

SoftLayer Cloud Services Agreement

This Cloud Services Agreement (CSA) and applicable Attachments and Transaction Documents (TDs) are the complete agreement regarding transactions under this CSA (together, the "Agreement") under which Client may order Cloud Services from SoftLayer. As used in this CSA, "SoftLayer" means either: 1) SoftLayer Technologies, Inc., a Delaware corporation, with its principal address located at Stanford Corporate Centre, 14001 North Dallas Parkway, Suite M100, Dallas, TX 75240, for Clients registering with a principal business address in the U.S. or U.S. territories; or 2) SoftLayer Dutch Holdings B.V., Company No. 52461041, VAT No. NL 8504.55.820.B01, a Netherlands company, with its principal address at Paul van Vlissingenstraat 16, 1096BK Amsterdam, The Netherlands, for Clients registering principal business address outside the U.S. or U.S. territories. Attachments typically contain additional terms that apply to similar types of offerings. TDs, such as service descriptions, order documents or statements of work, contain specific details related to an order for a Cloud Service and there may be more than one TD providing the details of an order. In the event of conflict, an Attachment prevails over this CSA and a TD prevails over both the CSA and any Attachment. If translations of the Agreement are available and there is a conflict, the English version will govern translation.

1. Cloud Services

- a. A Cloud Service is an IBM branded offering provided by SoftLayer or International Business Machines Corporation (IBM) and made available via a network. Each Cloud Service is described in an Attachment or a TD (references to "IBM" in an Attachment or TD mean SoftLayer, as the selling or licensing party for the Cloud Service). Cloud Services are designed to be available 24/7, subject to maintenance. Client will be notified of scheduled maintenance. Technical support and service level commitments, if applicable, are specified in an Attachment or TD.
- b. Client accepts an Attachment or TD by ordering, enrolling in, using, or making payment for the Cloud Service. When SoftLayer accepts Client's order, SoftLayer provides Client the authorizations specified in the TD. The term, including any renewal term, for a Cloud Service is described in an Attachment or TD.
- c. SoftLayer or IBM will provide the facilities, personnel, equipment, software, and other resources necessary to provide the Cloud Services and generally available user guides and documentation to support Client's use of the Cloud Service. Client will provide hardware, software and connectivity to access and use the Cloud Service, including any required Client-specific URL addresses and associated certificates. An Attachment or TD may have additional Client responsibilities.
- d. Client may access a Cloud Service only to the extent of authorizations acquired by Client. Client is responsible for use of Cloud Services by any user who accesses the Cloud Service with Client's account credentials. A Cloud Service may not be used in any jurisdiction for unlawful, obscene, offensive or fraudulent Content or activity, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive or deceptive messages, viruses or harmful code, or violating third party rights. If there is a complaint or notice of violation, use may be suspended until resolved, and terminated if not resolved promptly. Client may not i) resell direct access to a Cloud Service to a third party outside Client's Enterprise; or ii) combine Cloud Services with Client's value add to create a commercially available Client branded solution for which Client charges a fee.

2. Content and Data Protection

- a. Content consists of all data, software, and information that Client or its authorized users provides, authorizes access to, or inputs to the Cloud Services. Use of the Cloud Service will not affect Client's existing ownership or license rights in such Content. SoftLayer or IBM and their contractors, and subprocessors may access and use the Content solely for the purpose of providing and managing the Cloud Service, unless otherwise described in a TD.
- b. Client is responsible for obtaining all necessary rights and permissions to enable, and grants such rights and permissions to SoftLayer and IBM, and its contractors and subprocessors to use, provide, store, and process Content in the Cloud Service. This includes Client making necessary disclosures and obtaining consent, if required, before providing individuals' information, including personal or other regulated information in such Content. If any Content could be subject to governmental regulation or may require security measures beyond those specified by SoftLayer or IBM for an offering. Client will not input, provide, or allow such Content unless specifically permitted in the terms of the relevant TD or unless SoftLayer has otherwise first agreed in writing to implement additional security and other measures. IBM's Data Processing Addendum at <http://ibm.com/dpa> (DPA) and applicable DPA Exhibit(s) apply and supplement the Agreement, if and to the extent the European General Data Protection Regulation (EU/2016/679) (GDPR) applies to personal data contained in Content.
- c. Upon request by either party, SoftLayer, Client, or their affiliates will enter into additional agreements required by law in the prescribed form for the protection of personal or regulated personal data included in Content. The parties agree (and will ensure that their respective affiliates agree), that such additional agreements will be subject to the terms of the Agreement.
- d. SoftLayer will return or remove Content from IBM computing resources upon the expiration or cancellation of the Cloud Service, or earlier upon Client's request. IBM may charge for certain activities performed at Client's request (such as delivering Content in a specific format). IBM does not archive Content, however some Content may remain in Cloud Service backup files until expiration of such files as governed by IBM's backup retention practices.
- e. Each Cloud Service is designed to protect Content as described in the Agreement. IBM's Data Security and Privacy Principles for IBM Cloud Services (DSP), at <http://www.ibm.com/cloud/data-security>, apply for generally available Cloud Service offerings or as described in the applicable TD. SoftLayer will treat all Content as confidential by not disclosing Content except to SoftLayer or IBM employees, contractors, and subprocessors, and only to the extent necessary to deliver the Cloud Service, unless otherwise specified in a TD. Specific security features and functions of a Cloud Service may be provided in an

