

License Terms for Azure Sphere OS and Azure Sphere Security Service

IF YOU LIVE IN (OR IF YOUR PRINCIPAL PLACE OF BUSINESS IS IN) THE UNITED STATES, PLEASE READ THE BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER IN SECTION 10. IT AFFECTS HOW DISPUTES ARE RESOLVED.

This is a contract ("**Agreement**") between the party purchasing the Avnet, Inc. Azure Sphere development board with which this Agreement is provided ("**Device**"), on his or her own behalf and on behalf of all individuals having access to that Device (collectively, "**you**" or "**your**") and Avnet, Inc., on its own behalf and on behalf of its affiliates selling the Device (collectively, "**Company**", "**we**", "**us**", or "**our**") regarding the Device and the Azure Sphere OS and the Azure Sphere Security Service included with the Device (such Azure Sphere OS and Azure Sphere Security Service, collectively, "**Services**"). If you are entering into this Agreement on behalf of a company or other legal entity then you represent and warrant that you have authority to bind that company or legal entity and "you" and "your" also refer to that entity. This Agreement also applies to any Company software, firmware or applications (collectively "**Apps**") that Company may include or provide with the Device. The term "Device" is deemed to include any Apps, except as and to the extent "Apps" are otherwise expressly addressed in this Agreement. You must review the entire Agreement, including any supplemental terms that accompany the Device or the Services, as well as any linked terms, because all of the terms are important and together create this Agreement that applies to you.

By accepting this Agreement or accessing or using (or attempting to access or use) the Apps or Services, you agree to all of these terms, and consent to the transmission of certain information, including Device Data during your use of the Services. If you do not accept and agree to comply with these terms, you may not use the Apps or Services and you may contact Company, or your retailer, to determine its return policy and return the Device for a refund or credit under that policy.

1. Overview.

- a. **Services.** The Services include the Azure Sphere OS software that is preinstalled on your Device, any updates to that software provided by us or our Providers, and the Azure Sphere Security Service through which such updates (as well as any updates to Apps) may be provided by us or our Providers. Although the Azure Sphere Security Service may be used to deliver updates to Apps, the Services do not include such Apps (or the updates to Apps) themselves.
- b. **Applicability.** This Agreement applies to the Services, including any fonts, icons, images or sound files included with the Services, and also any updates for the Services provided by us or our Providers, unless other terms come with them. If this Agreement contains terms regarding a feature or function not available on your Device, then those terms do not apply.
- c. **Additional Terms.** The Device may include features and functionality provided by our affiliates, licensors, and suppliers, including Microsoft Corporation or its applicable affiliates (collectively, "**Providers**"). Such features and functionality include the Services, for which Microsoft Corporation or its applicable affiliates are the Provider. Additional Provider terms may apply to your use of certain features, services, and apps, depending on your Device's capabilities, how it is configured, and how you use it. Please be sure to read them.
 - i. Some Services features may provide an access point to, or rely on, online services of other Providers, and the use of those services is sometimes governed by separate terms and

privacy policies. You can view these terms and policies by looking at the applicable terms of use. The Services (and any such online services) may not be available in all regions.

- ii. The Services may include third party programs that are licensed to you under this Agreement, or under their own terms. License terms, notices, and acknowledgements, if any, for the third party programs can be viewed at (aka.ms/thirdpartynotices).

2. Scope of License. The Services are licensed, not sold. This Agreement only gives you some rights to use the Services. Microsoft reserves all other rights. Unless applicable law gives you more rights despite this limitation, you may use the Services only as expressly permitted in this Agreement. In doing so, you must comply with and not work around any technical limitations in the Services that only allow you to use them in certain ways or that limit what features are enabled. Except as expressly authorized otherwise in this Agreement you may **not** and agree **not** to:

