



Service Document for Cloud & IT and Data Centre Services (Direct)

Date: Friday, 15 October 2021

Version: 4.1

Author: Products & Services Department and Legal Department

Document Control Information

Version History		
Version Number	Date Approved	Change/Reason for Change/Comments
1.0	23/01/2013	Initial document creation
1.1	13/09/2013	Updating service descriptions and moving some addition terms into Service Definitions. Removal of vShield Firewall Service
2.0	02/06/2014	Redefinition of all Services. General Document edit
2.1	20/06/2014	Amendment to DaaS Rate Card
2.2	21/08/2014	Amendment to DaaS Rate Card
2.3	13/05/2015	Addition of IT Audit Service
2.4	20/05/2016	Addition of Object Store Service, Addition of Ark and Hayes to Data Centre Service, Removal of Rate Cards for all Services
3.0	05/05/2017	Removal of DaaS Service, Addition of Cloud Sync, Renaming of ObjectStore to Cloud Storage S4, Amendment to VDC and Online Backup Services, Amendments to Cloud & IT Additional Terms, Addition of Storage as a Service
3.1	18/05/2018	Addition of Complaints Policy wording, Addition of Data Processing provisions, Removal of IT Audit Service
4.0	31/01/2020	Addition of HCI, Storage Gateway, Cloud Management Platform, Microsoft Azure Services, Amazon Web Services, Microsoft Office 365 Service, Microsoft 365 Service. Amendment of Online Backup Service. Amendment and renaming of Server Replication (Zerto) Service. Clarification of Exponential-e management aspects. Removal of Cloud Sync Service. Renaming of Cloud Storage S4 Service. Renaming Data Centre Service as Colocation Service.
4.1	15/10/2021	Minor clarification to HCI Service and Server Replication Service. Changes to Storage Gateway Service and Microsoft Azure Services.

Contents

Document Control Information	1
1. Document Purpose	2
2. Service Delivery and Acceptance	2
3. Service Support	2
4. Service Billing and Service Commencement Dates	2
5. Service Levels	2
6. Additional Terms applicable to Cloud & IT Services	3

1. Document Purpose

This document describes Exponential-e's Cloud & IT and Data Centre Services portfolio, their service level agreements and the service-specific terms and conditions that apply in addition to, or in lieu of (as designated herein) Exponential-e's General Terms. Capitalised terms used in this Service Document which are defined in the General Terms or the Additional Terms set out herein shall be afforded their defined meanings throughout this Service Document. Each service within the portfolio is set out in a separate Service Definition attached as a schedule.

2. Service Delivery and Acceptance

The Service Delivery Team (SDT) will provide regular progress reporting. All activities related to service delivery are scheduled within Normal Business Hours. If the Parties agree to re-schedule these outside of Normal Business Hours, additional charges may apply. The SDT will notify the Customer by email that the Service(s) is ready to be used. Where applicable to a Service, acceptance tests are set out in the relevant Service Definition. All Target Service Commencement Dates herein are estimated.

3. Service Support

3.1 Fault Management

Information regarding how to contact Exponential-e's Customer Support Centre and fault reporting can be found in the "Customer Support Handbook", copy available upon request from Exponential-e. Fault resolution shall be undertaken on a 24 hour a day, 7 days a week basis.

3.2 Planned and Emergency Works

Exponential-e will aim to provide at least 14 days' notice via email of any planned works and shall aim to perform them between 00:00 and 06:00 GMT/BST. Exponential-e reserves the right to carry out emergency works at any time, without notice. Planned and Emergency Works provisions applicable to Microsoft Azure Services, Amazon Web Services, Microsoft Office 365 Service and Microsoft 365 Service shall be governed by the service agreement entered into directly by the Customer and the relevant service provider.

3.3 Complaints Procedure

Details of Exponential-e's complaints process and policy are available at <http://www.exponential-e.com/contact-us> and upon request from legal@exponential-e.com.

4. Service Billing

4.1 Billing Models for Cloud & IT Services

Where different billing models are available for a particular Service, the Order Form will capture which billing model applies as described below.

