

# Third-party Vendor Subscription Terms and Conditions

Version 2022:2 applicable as of 21 March 2022

These Dustin Finland Oy ("Dustin") third-party vendor subscription terms and conditions ("Terms and Conditions") apply, together with Dustin's General Terms and Conditions of Sale – Marketplace unless otherwise agreed upon in writing, as from the date specified and replace the subscription terms and conditions previously published by Dustin.

Products or services provided by a third-party vendor and ordered, purchased or accessed by the customer through Dustin's Marketplace are many times offered on a subscription basis for an initial term that is often subject to auto-renewal. Therefore, the customer should carefully check the term of such subscriptions to understand the duration, renewal options and termination rights. Purchases from Dustin may be subject to additional terms and conditions required by the third-party vendor and the customer is responsible for checking if any such terms apply to its purchase. All products or services provided by a third-party vendor and ordered, purchased or accessed by the customer through Dustin's Marketplace require acceptance of, and are subject to, any terms and conditions made available by the third-party vendor.

## **Microsoft CSP licenses/subscriptions**

### **1. About the subscription**

The subscription applies for the customer and their users with valid Microsoft Cloud Solution Provider ("CSP") licenses/subscriptions as specified in the customer's Microsoft tenant. The subscription is valid until further notice. The subscription may, for products without a fixed agreement period (usage-based services), be amended or terminated during the agreement period. For products that have a fixed agreement period, an automatic renewal applies to the customer's subscription and it will automatically renew the day after the agreement period expires, unless the customer terminates the subscription, or chooses not to renew it by opting out of auto-renewal, at least thirty (30) days before the agreement period ends. More information about termination can be found in section 6 below. Licensing/subscription options vary:

- (i) License-based services
- (ii) Usage-based services
- (iii) Azure Reserved Instances
- (iv) Software subscriptions
- (v) Perpetual software
- (vi) Azure Marketplace

Support or change, which is outside the scope of the license/subscription, may be ordered separately according to Dustin's price list in force at the time.

The subscription may include Microsoft CSP user/unit licenses with or without end-user support, Azure usage-based services, additional services, as well as product bundles.

### **2. Price**

Prices are submitted via Dustin's Marketplace, which is updated in real time. Prices are given in EUR excluding VAT. The prices are fixed for the duration of the chosen subscription term. The price is valid from the order date in Dustin's Marketplace. After the end of the subscription term, the prices for licenses/subscriptions follow the prices in Dustin's Marketplace at the time.

If customer revokes Dustin's permission for Azure, the permission needs to be immediately re-established. If Dustin's permission is not re-established, Dustin reserves the right to apply a no service uplift policy to the Customer's impacted consumption charges.

If customer revokes any permission necessary for Dustin to be able to synchronize customer license/subscription data for invoice management, such permission needs to be immediately re-established. If Dustin's permission is not re-established, Dustin reserves the right to immediately cancel or pause the customer's subscriptions and charge the customer for any costs related thereto, including remaining subscription fees for the agreed term.

### **3. Scope of Microsoft CSP licenses/subscriptions**

The customer is aware that it is Microsoft that produces services for Microsoft CSP licenses/subscriptions and accepts that Microsoft, on its own behalf, may include terms and conditions in the agreement between Dustin and the customer.

The customer is aware that the use of the Microsoft CSP licenses/subscriptions are subject to the at any time applicable [Microsoft Customer Agreement](#) for the region where the customer is registered and Microsoft's [Product Terms](#) which are incorporated in these Terms and Conditions, for the services and products purchased, including but not limited to the terms and conditions laid down therein in respect of the integrity and handling of data.

The customer is aware that additional services may be combined with third-party vendor services and accepts that each vendor may, on its own behalf, make conditions in the agreement between Dustin and the customer regarding support, as well as each service directly applying to the customer.

The customer is aware that the use of additional service at all times follow the third-party vendor's terms and conditions for the service or product that you purchase, including but not limited to the terms and conditions laid down therein in respect of integrity and handling of data.

For Azure Marketplace offers purchased by the customer, specific and separate terms and conditions apply.

### **4. Scope of support for Microsoft CSP licenses/subscriptions**

Dustin offers Microsoft CSP licenses/subscriptions both with and without end user support. For Microsoft CSP licenses/subscriptions without end-user support, Dustin will only assist the customer defined contact person with critical problems identified in Microsoft CSP licenses/subscriptions portal for escalation to Microsoft support.

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A requirement for end user support is that the customer has purchased Microsoft CSP licenses/subscriptions from Dustin, or companies within the Dustin group, and that migration has been completed. For conditions connected with Microsoft CSP licenses/subscriptions, the customer is referred to Microsoft's applicable terms and conditions in force at the time.

Microsoft CSP licenses/subscriptions with end user support according to these Terms and Conditions are not active during the period when the customer performs a migration to the selected Microsoft CSP licenses/subscriptions. Unless otherwise agreed upon in writing, the customer is responsible for its migration to Microsoft CSP licenses/subscriptions, as well as any costs related thereto.

Dustin provides Microsoft CSP licenses/subscriptions services to the customer to the same extent that Microsoft provides these to Dustin for resale to the customer (including but not limited to the customer's right to so-called "Service Credits" from Microsoft), as well as in accordance with Microsoft's [Product Terms](#) for the selected Microsoft CSP licenses/subscriptions that are incorporated in these Terms and Conditions. The customer accepts and is aware that the customer does not receive compensation from Dustin before Microsoft has compensated Dustin for the customer's claim.