Attachment and TDs. Client is responsible to assess the suitability of each Cloud Service for Client's intended use and Content. By using the Cloud Service, Client acknowledges that it meets Client's requirements and processing instructions.

- f. Client acknowledges that i) IBM may modify the DSP from time to time at IBM's sole discretion and ii) such modifications will supersede prior versions. The intent of any modification to the DSP will be to i) improve or clarify existing commitments, ii) maintain alignment to current adopted standards and applicable laws, or iii) provide additional commitments. No modification to the DSP will materially degrade the security of a Cloud Service.

3. Changes

- a. SoftLayer may modify a Cloud Service, without degrading its functionality or security features.
- b. SoftLayer may withdraw a Cloud Service as stated in a TD. SoftLayer will continue to provide the Cloud Service for the remainder of Client's unexpired term, or work with Client to migrate to another Cloud offering.
- c. Since this CSA may apply to many future orders, SoftLayer may modify this CSA by providing Client at least one month's written notice. Changes are not retroactive; they apply, as of the effective date, only to new orders, ongoing Cloud Services that do not expire, and renewals. For transactions with a defined renewable contract period, Client may request that SoftLayer defer the change effective date until the end of the current contract period. Client accepts changes by placing new orders or continuing use after the change effective date or allowing transactions to renew after receipt of the change notice. Except as provided above, all changes to the Agreement must be in a writing accepted by both parties.

4. Warranties

- a. SoftLayer warrants that it provides Cloud Services using commercially reasonable care and skill in accordance with the applicable Attachment or TD. The warranty for a Cloud Service ends when the Cloud Service ends.
- b. **SoftLayer does not warrant uninterrupted or error-free operation of a Cloud Service or that SoftLayer will correct all defects or prevent third party disruptions or unauthorized third party access. These warranties are the exclusive warranties from SoftLayer and replace all other warranties, including the implied warranties or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose. SoftLayer warranties will not apply if there has been misuse, modification, damage not caused by SoftLayer, failure to comply with instructions provided by SoftLayer, or if otherwise stated in an Attachment or TD. Non-SoftLayer or non-IBM products and services are sold under the Agreement as-is, without warranties of any kind.** Third parties may provide their own warranties to Client.

5. Charges, Taxes, and Payment

- a. Client agrees to pay all applicable charges specified for a Cloud Service, charges for use in excess of authorizations, and any late payment fees. Prepaid Services must be used within the applicable period. SoftLayer does not give credits or refunds for any prepaid, one-time charges, or other charges already due or paid. SoftLayer may change charges on 30 days' notice or as specified in a TD. Payment for amounts due will be as specified in an Attachment or TD.
- b. Charges are exclusive of any customs or other duty, tax, levy, or fee imposed by any authority resulting from Client's acquisitions under the Agreement. Any such duty, tax, levy, or fee must be paid by Client. Client agrees to: i) pay withholding tax directly to the appropriate government entity where required by law; ii) notify SoftLayer prior to payment and furnish a tax certificate evidencing such payment to SoftLayer; iii) pay SoftLayer any additional amount to ensure SoftLayer receives the full amount of the charges invoiced; and iv) fully cooperate with SoftLayer in seeking a waiver or reduction of such taxes and promptly complete and file all relevant documents. If SoftLayer is legally required to pay or collect taxes for which Client is responsible, Client must pay SoftLayer the appropriate amount in addition to the amount of the charges, or provide a valid tax exemption certificate.

