THIS MASTER SERVICES AGREEMENT ("MSA") governs the provision of computer infrastructure and related services ("Services") by SoftLayer as ordered or accepted by You pursuant to the terms of this MSA, which includes the Terms of Services, Service Level Agreement, Privacy Agreement, IP Address Policy, SoftLayer Acceptable Use Policy and relevant appendices. For Customers located in Singapore, Mexico, Germany, Hong Kong, Brazil, Australia or The Netherlands, applicable addenda also are incorporated herein by reference, and can be found at http://www.softlayer.com/legal. BY CLICKING OR CHECKING THE BOX PRESENTED WITH THE MSA OR INSTALLING OR USING THE SERVICES, YOU AGREE THAT (1) YOU ACCEPT AND AGREE TO BE BOUND BY THE MSA IN ITS ENTIRETY, (AS AMENDED FROM TIME TO TIME AS PROVIDED HEREIN), (2) YOU HAVE THE LEGAL RIGHT AND AUTHORITY TO ENTER INTO THE MSA ON BEHALF OF THE INDIVIDUAL OR ENTITY FOR WHOM YOU ARE ACTING; AND (3) THIS MSA IS THE COMPLETE AGREEMENT PERTAINING TO THE SERVICES. IF YOU DO NOT AGREE TO BE BOUND BY THIS MSA, PLEASE DO NOT CLICK OR CHECK THE BOX PRESENTED WITH THE MSA OR INSTALL OR USE THE SERVICES.

Company Name: SoftLayer Technologies, Inc.

By: ______________________________________________________
Name: _____________________________________________________
Title: ______________________________________________________

Company Name: ____________________________________________

By: ______________________________________________________
Name: _____________________________________________________
Title: ______________________________________________________
2. SOFTLAYER’S OBLIGATIONS.

2.1 Provision of Services. SoftLayer will provide the Services, subject to the terms of the MSA. SoftLayer grants You a non-exclusive, non-transferable, non-sublicensable, revocable right to: (a) use and access the Services for internal purposes; and (b) use the Services to create, offer and provide Customer Offerings.

2.2 Use of and Access to the Services. You may order Services through the Customer Portal, or as otherwise designated by SoftLayer, and SoftLayer will give You notice of acceptance of Your order through the Customer Portal. SoftLayer retains the right to reject a request for Services. SoftLayer may change, discontinue, add, modify, re-price or remove features or functionality from the Services upon notice to You provided through the Customer Portal. It is Your responsibility to review the Customer Portal for such notices on a frequent basis. If You continue to use the Services following any such modification, You will be deemed to have accepted such modification.

3 USE OF AND ACCESS TO THE SERVICES.

3.1 Ordering and Modification of Services. You may order Services through the Customer Portal, or as otherwise designated by SoftLayer, and SoftLayer will give You notice of acceptance of Your order through the Customer Portal. SoftLayer requires notice of any downgrade or cancellation of Services a minimum of 24 hours prior to 00:00:01 CST (GMT-6) on the Anniversary Billing Date. Notice must be provided by way of a ticket in the Customer Portal that specifies the Services to be cancelled or downgraded. Failure to do so will result in an additional Renewal Term for those Services.

3.2 Your Obligations. You agree to: (i) comply with all applicable laws, rules and regulations, including, without limitation, all applicable anti-corruption and intellectual property laws, and the Digital Millennium Copyright Act; (ii) pay the fees for the Services when due; (iii) use reasonable security precautions for providing access to the Services and immediately notify SoftLayer of any known or suspected unauthorized use; (iv) cooperate with SoftLayer’s investigation of outages, security problems, and any suspected breach of the MSA; (v) comply with all license terms or terms of use for any software, content, service or website which You use or access when using the Services; (vi) keep Account Information current; (vii) be responsible for the use of the Services by You, Customer End Users and other parties to whom You give access to the Services or Customer Offering; (viii) comply with the TPS Agreements; and (ix) where You provide a Customer Offering, enter into an agreement with Your Customer End Users which includes terms necessary to meet your obligations under this Agreement and releases SoftLayer and its Affiliates from liability for damages or losses Customer End Users may incur as a result of using the Customer Offering. You may not use the Services (a) in any situation in which failure or fault of the Services could lead to death or serious bodily injury, or to physical or environmental damage, including but not limited to, use with aircraft or other modes of mass transportation, nuclear or chemical facilities, or Class III medical devices under the Federal, Drug and Cosmetic Act; or (b) in connection with offering emergency services (i.e., services necessary for the prevention of death or serious injury, or the protection of public health or local or national security) in the European Economic Area. You may not resell any of the Services alone to any third party without first entering into a reseller agreement with SoftLayer.

3.3 Special Terms for Third Party Services. To the extent You order Third Party Services under TPS Agreements, the Third Party Service provider is solely responsible for such services; however, Sections 7, 8, 9, 10, 12 and 13 of this MSA still apply.

4. PAYMENT.

4.1 Fees. All fees for the provision of Services (except as provided in 4.2 below) are due in advance of the first day of the relevant term. For example, the fees for Services during the Initial Term are due on or before the Effective Date. The fees Services for each Renewal Term are due on or before the Anniversary Billing Date. The amount due may be adjusted by the addition, upgrade, discontinuance or downgrade of Services, or through the use of SLA Credits. The fees for additional or upgraded Services for which the order is accepted on the Anniversary Billing Date will be due on the Anniversary Billing Date. The fees for additional or upgraded Services for which the order is accepted after an Anniversary Billing Date will be pro-rated on a calendar-day basis and billed as a one-time pro-rata charge, then will be due for successive Renewal Terms until cancelled.
4.2 Additional Service Fees/Hourly Service Fees/One Time Fees. Fees for additional services, such as Content Delivery Network (CDN) overages, bandwidth use overages, and backup overages are due on the next Anniversary Billing Date. You must request hourly Services in minimum increments of one hour and payment will be due on the next Anniversary Billing Date. One time fees, such as setup fees, bandwidth, storage, administrative fees and late fees, are due and payable when invoiced.

4.3 Payment Methods. Payment must be made by a credit card maintained on file with SoftLayer, electronic funds transfer or such other method as approved by SoftLayer. For methods such as credit card, the payment of fees will be automatic on the due date.

4.4 Taxes. All prices and fees are exclusive of any tax, including withholding, sales, use, excise and value added taxes, levies, import and customs duties or other similar or equivalent taxes. Any such taxes must be paid by You. Neither party shall be liable for the other party’s taxes based on income. If withholding tax applies to any payments for Services, You may deduct such taxes and pay them to the appropriate tax authority; provided that You notify SoftLayer prior to payment and You pay to SoftLayer any additional amount to ensure that SoftLayer receives the full amount of the invoice. If SoftLayer has the legal obligation to pay or collect taxes for which You are responsible, You must pay the appropriate amount in addition to the amount of the invoice, unless You provide SoftLayer with a valid tax exemption certificate. The parties agree to cooperate, where possible, to minimize the amount of withholding tax due, but in any event, You agree to account for any tax withheld to the tax authorities on a timely basis.

4.5 Additional Fees. If You fail to pay any fees on the due date, You will be assessed a late fee of $20. If SoftLayer has suspended Your access to the Services, You will incur a $50 reconnection fee. Such fees are due upon receipt of notice, and SoftLayer will not reconnect any Services until full payment is made.

