

Weather Company Operations Dashboard

本「服務說明」敘述 IBM 提供予客戶之本項「雲端服務」。「客戶」係指立約當事人、其授權使用者及本項「雲端服務」收受人。所適用之「報價單」及「權利證明書 (PoE)」係以個別「交易文件」之形式提供。

1. 雲端服務

IBM Cloud Service for Weather Company Operations Dashboard (雲端服務) 採用應用程式介面和 iOS 型應用程式, 可讓「客戶」接收「資料」。所稱「資料」, 係指透過本「服務說明」所載「雲端服務」交付之氣象資料及交通資料 (均為即時流量及事故), 包括但不限於預報、地圖、警報及圖形。

1.1 Weather Company Operations Dashboard

Weather Company Operations Dashboard 結合氣象、發出警報及製圖, 且為數量日益增長之 The Weather Company 所提供之商業驅動 iOS 應用程式組合之一部分。此應用程式之速度、使用者體驗及資訊深度, 可直接為行動式裝置 (手機或平板電腦) 提供獨特見解, 俾使作成決策者得以隨時作成決策。

1.2 額外服務

1.2.1 Weather Company Operations Dashboard for Ground Transportation

本套件內含對下列「資料」之存取權限：

元件	說明
Weather Company Operations Dashboard for Ground Transportation Add-on	本項服務為平板電腦及手機適用之 iOS 型應用程式, 可提供對「氣象」及「交通」服務所為之本地化、互動式及可回應之存取, 俾使保有行動式資產之公司得以結合即時見解、預測見解及警報, 以做出重要商業決策, 並提升作業效率。

1.2.2 Weather Company Operations Dashboard for Retail

本套件內含對下列「資料」之存取權限：

元件	說明
Weather Company Operations Dashboard for Retail Add-on	本項服務為平板電腦及手機適用之 iOS 型應用程式, 可提供對「氣象」及「交通」服務所為之本地化、互動式及可回應之存取, 俾使保有行動式資產之公司得以結合即時見解、預測見解及警報, 以做出重要商業決策, 並提升作業效率。

1.2.3 Weather Company Operations Dashboard for Oil & Gas

本套件內含對下列「資料」之存取權限：

元件	說明
Weather Company Operations Dashboard for Oil & Gas Add-on	本項服務為平板電腦及手機適用之 iOS 型應用程式, 可提供對全球 Weather 及額外相關資料集所為之本地化、互動式及可回應之存取, 俾使在全球任何地方保有資產之石油與天然氣公司得以結合即時見解、預測見解及警報, 以作成重要商業決策, 並提升作業效率。
Weather Company Operations Dashboard for Oil & Gas - Sites	本項服務可於 iOS 應用程式, 對由客戶所購雷達提供之資料進行即時整合。「客戶」可購買一部或多部雷達, 所安裝之資料傳回 The Weather Company, 經理處理後, 即可於 iOS 應用程式即時提供已處理資料。

元件	說明
Weather Company Operations Dashboard for Oil & Gas with Radar	本項服務為平板電腦及手機適用之 iOS 型應用程式，可對全球 Weather 資料及由客戶所購一部或多部雷達提供之即時資料為本地化、互動式及可回應之存取。雷達可安裝於全球任何地方，並可作為在全球偏遠地區提供珍貴即時資料之一種方式。此外，其他相關資料集亦已視覺化，俾使在全球任何地方保有資產之石油與天然氣公司得以結合即時見解、預測見解及警報，以作成重要商業決策，並提升作業效率。

1.3 Weather Company Operations Dashboard Solution Systems

本套件內含對下列項目之存取權限：

元件	說明
Weather Company Oil & Gas Radar - z2G4 System	本 Radar System 包含「程式」、「獨立授權程式碼」及 Z2G4 HP 系統（此為非 IBM 機器），係連同「客戶」所購雷達一併售出。本 Radar System 連接至前揭雷達後，可讀取雷達所記錄之即時資料，並將其傳回 The Weather Company。

2. 內容及資料保護

Data Processing and Protection Data Sheet (Data Sheet) 提供有關為進行處理而啟用之「內容」類型、所涉及之處理活動、資料保護特定功能及「內容」保留與歸還相關細節之本「雲端服務」特定資訊。有關本項「雲端服務」使用及資料保護特定功能之詳細內容或澄清及條款，包括「客戶」責任，於本節定之。依據「客戶」所選選項，「客戶」使用本項「雲端服務」時所適用之 Data Sheet 可能有一份以上。Data Sheet 可能僅以英文提供，不以當地語文提供。不問當地法律或慣例之常規，雙方當事人同意，其等瞭解英文，且英文為有關「雲端服務」之取得及使用之適當語文。下列 Data Sheet 適用於本項「雲端服務」及其可用選項。