6. Liability and Indemnity

- a. SoftLayer's entire liability for all claims related to the Agreement will not exceed the amount of any actual direct damages incurred by Client up to the amounts paid by Client in the previous 12 months for the service that is the subject of the claim, regardless of the basis of the claim. This limit applies collectively to SoftLayer, its affiliated entities, contractors, subprocessors, and suppliers. SoftLayer will not be liable for special, incidental, exemplary, indirect, or economic consequential damages, or lost profits, business, value, revenue, goodwill, or anticipated savings.
- b. The following amounts are not subject to the above cap: i) third party payments referred to in the paragraph below; and ii) damages that cannot be limited under applicable law.
- c. If a third party asserts a claim against Client that a Cloud Service acquired under the Agreement infringes a patent or copyright, SoftLayer will defend Client against that claim and pay amounts finally awarded by a court against Client or included in a settlement approved by SoftLayer, provided that Client promptly (i) notifies SoftLayer in writing of the claim, (ii) supplies information requested by SoftLayer, and (iii) allows SoftLayer to control, and reasonably cooperates in, the defense and settlement, including mitigation efforts.
- d. SoftLayer has no responsibility for claims based on non-SoftLayer products and services, items not provided by SoftLayer, or any violation of law or third party rights caused by Client's Content, materials, designs, or specifications.

7. Termination

- a. SoftLayer may suspend, revoke, or limit Client's use of a Cloud Service if SoftLayer determines there is a material breach of Client's obligations, a security breach, or violation of law. If the cause of the suspension can reasonably be remedied, SoftLayer will provide notice of the actions Client must take to reinstate the Cloud Service. If Client fails to take such actions within a reasonable time, SoftLayer may terminate the Cloud Service. Failure to pay is a material breach.

- b. Either party may terminate this CSA: i) without cause on at least one month's notice to the other after expiration or termination of its obligations under the Agreement; or ii) immediately for cause if the other is in material breach of the Agreement, provided the one who is not complying is given notice and reasonable time to comply. Any terms that by their nature extend beyond the Agreement termination remain in effect until fulfilled, and apply to successors and assignees. Termination of this CSA does not terminate TDs, and provisions of this CSA as they relate to such TDs remain in effect until fulfilled or otherwise terminated in accordance with their terms.
- c. Client may terminate a Cloud Service on one month's notice: (i) at the written recommendation of a government or regulatory agency following a change in either applicable law or the Cloud Services; (ii) if SoftLayer's or IBM's modification to the computing environment used to provide the Cloud Service causes Client to be noncompliant with applicable laws; or (iii) if SoftLayer notifies Client of a modification that has a material adverse effect on Client's use of the Cloud Service, provided that SoftLayer will have 90 days to work with Client to minimize such effect. In the event of such termination, SoftLayer shall refund a portion of any prepaid amounts for the applicable Cloud Service for the period after the date of termination. If the Agreement is terminated for any other reason, Client shall pay to SoftLayer, on the date of termination, the total amounts due per the Agreement. Upon termination, SoftLayer may assist Client in transitioning Client's Content to an alternative technology for an additional charge and under separately agreed terms.

8. Governing Laws and Geographic Scope

- a. Each party is responsible for complying with: i) laws and regulations applicable to its business and Content; and ii) import, export, and economic sanction laws and regulations, including defense trade control regime of any jurisdiction, including the International Traffic in Arms Regulations and those of the United States that prohibit or restrict the export, re-export, or transfer of products, technology, services, or data, directly or indirectly, to or for certain countries, end uses, or end users. Client is responsible for its use of SoftLayer and non-SoftLayer products and services.
- b. Both parties agree to the application of the laws of the: i) State of New York, United States, for U.S. and U.S. territory Clients; and ii) Netherlands for all other Clients; without regard to conflict of law principles. The rights and obligations of each party are valid only in the country of Client's business address. If Client or any user exports or imports Content or use of any portion of the Cloud Service outside the country of Client's business address, SoftLayer will not serve as the exporter or importer. If any provision of the Agreement is invalid or unenforceable, the remaining provisions remain in full force and effect. Nothing in the Agreement affects statutory rights of consumers that cannot be waived or limited by contract. The United Nations Convention on Contracts for the International Sale of Goods does not apply to transactions under the Agreement.

