

Service Description

Weather Company Max Solution

This Service Description describes the Cloud Service. The applicable order documents provide pricing and additional details about Client's order.

1. Solution Description

Weather Company media products assist organizations with managing the production of weather and traffic presentations, including the look of weather and traffic data across multiple media platforms, including on-air, web, mobile, and social platforms. A typical configuration of Weather Company media products include a mobile app, web widgets, and base and optional components consisting of: workstation hardware, software offerings, and data feeds.

1.1 Software Offerings

The following Programs may be licensed to Client as either a perpetual license or a fixed term license unless otherwise designated in the Program description below. Client's PoE will designate the license type granted to Client.

1.1.1 Weather Company Max Solution Software

a. Weather Company Max Weather

This Program is the base software offering and includes the capability to build multi-dimensional weather presentations using a variety of tools, Weather Company and Client provided digital media, and a weather data feed.

b. Base Add-on Offerings

(1) Weather Company Max Weather and Storm

Adds the ability to perform storm tracking operations, plus optionally integrate a local radar (that can be licensed separately from IBM), all from a single user interface.

(2) Weather Company Max Studio

Uses MAGICTRAK technology, or customer-sourced touch screen monitor to ensure that weather broadcasters never have to leave the key wall, or step away from the touchscreen for breaking weather and other daily weather coverage, and to do so in a non-linear fashion.

(3) Weather Company Max Connect

An application for Apple iPad Pro that enables a weather presenter to drive and interact with many of the Weather Company media products from Max Storm, to Max Reality, from the studio or even on remote locations (with appropriate connectivity).

(4) Weather Company Max Sky

Adds unique visualizations of day part forecasts to help add variety to weather broadcasting, and includes a simple sponsor opportunity to attract advertisers.

(5) Weather Company Max Reality

Visualizes weather data by using advanced augmented reality technology to create, 3-D images of Max visual objects, storms and atmospheric events that enhance routine weather broadcasts. Reality also includes the ability to incorporate virtual set technology or combine both physical and virtual sets in a single broadcast.

(6) Weather Company Max Complete Solution

A bundle of Max with Max Storm, Max Sky, Max Studio, and Max Connect. Does not include Max Reality or Max Traffic.

(7) Weather Company Max Street Level Mapping Data

This Program is licensed under a perpetual license grant only. It consists of a database of highways, roads and streets for the Client's area of interest. These data are automatically displayed on the Max/Max Storm, and / or Max Traffic applications with a look and feel as designed by the end user.

(8) **Weather Company Max Continuous Play**

This Program is the version of Max that allows extended playback and is designed for 24x7 video output of weather shows.

(9) **Weather Company Max Engage with Watson**

Leverages augmented intelligence (AI) and automation to aid in the detection of weather and traffic events for which it can create, publish, and target videos, images and text that are distributed via Mobile, Web, Facebook, Twitter, Apple TV, Roku, FireTV, and more, all without the need of a meteorologist.

(10) **Weather Company Max Wind Particles**

Weather Company Max Wind Particles adds unique visualizations of forecast wind flow to help add variety to weather broadcasting.

c. **Weather Company Max Traffic**

(1) **Weather Company Max Traffic**

Allows the display of traffic flow data, color coded for speed, and incident data to depict traffic accidents, disabled vehicles, construction, and the like. Max Traffic can be combined with Max Weather (or Max Weather and Storm) to allow the inclusion of weather information with traffic displays from a single interface.

1.1.2 Weather Company Max Cirrus

This entry-level implementation of the software portion of the solution includes the following Program offerings:

a. **Weather Company Max Cirrus – Base**

This solution is intended for broadcast outlets with more modest weather presentation needs. It is based on the Max Weather architecture, but does not include on premise data handling and instead all data is delivered via the cloud. The Base package of Cirrus includes a library of pre-built on-air scenes, but does not include the ability to edit the scenes, or the ability to add Max Sky or Max Reality.

b. **Weather Company Max Cirrus – Premium**

This solution is intended for broadcast outlets with medium weather presentation needs. It is based on the Max Weather architecture, but does not include on premise data handling and instead all data is delivered via the cloud. The Premium package of Cirrus includes a library of pre-built on-air scenes that can be edited and also expands the Max toolset beyond the Base package. It does not include the ability to add Max Sky or Max Reality.

c. **Weather Company Max Cirrus – Traffic Base**

This solution is intended for broadcast outlets with more modest traffic presentation needs. It is based on the Max Traffic architecture, but does not include on premise data handling and instead all data is delivered via the cloud. The Base package of Cirrus includes a library of pre-built on-air scenes, but does not include the ability to edit the scenes. It does not include the ability to add Max Sky or Max Reality.

d. **Weather Company Max Cirrus – Traffic Premium**

This solution is intended for broadcast outlets with medium traffic presentation needs. It is based on the Max Traffic architecture, but does not include on premise data handling and instead all data is delivered via the cloud. The Premium package of Cirrus includes a library of pre-built on-air scenes that can be edited and also expands the Max Traffic toolset beyond the Base package. It does not include the ability to add Max Sky or Max Reality.

1.1.3 Windows® 10 IoT Enterprise 2019 LTSC Upgrade High End (ESD)

This Microsoft Windows software will be deployed to Client devices as part of either the Weather Company Max Solution Systems or Livewire Solution System via the Weather Company Max Solution – Remote setup service offering (See Section 1.6 Cloud Service Acceleration Services below). The right to use this Microsoft software is being sublicensed to Client by means of the license terms provided at:

<https://www.ibm.com/weather/licenses/microsoft>.

By accepting the terms of this Service Description or using the software, Client agrees to Microsoft's license terms.

1.1.4 Weather Company Livewire Software

This Program is the base software offering for the on-air weather alerting system Livewire. This license includes the capability to build customized screen layouts that may include severe weather "crawl" area, graphics such as color-coded county depictions, radar maps, and the like using Weather Company and Client provided digital media, and a weather data feed (e.g. Weather Wire Data).

1.1.5 Weather Company Livewire Text to Speech

This Program allows LiveWire severe weather crawl text to be converted to spoken word to help meet US FCC mandates that such messages be made available for the sight impaired television audience.

1.1.6 Watson Captioning Live Software

This Program captures television station program output, strips out the audio portion, then sends that audio to the cloud-based Watson Media Speech to Text engine, Watson Captioning Live. It then re-captures the return text data, making it available to compatible station-owned closed captioning encoder(s). Use of this Program also requires a subscription to the Watson Captioning Live cloud-based service and either the Watson Captioning Live RS-160, Watson Captioning Live SR250 server or an equivalent platform that has been approved by IBM for use with the Watson Captioning Live solution.

1.2 Workstation Hardware

If at the time IBM receives the order the systems are not available within the acceptable 'customer requested arrival date', IBM may offer to substitute the ordered system with a system that is compatible with the official published specifications of the originally ordered system (Order Adjustment). IBM will notify Client and promptly provide Client a Quote (if applicable). Order Adjustments are at the sole discretion of IBM and replacement system and system services (if purchased) will be provided at the prices listed on the original Quote.

1.2.1 Weather Company Max Solution Systems

Weather Company Max Solution software offerings are implemented and deployed on a set of Weather Company Max Solution System workstations and related peripheral equipment. Specific workstations are used for data acquisition and storage, digital media collection and serving, digital publishing, and on-air broadcasting.