以下為適用 Data Sheet 之鏈結：

<https://www.ibm.com/software/reports/compatibility/clarity-reports/report/html/softwareReqsForProduct?deliverableId=BFF1AB404A4311E79342EA59690D4322>

「客戶」有責任就「雲端服務」採取必要行動，以訂購、啟用或使用可用之資料保護特定功能，並接受其未能採取該等行動時所應承擔之有關使用「雲端服務」之責任，包括遵守有關「內容」之資料保護規定或其他法律之規定。

若歐盟一般資料保護規章 (EU/2016/679) (GDPR) 適用於「內容」所含個人資料，則於其適用的範圍內，IBM 之資料處理附錄 (DPA) (網址：<http://ibm.com/dpa>) 及「DPA 附件」適用於本合約並為其補充。本「雲端服務」所適用之 Data Sheet，應作為 DPA 附件。

3. 服務水準協定 (SLA)

IBM 依「權利證明書」提供本項「雲端服務」之可用度服務水準協定 ("SLA") 如下。本 SLA 並非保證。本 SLA 僅限提供予「客戶」，且僅適用於正式作業環境中之使用。

3.1 可用度扣抵

「客戶」應在得知業務遭受重大衝擊且本項「雲端服務」無法使用後 24 小時內，先向 IBM 技術支援中心服務台記載「嚴重性層次 1」支援問題單。「客戶」應於合理範圍內協助 IBM 進行任何問題之診斷與解決。就未能符合 SLA 而提出之支援問題單請求，應於合約月份結束後 3 個營業日內提出。對於有效 SLA 請求之補償，將以本項「雲端服務」未來發票扣抵方式提供之，該項扣抵之計算期間為無法提供本項「雲端服務」正式作業系統處理之期間（「停用時間」）。「停用時間」之計算，自「客戶」提報事件時起，至本項「雲端服務」回復時止，但不包括因下列事由所致時間：基於維修目的而排定或公布之停止；非 IBM 所能掌控之原因；因「客戶」或第三人內容或技術、設計或指示所生問題；不受支援之系統配置及平台或其

他「客戶」錯誤；或「客戶」所致資安事故或「客戶」安全測試。IBM 將依各合約月份期間之本項「雲端服務」累計可用度，套用最高可適用之補償，如下表所示。任何合約月份相關之補償總額，以本「雲端服務」年費十二分之一 (1/12) 的百分之十 (10%) 金額為上限。

3.2 服務水準

合約月份期間的本項「雲端服務」可用度

合約月份期間的可用度	補償 (請求事由發生之合約月份的每月訂用費用*之百分比)
小於 99.9%	2%
小於 99%	5%
小於 95%	10%

*如本項「雲端服務」係向「IBM 事業夥伴」取得者，每月訂用費用應以請求所主張之合約月份之有效本項「雲端服務」當時最新標價計算，且其折扣率為 50%。IBM 將直接折讓給「客戶」。

可用度（以百分比表示）之計算為：合約月份中的總分鐘數減去合約月份中「停用時間」的總分鐘數，除以合約月份的總分鐘數。

4. 技術支援

「雲端服務」之技術支援係透過電子郵件及電話提供。IBM 軟體即服務 (SaaS) 支援手冊（收錄於下列網站：https://www.ibm.com/software/support/saas_support_guide.html）內含技術支援聯絡資訊及其他資訊與程序。技術支援僅附隨於本項「雲端服務」而提供，其非可作為單獨供應項目而提供。