4.6 Refunds & Disputes. All fees paid for Services are non-refundable. If You believe that any fee for the Services is incorrect, Your exclusive remedy is to seek SLA credits by opening an accounting ticket within 30 days of Your receipt of the disputed bill. Any charges not disputed by You within 30 days of receipt will be deemed conclusively accepted by You. You may not chargeback any credit card payments to SoftLayer and any such chargeback will result in an additional payment to SoftLayer of up to $500, which You agree is a reasonable estimate of SoftLayer’s additional administrative costs. You are responsible for any fees and costs (including, but not limited to, reasonable attorneys’ fees, court costs and collection agency fees) incurred by SoftLayer in enforcing collection of fees.

5. OWNERSHIP OF SITE AND SERVICES. You acknowledge and agree that SoftLayer (or its licensors) owns all legal rights to the Site and the Services, including any intellectual property or other proprietary rights which exist in the Site and Services (whether such rights are registered or unregistered, and wherever in the world those rights may exist).

6. SECURITY/DATA INTEGRITY. SoftLayer agrees to maintain reasonable and appropriate measures related to physical security to protect Customer Content. You are solely responsible for maintenance, integrity, retention, security and backup of Your Customer Content. You are solely responsible for compliance with all applicable security and privacy laws, rules and regulations (including any requirements regarding cryptography) in any applicable regions or countries regarding the Customer Content.

7. INDEMNIFICATION BY YOU. You hereby agree to indemnify, defend and hold harmless SoftLayer and its Affiliates, licensors and providers of Third Party Services (collectively, the “SoftLayer Parties”) from all liability (including, without limitation, attorneys’ fees and costs) incurred by them in connection with any claim arising out of: (a) Your use of the Services or Third Party Services; (b) any breach or alleged breach by You; anyone You give access to the Services, or any Customer End User, of this MSA, or of a third party’s rights, including intellectual property rights; (c) any damage caused by You or Your Customer End Users to the Site or Services; or (d) any actual or alleged violation by You or Your Customer End Users of any applicable law, court order, rule or regulation in any jurisdiction. You agree that You will not engage counsel to represent the SoftLayer Parties, nor consent to any judgment, settlement, or other act adverse to the SoftLayer Parties without their consent, and You will cooperate fully with the SoftLayer Parties in the defense or settlement of any such matter.

8. DISCLAIMER OF WARRANTIES. EXCEPT AS REQUIRED BY LAW, SOFTLAYER: (A) EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE; (B) DOES NOT WARRANT THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, OR THAT THEIR OPERATION WILL BE TIMELY, UNINTERRUPTED, SECURE, OR ERROR-FREE OR THAT ANY DEFECTS WILL BE CORRECTED; AND (C) DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF THE SERVICES IN TERMS OF ACCURACY, RELIABILITY, TIMELINESS, COMPLETENESS, OR OTHERWISE. YOU ASSUME TOTAL RESPONSIBILITY FOR USE OF THE SERVICES BY YOU AND YOUR CUSTOMER END USERS.

9. DISCLAIMER OF CONSEQUENTIAL DAMAGES. EXCEPT AS REQUIRED BY LAW, IN NO EVENT WILL SOFTLAYER BE LIABLE TO YOU FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, COMPENSATION, REIMBURSEMENT OR DAMAGES IN CONNECTION WITH, ARISING OUT OF, OR RELATING TO, THE USE, OR LOSS OF USE, OF THE SERVICES, LOSS OF PROFITS, LOSS OF GOODWILL, LOSS OF, OR DAMAGE TO, DATA OR CONTENT, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER BASED ON CONTRACT OR TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY), EVEN IF SOFTLAYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. LIMITATION OF LIABILITY. EXCEPT AS REQUIRED BY LAW, SOFTLAYER WILL NOT BE LIABLE TO YOU FOR DAMAGES FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTY OR CONDITION. IF SOFTLAYER IS FOUND TO BE LIABLE TO YOU FOR ANY DAMAGES ARISING IN CONNECTION WITH THE SERVICES, SOFTLAYER’S TOTAL CUMULATIVE LIABILITY MAY NOT EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY YOU FOR THE SERVICES FOR THE SIX MONTHS PRIOR TO THE EVENT(S) GIVING RISE TO SOFTLAYER’S LIABILITY.