The Client's specific configuration and quantity of workstations from the list below are specified on the Transaction Document and based on Client requirements at the time of sale.

a. **Weather Company Max Solution – Workstation z8G4**

A high-end HP-based workstation with nVIDIA graphics and AJA video output subsystem that is the primary system upon which the organization can display high quality video for broadcast.

b. **Weather Company Max – Digital Content System z4G4**

An HP-based workstation with nVIDIA graphics used for digital content production for the organization's digital properties (web, mobile, social), as needed.

c. **Weather Company Max Solution – Dual Core z4G4**

A pair of HP-based workstations that receive and warehouse weather, traffic (or weather and traffic) data, and also serve as a central depository for both general and organization-specific content (e.g. icons, banners, Max scenes, etc.) that are used by the other Weather Company Max Solution Systems (e.g. Workstation and Digital Content System).

d. **Weather Company Max Solution – Super Dual Core z4G4**

A pair of HP-based workstations that receive and warehouse weather, traffic (or weather and traffic) data, and also serve as a central depository for both general and organization-specific content (e.g. icons, banners, Max scenes, etc.) that are used by the other Weather Company Max Solution Systems (e.g. Workstation and Digital Content System). This solution includes Microsoft Windows Server operating system to allow more connections from the main Weather Company Max Solution workstations that is provided by the standard Dual Core solution.

e. **Weather Company Wireless Talent Switch Kit**

A collection of hardware parts that facilitate the interaction between a human weather and/or traffic presenter with the Max Solution systems. Interaction can include advancing, reversing, and rewinding the show and mouse control (when used with the Max MagicTrak feature). The receiver and host unit within the kit are Internet Protocol based and reside on the same network as the Max workstation systems. The kit can address up to four (4) Max workstations and includes two (2) Teleradio Panther handheld remote units.

f. **Weather Company 19" Flat Panel**

This monitor to be used with any of the following:

- Weather Company Max Solution – Dual Core z4G4 Client Device Hardware
- Weather Company Max Solution – Super Dual Core z4G4 Client Device Hardware
- Weather Company Max – Digital Content System z4G4 Client Device Hardware

g. **Weather Company 24" Flat Panel**

This monitor to be used with any of the following:

- Weather Company Max Solution – Workstation z8G4 Client Device Hardware
- Weather Company Max – Digital Content System z4G4 Client Device Hardware

h. **Weather Company Teleradio Wireless Remote**

A handheld remote control device that operates with older Wireless Talent Switch Kits.

i. **Weather Company Teleradio Panther Wireless Remote**

A handheld remote control device that operates with the current generation Wireless Switch Kit. Since a Weather Company Wireless Talent Switch Kit ships with two (2) such units, these Weather Company Teleradio Panther Wireless Remote units are for replacement purposes.

1.2.2 Livewire Solution Systems

Weather Company Livewire Solution software offerings are implemented and deployed on a set of Weather Company Livewire System workstations. Specific workstations are used for data acquisition and storage, and on-air broadcasting.

a. **Weather Company Max Solutions System – z4G4 Livewire**

An on premise mid-range workstation that produces a video signal for on-air alerting of weather and other significant events such as tornado warnings, severe thunderstorm watches, amber alerts, and the like, to the television audience. This video signal may consist of a lower (or upper) third crawl, radar graphics, and other ancillary data that is overlaid on the main programming segment. A z4G4 Livewire requires a z2G4 Simulcast system for access to weather data.

b. **Weather Company Max Solutions System – z2G4 Simulcast**

An on premise workstation that is the primary weather data ingest system that feeds that data and provides a command and control interface to the z4G4 Livewire system. Within a television station premises, a Simulcast system may be accessed by up to three (3) locations via remote access capabilities, provided it resides on the same network as the Livewire system.

1.2.3 Watson Captioning Live System

Watson Captioning Live solution leverages Watson's cognitive abilities to automate closed captioning services – providing businesses a scalable solution. This solution streamlines by using machine learning technology to assist with caption accuracy over time. It is implemented and deployed on a single server class Watson Captioning Live system. This system also requires a subscription to the Watson Captioning Live Cloud Service.

a. **Watson Captioning Live RS-160**

An on-premise LENOVO-based server that facilitates the capture and conversion of television station audio to text for closed captioning devices within the television station to ensure that hearing impaired viewers are provided the context of newscasts and other live programming at the station. This server ingests television station programming, strips out the audio portion and sends it to the cloud-based Watson Captioning Live service, to convert speech to text. The text data is returned to

the on-premise server, which in turn feeds the text data to station owned captioning encoders to provide the on-air caption for live programming.

b. **Watson Captioning Live SR250**

An on-premise LENOVO-based server, that can support two (2) independent channels, each of which can facilitate the capture and conversion of television station audio to text for closed captioning devices within the television station to ensure that hearing impaired viewers are provided the context of newscasts and other live programming at the station. This server ingests television station programming, strips out the audio portion and sends it to the cloud-based Watson Captioning Live service, to convert speech to text. The text data is returned to the on-premise server, which in turn feeds the text data to station owned captioning encoders to provide the on-air caption for live programming.

1.2.4 **Radar System**

This offering includes a radar and (if the Weather Company Max Solution is not available) a small, dedicated workstation, Weather Company Oil & Gas Radar – z2G4 System, that is connected to the radar. The weather data from the radar is captured by this workstation (or the Weather Company Max Solution core system) and transmitted back to IBM, where it is processed and only made available to Client.

a. **Weather Company Oil & Gas Radar – z2G4 System**

An on premise workstation that supports dedicated radars, which can be acquired and installed at virtually any location where an internet connection is available. A common use of this workstation would be for a remote location where real-time weather data is not available, for example at a remote oil and gas platform. This system ingests raw radial radar data and sends the data over the public internet in near real time to IBM for visualization within the Weather Company Operations Dashboard for utilization in near term weather predictions.

1.3 **Cloud Services – Weather Company Max Solution Data**

Weather Company Max Solution Data includes geography-specific packages, including Worldwide, European, Eastern Pacific, or US. Each contains a wide variety of observed surface data, satellite, and weather model data.

"Data" means weather or traffic data delivered via the Cloud Service (including without limitation observations, forecasts, maps, and graphs), as described below.

1.3.1 **Weather Company Max Data – Europe**

This Data package includes a wide variety of observed surface data, satellite, and weather model data from the Global Forecast System (GFS) and European Centre for Medium-Range Weather Forecasts (ECMWF) government models, the proprietary Weather Company Deep Thunder model and Tropical data from the US National Hurricane Center (NHC) and the Joint Typhoon Warning Center (JTWC) advisories, NHC spaghetti model plots, observed sea surface temperature, and wave heights. It also includes a European radar mosaic.

The Europe package requires one of the following: Weather Company Max Weather, Max Weather and Storm, Cirrus Weather Base, or Cirrus Weather Premium.

1.3.2 **Weather Company Max Data – World**

This Data package includes a wide variety of observed surface data, satellite, and weather model data from the Global Forecast System (GFS) and European Centre for Medium-Range Weather Forecasts (ECMWF) government models, the proprietary Weather Company Deep Thunder model and Tropical data from the US National Hurricane Center (NHC) and the Joint Typhoon Warning Center (JTWC) advisories, NHC spaghetti model plots, observed sea surface temperature, and wave heights.

World package requires one of the following: Weather Company Max Weather, Max Weather and Storm, Cirrus Weather Base, or Cirrus Weather Premium.

1.3.3 **Weather Company Max Data – US Storm**

This Data package includes a wide variety of observed surface data, satellite, and weather model data from the Global Forecast System (GFS) and European Centre for Medium-Range Weather Forecasts (ECMWF) government models, the proprietary Weather Company Deep Thunder model and Tropical data from the US National Hurricane Center (NHC) and the Joint Typhoon Warning Center (JTWC) advisories,

NHC spaghetti model plots, observed sea surface temperature, and wave heights. Also includes streaming near real-time radar data from the US National Weather Service.

