

Service Terms and Conditions (Cloud)

1. Introduction

These Service Terms and Conditions are specific to Cloud Services and shall be read together with the Service Schedule Terms and Conditions, all of which form part of the applicable Service Schedule.

2. Cloud Services

- 2.1. Echo resells and provisions Cloud Services through its third-party suppliers, including Microsoft, AWS, and Azure. These Cloud Services enable the Customer to access, without limitation, scalable computing resources, critical applications, and data storage solutions, providing flexibility, reliability, and secure management for its business operations.
- 2.2. If Customer is transferring Services from an existing Cloud Service Provider (CSP), Customer must ensure that any existing contract with the existing CSP is cancelled to avoid double billing/excess charges. In the event of such overlap of billing occurring, same shall have no impact on Echo's right to bill for the Cloud Services.
- 2.3. Notwithstanding clause 1.3 of the Service Schedule Terms and Conditions, Licence Service(s), including Microsoft Licence Services, which are based upon a fixed-term Initial Periods automatically renew for recurring successive 12 (twelve) month periods upon the expiry of the Initial Period, unless either Party cancels the Microsoft Licence Service(s) by providing the other Party at least 1 (one) month written notice of cancellation prior to the expiry of the Initial Period, or renewal term, as the case may be.

3. Billing and Charges

- 3.1. Billing and invoicing shall be carried out in accordance with the terms of the MSA, save that variable/usage-based Cloud Services and shall be invoiced in arrears.
- 3.2. Customer shall be liable for payment of all Services utilised on the Cloud platform/account and shall be fully responsible for managing access to the Cloud account/platform. Echo is not liable for any unauthorised access to Cloud Service accounts/platforms.
- 3.3. Pricing may vary due to changes implemented by Echo's principal vendor and exchange rate fluctuations on the date of invoice generation.

4. Cloud Account - Complete Administrative Access Service (if applicable)

- 4.1. The Cloud Account Services grants Customer access to the Azure and/or AWS Cloud Service portal which will enable Customer to manage and subscribe for Cloud Services.
- 4.2. Customer must have a Cloud Account to use the Services and is responsible for the information it provides to create the Cloud Account, the security of its passwords and access codes for the Cloud Account, and for any use of its Cloud Account. For the avoidance of doubt, Customer is fully responsible for any access to its Cloud Account and will remain responsible for payment of services whether the account was accessed by Customer, its representatives and/or any third party because of, inter alia, phishing or hacking or any means whatsoever.
- 4.3. Customer shall be fully responsible for managing access to the Cloud Account and shall be liable for payment of all Service usage charges and/or costs incurred on the Cloud Account, regardless of the reason for such usage or Service costs being incurred.
- 4.4. The invoice generated by Echo each month shall incorporate the Cloud Services utilised on the Cloud Account and shall constitute prima facie proof of Customer's use of the Cloud Account Services.
- 4.5. Echo strongly recommends that Customer implements a monetary cap or limit on its Cloud Account. Should customer wish to implement a monetary/service cap on the account it may request Echo's assistance, however, this does not absolve Customer from its liability for payment of any Services utilised on the Cloud Account.
- 4.6. The Cloud Account Services shall be charged by Echo in accordance with principal vendor's standard published pricing at the date of invoice (excluding any applicable taxes and partner discounts.)

2. Vendor Terms and Conditions

- 2.1. Customer agrees that all Cloud Services and the usage thereof by Customer are subject to its principal vendor's service specific terms and conditions, access and end-user terms, licenses/license agreements, and IT policies and standards, which may be varied by the principal vendor from time-to-time. Failure to comply with this clause may result in the termination of service without prior notice. The Customer agrees to be bound by the applicable supplier terms and conditions, including the following where applicable:
 - https://download.microsoft.com/documents/useterms/visual%20studio%20.net%20professional_2003_english_be8aa149-b0fd-494d-a902-07fdb2007b90.pdf;
 - <https://www.microsoft.com/licensing/docs/customeragreement>;
 - <https://azure.microsoft.com/en-us/support/legal/>;
 - <https://azure.microsoft.com/en-us/support/legal/subscription-agreement/>;
 - <https://aws.amazon.com/agreement/>
 - [AWS Service Terms](#);
 - [AWS Acceptable Use Policy](#).
- 2.2. The Customer confirms that it has reviewed, understood, and accepted these terms, which are incorporated by reference into this agreement. These third-party terms may be updated periodically; it is the Customer's responsibility to review them regularly. If Echo or its vendor reasonably believes that any End User is not complying with the applicable vendor terms/EULA, Customer must cooperate in good faith with Echo and/or its vendor to investigate and remedy the non-compliance and provide all required assistance in this regard.

3. Privacy and Compliance with Laws

- 3.1. Third party software is used to provide, without limitation, Cloud Services. The use of such software is subject to the respective licensor's terms and conditions, legal requirements and reporting requirements that are applicable from time to time. By signing this Service Schedule, Customer expressly consents to Echo providing the relevant licensor with such information as it may require from time to time in terms of the applicable licensor terms (which may include, without limitation, information in respect of software usage and/or services relying on the applicable software, Customer information, and any relevant end user/User information). Customer further acknowledges and agrees that such disclosure is necessary and required for the purposes of enabling Echo to provide the Services/Products to Customer in terms of this Service Schedule, and any refusal to comply with such request may result in Customer's access and/or use rights in and to the Services/Products being revoked or suspended, without liability to Echo.
- 3.2. Notwithstanding any provision to the contrary contained in the Agreement, and without prejudice to any other rights that Echo or its vendor may have, Echo's vendor may terminate Customer's access the Products, with or without notice, if Customer fails to comply with the terms and conditions contained herein.
- 3.3. Customer permits disclosure of the End User's name and address to Echo, and/or its vendors. Customer consents to the processing of personal information/data by Echo and/or Echo's vendors and/or their agents to facilitate the access to, and use of, the Services/Products, and any matters incidental thereto (including the enforcement of any party's rights thereunder). Customer hereby consents and shall obtain all required consents from third parties in accordance with the applicable data protection laws before providing said information to Echo and/or its vendors.
- 3.4. Personal Information collected in terms of this Service Schedule may be transferred, stored, and processed in the United States, or in any country which Echo and/or Echo's vendor(s) maintain facilities, and will be subject to applicable privacy rights.
- 3.5. The Services/Products are subject to U.S. export jurisdiction. Customer must comply with, and ensure that its End Users will comply with, all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>. Customer acknowledges its obligation to comply with its vendor policies, which include any sanctions compliance policies provided by Echo's vendor from time to time.

5. Indemnity and Liability

- 5.1. **Notwithstanding any provision to the contrary contained herein, or in the MSA, or Agreement, customer hereby indemnifies and holds Echo harmless against any claims which may be made against Echo by any third party, and/or any and all, direct and/or indirect costs, damages, losses, claims and penalties which may arise or otherwise be incurred by Echo, as a result of, or in connection with, Customer's access to and/or use of the Cloud Services and/or Cloud Account Services.**
- 5.2. **The Customer acknowledges that any breach of vendor terms may result in direct liability to the vendor, independent of Echo's involvement.**