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. TDs detail the specifics of transactions, such as charges and a description of and information about the Cloud Service. Examples of TDs include statements of work, service descriptions, ordering documents and invoices. Attachments provide supplemental terms that apply to certain types of Cloud Services, such as a trial or beta services. Any conflicting terms in an Attachment or TD that override other parts of this CSA will be identified in the TD or Attachment accepted by the Client and only apply to the specific transaction. 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 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. SoftLayer may offer Non-IBM services, or an IBM Cloud Service may enable access to Non-IBM services, that may require acceptance of third party terms identified in the TD. Linking to or use of Non-IBM services constitutes Client’s agreement with such terms. Neither SoftLayer nor IBM is not a party to such third party agreements and is not responsible for such Non-IBM services.
   c. 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.
   d. 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 Services. A Cloud Service may require the use of enabling software that Client downloads to Client systems to facilitate use of the Cloud Service. Client may use enabling software only in connection with use of the Cloud Service and according to any licensing terms if specified in a TD. Enabling software is provided as-is, without warranties of any kind.
   e. Client will provide hardware, software and connectivity to access and use the Cloud Service, including any required Client-specific URL addresses and associated certificates.
   f. 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. In addition, Client may not use Cloud Services if failure of the Cloud Service could lead to death, bodily injury, or property or environmental damage. Client may not: i) reverse engineer any portion of a Cloud Service; ii) resell direct access to a Cloud Service to a third party outside Client’s Enterprise; or iii) combine Cloud Services with Client’s value add to create a commercially available Client branded solution that Client markets to its end user customers unless otherwise agreed.

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 ownership or license rights in such Content. SoftLayer or IBM, their affiliates, and contractors of such entities, may access and use the Content solely for the purpose of providing and managing the Cloud Service. Softlayer and IBM will meet all Content as confidential by not disclosing Content except to IBM employees and contractors and only to the extent necessary to deliver the Cloud Service.
   b. Client is responsible for obtaining all necessary rights and permissions to enable, and grants such rights and permissions to SoftLayer and IBM, their affiliates, and contractors of such entities, to use, provide, store, and otherwise 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 data 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 a Cloud Service. 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.
   c. IBM’s Data Security and Privacy Principles for IBM Cloud Services (DSP), at [http://www.ibm.com/cloud/data-security](http://www.ibm.com/cloud/data-security), apply for generally available Cloud Service offerings. 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 and to take necessary actions to order, enable, or use available data protection features appropriate for the Content being
used with a Cloud Service. By using the Cloud Service, Client accepts responsibility for use of the Cloud Services, and acknowledges that it meets Client's requirements and processing instructions to enable compliance with applicable laws.

d. IBM's Data Processing Addendum at [http://ibm.com/dpa](http://ibm.com/dpa) (DPA) and applicable DPA Exhibit(s) apply and prevail over any conflicting terms of the Agreement, if and to the extent the European General Data Protection Regulation (EU/2016/679) (GDPR) applies to personal data contained in Content.

e. 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. SoftLayer may charge for certain activities performed at Client's request (such as delivering Content in a specific format). SoftLayer or 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.

f. 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.

3. Changes

   a. Client acknowledges that IBM may modify: i) a Cloud Service; and ii) the DSP, from time to time at IBM’s sole discretion and such modifications will replace prior versions as of the effective date. Updates to a TD (such as a service description or statement of work) will take effect upon a new order or for TDs previously agreed by the Client will take effect upon the change effective date for ongoing services, or upon the renewal date for Cloud Services that automatically renew. The intent of any modification will be to: i) improve or clarify existing commitments; ii) maintain alignment to current adopted standards and applicable laws; or iii) provide additional features and functionality. Modifications will not degrade the security or data protection features or functionality of a Cloud Service.

   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. Access to Non-IBM services may be withdrawn at any time.

   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 stated in a TD, 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 SoftLayer and IBM provide Cloud Services using commercially reasonable care and skill. The warranty for a Cloud Service ends when the Cloud Service ends.

   b. **SoftLayer and IBM do not warrant uninterrupted or error-free operation of a Cloud Service or that SoftLayer or IBM 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. Warranties will not apply if there has been misuse, modification, damage not caused by SoftLayer or IBM, failure to comply with instructions provided by SoftLayer or IBM, or if otherwise stated in an Attachment or TD. Preview services and Non-SoftLayer or Non-IBM products and services are made available 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. If SoftLayer has not otherwise committed to pricing during for a specified term, then SoftLayer may change charges on 30 days’ notice.