5. 授權與付款資訊

5.1 計費度量

本項「雲端服務」係依「交易文件」中所定計費度量而提供。

- 「授權使用者」是取得本項「雲端服務」所需的一種計量單位。「客戶」應為每一個透過任何方法以任何直接或間接方式（例如：透過多工程式、裝置或應用程式伺服器）存取本項「雲端服務」的唯一「授權使用者」取得個別的專用授權。「客戶」應取得足夠涵蓋在其「權利證明書」或「交易文件」中所指定計量期間被授予本項「雲端服務」存取權之「授權使用者」數量之授權數。
- 「客戶裝置」是取得 Radar System 硬體所需的一種計量單位。「客戶裝置」係指一種單一使用者運算裝置、通訊裝置、具特殊用途之感應器或遙測裝置，該裝置要求執行來自另一電腦系統（通常稱為伺服器或由伺服器管理）之一組指令、程序或應用程式，或接受該組指令、程序或應用程式之執行結果，或提供資訊予該系統。客戶裝置可能具備某些處理能力，亦可能為可程式化，容許使用者執行工作。「客戶」應為在「客戶」的「交易文件」中所指定之計量期間，執行本「雲端服務」、提供資料給本「雲端服務」、使用由本項「雲端服務」提供的服務，或以其他方式存取本「雲端服務」之每一個「客戶裝置」取得授權。
- 「實體 ID」是指本「雲端服務」內所代表實體的唯一 ID。「客戶」應取得足夠涵蓋在其「權利證明書」或「交易文件」中所指定計量期間於本「雲端服務」中指明之「實體 ID」數量之授權數。
- 「實例」是取得本項「雲端服務」所需的一種計量單位。實例是對本「雲端服務」特定配置的存取。「客戶」應取得足夠在其「權利證明書」或「交易文件」中所指定的計量期間，讓本項「雲端服務」之每一個實例可供存取及使用之授權數。
- 「十億美元總收益」係取得本「雲端服務」所需的一種計量單位。「總收益」係為「客戶」所發佈最新公開報告所載「客戶」每年銷售額及其他收入來源之總額，或在「客戶」未公告收益之情形，以「客戶」業經稽核最新之財務報告為準。採用非美元貨幣之「總收益」，應依位於下列網址之表格轉換為美元：轉換單位表網站。「客戶」應取得足夠涵蓋其所提報「總收益」金額（以美元計）之授權，該金額無條件進位為最接近十億美元之金額。

5.2 設定費

所訂購之各項設定服務，其一次設定費係依「交易文件」所定費率支付費用。

5.3 超額使用計費

若「客戶」在計量期間內的本「雲端服務」實際使用情形超出「權利證明書」載明之授權數量，則針對超額使用部分將於超額使用後之翌月，依「交易文件」所定費率計費。

5.4 查核

「客戶」應履行下列事項：i) 持續保留記錄，並在 IBM 認為合理必要情形時，依 IBM 要求而提供記錄及系統工具輸出資料，以利 IBM 及其獨立稽核人查核「客戶」是否遵循「本合約」；及 ii) 立即訂購必要授權，並依 IBM 之當時費率支付該等授權所需費用，及 IBM 於發票中載明之前述查核所定其他費用與義務。前述規查核義務於本項「雲端服務」期間及其後二年內有效。

5.5 計費頻率

IBM 將於計費頻率期間起算日，依選定計費頻率對「客戶」開立應付款項之發票，惟超額使用款項及應以後付方式開立發票之使用類型款項除外。

6. 期間及續約選項

本「雲端服務」之期間，自 IBM 通知「客戶」其可存取本「雲端服務」之當日起算，詳如「權利證明書」上所載。「權利證明書」將載明本項「雲端服務」是要自動續約、持續使用方式，或於期間結束時終止。如係自動續約，除非「客戶」於前述期間到期日九十日（或更早）前為不續約之書面通知，否則，本項「雲端服務」將依「權利證明書」所載明之期間自動續約。續約時可能調升年度價格，如報價單所示。如係於收到 IBM 為撤銷本「雲端服務」之通知後自動續約者，續約期間之終止日為現行續約期間結束日或所公布之撤銷日期（以發生在先者為準）。

如係持續使用，將依按月之方式持續提供本項「雲端服務」，至「客戶」提供九十日前終止之書面通知為止。於前述到期日九十日前之期間後至該日曆月月底前，將繼續提供本項「雲端服務」。

7. 附加條款

7.1 「一般規定」

「客戶」同意 IBM 得於宣傳或行銷傳播時公開稱「客戶」為本「雲端服務」之訂用者。

「客戶」不得為支援下列高風險活動而使用「雲端服務」，不論係單獨使用或結合其他服務或產品一併使用，均同：核能設施、大眾運輸系統、空中交通管制系統、汽車控制系統、武器系統或飛航導航或通訊系統之設計、建構、控制或維護，或其他因本「雲端服務」失效而可能引起重大傷亡危害之任何活動。

7.2 啟用軟體

本項「雲端服務」必須使用「客戶」下載至「客戶」系統之啟用軟體，以協助使用本項「雲端服務」。「客戶」僅限搭配本項「雲端服務」一併使用啟用軟體。啟用軟體依「現狀」提供。

7.3 服務之終止

於「客戶」之訂用到期或終止時，「客戶」據以存取本「雲端服務」之認證將予刪除。

7.4 使用之限制

- a. 「客戶」不得依據與因應消費者技術之使用者位置相關「資料」，將本「雲端服務」或「資料」使用於鎖定或觸發廣告、提供廣告（例如：交通觸發型廣告），或將本「雲端服務」或「資料」使用於行銷或內容型決策。
- b. 「客戶」不得將「資料」當作電視或無線電台廣播（例如：無線、有線、衛星）所播送任何類型供應項目之一部分，或當作利用任何方法或媒介所交付訂用串流服務（例如：Sling Television、Netflix、Hulu、Amazon Prime Video、HBO GO 或同等無線電台）之一部分。

