and must ensure each User does not:

- a) use the Microsoft Cloud Service in a way that is prohibited by any law, regulation or governmental order or decree in any relevant jurisdiction;
- b) use the Microsoft Cloud Service to try to gain unauthorised access to or disrupt any service, data, account or network, including by intentionally evading or disrupting restrictions in Metaprompts by any means;
- c) use the Microsoft Cloud Service to violate the rights of others;
- d) authorise any third party to access or use the Microsoft Cloud Service on your behalf (other than your employees, contractors or other persons authorised by you to use the Microsoft Cloud Service in connection with your business, as contemplated under Our Customer Terms or your Microsoft Customer Agreement);
- e) use any automated process or service to access or use the Microsoft Cloud Service such as a BOT, a spider or periodic caching of information stored by us or our suppliers;
- f) use the Microsoft Cloud Service to falsify any email header information (e.g. "spoofing"), send spam or distribute malware;

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- g) use the Microsoft Cloud Service to make available any offering designed to violate these terms (e.g. enable sending of spam, enable denial of service attacks etc.);
- h) use the Microsoft Cloud Service in a way that could harm the Microsoft Cloud Service or impair anyone else's use of it; or
- i) remove, modify, or tamper with any regulatory or legal notice or link that is incorporated into the Microsoft Cloud Service.

Microsoft Generative AI Services

4.57 You must not use the Microsoft Generative AI Services to:

- a) discover any underlying components of the models, algorithms, and systems, such as exfiltrating the weights of models;
- b) web scraping, web harvesting, or other data extraction methods to extract data from a Microsoft Generative AI Service; or
- c) create, train, or improve (directly or indirectly) a similar or competing product or service.

4.58 You agree Customer Data may be stored and processed outside of your tenant's geographic region unless service specific terms or product documentation for a given Microsoft Generative AI Service states otherwise.

No High Risk Use

4.59 You acknowledge that the Microsoft Cloud Service is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted.

4.60 We do not recommend that you or your Users use the Microsoft Cloud Service in any application or situation where the Microsoft Cloud Service's failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("**High Risk Use**").

4.61 Examples of High Risk Use include, but are not limited to: aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, or weaponry systems.

Electronic Notices

4.62 You agree that we may provide you and you Users with information about the Microsoft Cloud Service in electronic form. It may be via email to the address you provide when you sign up for the Microsoft Cloud Service, or through a web site that we identify. Notice via email is given as of the transmission date. As long as you use the Microsoft Cloud Service, you have the software and hardware needed to receive these notices.

4.63 You and any User must not use the Microsoft Cloud Service if you do not agree to receive these electronic notices.

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Privacy

- 4.64 Without limiting anything else in Our Customer Terms, you acknowledge that Customer Data (including Personal Information as defined in the *Privacy Act 1988 (Cth)*) collected through a Microsoft Cloud Service may be transferred and stored and processed in the United States, Australia, Singapore or any other country in which Microsoft or its service providers and their subcontractors maintain facilities.
- 4.65 By using a Microsoft Cloud Service, you consent to the transfer of Customer Data (including Personal Information as defined in the *Privacy Act 1988 (Cth)*) outside of Australia.
- 4.66 You must also obtain the consent of each person who provides Customer Data (including Personal Information as defined in the *Privacy Act 1988 (Cth)*) to you to:
- a) transfer that data to Microsoft and its agents and affiliates; and
 - b) permit its transfer, storage and processing in accordance with Our Customer Terms.
- 4.67 We agree to comply with the *Privacy Act 1988 (Cth)*, the *Telecommunications Act 1997 (Cth)*, the *Spam Act 2003 (Cth)* and the *Do Not Call Register Act 2006 (Cth)* in relation to Customer Data.
- 4.68 You agree that Customer Data (including Personal Information as defined in the *Privacy Act 1988 (Cth)*) collected through a Microsoft Cloud Service (or in relation to these Microsoft Cloud Service Terms and Conditions) may be used by Microsoft and its affiliates for the purposes of calculating amounts payable, tracking and monitoring usage of the Microsoft Cloud Services, support services and internal analysis.
- 4.69 Unless you otherwise notify us, by using the Microsoft Cloud Service, you consent and agree to provide the consent of each User to Microsoft and its affiliates contacting you for the purposes of the operation and delivery of the Microsoft Cloud Service, marketing or selling its products and services.

