



Magic IT Services
IT SUPPORT & CONSULTANCY

Microsoft Cloud Services Terms and Conditions

This set of terms and conditions allows Magic IT Services Ltd to provide our clients with Microsoft cloud services including Microsoft 365. This document should be considered in conjunction with our general terms and conditions.

V1.1 – 10th February 2023

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1. DEFINITIONS AND INTERPRETATION

In these conditions in connection with the supply of Microsoft Cloud services by Magic IT Services Ltd., the following words have the following meanings:

“Acceptable Use Policy” means the terms that apply to the use of the products available as published at <https://legal.office.com/en-us/docid12> which include terms which govern the Clients use of the products/services provided by Microsoft.

“Agreement” means the agreement between Magic IT Services Ltd and the Client for Microsoft Cloud Services.

“Client”, “You” or “Your” means a person who contracts with Magic IT Services Ltd for the supply of Microsoft Cloud Services and includes both a person whose name is on the order or on an email attached to which is an order, a person who places an order, and a person on whose behalf an order is placed or on whose behalf it appears and order is placed, and in any case each of their heirs, successors and assigns.

“Customer Data” means all data, including but not limited to text, sound, video or image files, and software that is provided to Magic IT Services Ltd. or Microsoft through use of the Online Service.

“Giacom” refers to Giacom World Networks Ltd.

“Microsoft” means Microsoft or relevant subsidiary.

“Microsoft Customer Agreement” means the Microsoft Customer Agreement as published at <https://www.microsoft.com/licensing/docs/customeragreement> .

“Microsoft SLA” means the commitments which Microsoft makes regarding delivery and/or performance of the Online Services published at <https://go.microsoft.com/fwlink/?linkid=272026> or at an alternative site identified by Microsoft from time to time.

“Minimum Term” means 12 months or as otherwise stated before purchase.

“NCE” means Microsoft’s New Commerce Experience, their latest evolution of the program for resellers to sell Microsoft cloud services to their clients.

“Online Services” means any of the Microsoft hosted Online Services which you have subscribed to under this Agreement, including but not limited to Office 365 Services, Microsoft Azure Services, Microsoft Azure Plans, Microsoft Dynamics 365 and other Microsoft Online Services.

“Order” means any order requested by you to us for goods or services in any form.

“Pay as you Go” a service provided by Microsoft directly or indirectly where the services are billed on a variable basis depending on the Client usage.

“Product” means any Online Service including any software.

“Software” means Software we provide for installation on your device as part of your Subscription or to use the Online Service.

“Subscription” means an enrolment for Online Services as provided under this Agreement.

“Quote” means a quote provided to you by us.

“Us”, “Our” or “We” means Magic IT Services Ltd and its heirs, successors and assigns.

In these conditions, unless the contrary intention appears:

Headings and words put in **bold** are for convenience of reference only and **do not affect the interpretation or construction** of these conditions.

2. OUR GENERAL TERMS AND CONDITIONS

- 2.1. All of the Terms in this Agreement are in addition to our General Terms and Conditions, which can be found at <https://www.magicitservices.co.uk/legal>
- 2.2. By signing this document, you also agree to those General Terms and Conditions.
- 2.3. For any terms that exist in both, the terms in this Agreement will override.

3. APPLICATIONS OF THESE CONDITIONS

- 3.1. Unless otherwise agreed by us in writing, these conditions are deemed incorporated in and are applicable to (and to the extent of any inconsistency will prevail over) the terms of every quote, order, plan, contract, or other arrangement in connection with the supply of Microsoft Cloud services by us to you.
- 3.2. The invalidity or enforceability of any one or more of the provisions of this agreement will not invalidate, or render unenforceable, the remaining provisions of this agreement.

4. RELATIONSHIP WITH MICROSOFT

- 4.1. We are authorised under the Microsoft Cloud Reseller Agreement to licence and grant the right to use the products. Our relationship with Microsoft is indirect and that of a reseller. We do not order from Microsoft directly and are therefore an independent contractor.
- 4.2. Our ability to grant you the right to use the Products is subject to your acceptance of the **Microsoft Cloud Agreement**. By entering into this Agreement, you are confirming that you have also read, understood and agree to the terms of the **Microsoft Cloud Agreement**.
- 4.3. You acknowledge and accept that we are the administrator for the purposes of the Subscription.
- 4.4. During the period of supply of Microsoft Cloud services by us to you, we will either add a Partner Relationship into your Microsoft 365 tenant for both ourselves and our distributor, Giacom, or we will request that you add the same by means of a link we will send to you. Not all administrative permissions are available with this Partner Relationship so we may either arrange for a separate Global Administrative login to be used by us, or use the tenant's main administrator login. All logins via our Partner Relationship or any Global Administrative login created by us are protected by multi-factor authentication to prevent unauthorised access.

5. PRODUCTS

- 5.1. We agree to grant you the right to use the Products which are detailed in the Quotation/Estimate in accordance with the terms of this Agreement.
- 5.2. All licences must be used in connection with your own personal or business use. You may not sublicense any product/services. You may not rent, lease, lend, resell, transfer or host the Product, or any portion thereof, to or for third parties except as expressly permitted in the Microsoft Online Service Terms.