11. DISPUTE RESOLUTION. The parties will attempt in good faith to resolve all disputes, disagreements, or claims relating to this MSA. Unless otherwise required by applicable law without the possibility of contractual waiver or limitation (i) neither party will bring legal action arising out of or related to this MSA more than two years after the cause of action arose; and (ii) after such time limit, any such legal action and all respective rights related thereto will lapse. Notwithstanding the above, You acknowledge that Your breach of Section 3.3 or violation of the terms of the AUP would cause irreparable injury to SoftLayer and agree that in the event of any such breach, SoftLayer will be entitled to seek temporary and preliminary injunctive relief without the necessity of proving actual damages or posting any bond or other security. Where required by applicable law, upon request, SoftLayer will provide You with information regarding approved mechanisms for alternative dispute resolution.
12. SUSPENSION.
12.1 Suspension. SoftLayer may suspend provision of Services to You without liability if: (i) SoftLayer reasonably believes that the Services are being used by You (or Your authorized users) in violation of the MSA or any applicable law, court order, rule or regulation in any jurisdiction, and/or You fail to cooperate with SoftLayer's investigation of any such suspected violation; (ii) SoftLayer reasonably believes that Services provided to You have been accessed or manipulated by a third party without Your consent; (iii) SoftLayer reasonably believes that suspension of the Services is necessary to avoid an adverse impact to SoftLayer's network or other SoftLayer customers; (iv) a payment for the Services is overdue by more than 5 days including the Anniversary Billing Date; (v) SoftLayer reasonably believes that the use of the Services by You may subject SoftLayer, its Affiliates, or any Third Party to liability; or (vi) suspension is required by law, statute, regulation, rule or court order. If SoftLayer suspends Services under Section 12.1(i), (v) or (vi), SoftLayer will only suspend the SoftLayer Services that gave rise to the basis for suspension. SoftLayer will give You reasonable advance notice of a suspension, unless SoftLayer determines that a suspension on shorter or contemporaneous notice is necessary to protect SoftLayer or its other customers from operational, security, or other risk, or the suspension is ordered by a court or other judicial body. If SoftLayer suspends Your right to access or use all or any portion of the Services:
   a. You remain responsible for all fees and charges (i) You have incurred through the date of suspension, and (ii) for any Services to which You have continued to have access after the date of suspension;
   b. You are not entitled to any SLA Credits for any period of suspension; and
   c. SoftLayer will not be liable for any damages or losses You may incur as a result of Your loss of access to Customer Content during the suspension.
13. TERMINATION.
13.1 Term. Except in the case of Hourly Services which are provided based on the number of hours in the order or as otherwise agreed by the parties in writing, the term will commence on the Effective Date and is automatically renewed each Anniversary Billing Date until terminated as provided below.
13.2 Termination for Convenience. You may terminate this MSA for convenience at any time as provided in Section 3.1. If You do so, You must pay SoftLayer all amounts that would be due within 5 days after such termination. SoftLayer may terminate the MSA for convenience upon providing You with notice of non-renewal at least 10 days prior to the expiration of the Initial Term or any Renewal Term.
13.3 Termination for Breach. SoftLayer may terminate the MSA immediately upon notice provided through the Customer Portal if: (i) SoftLayer discovers that any information You provided to SoftLayer is inaccurate or incomplete; (ii) You did not have the legal capacity, right or authority to enter into the MSA at the time You submitted the order; (iii) You fail to pay any undisputed overdue amount within 5 days of the due date; (iv) You or Your Customer End Users use the Services in violation of this MSA and fail to remedy the violation within 5 days of SoftLayer’s written notice; (v) You or Your Customer End User violates the AUP; (vi) Your account has been suspended for 30 days or more; or (vii) You have multiple violations of the MSA. SoftLayer will give You written notice of termination using the Customer Portal unless SoftLayer determines, in its reasonable commercial judgment, that a termination on shorter or contemporaneous notice is necessary to protect SoftLayer or its other customers from operational, security, or other risks.
13.4 Effect of Termination. You hereby instruct SoftLayer to delete the Customer Content upon expiration or termination of this MSA, or upon cancellation of a Service upon which Customer Content resides. You understand and agree that deletion of Customer Content will be automatic immediately after the effective date of such termination, expiration or cancellation. You must discontinue use of the Services, and relinquish use of the IP addresses, infrastructure and all other materials provided to You in connection with the Services, including pointing the DNS for Your domain name(s) away from the Services, upon expiration or termination of the MSA.
14. U.S. GOVERNMENT CUSTOMERS AND U.S. GOVERNMENT RIGHTS. SoftLayer provides the Services for ultimate federal government end use solely in accordance with the following license rights to use, modify, reproduce, release, perform, display, or disclose: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this MSA. This customary commercial license is provided in accordance with the Federal Acquisition Regulation (“FAR”) at 48 C.F.R. 12.211 (Technical Data) and FAR 12.212 (Software) for civilian agencies, and, for Department of Defense transactions, the Federal Federal Acquisition Regulation Supplement (“DFARS”) at 48 C.F.R. 252.227-7015 (Technical Data – Commercial Items), 48 C.F.R. 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). This U.S. Government Rights clause, consistent with 48 C.F.R. 12.211, 48 C.F.R. 27.212 (federal civilian agencies) or 48 C.F.R. 227.7202-4 (DoD agencies) is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses U.S. Government rights in computer software, computer software documentation or technical data related to the SoftLayer Commercial Computer Software and Commercial Computer Software Documentation licensed under this MSA or in any contract or subcontract under which this SoftLayer Commercial Computer Software and Commercial Computer Software Documentation is acquired or licensed. If a government agency has a need for rights not conveyed under these terms, it must negotiate with SoftLayer to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in writing and agreed to by SoftLayer in any applicable contract or agreement.
15. THIRD PARTIES. SoftLayer will provide support only to You, not to Customer End Users, Customer Affiliates, or other third parties. There are no third party beneficiaries to this MSA.
16. MISCELLANEOUS.
16.1 Changes to the MSA. SoftLayer may modify the terms and conditions of this MSA by notifying You through the Customer Portal and all modifications will be effective upon such notice. It is Your responsibility to review the Customer Portal for such notices. Your use of the Services following any such notice will be deemed acceptance of such modifications. Any modifications You request to the MSA must be approved in writing by SoftLayer.
16.2 Notices. Communications regarding the Services should be sent in English through the Customer Portal, except for notices of breach, indemnification, or other non-routine legal matters, which should be sent by electronic mail and first-class U.S. mail to the address and email address listed at http://www.softlayer.com/legal.
16.3 Export Matters. You are responsible for compliance with all applicable laws, and You agree to comply with all restrictions and regulations of the U.S. Department of Commerce and any other United States or foreign agencies and authorities in connection with Your and Customer End Users’ use of these Services and to not, in violation of any laws, transfer, or authorize the transfer of, any Services (a) into or for the benefit of an entity located in a country subject to a U.S. and/or U.N. embargo, or (b) to anyone on the U.S. Treasury Department's List of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders or Entity List of proliferation concern, or the U.S. State Department's Debarred Parties List. By using these Services, You represent and warrant that
You and Your Customer End Users are not located in, under the control of, or a national or resident of, any such country or on any such list. In addition, You and Your Customer End Users may not use the Services for the development, design, manufacture, production, stockpiling or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles, in a country listed in Country Groups D: 4 and D: 3, as set forth in Supplement No. 1 to Part 740 of the U.S. Export Administration Regulations. You assume responsibility for compliance with laws and regulations applicable to export, re-export or import of products, technology or technical data provided hereunder and for obtaining required export and import authorizations. You and Your Customer End Users must not transfer to or through the Services any data, materials or other items controlled for export under the International Traffic in Arms Regulations ("ITAR Data") or other applicable laws unless SoftLayer has agreed to the transfer and: (i) You have provided SoftLayer at least 10 days’ prior written notice that ITAR Data will be transferred to or through the Services; (ii) You and/or Your Customer End User has received prior written authorization from the U.S. Government to transfer the ITAR Data to SoftLayer; and (iii) You agree to provide SoftLayer with all necessary assistance to enable SoftLayer to obtain such U.S. Government permission. You are responsible for all costs, expenses or damages incurred by SoftLayer in connection with such transfer of ITAR Data.

16.4 Assignment/Subcontractors. You may not assign or delegate the MSA or Your rights and obligations thereunder without SoftLayer’s prior written consent. SoftLayer may assign the MSA to (i) its Affiliates or (ii) any entity as a result of a merger or sale of all or substantially all of the assets of SoftLayer. SoftLayer may use third parties or Affiliates to provide all or part of the Services. This provision does not apply to the Third Party Services, which are governed by separate agreements.

16.5 Force Majeure. Except for its rights in Sections 12 and 13, neither party will be in violation of the MSA if a failure to perform is due to an event beyond the party’s control, such as significant failure of a part of the power grid, sabotage, a denial of service attack, significant failure of the Internet, natural disaster, war, riot, insurrection, epidemic, strikes or other organized labor actions, terrorism, or other events of a magnitude or type for which precautions are not generally taken in the industry; provided however, if the force majeure event continues beyond thirty (30) days, the performing party may terminate the MSA.

16.6 Marketing. You agree that SoftLayer may identify You as a customer of SoftLayer in connection with SoftLayer marketing communications.

16.7 Governing Law, Lawsuits. The MSA is governed by the laws of the State of New York. The application to the MSA of the United Nations Convention on the International Sale of Goods is excluded in its entirety. The exclusive venue for all disputes arising out of the MSA will be in the state courts in Westchester County, New York or the Federal District Court for the Southern District of New York. You waive all objections to this venue and agree not to dispute personal jurisdiction or venue in these courts.

16.8 Integration. This MSA is the complete and exclusive agreement between You and SoftLayer regarding the Services and supersedes all other agreements or communication – whether written or oral – pertaining to provision of the Services to You.

