



# Our Customer Terms

## Cloud Services – CloudHealth from Telstra

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# Our Customer Terms

## Cloud Services – CloudHealth from Telstra

### 1 APPLICABLE TERMS

1.1 In addition to this Telstra Cloud Sight section of Our Customer Terms, unless we agree otherwise, the following terms also apply:

- (a) General Terms of Our Customer Terms (see <http://www.telstra.com.au/customer-terms/business-government/index.htm>);
- (b) General Terms of the Cloud Services section (see <https://www.telstra.com.au/customer-terms/business-government#cloud-services>); and
- (c) other parts of the Cloud Services section, depending on the nature of the products and services that you receive from us.

For an explanation of the interrelationship between the various sections of Our Customer Terms see clause 1 of the General Terms of the Cloud Services section at the link above.

### 2 WHAT IS CLOUDHEALTH FROM TELSTRA?

#### Overview

2.1 CloudHealth from Telstra is a web based managed cloud portal that enables you to visualise, manage, optimise and automate one or more of the following eligible cloud services ("**Eligible Cloud Services**"):

- (a) Amazon Web Services (AWS);
- (b) Microsoft Azure; and
- (c) Google Cloud.

2.2 Any Eligible Cloud Services that you use in connection with CloudHealth from Telstra are "**Input Cloud Services**".

#### Scope of Service

2.3 CloudHealth from Telstra is supplied to you by Telstra, and you have no direct contractual relationship with our supplier, CloudHealth Technologies LLC.

2.4 This Attachment only applies to your use of CloudHealth from Telstra. You acknowledge and agree that we are not responsible for the Input Cloud Services that are not provided by us. The Input Cloud Services that may be provided to you by us will be subject to and on the terms of any separate agreement between you and us in relation to such Input Cloud Services.

2.5 You acknowledge that the providers of Eligible Cloud Services may implement procedures that can restrict or eliminate our (or our suppliers') ability to access your data or other resources in the Input Cloud Services for the purposes of CloudHealth from Telstra, which may impact our ability to deliver CloudHealth from Telstra to you.



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### 3 FEATURES

- 3.1 CloudHealth from Telstra will gather data and metadata regarding the use of your Input Cloud Services, and provide analysis, recommendations, and trend reporting on cost, usage, performance and security. The specifications of CloudHealth from Telstra may vary from time to time.
- 3.2 CloudHealth from Telstra is delivered over the internet. Performance will depend on your network connection and computer configuration.
- 3.3 Each person that you register as a user on CloudHealth from Telstra, or who accesses CloudHealth from Telstra with your valid credentials, will have visibility of sensitive data regarding your cost, usage, performance and security of your Input Cloud Services. You agree that we are authorised to provide this information to these users.

#### **Analysis and Recommendations**

- 3.4 All trend reporting, analysis and recommendations ("**Reporting**") provided by CloudHealth from Telstra is based on the data sources made available to it. As such, the Reporting may be affected if the input data is inaccurate or incomplete. An example of this could be that if currency conversions are required for Reporting in your currency of choice, then there will be variability due to currency fluctuations. Equally, if there is incomplete pricing information, the Reporting may not take into account all available options or the actual price at which you may be able to purchase the Eligible Cloud Service(s).

#### **Reporting is not certified for security or compliance purposes**

- 3.5 The Reporting may assist you to fulfil your own reporting or compliance functions but given the issues that can arise from incomplete or inaccurate data, it is not a certification tool and is not designed or guaranteed for this purpose. You remain responsible for your own compliance tasks and are responsible for any data you use for that purpose.

### 4 LICENCE TERMS

#### **Use Rights**

- 4.1 Subject to all terms and conditions of this Agreement, you may access and use CloudHealth from Telstra via the Internet, solely for your internal business purposes. CloudHealth from Telstra is made available to you solely as hosted by or on behalf of us and our third-party supplier, and nothing in this Attachment shall be construed to grant you any right to receive any copy of CloudHealth from Telstra or any software (other than software provided to you by us or our supplier that is necessary to transmit Content to CloudHealth from Telstra ("**On-Site Software**"). Your access to and use of CloudHealth from Telstra and the On-Site Software must comply with the documentation we make available to you in connection with CloudHealth from Telstra ("**Documentation**"). For avoidance of confusion, this includes, for example, requirements regarding data formats, number of permitted users, or prohibited uses.



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### License to On-Site Software

- 4.2 You may receive On-Site Software from us, which is incidental to your use of CloudHealth from Telstra, it must be installed in an on-premises environment to enable you to use CloudHealth from Telstra. Subject to the terms of this Attachment, we grant you a non-exclusive, royalty free, non-transferable right and license (without right to sublicense) to install and use the On-Site Software solely for your internal business purposes in connection with your authorised use of CloudHealth from Telstra.