- a. **Reverse Engineering.** Reverse engineer, decompile or disassemble the Services, or attempt to do so, except and only to the extent that the foregoing is: (i) permitted by applicable law; (ii) permitted by licensing terms governing the use of the open-source components that may be included with the Services; or (iii) required to debug changes to any libraries licensed under the GNU Lesser General Public License that are included with and linked to by the Services;
- b. **Third Party Access.** Publish, copy, rent, lease, or lend the Services;
- c. **Legal Compliance.** Access or use the Services in any way that is prohibited by applicable law, regulation, or governmental order or decree or that violates any rights of others;
- d. **Technical Restrictions.** Work around any technical restrictions or limitations in the Services; or
- e. **Harmful Use.** When using Internet-based features of the Services, use those features in any way that could interfere with anyone else's use of them, or try to gain access to or use any service, data, account, or network, in an unauthorized manner.
- f. **Modify the Device or Service.** Modify the Azure Sphere OS, the Apps or the chip on the Device on which they are running.

3. Use Rights. Subject to the limitations in this Agreement, you may use the Services only on the Device with which you acquired them. You may only use the Services on the Device for evaluation and non-commercial purposes, you may not redistribute or resell a Device which includes the Services (either separately or as part of any other end user commercial devices).

4. Privacy; Consent to Use of Data. Your privacy is important to us. Some of the Services features send or receive information when using those features. By accepting this Agreement, you agree that Microsoft may collect, use, and disclose Device information as described in the Microsoft Privacy Statement (aka.ms/privacy) and as may be described in the Device documentation ("**Device Data**"). Device Data does not include any personal data that Company may collect from you ("**User Data**") and collection of User Data (if any) may be subject to additional terms.

5. Additional Licensing Requirements and Use Rights.

- a. **Font Components.** While the Services are running, you may use fonts included with the Services to display and print content. You may only:
 - i. embed fonts in content as permitted by the embedding restrictions in the fonts; and
 - ii. temporarily download them to a printer or other output device to help print content.

- b. **No High Risk Use.** The Services are not fault-tolerant. The Services are not designed or intended for use in any Device where failure or fault of any kind of the Services could reasonably be seen to lead to death or serious bodily injury of any person, or to severe physical or environmental damage.
 - c. **Networks, data, and Internet usage.** Some features of the Services, including updates and related smart features, require your Device to access the Internet. Your access and usage (including charges) may be subject to the terms of your cellular or internet provider agreement. Certain features of the Services may help you access the Internet more efficiently, but the Services' usage calculations may be different from your service provider's measurements. You are always responsible for: (i) understanding and complying with the terms of your own plans and agreements and paying for your access to the Internet and any bandwidth used by the Service; and (ii) any issues arising from using or accessing networks, including public/open networks. You may use the Services to connect to networks, and to share access information about those networks, only if you have permission to do so.
6. **Updates.** The Services will periodically check for updates. If any are identified, the Services will download and install them to enhance Device functionality and security and for other purposes. You agree to accept these automatic updates without any additional notice. We recommend that Devices be connected to the Internet at least once every month to check for them (although more regular Internet access may be necessary to enable other Device functionality, such as "smart" connectivity features of the Device).
7. **Geographic and Export Restrictions.** If the Services are restricted for use in a particular geographic region, then you may use them only in that region. You must also comply with all domestic and international export laws and regulations that apply to the software portions of the Services, which include restrictions on destinations, end users, and end use. For further information on geographic and export restrictions, visit (aka.ms/georestrict) and (aka.ms/exporting).
8. **Support.** Support related to the Services is available at <https://www.microsoft.com/en-us/azure-sphere/>; contact Company for all other support requests; Refer to the Company support number provided with the Device. If you are seeking a refund, contact Company or your retailer to determine its refund policies. You must comply with those policies, which may require you to return the Device for a refund.
9. **Reserved.**
10. **Binding Arbitration and Class Action Waiver if You Live in (or if a Business, Your Principal Place of Business is in) the United States.** We hope we never have a dispute, but if we do, you and we agree to try for 60 days to resolve it informally. If we can't, you and we agree to **binding individual arbitration before the American Arbitration Association ("AAA") under the Federal Arbitration Act ("FAA"), and not to sue in court in front of a judge or jury.** Instead, a neutral arbitrator will decide and the arbitrator's decision will be final except for a limited right of appeal under the FAA. **Class action lawsuits, class-wide arbitrations, private attorney-general actions, and any other proceeding where someone acts in a representative capacity are not allowed. Nor is combining individual proceedings without the consent of all parties.** As used in this Section 10 only, "**we,**" "**our,**" and "**us**" includes Company, Microsoft, and any other Providers.
- a. **Disputes covered-everything except IP.** The term "dispute" is as broad as it can be. It includes any claim or controversy between you and any (or all) of us concerning the Device, the Services, the price for either, or this Agreement, under any legal theory including contract, warranty, tort,