- **Fixed billing**

The Customer has a fixed level of resources for a fixed Annual Charge.

- **Pay As You Go**

Subject to available capacity, and save where set out specifically otherwise in a Service Definition, the Customer is charged for the actual resources used in accordance with the Rate Card and the applicable Service Definition and will be billed monthly in arrears. Actual usage levels will be recorded by Exponential-e (or in the case of Microsoft Azure Services and Amazon Web Services, as recorded by the relevant public cloud provider).

- **Hybrid billing**

The Customer has a minimum amount of resources that are contracted for subject to a fixed Annual Charge, yet retains the ability (subject to capacity) to use additional resources "on demand" in accordance with the Pay As You Go section above.

4.2 Usage-Based Charges: Rate Card

Details on how to obtain a copy of the current Rate Card (where applicable) is provided within each Service Definition. Exponential-e shall be entitled to revise the Rate Card on not less than thirty (30) days' notice to the Customer, upon expiry of which the revised Rate Card shall apply in lieu of the previous version. The foregoing sentence shall not apply in respect of the Microsoft Azure Services and Amazon Web Services; rate card and usage charging provisions shall be governed by the service agreement entered into directly by the Customer and the relevant public cloud service provider.

5. Service Levels

This section does not apply in respect of the Microsoft Azure Services, Amazon AWS Services, Microsoft Office Service and Microsoft 365 Service where service level provisions shall be governed by the service agreement entered into

directly by the Customer and the relevant service provider.

5.1 Service Availability

Where applicable, target availability for a Service is defined in the relevant Service Definition.

Availability is calculated on a calendar monthly basis using a 730 hour month and the following formula:

$$P = \frac{730 \text{ Hours} - A}{730 \text{ Hours}} \times 100$$

Where P = Percentage availability. A = Sum of all events of unavailable service in that month measured in hours.

Non-availability is measured from the time an incident ticket is raised to the time the Service is restored and the incident ticket is cleared by Exponential-e.

5.2 Service Credit Rules

Exponential-e shall have no liability for any failure to meet any target service level(s) due to, or as a result of, any of the following reasons:

- Any Force Majeure Event;
- Suspension of service in accordance with the Contract;
- Non-availability of internet access;
- The fault or failure of any Customer managed equipment, operating system and/or application (i.e. aspects that Exponential-e is not responsible for managing) or Customer Equipment;
- The use of the Service for a purpose for which it was not designed or specified for;
- The diagnosis and correction of any fault in equipment for which Exponential-e is not providing support services;
- Customer default or delay, or any negligent, wilful or reckless act, fault or omission by the Customer (and/or all users of the Service(s) for whom it is responsible pursuant to the Contract) or any Customer representatives, employees, or third party sub-contractors;
- Any server or service outage or faults or issues that occur while a server / service / VM is affected by Malicious Code;
- Failure or fault with Customer managed or provided equipment or software;
- Access issues and delays at Customer Site(s); and/or
- Any failure of power, plant or environment at the Customer Site(s) or any failure on the part of the Customer to provide suitable power, plant or environment at the Customer Site(s).

5.3 How to claim

Service credit claims must be submitted to clientrelations@exponential-e.com within thirty (30) calendar days of the end of the calendar month in which the failure to meet the target service level has occurred. Any service credit claims not raised by the Customer within this period shall be considered irrevocably waived. If service credits claimed are rightly due, they shall be calculated in accordance with the table provided in the relevant Service Definition and this section (such service credits being a genuine pre-estimate of loss and not a penalty or unconscionable) and applied to the Customer's account. Service credits shall be the Customer's sole and exclusive remedy with respect to any failure to meet the target service level(s).

6. Additional Terms applicable to Cloud & IT Services

The following terms apply to the provision of the Cloud & IT Services by Exponential-e in addition to the General Terms. For the avoidance of doubt, these Additional Terms do not apply to the Microsoft Azure Services, Amazon Web Services Microsoft Office 365 Service or Microsoft 365 Service.