16.9 Business Contact Information. SoftLayer and its affiliates and subcontractors may process Your business contact information, and that of Your employees and subcontractors worldwide, in connection with our business relationship, and You affirm that You have obtained all consents necessary for that purpose.

16.10 Additional terms for Customers with PCI DSS Workloads. SoftLayer acknowledges that it is responsible for the security of credit cardholder data to the extent that SoftLayer has control of that data, and is responsible for the physical security of the systems that house cardholder data stored there by You. You acknowledge that You are responsible for determining the PCI DSS requirements applicable to You and Your unique workload(s).
Service Level Agreement ("SLA")

This SLA is incorporated into the MSA and is applicable to all Services delivered to You. This SLA does not apply to the availability of Third Party Services, which are subject to the TPS Agreements. The SLA is binding only on You and SoftLayer and does not apply to any third parties, including Customer End Users. The issuance of SLA Credits (defined below) is Your sole and exclusive remedy for any failure by SoftLayer to satisfy the requirements set forth in the SLA.

SLA Credit Claim

To claim a credit, You must follow the procedure described herein within seven (7) days of the end of the Claimed Outage. The claim will be reviewed by SoftLayer, and any credit for Verified Outages ("SLA Credits") will be issued as provided below.

1. Your identified master administrative user must report a Claimed Outage by opening a ticket on the Customer Portal within 7 days following the end of the Claimed Outage. The ticket must include Service type, IP Address, dates and times of the Claimed Outage, error messages received (if any), contact information, and a full description of the interruption of Service, including logs, if applicable.
2. SoftLayer will review Claimed Outages against Verified Outages.
3. SoftLayer’s determination of SLA Credits is final.
4. You agree to continue to make payment in full for Services while a Claimed Outage is being reviewed or SLA Credit is being determined.
5. SoftLayer will communicate the SLA Credits to You through the Customer Portal, and will apply the SLA Credits to Your future charges for the relevant Service which was subject to the Loss of Service during the Measurement Period. Any period of Qualifying Outage Minutes for a Service which is less than 30 continuous minutes shall not be eligible for an award of SLA Credits. Claimed Outages for different Services may not be combined to meet this calculation. SLA Credits for failure of hardware replacement or hardware upgrade are calculated as set forth in Tables A and B.

Approved Procedure

You are eligible to receive SLA Credit, subject to the following process:

1. Your identified master administrative user must report a Claimed Outage by opening a ticket on the Customer Portal within 7 days following the end of the Claimed Outage. The ticket must include Service type, IP Address, dates and times of the Claimed Outage, error messages received (if any), contact information, and a full description of the interruption of Service, including logs, if applicable.
2. SoftLayer will review Claimed Outages against Verified Outages.
3. SoftLayer’s determination of SLA Credits is final.
4. You agree to continue to make payment in full for Services while a Claimed Outage is being reviewed or SLA Credit is being determined.
5. SoftLayer will communicate the SLA Credits to You through the Customer Portal, and will apply the SLA Credits to Your future charges for the relevant Service which was subject to the Loss of Service during the Measurement Period. Any period of Qualifying Outage Minutes for a Service which is less than 30 continuous minutes shall not be eligible for an award of SLA Credits. Claimed Outages for different Services may not be combined to meet this calculation. SLA Credits for failure of hardware replacement or hardware upgrade are calculated as set forth in Tables A and B.

Ineligible Customers

Customers do not qualify for SLA Credits if they (a) are not current on their payment of fees for the Services at the time of the report of the Claimed Outage, or (b) have not paid their fees when due for the Services three or more times in the previous 12 calendar months.

Use of SLA Credits

SLA Credits may be used solely for future payments due for the particular Service or other obligations for which the Service Credits are issued. SLA Credits may not be sold or transferred, and may not be used until any violations of the MSA are resolved to SoftLayer’s reasonable satisfaction. False or duplicative Claimed Outages are a violation of the MSA, will incur a one-time charge of $50 per incident and may, in SoftLayer’s discretion, result in a suspension or termination of Services. SLA Credits expire on termination or expiration of the MSA.

SLA Credit Exclusion

SLA Credits do not apply for periods during which the Services are not available for the following reasons:

- SoftLayer is performing system upgrades, enhancements or routine maintenance which is announced on the Customer Portal at least two days in advance or maintenance determined by SoftLayer to be an emergency upon notice provided through the Customer Portal ("Scheduled Maintenance");
- Issues relating to Customer Content;
- Problems with Your access to the Internet;
- System administration, commands, and file transfers performed by You or Your representatives;
- Events described in the Force Majeure provision;
- Suspension of Your access to the Services as provided in the MSA;
- Violation of the AUP;
- Problems caused by Your use of the Services or any Customer End User’s use of Customer Offering in violation of the MSA;
- Problems arising from software, applications or Customer Content;
- Problems caused by hardware provided by You or a third party.

Special Obligations relating to Hardware Replacement and Hardware Upgrades

Hardware Replacement: SoftLayer will use reasonable efforts to replace failed hardware and hardware components at a service level of two hours (not including the time required to reload the operating system or applications) after SoftLayer verifies Your report of a hardware failure. If the installation does not meet this service level, You will be eligible for SLA Credits as provided in Table A below for future fees directly related to the hardware.

Hardware Upgrades: SoftLayer will use reasonable efforts to ensure that all planned hardware upgrades will commence and be completed at a service level within two hours of hardware upgrade maintenance periods that have been scheduled and confirmed in advance through the Customer Portal (not including the
time required to reload the operating system or applications). If the installation does not meet this service level, You will be eligible for SLA Credits as provided in Table B below for the future fees directly related to the hardware upgrade.

<table>
<thead>
<tr>
<th>Response Period</th>
<th>SLA Credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 hours or less</td>
<td>N/A</td>
</tr>
<tr>
<td>2.1 to 6 hours</td>
<td>Twenty Percent (“20%”)</td>
</tr>
<tr>
<td>6.1 to 10 hours</td>
<td>Forty Percent (“40%”)</td>
</tr>
<tr>
<td>10.1 to 14 hours</td>
<td>Sixty Percent (“60%”)</td>
</tr>
<tr>
<td>14.1 to 18 hours</td>
<td>Eighty Percent (“80%”)</td>
</tr>
<tr>
<td>18 hours +</td>
<td>One Hundred Percent (“100%”)</td>
</tr>
</tbody>
</table>

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<tr>
<td>14.1 to 18 hours</td>
<td>Eighty Percent (“80%”)</td>
</tr>
<tr>
<td>18 hours +</td>
<td>One Hundred Percent (“100%”)</td>
</tr>
</tbody>
</table>
Acceptable Use Policy ("AUP")

This AUP outlines unacceptable use of the Services and is in addition to any other terms and conditions under which SoftLayer provides the Services to You. SoftLayer may modify the AUP from time to time by posting a new version of this document on the SoftLayer Web site at “http://www.softlayer.com/acceptable-use-policy”.

