

NCE Subscription Terms

Version 2.0 December 2024

NCE subscription services shall be provided in accordance with these terms (which are hereinafter referred to as the "NCE Subscription Terms"). By placing an order for such services with the Supplier, the Customer (each as defined below) agrees to these NCE Subscription Terms and shall procure that its ends users, acknowledge and comply with these terms.

These NCE Subscription Terms are in addition to and are deemed to be incorporated into any terms and conditions agreed between the Supplier and Customer for services and/or products ("Agreement").

1. Interpretation

1.1. The following definitions in this paragraph 1 apply in these NCE Subscription Terms.

Affiliate: in relation to a party, any entity that directly or indirectly controls, is controlled by, or is under common control with that party from time to time.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Cap: Microsoft Azure Cap is the total monthly volume of Microsoft Azure services which the Customer is permitted to use, as specified in writing by the Supplier and which the Supplier reserves the right to change from time to time.

Consumption Subscriptions: refers to the Azure licences that are billed based on actual usage in the preceding month.

Customer: the customer as identified on the Order.

Customer Agreement: the customer agreement, which is a direct agreement between the Customer and Microsoft and is a condition of Cloud Solution Provider Program that the Customer enters into under the agreement, the terms of which are found at <https://www.microsoft.com/licensing/docs/customeragreement> and which may be updated from time to time.

Minimum Commitment: the minimum commitment of usage or number of authorised users (as the case may be) agreed between the Supplier and Customer from time to time.

NCE: the New Commerce Experience for Microsoft products or services.

NCE Subscription Services: the services and use related to NCE subscription services and Products.

Order: the Order which sets out the type of NCE Subscription Services, the support offering, the Minimum Commitment and the payment details. The Order shall form part of these NCE Subscription Terms.

Portal: the self-serve portal made available by the Supplier to the Customer to enable it to Order NCE Subscription Services.

Products: the Microsoft services, tools, software, hardware, or professional support or consulting services subscribed to by the Customer.

Retail Prices Index: the Retail Prices Index (all Items, excluding mortgages) as published by the Office for National Statistics from time to time, or failing such publication, such other index as the parties may agree (such agreement not to be unreasonably withheld or delayed), acting reasonably, most closely resembles such index.

Subscription Period: has the meaning given in paragraph 8.1.

Supplier: Viadex Limited incorporated and registered in England and Wales with company number 04066603 whose registered office is at Unit 20 Red Lion Road Business Park, Red Lion Road, Surbiton, Surrey, KT6 7QD and/or the Supplier Affiliate that is providing the NCE Subscription Services.

- 1.2. Except as defined in these NCE Subscription Terms, capitalised terms shall have the meanings given to them in the Agreement.
- 1.3. In the event of conflict with the terms of these NCE Subscription Terms and the Agreement (if applicable) insofar as it relates to the NCE Subscription Services, the provisions in these NCE Subscription Terms shall take precedence and in the event of a conflict with the terms of these NCE Subscription Terms and an Order (as applicable to the NCE Subscription Services), the provisions of the Order (as applicable to the NCE Subscription Services) shall take precedence over these NCE Subscription Terms.
- 1.4. These NCE Subscription Terms do not relieve the Customer or its end users from its obligations pursuant to the Agreement (if applicable).
2. Portal / Service Provision
 - 2.1. Orders for NCE Subscription Services can be placed and managed by the Customer via the Portal. Notwithstanding the foregoing, certain Products require the Supplier's prior approval. In the event that the Customer wishes to request a manual alteration to its NCE Subscription Services, this can be requested by emailing service.contract@viadex.com, subject to these NCE Subscription Terms.
 - 2.2. The Customer shall be responsible for granting access to the Portal by its nominated users and shall remain liable to pay for all purchases made by it whether authorised or unauthorised.
 - 2.3. By submitting an order for NCE Subscription Services, the Customer:
 - (a) represents and warrants that the Customer has accepted and agreed to the Customer Agreement;
 - (b) agrees to pay the Supplier for all orders it submits for the NCE Subscription Services;
 - (c) agrees to the terms of the Agreement (where applicable) and these Subscription Terms.
 - 2.4. Once an order for NCE Subscription Services has been accepted by the Supplier:
 - (a) NCE Subscriptions Services shall continue for the duration of the applicable Subscription Period unless terminated in accordance with paragraph 8 of these NCE Subscription Terms; and/or
 - (b) for NCE Subscription Services purchased on an annual or multi-year fixed term subscription basis, adjustments may only be made to increase the Minimum Commitment and not decrease below any current Minimum Commitment provisioned, save for any subscriptions purchased on a monthly term; and/or
 - (c) for NCE Subscription Services purchased on a monthly term, the Customer may cancel or decrease the quantity of licences.
3. Microsoft Customer Agreement

By placing an Order with the Supplier, the Customer represents and warrants that it has agreed, acknowledged and accepted, and shall adhere to the terms of, the Customer Agreement which govern the use of the NCE Subscription Services.