Retention of data

- 4.70 Upon termination or expiration of your subscription to a Microsoft Cloud Service, you must notify us whether you want Microsoft to either:
- a) disable your account and delete your Customer Data, in which case you will not be able to extract your Customer Data from your account; or
 - b) retain your Customer Data stored in the Microsoft Cloud Service in a limited function account for at most 90 days after the expiration or termination of your subscription ("Holding Period"), during which period you may extract your Customer Data from your User's accounts at your own cost.

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- 4.71 If you do not notify us to either disable your account or retain your Customer Data for the Holding Period, Microsoft will retain your Customer Data for the Holding Period.
- 4.72 If your Customer Data is retained during the Holding Period, at our request, you must reimburse us for any reasonable costs incurred by us as a result of the retention of your Customer Data.
- 4.73 You are advised to extract your data from your User's accounts as soon as possible after your subscription to such Microsoft Cloud Service expires or terminates because your accounts may be permanently deactivated after the end of the Holding Period.
- 4.74 You agree that after the end of the Holding Period, we may require Microsoft to permanently deactivate and disable your and your User's accounts and delete Customer Data in such accounts.
- 4.75 You understand that the Microsoft Cloud Service may not support retention or extraction of software provided by you to run in the Microsoft Cloud Service.

No Liability for Deletion of Customer Data

- 4.76 You agree that, other than as described above, neither we nor our suppliers have any obligation to continue to hold, export or return your Customer Data. Subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, you agree that neither we nor our suppliers have any liability whatsoever for deletion of your Customer Data pursuant to the above terms.

Regulatory requirements

- 4.77 Without limiting anything else in Our Customer Terms, we may modify or cancel a Microsoft Cloud Service where there is any current or future government requirement or obligation that subjects Microsoft to any regulation or requirement not generally applicable to businesses operating there, presents a hardship for Microsoft to continue operating the Microsoft Cloud Service without modification and/or causes Microsoft to believe that these Microsoft Cloud Service Terms of Use or the Microsoft Cloud Service may be in conflict with any such requirement or obligation.

Compliance with laws and regulations

- 4.78 You must comply with all laws and regulations applicable to your Customer Data and use of the Microsoft Cloud Services, including any laws and regulations applicable to you or your industry.

System requirements

- 4.79 You are responsible for having the platforms, systems, hardware and software for each User which is required for access to, and use of, the Microsoft Cloud Service as advised by Microsoft from time to time. You acknowledge that if you do not have such platforms, systems, hardware or software you and your Users may not be able to access or use the Microsoft

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Cloud Service. In such circumstances, you must still pay all fees and charges in relation to your subscription for the Microsoft Cloud Service.

Disclaimer

- 4.80 Without limiting any other disclaimers in Our Customer Terms and subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, you acknowledge that the information, software, products, and services included in or available through the Microsoft Cloud Service may include errors, including inaccuracies or typographical errors.
- 4.81 Except as expressly stated otherwise in this section of Our Customer Terms or otherwise agreed in writing between you and us, the Microsoft Cloud Service is provided to you by Microsoft under the Microsoft Customer Agreement, and we are not a party to the Microsoft Customer Agreement. To the extent permitted by law, subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, unless expressly stated:
- a) we (including our affiliates) do not, make any representations or warranties in relation to the Microsoft Cloud Service (including fitness for a particular purpose, merchantability, title and non-infringement of third party rights, or that the Microsoft Cloud Service will be uninterrupted or error free); and
 - b) we have no liability to you for damages, whether direct, indirect or consequential, in connection with any matter or issue that is covered under or governed by your Microsoft Customer Agreement (including the use by you or your Users of the Microsoft Cloud Service), except to the extent caused by our negligence.
- 4.82 To the extent there are any warranties in relation to the Microsoft Cloud Service which cannot be excluded by law, our liability for breach of such warranty will, to the extent permitted by law, be limited, at our option, to the supply of the Microsoft Cloud Service again or the payment of the cost of having the Microsoft Cloud Service supplied again.