Questions about this AUP (e.g., whether any contemplated use is permitted) and reports of violations of this AUP should be directed to abuse@softlayer.com. Prohibited content, uses and activities include, without limitation, any use of the Services in a manner that, in SoftLayer’s reasonable judgment, involves, facilitates, or attempts any of the following:

1. violating any law;
2. displaying, performing, sending, receiving or storing any content that is obscene, inappropriate, offensive, or otherwise objectionable, even if the material or its dissemination is lawful;
3. harassing any person or advocating or encouraging violence of any kind against any person, entity or government;
4. infringing, violating or misappropriating another’s rights;
5. obtaining unauthorized access to, or interfering by any means with, any user, system, network, service, or account, including evasion of filters or violation of the security or integrity of any network or system;
6. distributing computer viruses or malware of any kind; or
7. sending, receiving or supporting email messages that are unsolicited, deceptive, anonymous, excessively voluminous or that contain falsified identifying information, including spamming and phishing.

You are responsible to ensure that use of the Services and content is in compliance with all applicable laws, including laws where the Services or content is uploaded, hosted, stored, accessed or used, and to implement necessary restrictions to prohibit use by any individual (e.g. restrictions on access by minors) or in any jurisdiction, as required to comply with such laws. Similarly, SoftLayer reserves the right to take all actions it deems appropriate to comply with applicable laws. SoftLayer’s Direct Link Service may only be used to exchange traffic between Your existing SoftLayer bare metal servers, SoftLayer VSI, or SoftLayer Object Storage.
Privacy Agreement ("PA")

SoftLayer utilizes great care in keeping the information of the users of the Site (including customers) ("Users" or "You") private and secure. SoftLayer adheres to the U.S.-Swiss Safe Harbor Framework as well as the Safe Harbor Principles as agreed to and set forth by the United States Department of Commerce and the European Union ("EU"), http://export.gov/safeharbor. This Privacy Agreement demonstrates our firm commitment to maintaining the privacy of all data collected, and describes the information we collect; how we use, disclose, and share that information; and how we protect the information. Capitalized terms not defined in this PA are defined in the Terms of Service. This PA applies only to the Services and does not apply to Third Party Services, which are governed by their own privacy policies. For customers located in Germany, You and SoftLayer further agree to the German Data Processing Addendum, which is located at http://www.softlayer.com/legal/.

Types of Data Collected

SoftLayer collects data related to our users through the following methods:

- Automated means such as communication protocols and cookies
- Online registration and online signup forms
- Sales inquiries and transactions
- Online Customer communications
- Offline communications and interactions
- Third party sources of information

The data collected may include information about the User from forms, registrations and transactions (such as name, title, address, company, phone number and e-mail address), financial/transaction information (such as credit card, card verification value (cvv), and payment information), information about use of the Site (such as electronic communications protocols, web pages visited, and cookies) and User preferences and privileges. To the extent that this information is transferred to a country outside the European Economic Area or another country deemed “adequate” by the European Commission, SoftLayer will comply with both any data protection laws of the country to which the information is transferred, as well as the data protection provisions of the European Commission. "PII" when used in this Privacy Agreement refers to the Customer account Information provided by You to SoftLayer to maintain the relationship described in the MSA. PII does not include Customer Content in any form.

Electronic Communications Protocols and Cookies

SoftLayer may receive data from You as part of the communication connection itself through the standard electronic greeting between Your computer and our servers. This information often consists of network routing (where You came from), equipment information (browser type), Internet protocol address, date and time. At this time our server will also query Your computer to see if there are "cookies" previously set by softlayer.com to facilitate log-in or other site navigation procedures. A "cookie" is a small piece of information sent by a web server to store in a web browser so it can later be read back from that browser. Some parts of the Site use cookies (including signup forms) to collect information about visitors’ use of the Site and to facilitate return visits. The information collected from cookies is tracked to enhance security and/or to improve the functionality of the Site by avoiding duplicate data entry, facilitating navigation, and increasing the relevance of content.

Cookies on the Site may collect the following information: a unique identifier, User preferences and profile information used to personalize the content that is shown, and User information to access SoftLayer's user forums. Some cookies used by softlayer.com may remain on the user's computer after the user leaves the Site, with the majority set to expire within 30 to 365 days, although some cookies may be of longer duration. Cookies may also be of benefit to You by creating a more streamlined login process, keeping track of shopping cart additions or preserving order information between sessions. In the future, as we enable further customization of the Site, cookies will help in ensuring that information provided to You will be the most relevant to Your needs.

Browsers provide You with information and control over cookies. You can set Your web browser to alert You when a cookie is being used. You can also get information on the duration of the cookie and what server Your data is being returned to. You then have the opportunity to accept or reject the cookie. Additionally, You can set Your browser to refuse all cookies or accept only cookies returned to the originating servers. You can generally disable the cookie feature on Your browser without affecting Your ability to use the Site, except in some cases where cookies are used as an essential security feature or to provide functionality necessary for transaction completion.

Users visiting the site through an IP address that is associated with (a member state of) the European Economic Area ("EEA Users") will by default only receive cookies that expire once they leave the website. This may result in reduced website functionality. EEA Users may opt-in to the receipt of cookies of a longer duration by giving their consent in a pop-up window or bar shown at the homepage of the website. Following their consent, EEA Users will receive all cookies discussed above and full website functionality will be available. EEA Users may choose to revoke their consent at any time by deleting all cookies associated with SoftLayer through their browser settings (as discussed above).

We may also engage third parties to track and analyze non-personally and personally identifiable website data and to serve advertisements. To do so, we may permit third parties to place cookies on devices of Users of our Site, where permitted by law, and subject to Your right to opt out through the Site. We use the data collected to help us administer and improve the quality of the Site and to analyze Site usage. Such third parties may combine the information that we provide about You with other information that they have collected. These third parties are required to use Your information in accordance with this PA. We will record all such disclosures, and will use reasonable efforts to ensure that such third parties do not use Your PII for any purpose that is not expressly provided for herein.

You are solely responsible for any processing or international transfer of all PII in the Customer Content, including in any Third Party Services, and You agree to comply with all applicable rules, laws and regulations in any and all applicable regions or countries related to the transfer of such PII. To the extent PII is subject to rules, laws, regulations or the like implementing EU Data Protection Directive 95/46/EC, SoftLayer will be considered a “data processor” and will, as such, act on Your instructions and implement security measures in accordance with the MSA. For customers located outside of the territory of the United States, SoftLayer Dutch Holdings B.V. may utilize SoftLayer Technologies, Inc. to further process PII, and You agree that SoftLayer Technologies, Inc., which is based in the U.S., may act as a sub-processor.

The Data We Collect and How We Use It

You acknowledge and agree that SoftLayer may collect information from You for the following purposes:

- To engage in transactions for the Services. Name, address, email, purchase details, and credit card/payment information (last 4 digits and expiration date only) may be collected and stored as part of the transaction history. The majority of the data collected under this category is contact information. SoftLayer may need to share some of this data (address, payment) with credit card clearing houses, banking institutions, and other similarly situated agents, who may require the information in order to complete the transaction on behalf of SoftLayer. SoftLayer will not transfer information to any of its
Privacy Agreement ("PA")

agents unless it first either ascertains that the agent subscribes to the Safe Harbor Principles or is subject to the EU Directive on Data Protection or another adequacy finding or enters into a written agreement with such agent requiring that the agent provide at least the same level of privacy protection as is required by the relevant Safe Harbor Principles.

● To provide future service and support. Information collected for this purpose is both contact data and information related to products and service/support requested. This information is also used to provide notices regarding updates to the Services.