- 5.3. You may not reverse engineer, decompile, disassemble, or work around technical limitation in the Product, except to the extent permitted by law. We use billing meters to produce a cost to you. You must not disable or circumvent any such mechanism.
- 5.4. You further accept that all licences are subject to any further restrictions imposed pursuant to the terms of the Microsoft Cloud Agreement.

6. FEES AND PAYMENT

- 6.1. Product and service fees are provided to you on our initial estimate.
- 6.2. We reserve the right to change product prices. If so, we will notify you of the changes which will become effective from the renewal date should you choose to renew. We aim not to increase prices mid-term unless costs increase by our distributors. Pricing from Microsoft is subject to change.
- 6.3. We reserve the right to charge additional invoices if pricing from Microsoft changes before the end of any billing periods agreed with you which may incorporate dates when Microsoft may change their pricing. For example, for a 3 or 6 month invoice in advance for monthly licences that may be changed during that period.
- 6.4. With services such as Microsoft Azure the monthly/yearly bill is produced depending on the storage/access used. For example, in month 1 you may only use 50GB of data however month 2 you may use 300GB. We will bill you 350GB or whatever the total amount comes to over the year period. Due to fluctuation dependant on your use the actual cost to you will vary and therefore we are unable to setup a fixed cost for these types of services.
- 6.5. Payments are due within 14 days of the invoice being generated or as detailed in our invoices to you.
- 6.6. Subscriptions under Microsoft's NCE program are available on either a monthly basis or annually on an up-front basis where payment must be received before the licences are initiated. Failure to pay for any annual licences before their term may lead to services being disabled.

7. TERMS INTRODUCED AS PART OF MICROSOFT'S NCE PROGRAM

- 7.1. Microsoft introduced the NCE program during 2022 which affects both new orders of cloud services and renewals.
- 7.2. Any new orders for cloud services are subject to the NCE terms as of 10th March 2022.
- 7.3. Under the previous legacy scheme, licences and payments were on a monthly basis, usually billed in arrears.
- 7.4. Under the NCE program, subscriptions are available from Magic IT Services Ltd on either a monthly or annual basis.
- 7.5. Mixing monthly and annual terms of the same product may result in different renewal dates based on the purchase date.
- 7.6. **For monthly subscriptions:**
 - 7.6.1. Pricing is billed at a premium over annual subscriptions.
 - 7.6.2. Subscriptions can be changed to annual subscriptions at a month end.

- 7.6.3. Subscriptions cannot be cancelled or downgraded until month end. This includes any changes to other Microsoft partners, such that licences also cannot be transferred to a new partner.
- 7.6.4. Subscriptions can be mixed between annual and monthly subscriptions.
- 7.6.5. Monthly subscriptions will automatically renew each month unless otherwise agreed by both yourself and Magic IT Services Ltd.
- 7.6.6. Reductions or cancellations of licences during a month may not be reflected until after the end of that month's invoice.
- 7.6.7. Rebates or credits will not be available for reductions or cancellations during the subscription period.

7.7. For annual subscriptions:

- 7.7.1. Subscriptions can be changed to monthly subscriptions only at a subscription year end.
 - 7.7.2. Subscriptions cannot be cancelled or downgraded until the subscription year end. This includes any changes to other Microsoft partners, such that licences also cannot be transferred to a new partner.
 - 7.7.3. Subscriptions can be mixed with monthly subscriptions for other products (you cannot have some licences for one product on monthly and some on annual).
 - 7.7.4. Annual subscriptions will automatically renew each year unless otherwise agreed by both yourself and Magic IT Services Ltd.
 - 7.7.5. Reductions or cancellations of licences during a year will only be reflected on the next year's up-front invoice.
 - 7.7.6. Rebates or credits will not be available for reductions or cancellations during the subscription period.
- 7.8. Non-profit (Charity) and educational contracts are currently not subject to NCE changes but may be incorporated in the future by Microsoft.

8. SUPPORT

- 8.1. We will support you for all Microsoft products. For Microsoft Cloud services as a Microsoft Partner, we can use Delegate administration to create support requests for our customers. Delegated administration is where a partner has a relationship with a customer, the partner user creates a support request On Behalf Of (OBO) their customer. The request is created on the customer tenant, by the partner user.
- 8.2. Setup, initial configuration and any email and data migration are included in our initial estimate. Further project work or anything other than basic account support will be charged at our usual rate; this may include installation of software on your computers or reconfiguration of your program settings.
- 8.3. Our separate service of "Microsoft 365 Management – User" which is now mandatory for new customers includes basic administration including: setup of additional users (outside of initial setup) and alterations to existing users, keeping your passwords encrypted on our services and password resets, help and instructions to setup your devices for email, OneDrive and Office software. These services are however subject to change. For any extended work required on

your behalf we may decide to charge at our usual rates. We will advise you of any such instances in advance of this work.