statute, or regulation, **except disputes relating to the enforcement or validity of your, your licensors', our, or our licensors' intellectual property rights.**

- b. **Mail a Notice of Dispute first.** If you have a dispute and our customer service representatives can't resolve it, send a Notice of Dispute by U.S. Mail to Avnet, Inc., ATTN: LEGAL DEPARTMENT. If your dispute is with Microsoft, mail it to Microsoft Corporation, ATTN: LCA ARBITRATION, One Microsoft Way, Redmond, WA 98052-6399. If your dispute is with any other Provider, send a Notice of Dispute by U.S. Mail to Avnet, Inc., ATTN: LEGAL DEPARTMENT, and *Company* will forward it to the other Provider. Tell us your name, address, how to contact you, what the problem is, and what you want. If your dispute is with Microsoft, a form is available at (aka.ms/disputeform). We'll do the same if we have a dispute with you. After 60 days, you or we may start an arbitration if the dispute is unresolved.
- c. **Small claims court option.** Instead of mailing a Notice of Dispute, and if you meet the court's requirements, you may sue us in small claims court in your county of residence (or if a business your principal place of business) or our principal place of business (which is Phoenix, Arizona if your dispute is with *Company*, and is King County, Washington USA if your dispute is with Microsoft). We hope you'll mail a Notice of Dispute and give us 60 days to try to work it out, but you don't have to before going to small claims court.
- d. **Arbitration procedure.** The AAA will conduct any arbitration under its Commercial Arbitration Rules (or if you are an individual and use the Services for personal or household use, or if the value of the dispute is \$75,000 USD or less whether or not you are an individual or how you use the software, its Consumer Arbitration Rules). For more information, see (aka.ms/adr) or call 1-800-778-7879. To start an arbitration, submit the form available at (aka.ms/arbitration) to the AAA; mail a copy to *Company* (or to Microsoft if your dispute is with Microsoft). In a dispute involving \$25,000 USD or less, any hearing will be telephonic unless the arbitrator finds good cause to hold an in-person hearing instead. Any in-person hearing will take place in your county of residence (of if a business your principal place of business) or our principal place of business. You choose. The arbitrator may award the same damages to you individually as a court could. The arbitrator may award declaratory or injunctive relief only to you individually to satisfy your individual claim.
- e. **Arbitration fees and payments.**
 - i. **Disputes involving \$75,000 USD or less.** *Company* (or Microsoft if your dispute is with Microsoft) will promptly reimburse your filing fees and pay the AAA's and arbitrator's fees and expenses. If you reject our last written settlement offer made before the arbitrator was appointed, your dispute goes all the way to an arbitrator's decision (called an "award"), and the arbitrator awards you more than this last written offer, *Company* (or Microsoft if your dispute is with Microsoft) will: (1) pay the greater of the award or \$1,000 USD; (2) pay your reasonable attorney's fees, if any; and (3) reimburse any expenses (including expert witness fees and costs) that your attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration. The arbitrator will determine the amounts unless you and we agree on them.
 - ii. **Disputes involving more than \$75,000 USD.** The AAA rules will govern payment of filing fees and the AAA's and arbitrator's fees and expenses.
 - iii. **Disputes involving any amount.** If you start an arbitration, we won't seek our AAA or arbitrator's fees and expenses, or your filing fees we reimbursed, unless the arbitrator finds the arbitration frivolous or brought for an improper purpose. If we start an arbitration, we

will pay all filing, AAA, and arbitrator's fees and expenses. We won't seek our attorney's fees or expenses from you in any arbitration. Fees and expenses are not counted in determining how much a dispute involves.