● Data may be collected to help create and select Site content and to optimize navigation so that it is relevant and user friendly. This includes data collected as a result of site navigation, as well as data provided in forms.

● To respond to user inquiries and requests for information. This data includes registrations for online newsletters, opt-in mailing lists and specific requests for further information.

● To respond to law enforcement organizations, government officials and third parties when compelled by subpoena, court order, or applicable law, or to report or prevent suspected fraudulent or illegal activity in the use of the Services. SoftLayer will notify You of the information request or submission if allowed.

● To our contractors who provide services or perform functions on our behalf.

● To our Affiliates, in which case their use and disclosure of Your PII will be subject to this PA.

● To transfer to another entity as a result of SoftLayer being subject to acquisition, merger or bankruptcy.

● To provide various SoftLayer communities, such as resellers, with relevant product alerts and updates. These updates are related to product releases, prices, terms, special offers and associated campaigns. This data is sent when the program member signs up for the relevant program or online account.

● To better tailor marketing to User needs. We may use information from User purchases and User-specific requirements to provide You with timely and pertinent notices of SoftLayer product releases and service developments that address Your needs and specified requirements and/or which are similar to products and services previously purchased by You from SoftLayer.

● To better respond to requests for service or quotes for product and equipment purchases. SoftLayer will pass contact information to the appropriate SoftLayer sales person, or reseller for follow-up related to SoftLayer products or services.

● From referral "tell a friend" function. If a User elects to use our referral service for informing a friend about our Site, we ask them for the friend's name and email address. SoftLayer will automatically send the friend a one-time email inviting them to visit the Site and send a copy of said e-mail to the User. The e-mail(s) sent will clearly identify the sender of the email(s). SoftLayer uses this data for the sole purpose of sending this one-time email. Such email sent to a friend at User's request will not be stored for additional processing.

● As a result of Your participation in interactive discussions and public forums. There are parts of the Site that permit You to participate in interactive discussions. Some of these are moderated; all are subject to access for technical reasons. SoftLayer does not control the content that Users post and some may serve as public discussion forums. As in any interactive forum open to many Users, You should carefully consider whether You wish to submit data and should tailor any other content submitted accordingly.

● SoftLayer Affiliates located in the EEA provide SoftLayer Technologies, Inc. with personal information about their prospective customers, prospective vendors, prospective employees; and participants, in its channel partner program, vendors and employees; SoftLayer uses this information to assist its Affiliates in providing services to those customers, and to assist its Affiliates with vendor relations and contract management, human resources management, and their internal financial and other operations. You understand that this personal data will be used by SoftLayer Technologies, Inc. and its Affiliates for the above purposes and that this personal data may be transferred outside of the EEA to jurisdictions which may not provide the same level of legal protection as in the EEA. You hereby authorize such transfers and confirms that it has all necessary consents in place to give such authorization.

Customer Content

On occasion, employees of SoftLayer Technologies, Inc. that are located in the U.S. may have temporary access to Customer Content in connection with providing maintenance or support services to You. This access will only be accomplished by way of Your explicit permission and instructions (as the Controller of the Customer Content) and only for so long as the employee is providing services to You. As a Processor, SoftLayer will not access the Customer Content for any purpose beyond providing You with support as described above, and will not disclose it to any person or entity. You agree that employees of SoftLayer Technologies, Inc. may access Customer Content in the manner described above.

Customer Portal, Customer Customization, Preferences and Opt-Out

New customers are automatically registered for access at https://control.softlayer.com. The Customer Portal allows You the ability to create users, add/delete users, add/delete user privileges and opt in (or out) of Services and mailing lists. The Customer Portal provides You with control over preferences for electronic information delivery. The Customer Portal is operated and maintained in the United States and Your Account Information is stored on the Customer Portal in the United States, and You agree that SoftLayer may do so.

SoftLayer has also provided Your master user the ability to manage Your Account Information. To change this information, You must be a current customer, log in with a user ID and password, and follow the prompts to "update my profile" on the Customer Portal. We continue to expand the profile of Services and information that You may access and update.

Please note that some email communications are not subject to general opt-out. These include communications related to downloads; communications about sales transactions; information about software updates, patches and fixes; disclosures to comply with legal requirements; and network upgrades or other related maintenance for Service.

If an individual’s PII is to be (a) disclosed to a third party who is not an agent of SoftLayer; or (b) used for a purpose that is incompatible with the purpose(s) for which it was originally collected or subsequently authorized by the individual, then the individual will be notified prior to such disclosure and may opt out of having the PII disclosed by responding to the email and/or author of the notification, where such information shall be clearly set forth. Any such disclosures will be documented, recorded, and retained as required by retention policies or applicable laws.

Where SoftLayer Acts as a Data Processor for EUE/EEA and/or Switzerland Customers

When providing infrastructure as a service (IaaS), SoftLayer Technologies, Inc. may process personal data controlled by its customers or customers of SoftLayer entities located in the European Union/European Economic Area. SoftLayer does not determine or have knowledge of the types of data stored by customers.
Privacy Agreement (“PA”)  

and/or how that data is accessed, exchanged, processed or the classification of that data. SoftLayer customers are the data controllers of such personal data and are responsible for compliance with applicable data protection principles. SoftLayer processes data as a data processor at the direction of its customers in accordance with the terms of the MSA.

SoftLayer has in place a data processing agreement with each of its entities located in the EU (in accordance with the standards of the EU Data Protection Directive and the Safe Harbor).

The provision of IaaS may, at the direction of the customer, include the transfer by the customer of its personal data outside of the EEA to jurisdictions which may not provide the same level of legal protection as in the EEA. The customer is responsible for ensuring that it has all necessary consents and agreements in place with data subjects for international transfers of personal data that it directs as part of its receipt of IaaS.

The terms “process,” “data controller,” “data processor,” and “data subject” have the meanings given to them in the EU Data Protection Directive.

Security

SoftLayer is concerned with the security of the data we have collected and utilizes reasonable measures to prevent unauthorized access to that information. These measures include policies, procedures, employee training, physical access and technical elements relating to data access controls. In addition, SoftLayer uses standard security protocols and mechanisms to facilitate the exchange and the transmission of sensitive data, such as credit card details. SoftLayer does not process PII in a way that is incompatible with the purposes for which it has been collected or subsequently authorized by the individual.

In the event that PII is acquired, or is reasonably believed to have been acquired, by an unauthorized person and applicable law requires notification, SoftLayer will notify the affected individual of the breach by email or ticket on the Customer Portal or, if SoftLayer is unable to contact the individual by email or ticket on the Customer Portal, then by regular mail. Notice will be given promptly, consistent with the legitimate needs of law enforcement and any measures necessary for SoftLayer or law enforcement to determine the scope of the breach and to ensure or restore the integrity of the data system. SoftLayer may delay notification if SoftLayer or a law enforcement agency determines that the notification will impede a criminal investigation, and in such case, notification will not be provided unless and until SoftLayer or the agency determines that notification will not compromise the investigation. SoftLayer will cooperate with You in the investigation and/or remediation of any security breach.