9. General

- a. SoftLayer is an independent contractor, not Client's agent, joint venturer, partner, or fiduciary, and does not undertake to perform any of Client's regulatory obligations, or assume any responsibility for Client's business or operations. Each party is responsible for determining the assignment of its personnel and all contractors and subprocessors, and for their direction, control, and compensation.
- b. SoftLayer maintains a robust set of business conduct and related guidelines covering: conflicts of interest, market abuse, anti-bribery & corruption, and fraud. SoftLayer and its personnel comply with such policies and require contractors and subprocessors to have similar policies.
- c. SoftLayer, and its affiliates, and their contractors and subprocessors, may, wherever they do business, store and otherwise process business contact information (BCI) of Client, its personnel and authorized users, for example name, business telephone, address, email and user IDs for business dealings with them. Where notice to or consent by the individuals is required for such processing, Client will notify and obtain such consent.
- d. Account Data is information, other than Content and BCI, that Client provides to SoftLayer to enable Client's use of a Cloud Service or that SoftLayer collects using tracking technologies, such as cookies and web beacons, regarding Client's use of a Cloud Service. SoftLayer, its affiliates, contractors and subprocessors may use Account Data, for example to enable product features, administer use, personalize experience, and otherwise support or improve use of the Cloud Service. The IBM Online Privacy Statement at <https://www.ibm.com/privacy/details/us/en/> provides additional details.
- e. SoftLayer resellers and IBM business partners who use or make available IBM Cloud Services are independent from SoftLayer and unilaterally determine their prices and terms. SoftLayer is not responsible for their actions, omissions, statements, or offerings.
- f. Neither party may assign the Agreement, in whole or in part, without the prior written consent of the other, except no consent is required if SoftLayer assigns to IBM or an IBM company. Assignment of SoftLayer rights to receive payments or assignment by SoftLayer or IBM in conjunction with the sale of the portion of their business that includes a service is not restricted.
- g. This CSA applies to SoftLayer and Client and their respective Enterprise companies who avail themselves of the CSA. The parties shall coordinate the activities of Enterprise companies under the Agreement. Enterprise companies include: (i) companies within the same country that Client or SoftLayer control (by owning greater than 50% of the voting shares); (ii) any other entity that controls, is controlled by or is under common control with Client or SoftLayer and has signed a participation agreement; and (iii) for SoftLayer, IBM and its respective IBM group companies.
- h. All notices under the Agreement must be in writing and sent as described in a TD. The parties consent to the use of electronic means and facsimile transmissions for communications as a signed writing. Any reproduction of the Agreement made by reliable means is considered an original. The Agreement supersedes any course of dealing, discussions or representations between the parties.

- i. No right or cause of action for any third party is created by the Agreement or any transaction under it. Neither party will bring a legal action arising out of or related to the Agreement more than two years after the cause of action arose. Neither party is responsible for failure to fulfill its non-monetary obligations due to causes beyond its control. Each party will allow the other reasonable opportunity to comply before it claims the other has not met its obligations. Where approval, acceptance, consent, access, cooperation or similar action by either party is required, such action will not be unreasonably delayed or withheld.
- j. SoftLayer may use personnel and resources in locations worldwide, including third party contractors and subprocessors to support the delivery of the Cloud Services. IBM may transfer Content, including personally identifiable information, across country borders. A list of countries where Content may be processed for a Cloud Service is available at www.ibm.com/cloud/datacenters or as described in the Attachment or TD. SoftLayer is responsible for the obligations under the Agreement even if SoftLayer uses a third party contractor or subprocessors unless otherwise set forth in a TD. SoftLayer will require subprocessors with access to Content to maintain technical and organizational security measures that will enable SoftLayer to meet its obligations for a Cloud Service. A current list of subprocessors and their roles will be provided upon request.
- k. Softlayer may offer additional customization, configuration or other services to support Cloud Services, as detailed in a TD.

Appendix A: Country-Specific Terms

Country specific Attachments, if any, regarding data protection are available at <http://www.softlayer.com/csa>. Such data protection terms may if specified apply to Clients that select a data center within such country or geographic territory, e.g. the European Union. In the country of Client's business address, the following terms replace or modify the referenced terms:

AMERICAS

Section 1. Cloud Services

Replace the first sentence of paragraph b with:

In Latin America (all countries): Client accepts the terms in an Attachment or TD by signing it.