Liability

- 4.83 Subject to the Australian Consumer Law provisions in the General Terms of Our Customer Terms, we will not be responsible or liable in any way for:
- a) unauthorised access to or alteration of your transmissions or data with, any material or data sent or received or not sent or received with, or any transactions entered into through or in connection with, the Microsoft Cloud Service;
 - b) any threatening, defamatory, obscene, offensive or illegal content or conduct of any other party or any infringement of another's rights, including intellectual property rights;
 - c) any content sent using and/or included in the Microsoft Cloud Service; and/or

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- d) the deletion, corruption or failure to store any messages or other content maintained or transmitted by the Microsoft Cloud Service, except to the extent our (or our contractors') negligence or breach of Our Customer Terms caused or contributed to the circumstances in paragraphs 4.83a) to 4.83d).

Indemnity

- 4.84 You agree to indemnify and hold us harmless from any loss, damage or expense (including reasonable legal fees) we suffer of incur that arises naturally (that is, according to the usual course of things) in connection with any claim, demand, or proceedings asserted by any third party due to or arising out of your or your User's breach of these terms or the Microsoft Customer Agreement, or conduct while using the Microsoft Cloud Service, except to the extent such a claim, demand or proceedings is caused or contributed to by us. We must also take reasonable steps to mitigate our loss, damage or expenses suffered or incurred in connection with such a claim, demand or proceedings.

What are the support services for Microsoft Cloud Services?

- 4.85 Support services include account set-up issues; sign-up issues; accounts and billing issues; "how to" articles and FAQs; and performance and service availability issues that are within our control.

What are our service levels for Microsoft Cloud Services?

- 4.86 Microsoft makes certain service level commitments to you under the Service Level Agreement that forms part of your Microsoft Customer Agreement.

Professional services

- 4.87 We can agree to provide you with professional services. If we do, these professional services may be ordered via the Telstra Apps Marketplace and governed by the terms of the Professional Services section of Our Customer Terms (<https://www.telstra.com.au/customer-terms/business-government/other-services/professional-services>).
- a) In respect of the Telstra Professional Services for Microsoft Dynamics CRM Online, in addition to the aforementioned Professional Services section of Our Customer Terms, the relevant provisions in clauses 4.1 to 4.6 below shall apply.
- b) In respect of the Microsoft 365 Bundles with professional services, the applicable professional services terms may be indicated in the relevant clauses of this section of Our Customer Terms (for instance, and without limitation, refer to clause 3.6 5.7 below in respect of professional services provided by Mural for the Microsoft365 Bundles).

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Microsoft Cloud Service features

- 4.88 The current features and pricing of each Microsoft Cloud Service is set out in the corresponding Critical Information Summary available at:
<https://www.telstra.com.au/help/critical-information-summaries/business>

5 MICROSOFT 365 BUNDLE

- 5.1 The Microsoft 365 Bundle is not available to new customers from 10 March 2022. Existing customers may continue to use the Microsoft 365 Bundle until further notice.

- 5.2 The Microsoft 365 Bundle comprises of either:

Choice A:

- a) a choice of Microsoft 365 Business Basic or Microsoft 365 Business Standard Suites; and
- b) a Telstra Apps Marketplace Domain Name (either a .com.au or a .net.au domain name).

or Choice B:

- a) a choice of either Microsoft 365 Business Basic or Microsoft 365 Business Standard Suites; and
- b) professional services in the form of set-up, domain configuration and mail migration services (such as for instance and without limitation Mural professional services) as described further in clause 5.5 below; and
- c) a Telstra Apps Marketplace Domain Name (either a .com.au or .net.au domain name).