### Content Restrictions

- 4.3 You must not post, and must take steps to ensure that none of your users post, any infrastructure or billing data from your Input Cloud Services ("**Content**") that:
- (a) may create a risk of harm, physical or mental injury, emotional distress, death, disability, disfigurement, or physical or mental illness, or any other loss or damage to any person or property;
  - (b) may constitute or contribute to a crime or a tort;
  - (c) includes any data that is illegal, unlawful, harmful, abusive, pornographic, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libellous, threatening, or otherwise objectionable;
  - (d) contains any information or content that your users do not have a right to upload into CloudHealth from Telstra; or
  - (e) constitutes patient, medical or other information related to an individual's physical or mental health, or the provision of or payment for health care, whether that information is regulated by the Health Insurance Portability and Accountability Act, as amended and supplemented, and the regulations thereunder (collectively, "**HIPAA**"), or any similar federal, state, or local laws, rules, or regulations.
- 4.4 CloudHealth from Telstra is not intended for use by children under the age of 13 (in the United States) or other age as specified by law in other countries. Unless you have obtained the appropriate prior consent for that use, you may not allow CloudHealth from Telstra to be offered to children under the applicable statutory age of consent, and Telstra must not use CloudHealth from Telstra to collect, disclose, publish, or store information about children under the legal age of consent where prohibited by law.
- 4.5 You are solely responsible for ensuring that CloudHealth from Telstra:
- (a) is appropriate for your Content;
  - (b) has the appropriate or required certifications for your Content; and
  - (c) meets all your requirements including any legal or regulatory requirements that apply to you or to your Content.



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- 4.6 You must not use CloudHealth from Telstra to transmit, store, host, or process any data that would cause you or us (including our supplier) to be out of compliance with applicable laws or regulations. If you use CloudHealth from Telstra for data in breach of the content restrictions above, then you are solely responsible for the consequences of that use, and you will indemnify us.

#### **Implementation Data.**

- 4.7 You grant us a nonexclusive, fully paid up, royalty-free, sublicensable right and license to access, copy, modify and otherwise use all information, data and other content related to your Input Cloud Services and/or third party or private data centre infrastructure providers ("**TPPI**") implementation, including the Content, solely for the purpose of providing CloudHealth from Telstra. You agree that:
- (a) CloudHealth from Telstra depends on the availability of the Content; and
  - (b) we will not assume any responsibility for, or undertake to verify, the accuracy or completeness of the Content or its availability from Eligible Cloud Service provider(s) and/or TPPI.
- 4.8 Unless otherwise expressly agreed in writing signed by our authorised representative, we will have no obligation to store Content or the work product, based on the Content, resulting from CloudHealth from Telstra that is delivered in a report to you through CloudHealth from Telstra, and which is based on the Content beyond any period specified in CloudHealth from Telstra Order Form.

#### **Your Systems**

- 4.9 You are responsible for providing:
- (a) all subscriptions and credentials necessary for us to receive the Content; and
  - (b) in the case of your use of the On-Site Software, all systems owned by you or operated on your behalf (but excluding CloudHealth from Telstra ("**Systems**") needed to send data to us from your facility.
- 4.10 You will ensure that your Systems are compatible with CloudHealth from Telstra and the On-Site Software (if applicable), and comply with all configurations and specifications described in the Documentation.

#### **Limitations**

- 4.11 We will not be liable for any failures in CloudHealth from Telstra or any other problems which are related to:
- (a) the Content or its availability from Eligible Cloud Services provider(s) and/or TPPI;
  - (b) your Systems; or



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- (c) any satellite, telecommunications, network or other equipment or service outside of our facilities or control.

### Monitoring

4.12 We monitor and collect configuration, performance, usage, and consumption data relating to you and your Users' use of CloudHealth from Telstra:

- (a) to facilitate delivery of CloudHealth from Telstra (such as tracking entitlements, providing support, monitoring the performance, integrity, and stability of CloudHealth from Telstra's infrastructure, and preventing or addressing service or technical issues); and
- (b) to improve our products and services, and your experience. You must not block or interfere with that monitoring.

4.13 We will not access any Content except as necessary to provide CloudHealth from Telstra, or as permitted pursuant to this Attachment.