US Storm package requires Weather Company Max and Storm software Program licenses.

1.3.4 Weather Company Max Data – Canada Storm

This data package includes a wide variety of observed surface data, satellite, and weather model data from the Canadian Global Environmental Multiscale (GEM), USA Global Forecast System (GFS) and European Centre for Medium-Range Weather Forecasts (ECMWF) government models, the proprietary Weather Company Deep Thunder model and Tropical data from the US National Hurricane Center (NHC) and the Joint Typhoon Warning Center (JTWC) advisories, NHC spaghetti model plots, observed sea surface temperature, and wave heights. Also includes Canadian Radar data. Canada Storm package requires Weather Company Max and Storm software Program licenses.

1.3.5 Weather Company Livewire – Weather Wire Data

This data package includes all National Weather Service alerts (warnings, watches, and advisories). These alerts are available only in the US.

1.3.6 Weather Company Max Data – Sky

This Data package enables the Max Sky solution by providing forecast parameters from the proprietary 12KM Weather Company Deep Thunder model for North America.

The Sky data package requires one of the following: Weather Company Max Weather or Max Weather and Storm.

1.3.7 Weather Company Max Data – Sky Global

This Data package enables the Max Sky solution by providing forecast parameters from the proprietary 13KM Weather Company Deep Thunder model.

The Sky data package requires one of the following: Weather Company Max Weather or Max Weather and Storm.

1.3.8 Weather Company Max Data – Storm Eastern Pacific

This Data package includes a wide variety of observed surface data, satellite, and weather model data from the Global Forecast System (GFS) and European Centre for Medium-Range Weather Forecasts (ECMWF) government models, the proprietary Weather Company Deep Thunder model (including special 12 and 4 Km US domains) and Tropical data from the US National Hurricane Center (NHC) and the Joint Typhoon Warning Center (JTWC) advisories, NHC spaghetti model plots, observed sea surface temperature, and wave heights.

Storm Eastern Pacific package requires one of the following: Weather Company Max Weather, Max Weather and Storm, Cirrus Weather Base, or Cirrus Weather Premium.

1.3.9 Weather Company Max Data – Traffic

This Data package includes traffic flow and incident (traffic accidents, disabled vehicles, construction information, etc.) data from INRIX.

The package requires one of the following: Weather Company Max Traffic, Cirrus Traffic Base, or Cirrus Traffic Premium.

This offering includes the following optional capabilities, if desired:

- Max Traffic Map – a web based interactive map with traffic flow and incident data
- Max Traffic Data API – a data feed of traffic incidents that can be integrated with Client's other digital assets

1.3.10 Weather Company Max Data – Lightning Service – Regional Standard Edition

This Data package includes a real-time feed of cloud to cloud and intracloud lightning data. Coverage area is approximately 250x250 miles.

1.3.11 Weather Company Max Data – Lightning Service – Large Regional Standard Edition

This Data package includes a real-time feed of cloud to cloud and intracloud lightning data. Coverage area is approximately 500x500 miles.

1.3.12 Weather Company Max Data – Lightning Service – US Continental Standard Edition

This Data package includes a real-time feed of cloud to cloud and intracloud lightning data. Coverage area is the continental USA.

1.3.13 Weather Company Max Data – Lightning Service – Global Standard Edition

This Data package includes a real-time feed of cloud to cloud and intracloud lightning data. Coverage area is for the populated world.

1.3.14 Weather Company Max Data – Wind Particles

This Data package includes forecast visualizations available for television through the Weather Company Max Wind Particles option, including the Data needed to generate the visualization of forecast wind flow. The Wind Particles package requires Weather Company Max Wind Particles Hundred Thousand Population.

1.4 Cloud Services – Weather Company Max Additional and Add-on Offerings

1.4.1 Weather Company Max Engage for Enterprise Event Monitor

Weather Company Max Engage for Enterprise Event Monitor service provides weather and traffic monitoring and geographic targeting for enterprise operations and staff audiences who wish to monitor weather conditions and take appropriate business actions. It automatically publishes weather and traffic-related alerts, and is used independent of Weather Company Max Solution.

1.4.2 Weather Company Max Social Post Turbo

Delivers the ability to post text, videos or snapshots to Facebook and Twitter, and insert ads into Facebook using sponsored content.

This offering requires a configuration of Weather Company media products that includes base and optional components consisting of: workstation hardware, software offerings, and data feeds.

1.4.3 Weather Company Max Social Post Turbo and Dialog

Includes all of the capabilities listed for Max Social Post Turbo, and additionally, Social Dialog, which allows the user to pull content into the system from Facebook, Instagram and Twitter.

This offering requires a configuration of Weather Company media products that includes base and optional components consisting of: workstation hardware, software offerings, and data feeds.

1.5 Maintenance and Subscription & Support Offerings

1.5.1 Weather Company Max Solution Maintenance

Weather Company Max Solution Maintenance offerings entitle Clients to support and software updates. There is one annual price regardless of the number of perpetual or term software licenses purchased. Updates are provided for the current released software version and the previous version on supported hardware platforms only. Some software changes may require hardware upgrades such as memory, graphics card, hard disk space upgrades, etc. and are the responsibility of the Client.

a. Weather Company Max Solution – Maintenance

Entitles support and software updates for all Weather Company Max Solution offerings except for the Weather Company Max Traffic, Weather Company Livewire and Weather Company Max Street Level Mapping Data offerings.

b. Weather Company Max Traffic – Maintenance

Entitles support and software updates for Weather Company Max Traffic.

c. Weather Company Max Street Level Mapping Data – Maintenance

Entitles support and software updates for Weather Company Street Level Mapping Data.

1.5.2 Weather Company Livewire – Maintenance

Weather Company Livewire Maintenance offering entitles Clients to support and software updates for the Livewire and Simulcast solutions. There is one annual price regardless of the number of perpetual or term software licenses purchased.

1.5.3 Weather Company Max Solution – Peripherals Annual Hardware Maintenance

This maintenance offering entitles Client to support for non-HP peripherals such as graphics cards. Hardware maintenance is priced as a single, site-wide flat fee, covering all peripherals on site, across multiple installed systems.

1.6 Cloud Service Acceleration Services

1.6.1 Weather Company Max Solution – Remote Set Up

This remotely delivered one time service offering is required to remotely set up the Windows® 10 IoT Enterprise 2019 LTSC Upgrade High End (ESD) on Client's device.

1.6.2 Weather Company Max 3D City Package

This service provides Clients with 3D models of a city area. The models may not include newer buildings that were completed after aerial photography used in the model building process was collected, or buildings that are prohibited from being included for national security reasons. Models are priced per square kilometer of coverage.

1.6.3 Weather Company Max 3D Building Lighting

This service includes modification of qualified 3D City models to customize nighttime lighting for up to six (6) buildings or other structures to better represent distinguishable features of the buildings / structures. If additional work is desired beyond the included buildings / structures, additional charges will apply.

1.6.4 Weather Company Max Earth Imagery – High Resolution

This service includes high resolution (1 meter) data for up to 26,000 sq. Km. of Client's defined DMA, exclusive of sparsely populated areas, plus 15m data for a 600km x 600km area outside the DMA. The highest resolution (1m) data is generally 1-3 years old. The lower resolution data has been collected from the eSAT / Landsat project and is of varying ages dating to the early-mid 2000's. The service is delivered on average 8 weeks after Client chooses map look and location of high-resolution insets. In the event a larger high resolution inset is included or there are delays in Client's map color choices, or decisions on size and areal coverage of the insets, the delivery time may need to be extended. IBM may take up to 8 weeks for delivery the Max Earth Imagery – High Resolution images.