Enforcement

SoftLayer has established internal mechanisms to verify its ongoing adherence to its privacy policy, including the Safe Harbor Principles. SoftLayer also encourages individuals covered by this privacy policy to raise any concerns about our processing of PII by contacting SoftLayer at the address below. SoftLayer will seek to resolve any concerns. SoftLayer has also agreed to participate in the dispute resolution program provided by the European Data Protection Authorities.

Policy Updates

If we are going to use Your PII in a manner different from that stated at the time of collection, we will notify You via email. In addition, if we make any material changes in our privacy practices that do not affect the PII already stored in our database, we will notify You by email or post a prominent notice on the Customer Portal notifying users of the change. In some cases, when we post the notice, we will also email users who have opted to receive communications from us, notifying them of the changes in our privacy practices. We may update this PA from time to time to describe how new site features affect our use of Your PII and to let You know of new control and preference features that we provide.

Contact Information and Inspection Rights

You have the right to access and correct Your PII, and to refuse for legitimate reason to allow us to process Your PII. Questions, concerns or comments about this privacy policy should be addressed to:

SoftLayer Technologies, Inc., an IBM Company
ATTN: Legal Department
Stanford Corporate Center
14001 North Dallas Parkway, Suite M100
Dallas, Texas 75240
Email: legal@softlayer.com
Phone: 1 (214) 442-0600

If at any time You decide that You no longer desire that we hold, use, correct or supplement any of Your PII, receive information regarding any PII processed in relation to You or You wish to change the manner in which Your PII may be used, please let us know by contacting us as set forth above.

PLEASE NOTE THAT ADDENDA THAT APPLY TO THE FOLLOWING COUNTRIES ARE INCORPORATED INTO THE MSA AND THIS PRIVACY AGREEMENT AND CAN BE FOUND AT HTTP://WWW.SOFTLAYER.COM/LEGAL/: AUSTRALIA; BRAZIL; GERMANY; HONG KONG; MEXICO; THE NETHERLANDS AND SINGAPORE
APPLE LICENSED APPLICATIONS ADDENDUM

NOTE: If You download or use any SoftLayer applications (“Licensed Application”) that run on the Apple Inc. (“Apple”) operating system (“iOS”), such as with the iPhone, iPod touch, iPad or other related device using the iOS, the following terms apply and You must agree to and acknowledge these terms in addition to those contained in SoftLayer’s MSA:

1. Acknowledgement: SoftLayer and You acknowledge that the MSA is concluded between SoftLayer and You only, and not with Apple, and SoftLayer, not Apple, is solely responsible for the Licensed Application and the content thereof. SoftLayer’s MSA requirements and usage rules for Licensed Applications are not less restrictive than the Usage Rules set forth for Licensed Applications in, and are not otherwise in conflict with, the App Store terms of service as of the Effective Date, which SoftLayer and You acknowledge having had the opportunity to review.

2. Scope of License: The license granted to You for the Licensed Application is limited to a non-transferable license to use the Licensed Application on any iOS that You own or control and as permitted by the Usage Rules set forth in the App Store terms of service.

3. Maintenance and Support: SoftLayer is solely responsible for providing any maintenance and support services with respect to the Licensed Application, as specified in the MSA, or as required under applicable law. SoftLayer and You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Licensed Application.

4. Warranty: SoftLayer is solely responsible for any product warranties, whether express or implied by law, to the extent not otherwise disclaimed. In the event of any failure of the Licensed Application to conform to any applicable warranty, You may notify Apple, and Apple will refund the purchase price for the Licensed Application to You; and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Licensed Application, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be SoftLayer’s sole responsibility.

5. Product Claims: SoftLayer and You acknowledge that SoftLayer, not Apple, is responsible for addressing any claims of by You or any third party relating to the Licensed Application or Your possession and/or use of that Licensed Application, including, but not limited to: (i) product liability claims; (ii) any claim that the Licensed Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. SoftLayer’s MSA does not limit its liability to You beyond what is permitted by applicable law.

6. Intellectual Property Rights: SoftLayer and You acknowledge that, in the event of any third party claim that the Licensed Application or Your possession and use of that Licensed Application infringes that third party’s intellectual property rights, SoftLayer and/or You, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

7. Contact Information: Any questions, complaints or claims with respect to the Licensed Application should be directed to:
   SoftLayer Technologies, Inc., an IBM Company
   ATTN: Sales Department
   Stanford Corporate Center
   14001 North Dallas Parkway, Suite M100
   Dallas, Texas 75240
   Email: sales@softlayer.com
   Phone: 1 (214) 442-0600

8. Third Party Beneficiary: SoftLayer and You acknowledge and agree that Apple, and Apple’s subsidiaries, are third party beneficiaries of the MSA, and that, upon Your acceptance of the terms and conditions of the EULA, Apple will have the right (and will be deemed to have accepted the right) to enforce the MSA against You as a third party beneficiary thereof.
Ubuntu from Canonical Group Limited

**IMPORTANT NOTICE:**

As part of our ongoing commitment to ensure that our customers are kept updated regarding terms applicable to use of ordered Third Party Services (as that term is defined in your agreement), we wish to inform you as follows:

As an orderer of the Third Party Services of the type identified below in the left column, you are subject to the applicable TPS Agreement terms of use, also known as end user license agreement terms, listed or linked below (identified below in the right column).

Please Note: Where such terms are not made available for review through a link providing access to a third party publicly available website, then the terms disclosed below constitute “SoftLayer Confidential Information” (unless otherwise indicated) and you should maintain their confidentiality.

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<th>Name/Brand (and where different Third Party Services Provider)</th>
<th>Applicable TPS Agreement Terms</th>
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| Ubuntu from Canonical Group Limited | The following terms apply to Customer’s use of or access to the software: Ubuntu “license” agreement: [http://www.ubuntu.com/legal](http://www.ubuntu.com/legal) *  
* Licenses for each program are available in the usr/share/doc directory of the end user customer’s applicable downloading computer. |

* * * * * * * * * * * * * * * * * End of Disclosure * * * * * * * * * * * * * * * * *
Microsoft

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|                                                               | 6i. **No High Risk Use.** The Products are not fault tolerant and are not guaranteed to be error free or to operate uninterrupted. **Customer** (meaning **SoftLayer**) must not grant any **End User** (meaning **SoftLayer’s Customer**) the right to use the Products in any application or situation where the Product(s) failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage (“High Risk Use. High Risk Use does not include utilization of Products for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage. These non-controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function. Customer agrees to indemnify and hold harmless Microsoft from any third-party claim arising out of End User’s use of the Products in connection with any High Risk Use. ...**  

8. **End user Agreement requirement.**  

Summary: Customer must maintain End User Agreements with all End Users. End User agreements must include restrictions on changing embedded notices and on reverse engineering, disclaimers of warranties, pertinent provisions from the **SPUR** [Microsoft Services Provider Use Rights, see below], protections of Microsoft’s intellectual property and a notice that Microsoft is not responsible for support. Customer will be responsible for unauthorized use where it fails to comply with the requirements of this section. Customer must provide the End User License terms to End Users using Client Software or Redistribution Software. Customer must remove all Client Software and Redistribution Sofware Devices from the End User within 30 days of the termination of an End User Agreement.  