- f. **Must file within one year.** You and we must file in small claims court or to arbitrate any claim or dispute (except intellectual property disputes – see Section 1010.a.) within one year from when it first could be filed. Otherwise, it's permanently barred.
- g. **Severability.** If the class action waiver is found to be illegal or unenforceable as to all or some parts of a dispute, those parts won't be arbitrated but will proceed in court, with the rest proceeding in arbitration. If any other provision of Section 10 is found to be illegal or unenforceable, that provision will be severed but the rest of Section 10 still applies.
- h. **Conflict with AAA rules.** This agreement governs if it conflicts with the AAA's Commercial Arbitration Rules or Consumer Arbitration Rules.
- i. **Third-party beneficiaries.** Microsoft and other Providers are not parties to this Agreement. Microsoft and other Providers are, however, third-party beneficiaries of your Agreement with *Company* to resolve disputes through informal negotiation and arbitration.

11. Warranty.

- a. **Product Documentation.** Any supporting documentation for the Device ("Product Documentation") is provided by Company on an "AS-IS" basis and does not form a part of the properties of the Device. All Product Documentation is subject to change without notice. Company makes no representation as to the accuracy or completeness of the Product Documentation, and DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND LIABILITIES UNDER ANY THEORY WITH RESPECT TO PRODUCT INFORMATION.
- b. **Disclaimer.**
 - i. The Services on your Device (including the Apps) are licensed "as is." To the maximum extent permitted by your local laws, you bear the entire risk as to the Services' quality and performance. Should the Services prove defective, you assume the entire cost of all servicing or repair. Neither the Device manufacturer nor Microsoft gives any express warranties, guarantees, or conditions for the Services. To the extent permitted under your local laws, the manufacturer and Microsoft exclude all implied warranties and conditions, including those of merchantability, quality, fitness for a particular purpose, and non-infringement. You may have additional consumer rights or statutory guarantees under local laws that these terms cannot change.
 - ii. If your local laws impose a warranty, guarantee, or condition for the Services even though this Agreement does not, its term is limited to 90 days from when the first user accesses the Services on your Device. If the manufacturer or Microsoft breaches such a warranty, guarantee, or condition, your sole remedy, at the manufacturer's or Microsoft's election, is: (a) repair or replacement of the Services at no charge, or (b) return of the Device on which the Services were installed (and from which the Services are accessed) for a refund of the amount paid, if any. These are your only remedies for breach of a warranty, guarantee, or condition your local laws impose.

- c. **Limited Product Warranty.** COMPANY WARRANTS THAT, AT THE TIME OF DELIVERY, THE DEVICE WILL MEET THE SPECIFICATIONS STATED IN PRODUCT DOCUMENTATION FOR SIXTY (60) DAYS FROM DELIVERY OF DEVICE. TO THE EXTENT PERMITTED BY LAW, COMPANY MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, SUCH AS WARRANTY OF MERCHANTABILITY, FITNESS FOR PURPOSE OR NON- INFRINGEMENT. YOUR SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF THIS LIMITED PRODUCT WARRANTY ARE, AT COMPANY'S CHOICE: (i) REPAIR OF THE DEVICE; (ii) REPLACEMENT OF THE DEVICE AT NO COST TO YOU; OR (iii) REFUND OF YOUR PURCHASE PRICE FOR THE DEVICE.