1.6.5 Weather Company Max Earth Imagery Conversion for Max

This service allows existing Weather Central Fusion / LIVE earth mapping data to be converted for the Max platform, with no additional data, or any higher resolution data provided.

1.6.6 Weather Company Max Engage with Watson

This service includes two (2) days of time for remotely implementing Max Engage with Watson Software.

1.6.7 Weather Company Max Sky

This service includes two (2) remote implementation and customization sessions. During these sessions, one or two scenes will be created or modified to include new Sky features. In addition, qualified 3D City models will be modified to add standard nighttime window lighting.

1.6.8 Weather Company Max Standard Graphics

This service includes remote provisioning of a) graphics consultation, collection and importing of Client's graphics b) processing of one (1) day and one (1) night Skycast landmark image, c) four (4) Max Skycast scenes, d) one (1) five or seven day Max forecast animation, e) development of eight (8) additional Max scenes, f) setup of Max Earth Design, including custom configuration of highways/roads, map shields, and city labels, g) system setup with custom banners, palettes, templates and tools for easy creation of map and studio based Max scenes, h) remote staff training on how to create additional studio scenes based on templates and palettes. Client is required to provide appropriate source material (backgrounds, banners, etc.) and direction on scene layouts. Source material and required layout designs must be provided to IBM's graphics consultant at a minimum ten business days prior to integration.

1.6.9 Weather Company Max Standard Graphics with Duopoly

This service includes remote provisioning of a) graphics consultation, collection and importing of Client's graphics b) processing of one (1) day and one (1) night Skycast landmark image, c) four (4) Max Skycast scenes, d) one (1) animation of a 5-day or 7-day Max forecast, e) development of eight (8) additional Max scenes, f) setup of Max Earth Design, including custom configuration of highways/roads, map shields,

and city labels, g) system setup with custom banners, palettes, templates and tools for easy creation of map and studio based Max scenes, h) remote staff training on how to create additional studio scenes based on templates and palettes, and up to two (2) additional custom scenes for duopoly presentation. Client is required to provide appropriate source material (backgrounds, banners, etc.) and direction on scene layouts. Source material and required layout designs must be provided to IBM graphics consultant at a minimum ten business days prior to integration.

1.6.10 Weather Company Max Standard Graphics with Motif

This service includes remote provisioning of a) graphics consultation, use of IBM provided graphics Motif among available choices, plus collection and importing of Client's graphics b) processing of one (1) day and one (1) night Skycast landmark image, c) four (4) Max Skycast scenes, d) one (1) animation of a 5-day or 7-day Max forecast, e) development of eight (8) additional Max scenes, f) setup of Max Earth Design, including custom configuration of highways/roads, map shields, and city labels, g) System setup with custom banners, palettes, templates and tools for easy creation of map and studio based Max scenes, h) remote staff training on how to create additional studio scenes based on templates and palettes. Client is required to provide appropriate source material (backgrounds, banners, etc.) and direction on scene layouts. Source material and required layout designs must be provided to IBM graphics consultant at least ten business days prior to integration.

1.6.11 Weather Company Max Standard Graphics Corporate Edition

This service includes remote provisioning of a) graphics consultation, collection and importing of Client's graphics b) customization of graphics with Client's logo, c) processing of one (1) day and one (1) night Skycast landmark image for each station (city), d) four (4) Max Skycast scenes, e) system setup with custom banners, palettes, templates and tools for easy creation of map and studio based Max scenes, f) up to ten (10) studio based scenes designed and developed with guidance and approval of corporate creative staff.

1.6.12 Weather Company Max Standard Graphics Corporate Edition with Duopoly

This service includes remote provisioning of a) graphics consultation, collection and importing of Client's graphics, including duopoly graphics b) customization of graphics with Client's logo, c) processing of one (1) day and one (1) night Skycast landmark image for each station (city), d) four (4) Max Skycast scenes, e) system setup with custom banners, palettes, templates and tools for easy creation of map and studio based Max scenes, f) up to ten (10) studio based scenes designed and developed with guidance and approval of corporate creative staff.

1.6.13 Weather Company Max Reality Graphics

This service includes one custom explainer graphic to be built within Weather Company Max Reality along with the following 3D objects to help with daily use of Weather Company Max Reality: Rectangular Platform, Circular Platform and Billboard. This service requires Weather Company Max Reality.

1.6.14 Weather Company Max Traffic Graphics

This remote service includes a) setup of Max Earth Design which includes custom configuration of highways/roads, map shields and city labels, b) custom configuration of the look and size of the Max Traffic Flows feature, c) implementation of a full-screen drive time graph scene and two (2) fly through scenes, d) implementation of sponsorship graphics on banners and/or 3D models (billboard) that may reside on an earth scene, e) Max systems will be setup with custom banners, palettes, templates and tools for easy creation of map and studio based Max scenes, f) instruction on creation of additional studio and fly through scenes based on templates and palettes.

1.6.15 Weather Company Max Traffic XD Graphics

This service includes up to four (4) hours of time for remotely implementing Traffic XD Graphics.

1.6.16 Weather Company Max Graphics

This service includes up to twenty-four (24) hours of remote graphics work related to above listed graphics offerings by a Weather Company Max graphics expert.

1.6.17 Weather Company Max Remote Training

This service includes up to four (4) hours of remotely delivered training or other graphics implementation.

1.6.18 Weather Company Max Connect

This service includes up to two (2) hours of remote training for Weather Company Max Connect application.

1.6.19 Weather Company Livewire

This service includes four (4) hours of remote implementation and training for Livewire Software.

1.6.20 Weather Company Max Engage for Enterprise Event Monitor Implementation

This remotely delivered service includes two (2) days of a Max Engage for Enterprise specialist for initial implementation of Max Engage for Enterprise Event Monitor configurations as the Client requires.

1.6.21 Weather Company Max Engage for Enterprise Configuration Service

Weather Company Max Engage for Enterprise Configuration Service contracts the services of a Max Engage for Enterprise specialist for an allotted period of time for configuration, content creation, best practices instruction and other consultations pertaining to Max Engage for Enterprise. Time may be purchased in increments of 15 minutes.

1.6.22 Weather Company Max Engage Weather Call in Service

This remote service entitles a Client to obtain one (1) custom weather forecast consultation from a Weather Company meteorologist. Purchase in units of one weather forecast.

1.6.23 Weather Company Max Support Services

This remote subscription service includes quarterly reviews of Client graphics and training needs and up to two (2) remote implementation and training days per quarter.

2. Data Processing and Protection Data Sheets

IBM's Data Processing Addendum at <http://ibm.com/dpa> (DPA) and the Data Processing and Protection Data Sheet(s) (referred to as data sheet(s) or DPA Exhibit(s)) in the links below provide additional data protection information for the Cloud Services and its options regarding the types of Content that may be processed, the processing activities involved, the data protection features, and specifics on retention and return of Content. The DPA applies to personal data contained in Content, if and to the extent i) the European General Data Protection Regulation (EU/2016/679) (GDPR); or ii) other data protection laws identified at <http://ibm.com/dpa/dpl> apply.