a. **Minimum required terms.** Customer must maintain End User Agreements with all End Users. Customer must ensure that the End User Agreements are effective and binding in all applicable jurisdictions. End User Agreements must at a minimum:  

(i) prohibit the End User from removing, modifying or obscuring any copyright, trademark or other proprietary rights notices that are contained in or on the Products;
(ii) prohibit the End User from reverse engineering, decompiling, or disassembling the Products, except to the extent that such activity is expressly permitted by applicable law;
(iii) disclaim, to the extent permitted by applicable law, all warranties by Microsoft and any liability by Microsoft or its suppliers for any damages, whether direct, indirect, or consequential, arising from the Software Services;
(iv) state that Customer or a third party on Customer’s behalf (and not Microsoft or its suppliers) will provide technical support for the Software Services;
(v) include terms at least as protective of Microsoft’s intellectual property rights as contained in this agreement;
(vi) permit the disclosure of End User information required by this agreement;
(vii) include limitations at least as protective as those stipulated in the subsection entitled “No High Risk Use”; and
(viii) state that Microsoft will be an intended third party beneficiary of the End User Agreement, with the right to enforce provisions of the End User Agreement and to verify the compliance of the End User.

b. End User License Terms. If Customer distributes Client Software or Redistribution Software, the End User Agreements must include terms that are substantially similar to, but no less restrictive than, the End User License Terms. Customer must ensure that the End User License Terms are effective and binding in all applicable jurisdictions. Microsoft will provide the Customer a form of the End User License Terms. Customer is responsible for contracting with its End Users the applicable portions of the End User License Terms with the applicable terms contained in the SPUR regarding the use, modification, copying and/or distribution of such Products. Customer is responsible to Microsoft for any unauthorized installation, use, copying, access or distribution of Client Software and/or Redistribution Software by an End User if Customer fails to comply with the terms of this section.

c. Compliance. If Microsoft believes in good faith that any End User is not complying with the End User License Terms, Customer must cooperate in good faith with Microsoft to investigate and remedy the non-compliance.

d. Copies of Products. Within thirty (30) days of the termination of an End User Agreement, Customer shall:
   (i) Remove all copies of Client Software and/or Redistribution Software from the End User’s devices or otherwise render the Products permanently unusable; and
   (ii) Require that the End User returns or destroys all copies of Client Software and Redistribution Software that it received.

END USER LICENSE TERMS
TERMS AND CONDITIONS REGARDING USE OF MICROSOFT SOFTWARE
This document governs the use of Microsoft software, which may include associated software, media, printed materials, and “online” or electronic documentation (individually and collectively, “Products”) ordered from SoftLayer Technologies, Inc. (“SoftLayer US”) to US based customers and SoftLayer Dutch Holdings B.V. (“SoftLayer NL”) to non-US based customers (SoftLayer US and SoftLayer NL are collectively referred to as “Customer”) and provided by Microsoft to those customers of SoftLayer customer who order Products. Customer does not own the Products and the use thereof is subject to certain rights and limitations of which Customer must inform you. Your right to use the Products is subject to the terms of your agreement with Customer, and to your understanding of, compliance with, and consent to the following terms and conditions, which Customer does not have authority to vary, alter, or amend.

1. DEFINITIONS.
“Client Software” means software that is installed on a Device that allows the Device to access or utilize the Products.

“Device” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone”, server or any other hardware where software can be installed that would allow End User to interact with the Product.

“End User” means an individual or legal entity that obtains Software Services directly from Customer, or indirectly through a Software Services Reseller. You are an End User.

“Redistribution Software” means the software described in Paragraph 4 (“Use of Redistribution Software”) below.

“Software Services” means services that Customer provides to you that make available, display, run, access, or otherwise interact, directly or indirectly, with the Products. Customer must provide these services from data center(s) through the Internet, a telephone network or a private network, on a rental, subscription or services basis, whether or not Customer receives a fee. Software Services exclude any services involving installation of a Product directly on any End User device to permit an End User to interact with the Product.

2. OWNERSHIP OF PRODUCTS. The Products are licensed to Customer from an affiliate of the Microsoft Corporation (collectively “Microsoft”). Microsoft Products are protected by copyright and other intellectual property rights. Products and other Product elements including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the Products are owned by Microsoft or its suppliers. You may not remove, modify or obscure any copyright trademark or other proprietary rights notices that are contained in or on the Products. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual laws and treaties. Your possession, access, or use of the Products does not transfer any ownership of the Products or any intellectual property rights to you.

3. USE OF CLIENT SOFTWARE. You may use the Client Software installed in your Devices only in accordance with your agreement with Customer and the terms under this document, and only in connection with the Software Services, provided to you by Customer. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during the installation and/or use of the Client Software.

4. USE OF REDISTRIBUTION SOFTWARE. In connection with the Software Services provided to you by Customer, you may have access to certain “sample”, “redistributable” and/or software development software code and tools (individually and collectively “Redistribution Software”). You may use, copy and/or install the Redistribution Software only in accordance with the terms of your agreement with Customer and this document and/or your agreement with Customer.

5. COPIES. You may not make any copies of the Products; provided, however, that you may (a) make one copy of Client Software on your Device as expressly authorized by Customer, and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Customer, upon notice from Customer or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Products.

6. LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY. You may not reverse engineer, decompile, or disassemble the Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

7. NO RENTAL. You may not rent, lease, lend, pledge, or directly or indirectly transfer or
distribute the Products to any third party, and may not permit any third party to have access to and/or use the functionality of the Products except for the sole purpose of accessing the functionality of the Products in the form of Software Services in accordance with the terms of this agreement and any agreement between you and Customer.

8. TERMINATION. Without prejudice to any other rights, Customer may terminate your rights to use the Products if you fail to comply with these terms and conditions. In the event of termination or cancellation of your agreement with Customer or Customer’s agreement with Microsoft under which the Products are licensed, you must stop using and/or accessing the Products and destroy all copies of the Products and all of their component parts within thirty (30) days of the termination of your agreement with Customer.

9. NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT. Microsoft disclaims, to the extent permitted by applicable law, all warranties and liability for damages by Microsoft or its suppliers for any damages and remedies whether direct, indirect or consequential, arising from the Software Services. Any warranties and liabilities are provided solely by Customer and not by Microsoft, its affiliates or subsidiaries.

10. PRODUCT SUPPORT. Any support for the Software Services is provided to you by Customer or a third party on Customer’s behalf and is not provided by Microsoft, its suppliers, affiliates or subsidiaries.

11. NOT FAULT TOLERANT. The Products are not fault-tolerant and are not guaranteed to be error free or to operate uninterrupted. You must not use the Products in any application or situation where the Product(s) failure could lead to death or serious bodily injury of any person, or to sever physical or environmental damage (“High Risk Use”).

12. EXPORT RESTRICTIONS. The Products are subject to U.S. Export jurisdiction. Customer must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see http://www.microsoft.com/exporting/.

13. LIABILITY FOR BREACH. In addition to any liability you may have to Customer, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

14. INFORMATION DISCLOSURE. You must permit Customer to disclose any information requested by Microsoft under Customer’s Agreement with Microsoft. Microsoft will be an intended third party beneficiary of your agreement with Customer, with the right to enforce provisions of your agreement with Customer and to verify your compliance.

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