- 5.3 In either of the two choices in clause 5.2 above, if you have an existing domain name you may use this with your Microsoft 365 Bundle and we will provide domain name administration services and host your domain name on a

Bundle features and terms

- 5.4 Application features: refer to individual Microsoft Cloud Services application features as set out in Telstra Apps Marketplace.
- 5.5 Professional services features: the professional services are designed to migrate and setup new Microsoft 365 email users. Services will include the migration of data (comprising of calendars, notes, tasks, contacts, journals, rules, and shared mailboxes), configuration on a desktop or laptop, and an email functionality test.
- 5.6 The Telstra Apps Marketplace Domain Name are the terms applicable to Australian Domains as defined and set out in
<https://www.telstra.com.au/content/dam/tcom/personal/consumer-advice/pdf/business-b/apps-domains.pdf>

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- 5.7 In respect of the professional services provided by Telstra sub-contractor Mural, the Telstra Apps Marketplace Mural terms shall apply, as found at this link: <https://www.telstra.com.au/content/dam/tcom/personal/consumer-advice/pdf/business-b/cloud-mural.pdf>

Term and early termination charge

- 5.8 You must subscribe to the Microsoft 365 Bundles for an initial term of 24 months (“**Initial Term**”).
- 5.9 Unless you or we cancel your Microsoft365 Bundle, at the end of the Initial Term your subscription will automatically renew on a month to month basis.
- 5.10 If your Microsoft 365 Bundle is cancelled or terminated (other than for our material breach) during the Initial Term, we may charge you an early termination charge equal to the actual costs and expenses that we have incurred or committed to in anticipation of providing the service to you and that cannot be reasonably avoided by us as a result of the termination, which will not exceed an amount calculated as either:
- a) in respect of Choice A at clause 5.2 above, \$4.00; or
 - b) in respect of Choice B at clause 5.2 above, the contracted price,
- in each case (i.e. (a) or (b)) multiplied by the number of remaining months in the Initial Term from the date of cancellation or termination.

Charges

- 5.11 Without limiting any other charges payable by you under Our Customer Terms, you agree that we will charge you on a monthly basis for all of your Microsoft 365 Bundles at the prices set out at <https://marketplace.telstra.com> (as updated by us from time to time).
- 5.12 Prices may be subject to change at our discretion and may either increase or decrease as needed.
- 5.13 If there are changes to the price and you are an existing customer, you will be notified before such changes are made. You agree to continue paying the updated amount unless you inform us of your change.

Eligibility

- 5.14 To be eligible for the Microsoft365 Bundles you must be eligible for the purchase of products through the Telstra Apps Marketplace.

User numbers

- 5.15 You may purchase a maximum of 300 User Licences for each of Microsoft 365 Business Basic and Microsoft365 Business Standard.
- 5.16 You can combine Microsoft 365 Bundles across Microsoft 365 Business Basic and Microsoft 365 Business Standard to a maximum of 600 User Licences.

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- 5.17 If you cancel your Microsoft 365 Bundle(s) you cannot later reapply for same the Microsoft 365 Bundle.
- 5.18 You can increase or decrease the number of User Licences for your Microsoft 365 Bundles, by using the:
- (a) Telstra Apps Marketplace Help Desk; or
 - (b) Telstra Apps Marketplace administration portal.
- 5.19 The additional User Licences will be included in your existing subscription and will expire at the same time as your existing User Licences. The additional User Licences will be charged on a pro-rata basis based on the subscription fees applicable at the date that you increase the User Licences.
- 5.20 Any reduction in the number of User Licences will take effect from the date of cancellation. You must maintain at least one User Licence.
- 5.21 Please note that professional services under b) will not be provided for additional users added after the initial purchase of the relevant bundle.