Link(s) to the applicable Data Sheet(s):

Weather Company Max Solution Data

<https://www.ibm.com/software/reports/compatibility/clarity-reports/report/html/softwareReqsForProduct?deliverableId=3A4E10A0F4A311E6A4D1A0107E2821F7>

Weather Company Max Social

<https://www.ibm.com/software/reports/compatibility/clarity-reports/report/html/softwareReqsForProduct?deliverableId=7CA07C40C3EC11E78F8FA93481EF6122>

Weather Company Max Engage for Enterprise

<https://www.ibm.com/software/reports/compatibility/clarity-reports/report/html/softwareReqsForProduct?deliverableId=F39780A0C3EC11E78F8FA93481EF6122>

3. Service Levels and Technical Support

3.1 Service Level Agreement

There is no Service Level Agreement available with this Cloud Service.

3.2 Technical Support

Technical support for the Cloud Service, including support contact details, severity levels, support hours of availability, response times, and other support information and processes, is found by selecting the Cloud Service in the IBM support guide available at <https://www.ibm.com/support/home/pages/support-guide/>.

Technical support for the software offerings and the workstation hardware is also provided to Client. Details of how to obtain technical support for software offerings and workstation hardware will also be detailed in the IBM Software as a Service Support Handbook.

4. Entitlement and Billing Information

4.1 Charge Metrics

The solution features are available under the charge metric specified in the Transaction Document:

- a. Population is all the inhabitants of a particular geographic area residing in Client's entity using the offering.
For the purpose of these offerings, a Population is the Broadcast Area Population (BAP) that can receive a broadcast signal from the Client.
- b. Item is an occurrence of a specific item that is managed by, processed by or related to, the use of the offering.
For the purpose of any Workstation Hardware (Section 1.2), an Item is a Client Device. A Client Device is a single user computing device or special purpose sensor or telemetry device that requests the execution of, or receives for, execution a set of commands, procedures, or applications from or provides data to another computer system that is typically referred to as a server or is otherwise managed by the server. Multiple Client Devices can share access to a common server. A Client Device can have some processing capability or be programmable to allow a user to do work.
For the purpose of the Max Engage for Enterprise Event Monitor offering, an Item is a geographic location as defined by a latitude / longitude or zip code that is being monitored for weather conditions.
For the purpose of the Weather Company Max 3D City Package offering, an Item is one square KM of coverage.
For the purpose of the Weather Company Max Engage Weather Call in Service, an Item is one weather consultation.
For the purpose of the Weather Company Max Engage for Enterprise Configuration Service, an Item is 15 minutes of time.
- c. Location is a unit of measure by which the Weather Company Max Solution – Peripherals Maintenance can be obtained. A Location is a single physical site corresponding with Client's business address for such physical site. Sufficient entitlements must be obtained to cover the number of Locations the peripherals will reside during the measurement period specified in Client's Transaction Document.
- d. Active User is a unique person who has accessed the offering in any manner directly or indirectly (for example: through a multiplexing program, device, or application server) through any means.
- e. Engagement is a professional or training service related to the Cloud Service.
- f. Install is an installed copy of the offering on a physical or virtual disk made available to be executed on a computer. Client must obtain an entitlement for each Install of the offering.
- g. Access is the right to use the offering.

4.2 Verification

Client will i) maintain, and provide upon request, records, and system tools output, as reasonably necessary for IBM and its independent auditor to verify Client's compliance with the Agreement, and ii) promptly order and pay for required entitlements at IBM's then current rates and for other charges and liabilities determined as a result of such verification, as IBM specifies in an invoice. These compliance verification obligations remain in effect during the term of the Cloud Service and for two years thereafter.

5. Warranty

5.1 Program Warranties

IBM warrants that Programs used in their specified operating environment conform to their official published specifications. The warranty period for a Program is one year, or the initial license term if less than one year, unless another warranty period is specified in an Attachment or TD. During the Program

warranty period, IBM provides Software Subscription and Support (S&S), entitling Client to defect correction information, restrictions, bypasses, and new releases and versions IBM makes generally available. Unless Client elects to discontinue S&S, annual S&S automatically renews at then-current charges until S&S for a version or release is withdrawn. If Client elects to continue S&S for a Program at a designated Client site, Client must maintain S&S for all uses and installations of the Program at that site.

If a Program does not function as warranted during its warranty period and IBM is unable to repair or replace it with a functional equivalent, Client may return it to IBM for a refund of the amount Client paid (for recurring charges, up to twelve months' charges) and Client's license or right to use it terminates.

IBM does not warrant uninterrupted or error-free operation of an IBM Product or that IBM will correct all defects or prevent third party disruptions or unauthorized third party access to an IBM Product. These warranties are the exclusive warranties from IBM and replace all other warranties, including the implied warranties or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose. IBM warranties will not apply if there has been misuse, modification, damage not caused by IBM, failure to comply with instructions provided by IBM, or if otherwise stated in an Attachment or TD. Non-IBM Products are sold under this Agreement as-is, without warranties of any kind.

Third parties may provide their own warranties to Client.

5.2 Non-IBM Machine Warranty Disclaimer

IBM does not warrant uninterrupted or error-free operation of non-IBM machines. Non-IBM machines are sold under this SD as-is, without warranties of any kind unless otherwise specified in a TD. Third parties may provide their own warranties to Client.

Notwithstanding the above, new HP workstations include a 5 year warranty with next business day service provided by HP, exclusive of holidays.

Notwithstanding the above, new LENOVO-based servers include a 5-year warranty with next business day field replaceable part exchange or full system replacement, as needed.

6. Cloud Service Additional Terms

For Cloud Service Agreements (or equivalent base cloud agreements) executed prior to January 1, 2019, the terms available at <https://www.ibm.com/acs> apply.

6.1 Cloud Service Use Limitation

The Cloud Services may only be used with the overall Weather Company Max Solution offering components.

6.2 Restrictions on Usage of Data

- a. Client shall i) use commercially reasonable efforts to prevent any portion of the Data from being collected or extracted from Client's computer systems, products or control ("Client's Custody") and ii) promptly notify IBM in writing of any known or reasonably suspected collection or extraction of Data from Client's Custody, and in such case, the parties shall discuss in good faith a commercially reasonable plan for Client to prevent such activity. In the event the parties are unable to agree upon such a plan, IBM shall have the right to suspend delivery of the Data until necessary steps are taken to protect the Data residing in Client's Custody.
- b. Client acknowledges that within the Data there may be certain third party data elements and agrees that in the event receipt of such data by IBM is terminated for any reason, IBM will have the right to terminate transmission of such data and to provide substitute products hereunder.
- c. Client shall publish and adhere to Client's privacy policies in connection with Client's access, use, sharing and storage of information collected through or in relation to its use of the Data.
- d. Client acknowledges IBM may change the style, form or Data of, and eliminate or discontinue segments of, the Data from time to time and at any time in its sole discretion; provided, IBM will include Client in its communications to similarly situated Clients regarding material changes in the Data.

- e. When Client displays, transmits, exhibits, distributes, demonstrates or otherwise conveys the Data in any form or manner accessible by a third party (e.g. Client's customers, business partners or product end users) ("Third Party Facing Application"), Client agrees that:
 - (1) Client shall not imply, directly or indirectly that IBM provides, endorses, sponsors, certifies or approves of any other Data included within a Third Party Facing Application or any products or services advertised near the Data.
 - (2) Client's transmission and display of the Data shall be without interruption and in conformance with the following technical specifications and performance standards as may be amended from time to time:
 - (a) IBM reserves the right to establish and limit the maximum frequency with which Client may call the data feed for a given location ID requesting a data set for that location ID. During the time period in between refresh periods, it is Client's responsibility to cache the data.
 - (b) Data Display:

Client shall provide IBM with an opportunity to review its usage of the Data for a period of not less than five (5) business days before making the Data available on or through a Third Party Facing Application. IBM shall have the right to disapprove the manner in which the Data is displayed within a Third Party Facing Application provided that IBM's review and approval will not be unreasonably withheld or delayed. For Third Party Facing applications, Client must monitor the functionality, performance and appearance of the Data so as to assess, promptly notify and remedy any adverse impact observed.
- f. Upon termination of access to this solution, Client must delete all Data from its systems.
- g. All social media data input into the Clout Service shall be deemed Content and the sole responsibility of Client.