4. Charges and payment

- 4.1. The Customer shall pay the charges for the NCE Subscription Services as set out in the Order and/or Portal (as the case may be).
- 4.2. Any quotation or proposal given by the Supplier is for budgetary purposes until financial and technical validation and shall not constitute an offer. For NCE Subscription Services, it is only valid for the month in which the quote has been issued.
- 4.3. NCE Subscription Services sold under fixed term subscriptions are sold for the Subscription Period term as specified in the Order. The Order shall specify if such NCE Subscription Services are to be billed on an upfront, monthly or annual basis. Any subsequent adjustments to subscriptions (e.g. adding users made mid-billing cycle) will be calculated post-billed at the subsequent invoice.
- 4.4. For all Consumption Subscriptions, the Customer agrees and acknowledges that:
 - (a) Consumption Subscriptions do not expire unless cancelled. Consumption Subscriptions can be cancelled in accordance with the Customer Agreement and any usage before a transfer to another provider is in effect will be billed in the next scheduled invoice date;
 - (b) Consumption Subscriptions will be billed at the next billing cycle and will include all usage from the prior month. Pricing will be based on the pricing effective during the current billing cycle except when prices decrease or increase. The unit price for a Product sold on a consumption basis may change during the subscription period;
 - (c) it shall pay all such usage during the applicable Subscription Period and is responsible for monitoring its consumption needs. For the avoidance of doubt, this includes payment for all such usage where the Customer has knowingly or unknowingly subscribed to such Consumption Subscriptions including any licences initiated/activated in error;
 - (d) the Customer further acknowledges and accepts that the Supplier may establish or install a technical lock or barrier (the "Barrier"), which prevents the Customer from utilization of the NCE Subscription Services in excess of the Cap;
 - (e) for the avoidance of doubt, if, in spite of paragraph0(d), the Customer utilizes the NCE Subscription Services in excess of the Cap, the Customer shall pay to the Supplier the applicable charges and other expenses in accordance with its actual use. Any dysfunction or non-use of the Barrier shall not release the Customer from paying charges and costs in accordance with its actual utilization of the NCE Subscription Services. The Supplier has no responsibilities with regards to preventing the Customer from utilisation in excess of the Cap.
- 4.3. If the Customer wishes to increase the number of subscription licences provisioned under the NCE Subscription Services, the Customer can either (1) send a request by email to the Supplier at service.contract@viadex.com stating the changes that need to be applied for, or (2) via the Portal

- 4.4. All charges for the NCE Subscription Services are subject to change by Microsoft including periodic price increases at the end of the licence period in line with Microsoft's price list. The Supplier may increase any charges related to the NCE Subscription Services in line with any increases imposed upon the Supplier by Microsoft and in line with the terms of the Customer Agreement and/or which relates to a currency fluctuation event. Any such change shall be reflected in the charges as set out in the corresponding invoice issued to the Customer.
- 4.5. Notwithstanding 4.4 and subject to paragraph 4.6, the Supplier may increase charges on an annual basis with effect from each anniversary of the date of the Order in line with the percentage increase in the Retail Prices Index in the preceding 12-month period.
- 4.6. Subject to paragraph 4.4 and notwithstanding paragraph 4.5, the Supplier reserves the right, on giving the Customer thirty (30) days' notice, to increase the charges on an annual basis with effect from each anniversary date of the Order.
- 4.7. The Supplier reserves the right to suspend any NCE Subscription Services to the Customer and/or end user if the charges for the NCE Subscription Services are not paid by the date such charges are due.
- 4.8. In the event that in the Supplier's reasonable opinion, the Customer's financial condition, previous payment record, or relationship with the Supplier merits change, the Supplier reserves the right to review, change or cancel orders and/or change credit or payment terms for unfilled orders.
5. Intellectual Property
 - 5.1. The Customer acquires only such limited rights to use the NCE Subscription Services as is explicitly described in the Customer Agreement. Any use by the Customer of these rights beyond the scope permitted by the Customer Agreement shall constitute a material breach hereof.
 - 5.2. The Supplier is not liable for defects in, or delays related to the NCE Subscription Services.
 - 5.3. For the avoidance of doubt, if a claim for infringement concerns the NCE Subscription Services, the separate terms and conditions of the Customer Agreement shall apply and is a separate action between the Customer and Microsoft.
6. Cancellation
 - 6.1. Subject to paragraph 6.2, where the Customer has procured the NCE Subscription Services from the Supplier, the Customer may cancel the applicable order in line with the terms set out by Microsoft if the Customer notifies the Supplier within twenty four (24) hours of placing the initial order for the applicable NCE Subscription Service. For such notice to cancel to be effective, it must be received by the Supplier within the hours of 9am to 4pm (GMT) on a Business Day.
 - 6.2. The Customer acknowledges and accepts that any cancellation pursuant to paragraph 6.1 will only be accepted if submitted by the Supplier within Microsoft's designated cancellation period for the applicable Product and is approved by Microsoft and is in accordance with any other requirements of Microsoft at the time of cancellation. If cancellation is approved by Microsoft, then the applicable Order will be cancelled.