Renewal of Domain Names

- 5.22 For so long as you continue to acquire one of the Microsoft 365 Bundles we will, at your request, renew your domain name at no additional charge and continue to provide domain name administration services in accordance with the terms set out at the following link:
<https://www.telstra.com.au/content/dam/tcom/personal/consumer-advice/pdf/business-b/apps-domains.pdf>.

Subscribing to Microsoft Office 365 plans and applications

- 5.23 There may be restrictions on your ability to subscribe to:
- (a) Microsoft Office 365 plans; and/or
 - (b) standalone Microsoft Cloud Services; and
- you may contact the Telstra Apps Marketplace Helpdesk for further information regarding any applicable restrictions that may apply to you.

Additional cancellation and suspension rights

- 5.24 If you wish to cancel the Office 365 Bundles, you must:
- (a) tell us that you would like to cancel your Offer by:
 - (i) via the Telstra Apps Marketplace Help Desk; or
 - (ii) visiting the Telstra Apps Marketplace administration portal.
 - (b) transfer administration of your domain name to another provider in accordance with the provisions in the Telstra Apps Marketplace Domain Names section above.

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- 5.25 We will then cancel your User Licences and cease to provide domain name administration for your domain name (although your domain name registration will continue for the remainder of the registration period).

6 MICROSOFT DYNAMICS 365 SERVICES

- 6.1 Eligibility: Applications to purchase Microsoft Dynamics 365 Design Services or Microsoft Dynamics 365 Managed Services 365 (**Dynamics 365 Services**) are processed via and subject to the conditions and requirements of the Telstra Apps Marketplace.
- 6.2 Term: Microsoft Dynamics 365 Design Services may be purchased as a one-off or Microsoft Dynamics 365 Managed Services may be purchased on a plan for a fixed term.
- 6.3 Specifications: Dynamics 365 Services specifications including features, plans, and inclusions (and exclusions) will be those set out on the Telstra Apps Marketplace from time to time.
- 6.4 Early Termination Charges for Microsoft Dynamics 365 Services purchased before 10 March 2022: If you contract for Microsoft Dynamics 365 Managed Services for a fixed term and cancel your contract before the end of the term, Early Termination Charges (**ETCs**) shall apply. ETCs shall be an amount equal to the actual costs and expenses that we have incurred or committed to in anticipation of providing the service to you and that cannot be reasonably avoided by us as a result of the termination, which will not exceed an amount equal to 70% of the contracted monthly payments multiplied by the number of remaining months in the term. For Microsoft Dynamics 365 Services purchased from 10 March 2022 the termination restrictions in clause 3 apply.
- 6.5 Support: the Dynamics 365 Services support hours shall be 9am to 5pm in your local time zone. The number for you to call for Dynamics 365 Services support shall be advised to you at or around the time of purchase (for instance, in a welcome email). Any support escalations in relation to Dynamics 365 Services support shall be dealt with during business hours. (Business hours exclude public holidays and weekends.)
- 6.6 Other applicable terms: in addition to the Dynamics 365 Services terms above, the terms of the Professional Services section of Our Customer Terms (<https://www.telstra.com.au/customer-terms/business-government/other-services/professional-services>) shall apply.

7 MICROSOFT 365 TRIALS

- 7.1 Microsoft 365 trials are available to customers who have not previously paid for the applicable Microsoft 365 trial service(s).
- 7.2 Each eligible Microsoft 365 trial contains (and is limited to) 25 trial licenses for the applicable Microsoft 365 trial service(s).
- 7.3 Customers wishing to license and continue to use the applicable Microsoft 365 trial service(s) must licence the applicable Microsoft 365 trial services(s) before the end of their applicable Microsoft 365 trial. Customers who do not license, on an ongoing basis, the applicable Microsoft 365 trial

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service(s) will lose access to the associated Microsoft 365 trial service(s) applications and data at the end of their applicable Microsoft 365 trial.