   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 proper amount in addition to the amount of the charges or provide a valid tax exemption certificate.

   c. Based on selected billing frequency, Payment of charges are due and will be billed at the beginning of the billing frequency term, except for overage and usage type of charges which will be billed in arrears. One time charges will be billed upon acceptance of an order. Late payment fees may apply.

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 affiliates, contractors, , 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 or Non-IBM 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. Term and Termination

a. The term of a Cloud Service begins on the date IBM notifies Client that Client can access the Cloud Service. SoftLayer will specify whether the Cloud Service renews automatically, proceeds on a continuous use basis, or terminates at the end of the term. For automatic renewal, unless Client provides written notice to SoftLayer not to renew at least 30 days prior to the term expiration date, the Cloud Service will automatically renew for the specified term. For continuous use, the Cloud Service will continue to be available on a month to month basis until Client provides 30 days written notice to SoftLayer. The Cloud Service will remain available to the end of the calendar month after such 30 day period.

b. SoftLayer may suspend or limit, to the extent necessary, 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 or breach of the terms set forth in section 1(f). 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.

c. 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.

d. 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.

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, neither SoftLayer or IBM will not serve as the exporter or importer, except as required by data protection laws. 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. SoftLayer and IBM are an information technology provider only. Any directions, suggested usage, or guidance provided by SoftLayer, IBM or a Cloud Service does not constitute medical, clinical, legal, accounting, or other licensed professional advice. Client and its authorized users are responsible for the use of the Cloud Service within any professional practice and should obtain their own expert advice. Client is responsible for its use of IBM and Non-SoftLayer or Non-IBM products and services. Each party is responsible for determining the assignment of its personnel and all contractors, and for their direction, control, and compensation.

b. SoftLayer and IBM maintain a robust set of business conduct and related guidelines covering: conflicts of interest, market abuse, anti-bribery & corruption, and fraud. SoftLayer, IBM, and their personnel comply with such policies and require contractors to have similar policies.
c. SoftLayer, its affiliates, and contractors of either, 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. The IBM Privacy Statement at https://www.ibm.com/privacy/us/en/ provides additional details with respect to BCI and Account Data described below.

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 or IBM collects using tracking technologies, such as cookies and web beacons, regarding Clients use of a Cloud Service. SoftLayer, its affiliates, and contractors of either, may use Account Data, for example to enable product features, administer use, personalize experience, and otherwise support or improve use of the Cloud Service.

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 acquire Cloud Services under this CSA. The parties shall coordinate the activities of their own 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 and IBM may use personnel and resources in locations worldwide, including third party contractors to support the delivery of the Cloud Services. SoftLayer and IBM may transfer Content, including personally identifiable information, across country borders. SoftLayer is responsible for the obligations under the Agreement even if SoftLayer uses a third party contractor and will have appropriate agreements in place to enable SoftLayer to meet its obligations for a Cloud Service.

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

*In paragraph c, replace the first sentence 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

*In paragraph b, add at the end of the paragraph:*

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.

*In paragraph c, add at after the last sentence:*

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 as a new paragraph e:*

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.”*

*Add as a new paragraph l 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.

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

Section 1. Cloud Services

*In the first sentence of paragraph c, before the word “ordering,” add:*

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

Section 4. Warranties

*Add as new paragraph 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. Term and Termination

*Add a new paragraph e:*

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

*In India: In paragraph i, in the second sentence, replace “two years” with “three years”:*

**EMEA**

Section 4. Warranties

*In paragraph b, add to the end of the fourth sentence 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 c, add the following to the end of the last sentence:

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 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 last 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. Term and Termination
In paragraph b, delete:
In Switzerland: Failure to pay is a material breach.

In paragraph c, insert the following to the end of clause "(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 second sentence:

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

**In paragraph g:** 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).

**In paragraph I, delete the following sentence 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 a new paragraph I at the end of the section:**

**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_________________