- 6.3. Depending on the service or product being cancelled, if and to the extent any credit of the purchase price (in full or pro-rata) is issued by Microsoft to the Supplier, on receipt of the same, the Supplier will pass on any such credit to the Customer less any Microsoft handling fee as a proportion of the value of any order submitted and approved after the designated period for the relevant Product. The Supplier is not liable to the Customer if Microsoft do not issue a credit.

7. Limitation of liability

- 7.1. For the avoidance of doubt, the terms set out in the Customer Agreement govern the rights and responsibilities of the Customer and Microsoft in relation to the use of the NCE Subscription Services and the Supplier excludes any and all liability in relation to the use of the NCE Subscription Services. All other services provided by the Supplier which fall outside the NCE Subscription Services are governed by the terms of the Agreement and shall take precedence over the terms of the Customer Agreement should any conflict arise over the use of such services.
- 7.2. Notwithstanding anything to the contrary in the Agreement, the Customer shall indemnify the Supplier from and against any claims, including but not limited to claim for licence fees that directly or indirectly arises from the Customer's use of the NCE Subscription Services or reporting under these NCE Subscription Terms.

8. Term & Termination

- 8.1. The NCE Subscription Services have an initial fixed term of either one (1), twelve (12) or thirty six (36) months (or such longer period as is expressly stated in the Order) ("Subscription Period") and shall automatically renew as set in accordance with paragraph 8.2. The Customer cannot cancel the licence for the NCE Subscription Services prior to the expiry of the Subscription Period. Unless otherwise specified in the applicable Order, the Customer shall remain liable for any and all payments due in respect of the licences until the end of the respective Subscription Period.
- 8.2. Subject to paragraph 8.3, fixed term subscriptions for NCE Subscription Services will automatically renew at the end of the applicable Subscription Period for a term equal to the initial Subscription Period, unless the Customer gives at least thirty (30) days' prior written notice in the case of monthly terms, and ninety (90) days' prior written notice in the case of annual or multi-annual terms, of non-renewal. Such notice to expire at the next renewal date.
- 8.3. The Supplier may terminate the NCE Subscription Services immediately on giving written notice to the Customer if:
- (a) payment of any amount due from the Customer under these NCE Subscription Terms is overdue by ten (10) Business Days or more provided that the Supplier has given the Customer ten (10) days' written notice of such failure to pay; and/or
 - (b) upon termination by Microsoft of the NCE Subscription Service; and/or
 - (c) in accordance with the Customer Agreement.
- 8.4. On termination of these NCE Subscription Terms and/or Agreement for any reason:
- (a) the Customer shall pay all outstanding sums owing to the Supplier up to and including the date of termination including (1) all remaining amounts owing up to the end of the

Subscription Term (as applicable); and (2) any termination fees that the Supplier incurs from Microsoft as a consequence of early termination;

- (b) all licences granted under these NCE Subscription Terms will terminate immediately except for fully-paid, perpetual licences; and
 - (c) for metered Products billed periodically based on usage, the Customer must immediately pay for unpaid usage as of the termination date.
- 8.5. Termination of any NCE Subscription Services will not affect any other services provided by the Supplier pursuant to the Agreement.
- 8.6. The Supplier shall not be liable whatsoever to the Customer following any termination or suspension of the subscription for legal, regulatory or any other reason by Microsoft.