6.3 Country Limitations on Usage

Client is responsible for, and IBM's obligations under this SD shall be conditioned on Client determining whether its use of the Data is permissible and, to the extent necessary, obtaining, all necessary licenses, permits, approvals or authorizations from any governmental entity or agency in the country in which it operates or uses the Data.

7. Software Offering Additional Terms

7.1 Program License

A **Program** is an IBM-branded computer program and related material available for license subject to the payment of charges. Programs do not include Machine Code or Project Materials as those terms may be defined in an Attachment. Programs are copyrighted and licensed (not sold). When IBM accepts an order for a Program, Client is granted a nonexclusive license to: a) use the Program only up to its authorizations and subject to this SD, the Agreement and any relevant TDs; b) make and install copies to support such authorized use; and c) make a backup copy. Programs may be used by Client, its authorized employees and contractors only within Client's Enterprise, and not to provide hosting or timesharing services to any third party. Client may not sublicense, assign, or transfer the license for any Program. Additional rights may be available for additional fees or under different terms. Client is not granted unrestricted rights to use the Program nor has Client paid for all of the economic value of the Program. Certain Programs may contain third party code licensed under separate agreements identified below.

The license granted for a Program is subject to Client:

- a. reproducing copyright notices and other markings;
- b. ensuring anyone who uses the Program does so only for Client's authorized use and complies with the license;
- c. not reverse assembling, reverse compiling, translating, or reverse engineering the Program; and
- d. not using any of the elements of the Program or related licensed material separately from the Program.

The metric applicable to a Program license is specified in an Attachment or TD. All licenses on a server or capacity based metric must be licensed to the full capacity of the server on which the Program is installed, unless sub-capacity usage is available from IBM and Client complies with the applicable sub-capacity requirements.

Unless Client's Agreement specifically says otherwise, the following will apply:

a. Charges, Taxes, Payment and Verification

Client will: i) maintain, and provide upon request, records, system tools output, and access to Client's premises, as reasonably necessary for IBM and its independent auditor to verify Client's compliance with the Agreement, including Program licenses and metrics, such as sub-capacity usage; and ii) promptly order and pay for required entitlements (including associated S&S) at IBM's then-current rates and for other charges and liabilities determined as a result of such verification, as IBM specifies in an invoice. These compliance verification obligations remain in effect during the term of any TD and for two years thereafter.

b. Liability and Indemnity

IBM has no responsibility for claims based on Non-IBM Products, items not provided by IBM, or any violation of law or third party rights caused by Client's Content, or any Client materials, designs, specifications, or use of a non-current version or release of an IBM Product when an infringement claim could have been avoided by using a current version or release.

c. Termination

IBM may terminate Client's license to use a Program if Client fails to comply with the Agreement. Client will promptly destroy all copies of the Program after either party has terminated the license.

7.2 Separately Licensed Code

The provisions of this paragraph do not apply to the extent they are held to be invalid or unenforceable under the law that governs this license. Each of the components listed below is considered "Separately Licensed Code". IBM Separately Licensed Code is licensed to Licensee under the terms of the applicable third party license agreement(s) set forth in the Appendices at the end of this Service Description.

Notwithstanding any of the terms in the Agreement, or any other agreement Licensee may have with IBM, the terms of such third party license agreement(s) governs Licensee's use of all Separately Licensed Code unless otherwise noted below.

Future Program updates or fixes may contain additional or updated Separately Licensed Code. Such Separately Licensed Code and related licenses will be provided to Licensee prior to the update or fix being applied. Licensee acknowledges that Licensee has read and agrees to the license agreements provided. If Licensee does not agree to the terms of these third party license agreements, Licensee may not use the Separately Licensed Code.

For Programs acquired under the Program terms defined in this Service Description and Licensee is the original Licensee of the Program, if Licensee does not agree with the third party license agreements, Licensee may return the Program to the party from whom Licensee obtained it within 30 days of the date the PoE was issued to Licensee. If the license is for a fixed term that is subject to renewal, then Licensee may obtain a refund only if the Program and its PoE are returned within the first 30 days of the initial term.

Note: Notwithstanding any of the terms in the third party license agreement, the Agreement, or any other agreement Licensee may have with IBM:

- a. IBM provides this Separately Licensed Code to Licensee WITHOUT WARRANTIES OF ANY KIND;
- b. **IBM disclaims any and all express and implied warranties and conditions including, but not limited to, the warranty of title, non-infringement or interference and the implied warranties and conditions of merchantability and fitness for a particular purpose, with respect to the separately licensed code.**
- c. IBM is not liable to Licensee, and will not defend, indemnify, or hold Licensee harmless for any claims arising from or related to the Separately Licensed Code; and
- d. IBM is not liable for any direct, indirect, incidental, special, exemplary, punitive or consequential damages including, but not limited to, lost data, lost savings, and lost profits, with respect to the Separately Licensed Code.

Notwithstanding these exclusions, in Germany and Austria, IBM's warranty and liability for the Separately Licensed Code is governed only by the respective terms applicable for Germany and Austria in IBM license agreements.

Note: IBM may provide limited support for some Separately Licensed Code. If such support is available, the details and any additional terms related to such support will be set forth in the License Information document.

The following are Separately Licensed Code:

- Microsoft
- HP
- Creative Commons

8. Non-IBM Machines

A non-IBM machine is device, including its features, upgrades, and accessories that IBM provides to Client. Such non-IBM machines are not branded by IBM, but branded by another party.

When IBM accepts Client's order, IBM transfers title to non-IBM machines to Client or Client's lessor upon payment of all amounts due, except in the United States where title transfers upon shipment. IBM bears risk of loss until delivery to the carrier for shipment. IBM pays for insurance on Client's behalf until delivery to Client's location. Client must report any loss in writing to IBM within 10 business days of delivery and follow the claim procedure.

Client may only acquire non-IBM machines for use within Client's Enterprise in the country where acquired and not for resale, lease, or transfer. Lease-back financing is permitted.

8.1 Indemnification and Liability

IBM has no responsibility for claims based, in whole or part, on non-IBM machines, items not provided by IBM, or any violation of law or third party rights caused by Client's materials, designs, or specifications.

Each party accepts the terms of this Service Description by signing it below where required by law, (or another document that incorporates it by reference) by hand or, where recognized by law, electronically. Once signed, any reproduction of this Service Description made by reliable means (for example, electronic image, photocopy or facsimile) is considered an original.

Agreed to:

Agreed to:

Client Company Name:

IBM Company:

By _____

By _____

Authorized signature

Authorized signature

Title:

Title:

Name (type or print):

Name (type or print):

Date:

Date:

Client number:

Agreement number:

Enterprise number:

Client address:

IBM address:

Microsoft Software License Terms

Last updated November 2018

MICROSOFT SOFTWARE LICENSE TERMS

WINDOWS 10 IOT ENTERPRISE & MOBILE (ALL EDITIONS)

IF YOU LIVE IN (OR IF YOUR PRINCIPAL PLACE OF BUSINESS IS IN) THE UNITED STATES, PLEASE READ THE BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER IN SECTION 8. IT AFFECTS HOW DISPUTES ARE RESOLVED.

