



PRODUCT TERMS: MICROSOFT AZURE AND M365/O365

1. Product Terms and Definitions.

- 1.1. These Product Terms form part of the Agreement. Unless otherwise expressly defined in these Product Terms, capitalized terms used herein shall have the meaning ascribed to them elsewhere in the Agreement. In the event of conflict between any term herein and any term in the General Terms of Business, the term in the General Terms of Business shall take precedence, govern and control the subject matter.

2. Microsoft Cloud Agreement

- 2.1. By ordering Services in connection with self-managed Microsoft Azure (the “**Self-Managed Azure**”), managed Microsoft Azure (the “**Managed Azure**”), including Microsoft Azure Reserved Instances, if any, Microsoft M365 and/or Microsoft O365 (also individually or collectively referred to herein as the “**Microsoft Cloud Services**”), the Customer is deemed to have acknowledged and accepted Microsoft’s most recent volume licensing terms (herein referred to as “**Microsoft Cloud Agreement**”) available through <https://docs.microsoft.com/en-us/partner-center/agreements>, and then clicking on the “*Microsoft Customer Agreement*” link from there. Under the Microsoft Cloud Agreement, Aptum shall be the Authorized Reseller (as this term is defined in the Microsoft Cloud Agreement) of Microsoft Cloud Services. From time to time, when Microsoft updates the Microsoft Cloud Agreement, the Customer will be required to accept, by way of online click-through, the updated Microsoft Cloud Agreement within a time period prescribed by Microsoft. In this event, Aptum will endeavor to provide the Customer with a reasonable opportunity to accept the updated Microsoft Cloud Agreement; however, if the Customer has not affected such acceptance as required, then for the sole purpose of ensuring a continuity of the Services, the Customer hereby authorizes Aptum to accept the updated Microsoft Cloud Agreement on its behalf.
- 2.2. **Commencement Date** of the Services (a/k/a **Term Start Date**). Aptum shall endeavour to commence the Services hereunder as of the Commencement Date indicated on the applicable Order; however, the term of the Services, including the billing therefor shall commence as of the date that the Services are actually made available to the Customer as indicated by Microsoft’s authorized billing platform applicable to the Services (the “**Billing Agent**”).
- 2.3. In accordance with Article 4 of the Microsoft Cloud Agreement, the Customer appoints Aptum as its agent for the purpose of interfacing with and providing instructions to Microsoft as set forth thereunder. In connection with such appointment, Aptum shall reasonably interface with and provide instructions to Microsoft as instructed in writing by the Customer from time to time. For this purpose, the Customer shall inform Aptum in writing, as may be amended from time to time, the designated contact information of the Customer from whom Aptum may receive such written instructions..

3. Microsoft M365/O365 Licences

- 3.1. **Ordering.** Customer may order Microsoft M365 licenses and/or Microsoft O365 licenses (“**Microsoft Licences**”) through the Aptum Marketplace and may assign Microsoft Licences to Users through the respective Microsoft portal.
- 3.2. **Term.** Unless otherwise agreed to by the Parties in the applicable Order, the Microsoft Licences have an initial minimum pro-rated Term of one (1) month for the Base Subscription Element (the “**Term**”).
- 3.3. **Invoicing.** For the first month of the Term, the invoice shall be pro-rated based on the Commencement Date. Every month, Customer shall be invoiced in advance. It is Customer’s responsibility to keep up to date with payments. In the event of non-payment, Aptum may suspend or otherwise terminate the Customer’s Microsoft Licences.
- 3.4. **Pricing.** The current pricing for Microsoft Licences are as indicated in the Aptum Marketplace. Aptum shall make reasonable commercial efforts to align its pricing with Microsoft’s manufacturer suggested retail price (“**MSRP**”).

4. Microsoft Azure Subscriptions

4.1. Ordering Process

- (a) **Self-Managed.** Service subscriptions relating to Self-Managed Azure are self-served. To start the provisioning of such Services, Customer shall place an Order for an subscription therefor through Aptum Marketplace and select the items and configuration on the Azure Resource Management Portal ("**ARM Portal**"). Aptum may also order Microsoft Azure resources and software on behalf of the Customer on the ARM Portal to the extent that Aptum is granted the access to the Customer's Azure Resource Manager Portal by the Customer. Customer shall be responsible for managing its consumption of the Services relating to Self-Managed Azure, including cancellation thereof through the Aptum Marketplace.
- (b) **Managed.** Customer is responsible for ordering or removing the Services relating to Managed Azure from its Aptum Marketplace account, as well as ensuring the Azure resources are allocated to the correct subscription (Managed or Self-Managed).
- (c) **Threshold.** Initial maximum resource and credit thresholds will apply to Customer. Customer may request these thresholds be increased by Aptum. Such increase may be subject to a credit check of the Customer as reasonably determined by Aptum.

4.2. **Term.** Except for Services relating to Microsoft Azure Reserved Instances or as otherwise agreed to by the Parties in the applicable Order, Services are consumption based; and therefore, after the first (1st) month of the Services, the Services are not subject to a minimum term. Accordingly, Customer may cancel its Azure Services at any time.

4.3. **Administrative Privileges.** At the time of ordering the Services from Aptum (Managed and Self-Managed), the Customer shall designate Aptum as its Azure subscription agent or "AOBO" (as this term is defined in the Azure plan found at <https://docs.microsoft.com/en-us/partner-center/azure-plan-manage>); failure to make such designation may result in a suspension or termination of the Services.