The customer purchases Microsoft CSP licenses/subscriptions from Dustin and any claims the customer may have as a result of the services shall be made to Dustin and not to Microsoft. The Customer shall under no circumstances use the Microsoft CSP licenses/subscriptions portal or any other portal for any claims, as this can cause errors with the customer and with Dustin. The customer is responsible for correcting such error without delay and as soon as the customer discovers it. If Dustin detects such error, the customer is obligated to correct it no later than thirty (30) days from Dustin's notification to the customer of the error.

Microsoft CSP licenses/subscriptions with end user support are available when customers have purchased products including end user support through Dustin's Marketplace. For Dustin's product bundles separate terms and conditions apply.

## 5. The customer's responsibilities

The customer is responsible for the customer's use of Microsoft CSP licenses/subscriptions in accordance with these Terms and Conditions and for informing its users of the terms and conditions for access to and use of Microsoft CSP licenses/subscriptions.

The customer is also responsible for obtaining the relevant consents from the customer's end users enabling Dustin to process such end users' personal data in order to be able to provide support and meet its commitments to the customer under these Terms and Conditions.

The customer will give Dustin access to all information and supporting documents required for Dustin to be able to perform and deliver support in accordance with the applicable agreement, including Delegated Access Permissions (DAP) that give Dustin Administer On Behalf Of (AOBO) permissions to the customer's tenancies.

A prerequisite for the support is that each unit throughout the subscription period always has an up-to-date backup and security.

## 6. Termination and cancellation

The subscription may be terminated in writing via e-mail to [servicedesk@dustin.eu](mailto:servicedesk@dustin.eu), or by the customer's authorized administrator on Dustin's Marketplace, no later than thirty (30) days before the end of the fixed period for those specific products, in accordance with the terms and conditions of the applicable agreement (for example, products that require software such as Windows Server licenses). If the subscription is not terminated, or set to not automatically renew, it will be automatically renewed for the same fixed period, with the same notice period as above.

For certain products, such as Azure usage-based services, there is no agreement period and the subscription is therefore ended as soon as Dustin, or the customer's authorized administrator on Dustin's Marketplace, has processed the termination.

For seat-based subscriptions, that are indicated as "New Commerce", the customer will have seven (7) days (i) from placing an order for a new seat-based subscription; (ii) from a renewal of an existing seat-based subscription; or (iii) from an increase of seats to an existing seat-based subscription, to submit a cancellation request for such. The customer may be able to request (i) total cancellation of the seat-based subscription; or (ii) a partial cancellation in order to reduce the seats of the seat-based subscription. If the customer submits a cancellation request within the initial seven (7) days' period, then the customer will receive a prorated refund, calculated on a daily basis, which will be displayed on its next invoice. No refund will be provided in connection with a cancellation request submitted after the initial seven (7) days' period has passed.

For seat-based subscriptions that are not indicated as "New Commerce", the customer may place a cancellation request at any time during the term of the subscription. A cancellation request will result in a prorated refund.

Cancellation and exchange terms and conditions for Azure Reserved Instances are set out in Microsoft's [Product Terms](#).

## 7. Change of subscription

Newly added or deleted users during the subscription period are synchronized with the original subscription agreement's fixed period.

Dustin reserves the right to change or supplement these Terms and Conditions at any time. Any future adjustments of the subscription fees will apply as of the next subscription period, i.e. no price adjustments are made during the current subscription period. Dustin reserves the right to terminate the service if the customer does not fulfill its payment obligations.

## 8. Limitation of liability

If Dustin has caused and is liable for an error, then Dustin will as far as possible promptly remedy such error. If the customer, as a direct result of such error, has not been able to make use of its license/subscription to a significant extent, the customer will be entitled to, as the sole and exclusive remedy, obtain reduction of the subscription fee for the period, in accordance with Microsoft's terms and conditions for "Service Credits". If Dustin has caused the error through gross negligence, the customer is entitled to damages with the following limitations: Dustin's maximum liability shall be limited to direct economic damage and Dustin's total liability towards the Customer (including liability for acts or omissions of Dustin's employees,

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representatives or subcontractors, as well as liability related to price reductions, redeliveries or similar) in relation to a specific license/subscription is limited to the total price actually paid by the customer for such license/subscription, including user support, during the past six (6) month period.

Dustin is in no case responsible, regardless of any negligence or gross negligence, for (i) any indirect or consequential loss or damages, including but not limited to loss in production, loss of profit, loss caused by outage, virus hacking or third-party claims; or (ii) loss of data due to the customer's failure to ensure adequate backup.

In order not to lose its right to claim damages from Dustin, the customer shall inform Dustin in writing no later than two (2) months after the customer became aware of, or reasonably should have become aware of, the circumstances forming the basis for its claim, but no later than five (5) months after the relevant product was delivered or service was performed.

### **SkyKick additional service for e-mail migration and backup services for Office 365/Microsoft 365**

If the customer has purchased migration of e-mail and backup services from Dustin related to Office 365/Microsoft 365 licenses, the customer's use of such services and Office 365/Microsoft 365 licenses are subject to the following additional terms and conditions:

- (i) the customer acknowledges and agrees to Dustin's third-party vendor SkyKick's [Customer Terms & Conditions](#), which are incorporated in these Terms and Conditions;
- (ii) the customer acknowledges and agrees to Dustin giving SkyKick access to the customer's system and cloud service accounts and that Dustin shares with SkyKick the customer's information, e-mail addresses, data, text, audio, video, images and other contents required for SkyKick to be able to provide backup and migration-related services (including access on administrator level);
- (iii) the customer acknowledges and agrees to receive communications from SkyKick (via e-mail or otherwise) concerning SkyKick's performance of migration-related services; and
- (iv) the customer acknowledges and agrees to obtain consent and authorization from its employees, consultants, agents and similar persons that SkyKick may have access to such person's e-mail and system information necessary for SkyKick to be able to provide migration-related services and to perform those measures referred to above and in the applicable terms and conditions.