Thank you for choosing Microsoft!

Depending on how you obtained the Windows software, this is a license agreement between (i) you and the device manufacturer or software installer that distributes the software with your device; or (ii) you and Microsoft Corporation (or, based on where you live or if a business where your principal place of business is located, one of its affiliates) if you acquired the software from a retailer. Microsoft is the device manufacturer for devices produced by Microsoft or one of its affiliates, and Microsoft is the retailer if you acquired the software directly from Microsoft.

This agreement describes your rights and the conditions upon which you may use the Windows software. You should review the entire agreement, including any supplemental license terms that accompany the software and any linked terms, because all of the terms are important and together create this agreement that applies to you. You can review linked terms by pasting the (aka.ms/) link into a browser window.

By accepting this agreement or using the software, you agree to all of these terms, and consent to the transmission of certain information during activation and during your use of the software as per the privacy statement described in Section 3. If you do not accept and comply with these terms, you may not use the software or its features. You may contact the device manufacturer or installer, or your retailer if you purchased the software directly, to determine its return policy and return the software or device for a refund or credit under that policy. You must comply with that policy, which might require you to return the software with the entire device on which the software is installed for a refund or credit, if any.

1. Overview.

- a. **Applicability.** This agreement applies to the Windows software that is preinstalled on your device, or acquired from a retailer and installed by you, the media on which you received the software (if any), any fonts, icons, images or sound files included with the software, and also any Microsoft updates, upgrades, supplements or services for the software, unless other terms come with them. It also applies to Windows apps developed by Microsoft that provide functionality such as mail, calendar, contacts, music and news that are included with and are a part of Windows. If this agreement contains terms regarding a feature or service not available on your device, then those terms do not apply.
- b. **Additional terms.** Depending on your device's capabilities, how it is configured, and how you use it, additional Microsoft and third party terms may apply to your use of certain features, services and apps.
 - (1) Some Windows apps provide an access point to, or rely on, online services, and the use of those services is sometimes governed by separate terms and privacy policies, such as the Microsoft Services Agreement at (aka.ms/msa). You can view these terms and policies by looking at the service terms of use or the app's settings, as applicable; please read them. The services may not be available in all regions.
 - (2) The manufacturer or installer may also preinstall apps, which will be subject to separate license terms.
 - (3) The software may include third party software such as Adobe Flash Player that is licensed under its own terms. You agree that your use of Adobe Flash Player is governed by the license terms for Adobe Systems Incorporated at (aka.ms/adobeflash). Adobe and Flash are

either registered trademarks or trademarks of Adobe Systems Incorporated in the United States and/or other countries.

- (4) The software may include third party programs that are licensed to you under this agreement, or under their own terms. License terms, notices and acknowledgements, if any, for the third party program can be view at (aka.ms/thirdpartyntices).

2. Installation and Use Rights.

- a. **License.** The software license is permanently assigned to the device with which you acquired the software. You may only use the software on that device.
- b. **Device.** In this agreement, "device" means a physical hardware system with an internal storage device capable of running the software. A hardware partition or blade is considered to be a device.
- c. **Restrictions.** The manufacturer or installer and Microsoft reserve all rights (such as rights under intellectual property laws) not expressly granted in this agreement. For example, this license does not give you any right to, and you may not:
 - (1) use or virtualize features of the software separately;
 - (2) publish, copy (other than the permitted backup copy), rent, lease, or lend the software;
 - (3) transfer the software;
 - (4) work around any technical restrictions or limitations in the software;
 - (5) use the software as server software, for commercial hosting, make the software available for simultaneous use by multiple users over a network, install the software on a server and allow users to access it remotely, or install the software on a device for use only by remote users;
 - (6) reverse engineer, decompile, or disassemble the software, or attempt to do so, except and only to the extent that the foregoing restriction is (a) permitted by applicable law; (b) permitted by licensing terms governing the use of open source components that may be included with the software; or (c) required to debug changes to any libraries licensed under the GNU Lesser General Public License which are included with and linked to by the software; and
 - (7) when using Internet-based features you may not use those features in any way that could interfere with anyone else's use of them, or to try to gain access to or use any service, data, account, or network, in an unauthorized manner.
- d. **Multi use scenarios.**
 - (1) **Multiple versions.** If when acquiring the software, you were provided with multiple versions (such as 32-bit and 64-bit versions), you may install and activate only one of those versions at a time.
 - (2) **Multiple or pooled connections.** Hardware or software you use to multiplex or pool connections, or reduce the number of devices or users that access or use the software, does not reduce the number of licenses you need. You may only use such hardware or software if you have a license for each instance of the software you are using.
 - (3) **Device connections.** You may allow up to 20 other devices to access the software installed on the licensed device for the purpose of using the following software features: file services, print services, Internet information services, and Internet connection sharing and telephony services on the licensed device. The 20 connection limit applies to devices that access the software indirectly through "multiplexing" or other software or hardware that pools connections. You may allow any number of devices to access the software on the licensed device to synchronize data between devices. This section does not mean, however, that you have the right to install the software, or use the primary function of the software (other than the features listed in this section), on any of these other devices.
 - (4) **Remote access.** Users may access the licensed device from another device using remote access technologies, but only on devices separately licensed to run the same or higher edition of this software.
 - (5) **Remote assistance.** You may use remote assistance technologies to share an active session without obtaining any additional licenses for the software. Remote assistance allows one user to connect directly to another user's computer, usually to correct problems.

- (6) **POS application.** If the software is installed on a retail point of service device, you may use the software with a point of service application ("POS Application"). A POS Application is a software application which provides only the following functions: (i) process sales and service transactions, scan and track inventory, record and/or transmit customer information, and perform related management functions, and/or (ii) provide information directly and indirectly to customers about available products and services. You may use other programs with the software as long as the other programs: (i) directly support the manufacturer's specific use for the device, or (ii) provide system utilities, resource management, or anti-virus or similar protection. For clarification purposes, an automated teller machine ("ATM") is not a retail point of service device.
 - (7) **Cloud Computing Devices.** If your device uses Internet browsing functionality to connect to and access cloud hosted applications: (i) no desktop functions may run locally on the device, and (ii) any files that result from the use of the desktop functions may not be permanently stored on the system. "Desktop functions," as used in this agreement, means a consumer or business task or process performed by a computer or computing device. This includes but is not limited to email, word processing, spreadsheets, database, scheduling, network or internet browsing and personal finance.
 - (8) **Desktop Functions.** If your system performs desktop functions, then you must ensure that they: (i) are only used to support the application, and (ii) operate only when used with the application.
- e. **Windows 10 IoT Enterprise Features for Development and Testing Only**
- (1) **Windows 10 Containers.** You may only use Windows 10 Containers for commercial purposes and activities with Microsoft Azure IoT Edge. You may use any number of virtual operating system environments instantiated as Windows 10 Containers by the Microsoft Azure IoT Edge Runtime on the device.
 - (2) **Device Health Attestation.** You may only implement Device Health Attestation in a commercial use if you execute a Microsoft Windows IoT Core Services Agreement at: <https://azure.microsoft.com/en-us/services/windows-10-iot-core/>.
- f. **Specific Use.** The manufacturer designed the licensed device for a specific use. You may only use the software for that use.

3. Privacy; Consent to Use of Data.

Your privacy is important to us. Some of the software features send or receive information when using those features. Many of these features can be switched off in the user interface, or you can choose not to use them. By accepting this agreement and using the software you agree that Microsoft may collect, use, and disclose the information as described in the Microsoft Privacy Statement available at (aka.ms/privacy), and as may be described in the user interface associated with the software features.