Section 3 Changes

In paragraph c, replace the last two sentences with:

In Brazil: Client accepts changes by executing an amendment (in writing or on-line). New orders or continuing use services or renewal may be suspended until an amendment is executed.

Section 5. Charges, Taxes, Payment, and Verification

Add at the end of paragraph b:

In Canada and United States: Where taxes are based upon the location(s) receiving the benefit of the Cloud Service, Client has an ongoing obligation to notify SoftLayer of such location(s) if different than Client's business address listed in the applicable Attachment or TD.

Add after first sentence of the paragraph a:

In Peru - If Client does not pay such charges, Client will automatically incur in delay and the amount due will produce interests since the day in which the debt should have been cancelled, until the day in which it is fully paid, both days included, with the highest rate of interest authorized by the Banco Central de Reserva del Perú and published by the Superintendencia de Banca, Seguros y AFP used in this kind of transactions, considering for this purpose both the compensating interests as well as the late fees. If these interest rates were changed, the highest authorized for each term of the delay will be charged. The interests will be required jointly with the capital and any partial payment should be regulated by the imputation laws contained in the Peruvian Civil Code, specially its article 1257.

Section 6. Liability and Indemnity

Insert the following disclaimer at the end of the clause:

In Perú: In accordance with Article 1328 of the Peruvian Civil Code this limitations and exclusions will not apply in the cases of willful misconduct ("dolo") or gross negligence ("culpa inexcusable").

Section 9. General

In Brazil: In paragraph I, *delete the 2nd sentence of "Neither party will bring a legal action arising out of or related to the Agreement more than two years after the cause of action arose."*

In Canada in Province of Quebec: Add as a last sentence in the section:

Both parties agree to write this document in English. Les parties ont convenu de rédiger le présent document en langue anglaise.

Add as a new paragraph at the end of this section:

In Spanish South America (Argentina, Chile, Colombia, Ecuador, Perú, Uruguay, Venezuela):

If Client includes, or authorizes others to include, personal data in the Content, Client represents that it is either the data controller ("titular del banco de datos") or that it has, prior to agreeing to this Agreement or extending the benefit of the Cloud Services to any other data controller ("titular del banco de datos"), been instructed by or obtained the consent of the relevant data controllers to enter into this Agreement. Client appoints SoftLayer or IBM as a data processor ("encargado") to process such personal data. Client will not use the Cloud Service in conjunction with personal data to the extent that doing so would violate applicable data protection laws.

ASIA PACIFIC

Section 1. Cloud Services

In the first sentence of paragraph b, before the word "ordering," add:

In Hong Kong and Macau: signing (by hand or electronically),

Section 4. Warranties

Add as new paragraph 4 (c):

In Australia: These warranties are in addition to any rights under, and only limited to the extent permitted by, the Competition and Consumer Act 2010.

In New Zealand: These warranties are in addition to any rights under the Consumer Guarantee Act 1993 or other legislation that cannot be limited by law.

Section 5. Charges, Taxes, and Payment

In India: In the third sentence of paragraph b, remove the word "and" before "(iv)", and at the end of the sentence, add:

"and (v) file accurate Taxes Deducted at Source (TDS) returns on a timely basis. If any tax, duty, levy or fee ("Taxes") are not charged on the basis of the exemption documentation provided by the Client and the taxation authority subsequently rules that such Taxes should have been charged, then the Client will be liable to pay such Taxes, including any interests, levies and/or penalties applicable thereon."

Section 6. Liability and Indemnity

In paragraph a, add at the end of the first sentence the following:

In Australia: "(for example, whether based in contract, tort, negligence, under statute or otherwise)"

Add as a new paragraph (a1) after paragraph a:

In Australia: Where SoftLayer is in breach of a guarantee implied by the Competition and Consumer Act 2010 (Cth), SoftLayer's liability is limited to (a) for services, the supplying of services again or the payment of the cost of having the services supplied again; and (b) for goods, the repair or replacement of goods or the supply of equivalent goods, or the payment of the cost of replacing the goods or having the good repaired. Where a guarantee relates to the right to sell, quiet possession, or clear title of a good under schedule 2 of the Competition and Consumer Act, then none of these limitations apply.

In paragraph a, the second sentence is revised to read:

In Philippines: SoftLayer will not be liable for special (including nominal and exemplary damages), moral, incidental, indirect, or economic consequential damages, or lost profits, business, value, revenue, goodwill, or anticipated savings.