6.1. DEFINITIONS

6.1.1 In the Contract, the following terms shall have the meanings assigned to them below:

"Cloud & IT Services"	the VDC Service, the Server Replication (Zerto) Service, the Online Backup Service, the Cloud Storage Service, the Storage as a Service, the HCI Service and the Storage Gateway Service.
"Customer Equipment"	for the purpose of this Service Document, Customer Equipment shall also include the Customer Servers in addition to the definition in the General Terms.
"Customer Servers"	the servers belonging to the Customer (if any) used in the delivery of the applicable Service(s).
"Fixed Billing Model"	the billing model described as such in Section 4.1 of this Service Document.

“Hybrid Billing Model” the billing model described as such in Section 4.1 of this Service Document.

6.2. GENERAL SERVICE PROVISION

- 6.2.1 Exponential-e shall provide a reasonable amount of training (subject to agreement between the Parties regarding costs and time) in the use of the Cloud & IT Service(s) to the Customer. Training may be provided in person or by way of training Documentation.
- 6.2.2 The Customer shall, where reasonably required to do so by Exponential-e and where applicable to the Service(s), promptly make any changes to configuration files and/or give Exponential-e diagnostic information and log files.
- 6.2.3 If, in providing the Cloud & IT Services, Exponential-e is ‘caching’ or ‘hosting’ as described in the Electronic Commerce (EC Directive) Regulations 2002, and if, in order for Exponential-e and/or its suppliers not to be liable for any damages or any other pecuniary remedy or criminal sanction referred to in Regulations 18 and 19, Exponential-e needs to act expeditiously to remove or disable access to the relevant information, Exponential-e shall be entitled in its sole discretion to do so, without prejudice to any other rights or remedies it may have and without liability for so doing but it shall serve notice on the Customer as soon as reasonably practicable after any such exercise of this right.
- 6.2.4 Exponential-e has no responsibility for, or liability in respect of, the content of, or faults or errors with, the Stored Data. Subject to the terms of the Contract, Exponential-e is responsible for data integrity only.

6.3. SERVICE MODIFICATIONS & MAINTENANCE

- 6.3.1 Subject to Clauses 2.4 and 2.5 of the General Terms, Exponential-e reserves the right to modify the Service(s) where required to do so by a third party supplier, or in order to improve, maintain or develop the Service(s). Exponential-e shall be entitled to change the location of the Customer Equipment and/or the Exponential-e Site on giving the Customer not less than ninety (90) days’ notice provided that the new position does not materially impair the operation of the Customer Equipment and/or the Service(s). Exponential-e shall ensure that any Exponential-e-provided Connectivity Service to the original location of the Exponential-e Site is backhauled over a resilient network to the new location of the Exponential-e Site, at no additional charge to the Customer. The Customer accepts that its use of the Customer Equipment may be interrupted during the relocation.
- 6.3.2 Exponential-e shall be entitled to change its equipment, systems and/or infrastructure at the location of the Exponential-e Site, and will give the Customer as much notice as is reasonably possible but at least sixty (60) days’ notice of any changes where such changes may adversely affect the Service(s). Exponential-e shall be responsible for the Customer’s reasonable costs directly and solely occasioned by such change.

6.4. FEES AND PAYMENT

- 6.4.1 In the case of fixed Annual Charges (whether under a Fixed Billing Model or Hybrid Billing Model), Exponential-e shall be entitled to increase the Annual Charge only where Exponential-e can reasonably demonstrate (i) that such an increase is due to an increased cost of providing the services due to increases imposed on Exponential-e by its suppliers (following thirty (30) days written notice); and/or (ii) it is necessary to do so following any applicable legal or regulatory changes (upon as much written notice as is reasonably practicable). For the avoidance of doubt, any such increase will not exceed the increased cost incurred by Exponential-e in providing the Service(s). Exponential-e will provide reasonable documentary evidence to support such price increase to the Customer, upon request.