4. Authorized Software and Activation.

You are authorized to use this software only if you are properly licensed and the software has been properly activated with a genuine product key or by other authorized method. When you connect to the Internet while using the software, the software will automatically contact Microsoft or its affiliate to confirm the software is genuine and the license is associated with the licensed device. You can also activate the software manually by Internet or telephone. In either case, transmission of certain information will occur, and Internet, telephone and SMS service charges may apply. During activation (or reactivation that may be triggered by changes to your device's components), the software may determine that the installed instance of the software is counterfeit, improperly licensed or includes unauthorized changes. If activation fails the software will attempt to repair itself by replacing any tampered Microsoft software with genuine Microsoft software. You may also receive reminders to obtain a proper license for the software. Successful activation does not confirm that the software is genuine or properly licensed. You may not bypass or circumvent activation. To help determine if your software is genuine and whether you are properly licensed, see (aka.ms/genuine). Certain updates, support, and other services might only be offered to users of genuine Microsoft software.

5. Updates.

You may obtain updates only from Microsoft or authorized sources, and Microsoft may need to update your system to provide you with those updates. The software periodically checks for system and app

updates, and may download and install them for you. To the extent automatic updates are enabled on your device, by accepting this agreement, you agree to receive these types of automatic updates without any additional notice.

6. **Geographic and Export Restrictions.**

If your software is restricted for use in a particular geographic region, then you may activate the software only in that region. You must also comply with all domestic and international export laws and regulations that apply to the software, which include restrictions on destinations, end users, and end use. For further information on geographic and export restrictions, visit (aka.ms/exporting).

7. **Support and Refund Procedures.**

For the software generally, contact the device manufacturer or installer for support options. Refer to the support number provided with the software. For updates and supplements obtained directly from Microsoft, Microsoft may provide limited support services for properly licensed software as described at (aka.ms/mssupport). If you are seeking a refund, contact the manufacturer or installer to determine its refund policies. You must comply with those policies, which might require you to return the software with the entire device on which the software is installed for a refund.

8. **Binding Arbitration and Class Action Waiver if You Live in (or if a Business Your Principal Place of Business is in) the United States.**

We hope we never have a dispute, but if we do, you and we agree to try for 60 days to resolve it informally. If we can't, you and we agree to **binding individual arbitration before the American Arbitration Association ("AAA") under the Federal Arbitration Act ("FAA"), and not to sue in court in front of a judge or jury**. Instead, a neutral arbitrator will decide and the arbitrator's decision will be final except for a limited right of appeal under the FAA. **Class action lawsuits, class-wide arbitrations, private attorney-general actions, and any other proceeding where someone acts in a representative capacity aren't allowed. Nor is combining individual proceedings without the consent of all parties.** "We," "our," and "us" includes Microsoft, the device manufacturer, and software installer.

- a. **Disputes covered – everything except IP.** The term "dispute" is as broad as it can be. It includes any claim or controversy between you and the manufacturer or installer, or you and Microsoft, concerning the software, its price, or this agreement, under any legal theory including contract, warranty, tort, statute, or regulation, **except disputes relating to the enforcement or validity of your, your licensors', our, or our licensors' intellectual property rights.**
- b. **Mail a Notice of Dispute first.** If you have a dispute and our customer service representatives can't resolve it, send a Notice of Dispute by U.S. Mail to the manufacturer or installer, ATTN: LEGAL DEPARTMENT. If your dispute is with Microsoft, mail it to Microsoft Corporation, ATTN: LCA ARBITRATION, One Microsoft Way, Redmond, WA 98052-6399. Tell us your name, address, how to contact you, what the problem is, and what you want. A form is available at (aka.ms/disputeform). We'll do the same if we have a dispute with you. After 60 days, you or we may start an arbitration if the dispute is unresolved.
- c. **Small claims court option.** Instead of mailing a Notice of Dispute, and if you meet the court's requirements, you may sue us in small claims court in your county of residence (or if a business your principal place of business) or our principal place of business – King County, Washington USA if your dispute is with Microsoft. We hope you'll mail a Notice of Dispute and give us 60 days to try to work it out, but you don't have to before going to small claims court.
- d. **Arbitration procedure.** The AAA will conduct any arbitration under its Commercial Arbitration Rules (or if you are an individual and use the software for personal or household use, or if the value of the dispute is \$75,000 USD or less whether or not you are an individual or how you use the software, its Consumer Arbitration Rules). For more information, see (aka.ms/adr) or call 1-800-778-7879. To start an arbitration, submit the form available at (aka.ms/arbitration) to the AAA; mail a copy to the manufacturer or installer (or to Microsoft if your dispute is with Microsoft). In a dispute involving \$25,000 USD or less, any hearing will be telephonic unless the arbitrator finds good cause to hold an in-person hearing instead. Any in-person hearing will take place in your county of residence (of if a business your principal place of business) or our principal place of business – King County, Washington if your dispute is with Microsoft. You choose. The arbitrator may award the same damages to you individually as a court could. The arbitrator may award declaratory or injunctive relief only to you individually to satisfy your individual claim.

e. **Arbitration fees and payments.**

- (1) **Disputes involving \$75,000 USD or less.** The manufacturer or installer (or Microsoft if your dispute is with Microsoft) will promptly reimburse your filing fees and pay the AAA's and arbitrator's fees and expenses. If you reject our last written settlement offer made before the arbitrator was appointed, your dispute goes all the way to an arbitrator's decision (called an "award"), and the arbitrator awards you more than this last written offer, the manufacturer or installer (or Microsoft if your dispute is with Microsoft) will: (1) pay the greater of the award or \$1,000 USD; (2) pay your reasonable attorney's fees, if any; and (3) reimburse any expenses (including expert witness fees and costs) that your attorney reasonably accrues for investigating, preparing, and pursuing your claim in arbitration. The arbitrator will determine the amounts unless you and we agree on them.
- (2) **Disputes involving more than \$75,000 USD.** The AAA rules will govern payment of filing fees and the AAA's and arbitrator's fees and expenses.
- (3) **Disputes involving any amount.** If you start an arbitration we won't seek our AAA or arbitrator's fees and expenses, or your filing fees we reimbursed, unless the arbitrator finds the arbitration frivolous or brought for an improper purpose. If we start an arbitration we will pay all filing, AAA, and arbitrator's fees and expenses. We won't seek our attorney's fees or expenses from you in any arbitration. Fees and expenses are not counted in determining how much a dispute involves.

- f. **Must file within one year.** You and we must file in small claims court or arbitration any claim or dispute (except intellectual property disputes – see Section 9.a) within one year from when it first could be filed. Otherwise, it's permanently barred.
- g. **Severability.** If the class action waiver is found to be illegal or unenforceable as to all or some parts of a dispute, those parts won't be arbitrated but will proceed in court, with the rest proceeding in arbitration. If any other provision of Section 9 is found to be illegal or unenforceable, that provision will be severed but the rest of Section 9 still applies.
- h. **Conflict with AAA rules.** This agreement governs if it conflicts with the AAA's Commercial Arbitration Rules or Consumer Arbitration Rules.
- i. **Microsoft as party or third-party beneficiary.** If Microsoft is the device manufacturer or if you acquired the software from a retailer, Microsoft is a party to this agreement. Otherwise, Microsoft is not a party but is a third-party beneficiary of your agreement with the manufacturer or installer to resolve disputes through informal negotiation and arbitration.

9. **Governing Law.**

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