Section 7. Termination

Add a new paragraph:

In Indonesia: Both parties waive in this regard, the provision of article 1266 of the Indonesian Civil Code to the extent the article provision requires such court decree for the termination of an agreement creating mutual obligations.

Section 9. General

Replace the second sentence of the sixth paragraph with:

In India: Neither party will bring a legal action arising out of or related to the Agreement more than three years after the cause of action arose.

EMEA

Section 3. Changes

In Hungary: *In paragraph c, fourth sentence, add the word "only" after the first word "Client".*

Section 4. Warranties

In paragraph b, before the last sentence, insert the following:

In Czech Republic, Estonia, and Lithuania: , or liabilities for defects. The parties hereby exclude any liability of SoftLayer for defects beyond the agreed warranties.

Section 5. Charges, Taxes, and Payment

In paragraph a, the first sentence, replace “specified for a Cloud Service” with the following:

In Belgium and Luxembourg: specified in or calculated in accordance with the Agreement

In paragraph a, fourth sentence, after the phrase: “SoftLayer may change one-time charges without notice” add:

In Czech Republic: , though Client may terminate the Agreement if Client disagrees with the change.

Add the following to the end of the first sentence of paragraph a:

In France: equal to the most recent European Central Bank rate plus 10 points, in addition to debt collection costs of forty (40) euros or, if these costs exceed forty euros, complementary indemnification subject to justification of the amount claimed)

In Italy: due based on SoftLayer’s notice to Client.

In Ukraine: , on the overdue amount from the next day after the due date up to the date of actual payment, prorated for each day of delay, at the interest rate of double the discount rate determined by the National Bank of Ukraine (NBU) during the delay period (paragraph 6 of article 232 of Commercial Code of Ukraine does not apply).

Section 6. Liability and Indemnity

In the first sentence of paragraph a, insert the following before the words “the amounts paid”:

In Belgium, France, Germany, Italy, Malta, Portugal, and Spain: the greater of €500,000 (five hundred thousand euro) or

In UK and Ireland: 125% of

In the first sentence of paragraph a, replace the phrase “direct damages incurred by Client” with:

In Spain: and proven damages incurred by Client as a direct consequence of the SoftLayer default

Insert after the first sentence of paragraph a:

In Slovakia: The total foreseeable damage shall not exceed the amount above.

Insert before the last sentence of paragraph a:

In Russia: SoftLayer will not be liable for the forgone benefit.

In the last sentence of paragraph a, replace “special, incidental, exemplary” with:

In France and Spain: damages to reputation

In the last sentence of paragraph a, delete:

In Ireland and UK: economic

Replace the second sentence of paragraph a with:

In Portugal: SoftLayer will not be liable for indirect damages, including loss of profit.

In Spain: **SoftLayer** will not be liable for damage to reputation, lost profits, business, value, revenue, goodwill, or anticipated savings.

Add the following at the end of paragraph a:

In France: The terms of the Agreement, including financial terms, were established in consideration of the present clause, which is an integral part of the general economy of the Agreement.

In paragraph b, replace “and (ii) damages that cannot be limited under applicable law” with the following:

In Germany: (ii) damages for body injury (including death); (iii) loss or damage caused by a breach of guarantee assumed by SoftLayer in connection with any transaction under this Agreement; and (iv) caused intentionally or by gross negligence.

Section 7. Termination

In paragraph a, delete:

In Switzerland: Failure to pay is a material breach.

In paragraph b, insert the following to the end of clause “i(i)” before “; or”:

In Russia: without payment of any damages or penalties to the other party on the basis of early termination

Insert the following as a new paragraph at the end:

In Netherlands: The Parties waive their rights under Title 7.1 ('Koop') and clause 7:401 and 402 of the Dutch Civil Code, and their rights to invoke a full or partial dissolution ('gehele of partiele ontbinding') of the Agreement under section 6:265 of the Dutch Civil Code

Section 9. General

In paragraph c, insert the following after the first sentence

In Spain: IBM will comply with requests to access, update or delete contact information if submitted to SoftLayer.

In paragraph f: replace the first sentence with the following:

In Malta and Spain: This Agreement applies to SoftLayer and Client (the signatories below, or the signatories of a document that incorporates this Agreement by reference).

Delete the following sentence in paragraph i:

In Bulgaria, Croatia, Poland, Russia, Serbia, and Slovenia: Neither party will bring a legal action arising out of or related to the Agreement more than two years after the cause of action arose.