4.4. Pricing

- (a) **Self-Managed.** The current pricing for Services relating to Self-Managed Azure is as indicated in the Aptum Marketplace and generally reflect Microsoft's MSRP.
- (b) **Managed.** The current pricing for Services relating to Managed Azure can be found in the ratecard which is obtainable from Customer's Aptum Sales Executive. The Aptum Marketplace does not provide pricing for such Services.

There are two pricing elements to the Services relating to Managed Azure:

- i. **Base Subscription Element** – this is billed at a fixed rate per month for each Service subscription;
- ii. **Variable Usage Element** – this is billed as a percentage of the Customer's Azure resource usage spend ("**Managed Microsoft Azure Consumption**"). The percentage billed is reduced as the overall Azure spend increases, building an automatic volume discount into the price structure.

4.5. **Invoicing.** Customer shall be invoiced monthly (based on the calendar month) in arrears for the aggregate consumption of the Services. Invoices shall be payable in accordance with Aptum's Terms of Business.

5. Microsoft Azure Reserved Instance terms

5.1. **Microsoft Azure Reserved Instances.** Customers may pre-purchase certain virtual machines in certain geographies for Services relating to Microsoft Azure Reserved Instance, as available, for a minimum commit term of either one (1) or three (3) year periods (each a "**Reserved Instance Term**"). A Reserved Instance Term is fixed at the time of reservation and the Fees therefor are paid monthly in advance by the Customer.

- 5.2. **Termination and Amendments to the Services.** Subject Microsoft's then current terms relating to Microsoft Azure Reserved Instances and the Customer paying the Fees for Aptum's Services and that of related third-party services providers, such as the Billing Agent, which are not refundable, and provided that the Parties have not agreed to otherwise in the Order (i.e. specified Term), the Customer may terminate and/or amend the Services relating to Microsoft Azure Reserved Instances as follows:
- 5.2.1 The Customer may request Aptum change an existing Microsoft Azure Reserved Instance for a new Microsoft Azure Reserved Instance of a different type or location, subject to the new Microsoft Azure Reserved Instance being of equal or greater value of the Fees (based on the original invoice) provided that the new Reserved Instance Term is equal to or greater than Reserved Instance Term remaining on the existing Microsoft Azure Reserved Instance being changed, subject to such Reserved Instance Term being one (1) or three (3) years. Aptum shall adjust the monthly invoice accordingly.
 - 5.2.2 The Customer may require Aptum to cancel a Microsoft Azure Reserved Instance on the Customer's behalf. A pro-rated refund of up to 25% of the Fees paid by the Customer (minus Fees payable to Aptum and related third-party service providers) will be credited back to the Customer, subject to a maximum amount not exceeding \$40,000 USD (or equivalent when converted into local currency) on refunds for any rolling 12-month period.
 - 5.2.3 If the Customer orders and administers certain aspects of the Services in relations to Microsoft Azure Reserved Instance through Aptum's customer portal, including exchanges and refunds for Azure reservations, then the Customer acknowledges and agrees that such Services shall be subject to Microsoft's *Self-service Exchanges and Refunds for Azure Reservations* (as may be updated from time-to-time by Microsoft) available at <https://learn.microsoft.com/en-us/azure/cost-management-billing/reservations/exchange-and-refund-azure-reservations>.
- 5.3. **Consumption.** Subject to any minimum monthly Fees commitment agreed to by the Parties, the Customer shall pay the Fees arising from its monthly consumption of cloud resources associated with the Services of Microsoft Azure Reserved Instance for the virtual machines IP's, storage, network traffic, and software licenses.
- 6. Customer Management Infrastructure (CMI).**
- 6.1. A CMI server is required to be active in the Customer's Managed Microsoft account in order to provide access and fulfill the Identity Management and Monitoring roles required for Aptum to provide Managed Azure Services and Microsoft Licences.
 - (a) The CMI server is for the exclusive use of Aptum for these roles and should not perform any other function.
 - (b) The CMI server will be managed and maintained by Aptum and will be subject to a regular security and critical update cycle, during which authentication and monitoring functions may be temporarily inhibited.
 - (c) The CMI server costs will be charged to the Customer's Managed Azure Services subscription as a consumed resource.
- 7. General Customer responsibilities**
- 7.1. Customer shall be responsible for managing and provisioning the Microsoft Licences and Azure Services through the Aptum Marketplace and for selecting the required volume. The Customer shall be responsible for Microsoft Licences and/or Services it orders hereunder.
 - 7.2. The Customer shall be responsible for preventing unauthorized access to the Services (including the consumption of cloud resources) by way of the Customer's technological infrastructure systems or its Users' access credentials therefor.
 - 7.3. **Training and Service Description.** Customers shall use the training and guidance made available for administrators to assist in correctly operating the Microsoft portal(s). Aptum's Service Guide should also be referenced for full information regarding what is included in Azure Services.
 - 7.4. **Back-up.** Prior to cancelling any Microsoft Licences and/or the Services, it is the Customer's responsibility to retain a copy of its data subject thereto. Aptum will not retain a copy or back-up of any data after Customer cancels its Microsoft Licences or Azure Services.