



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**” and the “**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 accepted 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 appointments, 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 Cloud Services

- 3.1. **Ordering.** Customer may order or renew Microsoft Cloud Services licenses (“**Microsoft Licence/s**”) through the Aptum Marketplace, Microsoft’s Cloud Services portal, including Microsoft’s Azure Resource Management portal as applicable (each may also be referred to herein as the “**Self-Serve Portal**”) or by arising a ticket with Aptum.
- 3.2. **Term.** The term of the Microsoft License(s) shall either be (a) agreed to by the Parties and set forth in a documented Order that is fully executed/signed by the Parties; or (b) as agreed to and selected by the Customer in the Self-Serve Portal (the “**Term**”). The Term of the Microsoft Licences are typically month-to-month, yearly or another fixed period greater than one (1) year.
- 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 Self-Serve Portal. Aptum shall make reasonable commercial efforts to align its pricing with Microsoft’s manufacturer suggested retail price (“**MSRP**”).



4. Reducing Microsoft Licenses.

4.1 Except for Microsoft Licenses ordered or renewed by way of a documented Order that is fully executed by the Parties, the number of Microsoft Licenses may be reduced as follows without early termination liability to the Customer:

- (a) **Self-Serve Portal:** Through the Self-Serve Portal, the Customer may (a) prior to the renewal of the Term, pre-schedule the number of Microsoft Licenses that will be licensed to it upon such renewal; or (b) reduce the number of Microsoft Licenses within seven (7) days after the renewal of the Term.
- (b) **Aptum Ticket:** Raise an Aptum ticket (a) at least seven (7) days prior to the renewal of the Term to pre-schedule the number of Microsoft Licenses that will be licensed to the Customer upon such renewal; or (b) within forty-eight (48) hours after the renewal of the Term specifying the number of Microsoft Licenses the Customer is seeking to remove from its Microsoft Cloud Services account.

4.2. Despite anything contrary herein or elsewhere in the Agreement, if the Customer reduces the number of Microsoft Licenses or cancels any Microsoft License during the Term, the Customer shall continue to be liable to Aptum for the payment of Fees associated therefor, including any penalties and/or charges levied against Aptum by Microsoft as a result thereof.

5. Microsoft Azure Subscriptions

5.1. Ordering Process

- (a) **Self-Managed.** Ordering Self-Managed Azure subscriptions are the responsibility of the Customer. To start the provisioning of the Services, the Customer shall place an Order for such subscription through the Aptum Marketplace and then select the items and configuration setting through the Microsoft Azure Resource Management portal. Aptum may also order Microsoft Azure resources and software on behalf of the Customer through the applicable Self-Serve Portal to the extent that it is requested by the Customer in writing and Aptum is granted the access to such portal by the Customer. Customer shall be responsible for managing its consumption of the Services, including cancellation thereof through the Self-Serve Portal. The Customer shall ensure that Azure resources are allocated to the correct subscription through the Microsoft Azure Resource Management portal.
- (b) **Managed.** The Customer is responsible for ordering and removing the Services relating to Managed Azure through the applicable Self-Serve Portals, as well as ensuring the Azure resources are allocated to the correct subscription.
- (c) **Threshold.** Initial maximum resource and credit thresholds will apply to the Customer. The Customer may request in writing to Aptum to have these thresholds increased. Such increase may be subject to a credit check of the Customer as reasonably determined by Aptum.

5.2. **Term.** Except for Services relating to Microsoft Azure Reserved Instances or as otherwise agreed to by the Parties in the applicable documented Order that is fully executed by the Parties, Services are generally consumption based; and therefore, after the first (1st) month of the Services, the Services are not subject to a minimum Term.

5.3. **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.

5.4. Pricing

- (a) **Self-Managed.** The current pricing for Services relating to Self-Managed Azure is as indicated in the Self-Serve Portal and generally reflects Microsoft’s MSRP.
- (b) **Managed.** The current pricing for Services relating to Managed Azure can be found on the rate-card which is obtainable from the Customer’s Aptum Sales Executive.

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 Services 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.
- 5.5. **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.
6. **Microsoft Azure Reserved Instance**
 - 6.1. **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 of the Services and the Fees therefor are paid monthly in advance by the Customer.
 - 6.2. **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>.
 - 6.3. **Consumption.** Subject to any minimum monthly Fees commitment agreed to by the Customer with Aptum, the Customer shall pay the Fees arising from its monthly consumption of cloud resources arising from the Microsoft Cloud Services, and if order by the Customer, the Fees for any managed and support services provisioned by Aptum as part of the Services.
7. **Customer Management Infrastructure (CMI).**
 - 7.1. A CMI server is required to be active in the Customer’s Managed Microsoft account in order to provide access and fulfil 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 by Aptum to perform such roles.
 - (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.

8. General Customer responsibilities

- 8.1. The Customer shall be responsible for managing and provisioning the Microsoft Licenses and Azure Services through the Self-Serve Portal, including the selecting of the number of Microsoft Licenses and the resources of the Services.
- 8.2. The Customer shall be responsible for safeguarding against unauthorized access to the Services (including the consumption of cloud resources) through the Customer's information technology systems, and by restricting and updating as appropriate its Users' access credentials for the Services.
- 8.3. **Training and Service Description.** Customers shall use the training and guidance made available for administrators to assist in correctly operating the Self-Serve Portal, including Aptum's applicable Service Guides (if any).
- 8.4. **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 to or stored on the Services. Aptum does not have access to and does not retain a copy or back-up of any Customer data subject to or stored on the Services.