6.5. TERM AND TERMINATION

- 6.5.1 In the case of Service(s) provided with a Hybrid Billing Model, the fixed element of the Service(s) shall continue as per Clause 12.1.1 of the General Terms and the Pay As You Go element of the Service(s) shall continue pursuant to Clause 12.1.3 of the General Terms.
- 6.5.2 Upon termination of a Service and/or the Contract for any reason:
- 6.5.2.1 provided that there are no outstanding undisputed Charges at the date of termination, Exponential-e shall allow the Customer to immediately remove or delete any Stored Data, at the Customer’s own responsibility and cost provided that if the Customer fails to remove or delete any of the Stored Data within fourteen (14) days of termination, Exponential-e shall be entitled to delete the Stored Data and shall have no liability to the Customer or any other person if it does so.
- 6.5.2.2 the Customer shall (at Exponential-e’s option) either (a) return to Exponential-e within fourteen (14) days of the date of termination; or (b) confirm in writing the destruction of, any Documentation and/or Software in the

Customer's possession.

- 6.5.3 Any provision of these Additional Terms which expressly or by implication is intended to come into or continue in force on or after termination of the Contract, including 6.5 (Term and Termination) and 6.6 (Limitation of Liability) shall survive termination and remain in full force and effect.

6.6 LIMITATION OF LIABILITY

- 6.6.1 SUBJECT TO CLAUSES 6.6.2, 6.6.3 AND 6.6.4 BELOW, EXPONENTIAL-E SHALL BE LIABLE FOR LOSS AND/OR CORRUPTION OF THE STORED DATA WHICH IS PROVEN BY THE CUSTOMER TO HAVE OCCURRED AS A DIRECT RESULT OF THE BREACH OF CONTRACT OR NEGLIGENCE OF EXPONENTIAL-E. IN SUCH EVENT, EXPONENTIAL-E SHALL FIRST USE ITS OWN RESOURCES TO ATTEMPT TO RESTORE LOST/CORRUPTED STORED DATA (INCLUDING USING SPECIALISED THIRD PARTY RESOURCE WHERE EXPONENTIAL-E CONSIDERS IT REASONABLY NECESSARY TO DO SO).
- 6.6.2 EXPONENTIAL-E SHALL HAVE NO LIABILITY UNDER THIS CONTRACT FOR ANY LOSS AND/OR CORRUPTION OF THE STORED DATA WHICH IS CAUSED BY THIRD PARTY SOFTWARE.
- 6.6.3 LOSS AND/OR CORRUPTION OF DATA SHALL ONLY BE DEEMED TO HAVE OCCURRED WHERE THE ACTUAL DATA ITSELF (ALL COPIES) IS LOST OR CORRUPTED; IT SHALL NOT BE DEEMED TO HAVE OCCURRED WHERE THE DATA EXISTS AND IS NOT CORRUPTED BUT THERE IS AN ISSUE WITH AN APPLICATION WHICH MAKES IT INACCESSIBLE AND/OR INCOHERENT.
- 6.6.4 LIABILITY OF EXPONENTIAL-E UNDER THIS CLAUSE 6.6 SHALL NOT EXCEED IN THE AGGREGATE UNDER THE CONTRACT THE AMOUNT OF FIFTY-THOUSAND POUNDS (£50,000).

6.7 PASSWORD SECURITY

- 6.7.1 The Customer has the sole responsibility for putting in place and maintaining the controls that they require with respect to passwords relating to the Services. The Customer must use best industry practice for selecting and regularly changing passwords.

6.8 PORTALS

- 6.8.1 When provided in conjunction with a Service, Exponential-e shall use reasonable endeavours to make portals available to the Customer but availability is not guaranteed and periods of maintenance and upgrades may occur.

6.9 EXPORT COMPLIANCE

- 6.9.1 The Customer warrants, agrees and represents that it shall comply with all export control laws and regulations applicable to its activities under the Contract, including in relation to any transfer of Customer Content. The Customer shall indemnify and keep Exponential-e indemnified and hold Exponential-e harmless from and against all losses, liabilities, damages, costs, claims, demands and expenses arising out of, or in relation to, any breach by the Customer of this clause.