### Acceptable Use and Restrictions

4.14 You must not directly or indirectly:

- (a) use our Confidential Information to create any service, software or documentation that performs substantially the same functionality as CloudHealth from Telstra or the On-Site Software;
- (b) disassemble, decompile, reverse engineer or use any other means to attempt to discover any source code, algorithms or trade secrets underlying CloudHealth from Telstra or our materials (except and only to the extent these restrictions are expressly prohibited by applicable statutory law);
- (c) encumber, resell, sublicense, transfer, distribute, rent, lease, time-share, or use any of CloudHealth from Telstra, Documentation or our materials in any service bureau arrangement or otherwise for the benefit of any third party;
- (d) adapt, combine, create derivative works of or otherwise modify CloudHealth from Telstra;
- (e) hack, manipulate, to try to gain unauthorized access to, test the vulnerability of, interfere with or disrupt the integrity or performance of or otherwise attempt to gain unauthorized access to CloudHealth from Telstra or the On-Site Software or their related systems, hardware or networks or any content or technology incorporated in any of the foregoing;
- (f) remove or obscure any proprietary notices or labels of us or our supplier or its suppliers on CloudHealth from Telstra;
- (g) use or allow the transmission, transfer, export, re-export or other transfer of the On-Site Software or any other product, technology or information it obtains or learns in connection with its use of CloudHealth from Telstra in violation of any export control or other



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laws and regulations of the United States or any other relevant jurisdiction; or

- (h) use CloudHealth from Telstra or On-Site Software:
  - (1) in a way prohibited by law, regulation, or governmental order or decree;
  - (2) to violate any rights of others;
  - (3) in a way that could harm CloudHealth from Telstra or impair anyone else's use of it;
  - (4) in a way intended to work around CloudHealth from Telstra's technical limitations, recurring fees calculation, or usage limits; or
  - (5) to distribute spam or malware.

### **5 CHARGES**

- 5.1 The charges for CloudHealth from Telstra are calculated as a percentage of your spend on your Input Cloud Services, the percentages are set out in your Order Form.
- 5.2 Charges will be billed monthly in arrears.

### **6 SUSPENSION AND TERMINATION**

- 6.1 We may suspend your use of CloudHealth from Telstra if:
  - (a) you are in breach of this Attachment and do not cure that breach within 10 days after we notify you of that breach;
  - (b) your use of CloudHealth from Telstra poses a security risk to CloudHealth from Telstra or to other users of CloudHealth from Telstra; or
  - (c) suspension is required pursuant to a subpoena, court order, or other legal requirement.
- 6.2 We will give you notice before suspending your use of CloudHealth from Telstra if permitted by law or unless we reasonably determine that providing notice presents a risk of harm to CloudHealth from Telstra, to other users of CloudHealth from Telstra, or to any person or property, in which case we will notify you as soon as feasible or permitted. We will promptly reinstate your access to CloudHealth from Telstra once we have determined that the issue causing the suspension has been resolved. You will remain responsible for all fees incurred before and during any suspension unless it is reasonably determined that the suspension by us was not authorised under this Attachment.
- 6.3 If your CloudHealth from Telstra service is terminated for any reason, other than our material breach, before the end of the minimum term we may charge you an early termination fee calculated as:

$A \times B \times 25\%$



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Where:

“A” = the monthly recurring charges for your CloudHealth from Telstra service

“B” = the number of months (or part of a month) remaining in your selected minimum term.

### 7 SERVICE LEVELS

#### Availability

- 7.1 The monthly target availability of the access and use of CloudHealth from Telstra is 99.5%, (“**Monthly Application Availability Target**”) excluding downtime for scheduled maintenance periods. Scheduled maintenance periods will be communicated via subscription email, we strongly recommend you sign up to receive these emails here: <http://status.cloudhealthtech.com>.

Monthly Application Availability Target	Credit (% of Monthly Fee)
> 99.5%	0%
95.0 – 99.4	10%
90.0 – 94.9	20%
85.0 – 89.9	30%
< 85.0	50%

- 7.2 Credits will be issued in the following billing period and applied against open invoice balances or current period invoice.

#### Defect Rectification

- 7.3 We will use reasonable efforts to respond to defects in the timeframes listed in the table below.

Priority	Response within Business Hours <sup>^</sup>	Response outside Business Hours <sup>^</sup>
Urgent	1 hour	4 hours
High	2 hours	Morning of next business day





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Normal	4 hours	next business day
Low	8 hours	next business day
Enhancement	8 hours	next business day

^Business Hours means 9AM - 5PM EST, CST, PST, GMT and Sydney

- 7.4 Following the initial response, we will continue to communicate with you in regards to status updates, asking of any necessary additional questions, or resolution and set clear expectations on timing and deliverables.