12. Limitation of Liability; Indemnification

- a. **LIMITATIONS OF LIABILITY.** YOU SHALL NOT BE ENTITLED TO AND COMPANY OR MICROSOFT WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE, INCLUDING, WITHOUT LIMITATION, BUSINESS INTERRUPTION COSTS, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, PROMOTIONAL OR MANUFACTURING EXPENSES, OVERHEAD, COSTS OR EXPENSES ASSOCIATED WITH WARRANTY OR INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS, INJURY TO REPUTATION OR LOSS OF CUSTOMERS, EVEN IF COMPANY OR MICROSOFT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b. **LIMITATION OF DAMAGES.** YOUR RECOVERY FROM COMPANY OR MICROSOFT FOR ANY CLAIM SHALL NOT EXCEED YOUR PURCHASE PRICE FOR THE PRODUCT GIVING RISE TO SUCH CLAIM IRRESPECTIVE OF THE NATURE OF THE CLAIM, WHETHER IN CONTRACT, TORT, WARRANTY, OR OTHERWISE.
- c. **INDEMNIFICATION.** COMPANY AND MICROSOFT SHALL NOT BE LIABLE FOR AND YOU SHALL INDEMNIFY, DEFEND AND HOLD COMPANY AND MICROSOFT HARMLESS FROM ANY CLAIMS BASED ON YOUR MODIFICATION OF ANY PRODUCT BY PARTIES OTHER THAN COMPANY, OR USE IN COMBINATION WITH OTHER PRODUCTS.

13. Term, Termination, and Suspension.

- a. The Services shall be available only for such period that Microsoft continues to offer the Services and related support. At the end of such Services and support lifecycle, Company may provide You a surviving right to continue to access and use the final version of the Services on the Device for the remaining productive life of the Device.
- b. Company and Microsoft shall have the right to terminate the Services if: (a) You materially breach this Agreement (including without limitation breaches of Section 2); (b) Your actions harm the operation, or Microsoft's offering, of the Services; or (c) You infringe or misappropriate Company or Microsoft's intellectual property or other proprietary rights.
- c. Company and Microsoft may suspend offering of the Services for any reason whereby Microsoft can temporarily deactivate or disable the connectivity between the Service or the Apps and the Internet in the Device.
- d. Company and Microsoft may change or terminate the Services if a government rule or regulation is promulgated or interpreted so as to make it more difficult to provide the Services without materially changing them.

14. Miscellaneous.

- a. **Compliance with Laws.** We and our Providers will comply with applicable law (including applicable security breach notification law) in performance under this Agreement, although laws that do not apply generally to IT service providers will not be applicable for purposes of this Section 14.a. You hereby provide any consents required: (i) to allow us and our Providers to access, use, and disclose your data; and (ii) for us and our Providers to provide the Services.
- b. **Changes.** The Services may be changed periodically, after which you may need to agree to new terms. We and our Providers will use commercially reasonable efforts to avoid degrading Data security through any such change.
- c. **Force Majeure.** A “Force Majeure Event” means fire, casualty, or an act caused exclusively by forces of nature, riot, terrorist act, war, labor dispute, material changes of laws or regulations, or court decree. A Force Majeure Event does not include theft or loss. Neither party will be liable for failing to perform under the Agreement to the extent that a Force Majeure Event caused the failure. The party subject to the Force Majeure Event must notify the other party, and must perform the obligations that were not performed, as soon as the Force Majeure Event stops.
- d. **California Proposition 65 Notice.** This Device contains one or more chemicals known to the State of California to cause cancer, birth defects or other types of reproductive harm.
- e. **U.S. Government Restricted Rights.** The Device and Product Documentation are provided with “RESTRICTED RIGHTS.” If the Device and Product Documentation and related technology or documentation are provided to or made available to the United States Government, any use, duplication, or disclosure by the United States Government is subject to restrictions applicable to proprietary commercial computer software as set forth in FAR 52.227 -14 and DFAR 252.227-7013, et seq., its successor and other applicable laws and regulations. Use of the Device by the United States Government constitutes acknowledgment of the proprietary rights of Company, Microsoft and any third parties. No other governments are authorized to use the Device without written agreement of Company and applicable third parties
- f. **Entire Agreement; Applicability.** This Agreement is the parties’ entire agreement on this subject and supersedes any concurrent or prior communications. Agreement terms that require performance, or apply to events that may occur, after termination or expiration will survive. Our Providers may deliver the Services (in whole or in part), and the rights granted to us also apply to them, and Section 12 also limits their liability.