In paragraph i, second sentence, replace the word “two” with:

In Latvia and Ukraine: three

In Slovakia: four

In paragraph i, add to the end of the following sentence: “Neither party is responsible for failure to fulfil its non-monetary obligations due to causes beyond its control”:

In Russia: , including but not limited to earthquakes, floods, fires, acts of God, strikes (excluding strikes of the parties' employees), acts of war, military actions, embargoes, blockades, international or governmental sanctions, and acts of authorities of the applicable jurisdiction.

In Ukraine: , including but not limited to import, export and economic sanctions requirements of the United States.

Add as a new paragraph at the end of the section:

For EU Member States, Iceland, Liechtenstein, Norway, Switzerland, and Turkey, until the effective date of the European General Data Protection Regulations (GDPR), at which time the terms relating to GDPR applies:

If Client includes, or authorizes others to include, personal data in the Content, Client represents that it is either the data controller or that it has, prior to agreeing to this Agreement or extending the benefit of the Cloud Services to any other data controller, been instructed by or obtained the consent of the relevant data controllers to enter into this Agreement. Client appoints SoftLayer or IBM as a data processor to process such personal data. Client will not use the Cloud Service in conjunction with personal data to the extent that doing so would violate applicable data protection laws.

SoftLayer shall reasonably cooperate with Client in its fulfillment of any legal requirement, including providing Client with access to personal data. Client agrees Client's personal data may be transferred across a country border, including outside the European Economic Area (EEA). If the Cloud Service is included in IBM's Privacy Shield certification listed at http://www.ibm.com/privacy/details/us/en/privacy_shield.html and Client chooses to have the Cloud Service hosted in a data center located in the United States, Client may rely on such certification for the transfer of personal data outside the EEA. Alternatively, the parties or their relevant affiliates may enter into separate standard unmodified EU Model Clause agreements in their corresponding roles pursuant to EC Decision 2010/87/EU (as amended or replaced, from time to time) with optional clauses removed. If SoftLayer or IBM makes a change to the way it processes or secures personal data as part of the Cloud Services and such change causes Client to be noncompliant with data protection laws, Client may terminate the affected Cloud Services as set forth in the TD.

In Czech Republic: Pursuant to Section to Section 1801 of Act No. 89/2012 Coll. (the “Civil Code”), Section 1799 and Section 1800 of the Civil Code as amended, do not apply to transactions under the Agreement. Client accepts the risk of a change of circumstances under Section 1765 of the Civil Code.

In Czech Republic: Client expressly accepts the terms of this Agreement which includes the following important commercial terms: (i) limitation and disclaimer of liability for defects (Warranties), (ii) limitation of Client's entitlement to damages (Liability and Indemnity), (iii) binding nature of export and import regulations (Governing Laws and Geographic Scope), (iv) shorter limitation periods (General), (v) exclusion of applicability of provisions on adhesion contracts (General), (vi) exclusion of rules permitting the execution of a contract in cases where the parties fail to reach full consensus (General) and (vii) acceptance of the risk of a change of circumstances (General).

In Hungary: By entering into the Agreement, Client confirms that Client was sufficiently informed of all the provisions of the Agreement and had the opportunity to negotiate those terms. The following provisions may significantly deviate from the provisions generally

applied by Hungarian law and both parties accept those provisions by signing the Agreement: Cloud Services; Warranty; Charges, Taxes, Payment and Verification; Liability and Indemnity, Termination; Governing Laws and Geographic Scope; and General.

In Romania: The Client expressly accepts, the following standard clauses that may be deemed 'unusual clauses' as per the provisions of article 1203 Romanian Civil Code: clauses 6, 7, 8 and 9 h). The Client hereby acknowledges that it was sufficiently informed of all the provisions of this Agreement, including the clauses mentioned above, it properly analyzed and understood such provisions and had the opportunity to negotiate the terms of each clause.

Add the following new paragraph at the end of the document, after the signatures:

In Italy: Pursuant to the art. 1341 and 1342 of Italian Civil Code, Client expressly accepts the following articles of the Agreement: Programs; Services – Cloud Services; Services – Other Services; Machines and Appliances; Machine Code and Built in Capacity; Warranty and Post Warranty Support; Charges, Taxes, Payment and Verification; Liability and Indemnity, Termination; Governing Laws and Geographic Scope, and General.

Agreed by: Client Company Name _____