- 8.4. Guidance notes for various topics relating to Microsoft 365 and associated services are available for our clients on our website within our **Client Area** at <https://www.magicitservices.co.uk/information-for-your-office-365-installation>
- 8.5. Notwithstanding the provisions of the Agreement, and with the knowledge that reasonable efforts will be made to diagnose and resolve faults that occur, we make no warranties that the support services will be successful in resolving all issues that arise.
- 8.6. We accept no responsibility or liability for hardware or software application problems.
- 8.7. Following cancellation of service by either party you have 30 days which to migrate your data to another provider. We will assist where necessary and work with the new provider to move your data. After 30 days we reserve the right to delete all personal data.
- 8.8. Services may be terminated by us if payment terms are not met.

9. WARRANTIES AND REPRESENTATIONS

- 9.1. Microsoft outline the warranties available under clause 5 of the Microsoft Cloud Agreement. You acknowledge and accept that these are the only warranties provided and are limited to those listed.
- 9.2. We only provide warranties on services we provide such as setting up Microsoft systems on your devices. We do not warrant Microsoft products provided directly. If in the event you need to raise a warranty request, you should contact us first and we will then take this up with Microsoft in accordance with their SLA.
- 9.3. Under no circumstances will we be liable for any loss of or damage to Customer Data. You accept responsibility for backing up your Data and shall ensure that your processes in this respect are adequate.

10. LIMITATION OF LIABILITY

- 10.1. In no event will either party be liable for loss of revenue or indirect, special, incidental, consequential, punitive, or exemplary damages, or damages for loss of use, lost profits, revenues, business interruption, or loss of business information, however caused or on any theory of liability extent permitted by applicable law.

11. INTELLECTUAL PROPERTY

- 11.1. Except for your licence to use the Products as expressly granted under the Agreement, you shall not acquire in any way, any title, rights of ownership, or Intellectual Property Rights of whatever nature in the Products or in any copies of it and no Intellectual Property Rights of either party are transferred or licenced as a result of the Agreement.

12. OTHER

- 12.1. Microsoft 365 and Azure is provided to you by Microsoft via our current distributor, Giacom, but this may change at our discretion.
- 12.2. The client must agree and sign the Microsoft Customer Agreement document provided before setup of any services.

- 12.3. When Microsoft updates the Microsoft Customer Agreement document, the new version must be signed before the yearly renewal of service.
- 12.4. Magic IT Services Ltd, Giacom and Microsoft have full access to the backend admin portal. This enables us to configure your service and troubleshoot problems that may arise.
- 12.5. Access to the admin account is a separate account from user/email accounts. m
- 12.6. After a user account is created and temporary password given, it is the users responsibility to change the default password to something of their choice immediately.
- 12.7. Where email address has been setup it is the user's responsibility to ensure their mailbox is secure. This can include changing the password regularly, not using the same password for multiple accounts, ensuring the password strength is adequate and enabling multi-factor authentication. We are not responsible for data breaches due to poorly configured software and weak passwords. We do offer an optional Password Management system to centrally record and secure client passwords, available to authorised users which can also generate secure passwords and synchronise with Microsoft 365.
- 12.8. We are not responsible for the content of emails in your mailbox. This is private to the mailbox owner.
- 12.9. The end user must always adhere to Microsoft's **Acceptable Use Policy** which forms part of Microsoft's **Universal Licence Terms for Online Services** here: <https://www.microsoft.com/licensing/terms/product/ForOnlineServices/MOSA>. If we suspect a breach of this policy, we have the right to terminate your service immediately and notify Microsoft of the breach.
- 12.10. Microsoft 365 is one of the most reliable set of cloud services available, however 100% uptime is not guaranteed.
- 12.11. Although email and other data is stored in the cloud at Microsoft's end it does not protect it against ransomware attacks that can encrypt data then demand payment to unlock. It is the end user's responsibility to ensure relevant backups are taken of both data and email services to avoid loss. We are not responsible for any financial loss or loss of data due to malware/scams.
- 12.12. Backup and additional email security options are highly recommended and are available from Magic IT Services Ltd. Details of these services are available on our website.
- 12.13. We strongly recommend that all Global Administrator logins to Microsoft Cloud Services are protected by multi-factor authentication as are all users. It is further suggested that any administrative logins held by customers are kept separate to their usual logins for email and other daily services.
- 12.14. Emails may require legally required information to be included in all transmissions, which is the responsibility of our clients to include. We have more information and an optional service to allow compliance with these requirements here: <https://www.magicitservices.co.uk/email-signatures>

13.TERMINATION

Please refer to our main General Terms and Conditions, which can be found at <https://www.magicitservices.co.uk/legal>.

14.VARIATION OF THESE TERMS AND CONDITIONS

- 14.1. We may at any time vary these terms and conditions by publishing the varied terms and conditions on our website. You accept that by doing this, we have provided you with sufficient notice of the variation. We are under no other obligation to notify you of any variation to these terms and conditions.

15.DOCUMENT VERSIONS

Version	Date	Notes
V 1.0	12th March 2021	First version
V 1.1	10 th February 2023	Revisions to include Microsoft NCE.

16.CUSTOMER AGREEMENT

Your signature or electronic signature below indicates that you have read and agree to these terms and conditions.

Signature	Date	Name

On behalf of (Company Name)