- c. 「客戶」應履行下列事項：i) 善盡商業上合理之努力，防止從「客戶」之電腦系統、產品或控制項（「客戶監管項目」）蒐集或擷取「資料」之任一部分；及 ii) 立即通知 IBM 任何已知或合理懷疑之該等從客戶監管項目所為「資料」之蒐集或擷取行為。雙方當事人其後應依誠實信用原則協商之，並嘗試依商業合理考量決定所要採取之行動，以防日後發生前揭情事。雙方當事人未於首次通知後五個工作日內同意或執行前揭依商業合理考量所要採取之行動者，於對客戶監管項目所含「資料」為必要保護步驟前，IBM 有權暫停「資料」之交付。
- d. 就「客戶」透過「資料」所蒐集之資訊或與使用「內容」有關之相關資訊，「客戶」應公布並遵循有關其對該等資訊所為之存取、使用、共用及儲存等事項之隱私權政策。
- e. 「客戶」同意相關規格與說明文件為 IBM 機密資訊，不得對其為不符本「服務說明」規定之使用或揭露。
- f. 「客戶」同意 IBM 得隨時自行決定變更「資料」之樣式、表單或內容，以及刪除或停用其若干區段；惟 IBM 應將「客戶」列為有類似情況，需要被傳達「資料」相關重大變更之客戶。
- g. 「客戶」同意，於其以得由第三人（例如：「客戶」之客戶、事業夥伴或產品使用者）存取之形式或方法顯示、傳輸、展示、散布、示範或以其他方式傳播「資料」時（「因應第三人應用程式」），應遵循下列事項：
- (1) 「客戶」不得以提供現行「資料」或其分析為主要目的，而直接或間接將「資料」作為「第三人應用程式」之一部分，或利用「資料」建立「第三人應用程式」。
 - (2) IBM 為「因應第三人應用程式」之交通及交通相關內容與資訊之獨家提供者。因此，(i) 「客戶」不得於「因應第三人應用程式」中顯示「資料」以外之交通或其相關內容；及 (ii) 「客戶」不得於「因應第三人應用程式」中之任何一處納併符合下列情形之任何當事人所提供之內容：其主要事業單位包含交通或其相關資訊之製作、散布或顯示者。但「客戶」得於納併直接從聯邦政府、州政府或地方政府機關（構）或政府所屬機關收受之交通或其相關內容。此外，「客戶」不得以類似「因應第三人應用程式」所顯示「資料」之方式，展示非由 IBM 或其關係企業（不管是當地、區域、國家或國際關係企業）所提供之交通服務程式設計或內容之廣告。
 - (3) 「客戶」不得變更「資料」之任一部分所包含或描述之特定氣象資訊、交通資訊、資料或預報，亦不得以其他方式編輯、修改、變更或編纂「資料」之衍生著作。
 - (4) 「客戶」所顯示之可點選超文字/圖形鏈結與標誌，應包含 Weather Company（一家「IBM 公司」）隨時提供予「客戶」之內嵌式超文字鏈結、商標、服務標章、標誌及其他專屬標記（「標章」），以及「客戶」所使用之一切「資料」。IBM 有權指定所要顯示之與其「資料」相關聯之「標章」。非經 IBM 書面同意，「客戶」不得省略、改變或以其他方式變更「標章」或其於「因應第三人應用程式」中之顯示方式（包括但不限於其大小、顏色、位置或樣式）。
 - (5) 「客戶」不得直接或間接顯示「因應第三人應用程式」所含其他內容或在所進行廣告之產品或服務與「資料」近似者，係由 IBM 提供、業經 IBM 背書、贊助、認證或核准。
 - (6) 「客戶」對「資料」之傳輸及顯示，不得中斷，且應遵循下列技術規格與效能標準，該等規格與標準可能隨時更改。
 - (a) IBM 保留訂定及限制「客戶」為於特定位置 ID 要求該位置 ID 資料集所為資訊來源呼叫之頻率上限之權。於各重新整理期間間隔時段，由「客戶」負責快取資料。
 - (b) 「資料」之顯示：

「客戶」應給與 IBM 審查「客戶」對「資料」之使用，所給審查期間不得少於在「因應第三人應用程式」上提供「資料」或利用其提供「資料」前五個營業日。IBM 有權不核准「資料」於「因應第三人應用程式」內之顯示方式，惟 IBM 非有正當理由，不得拒絕或延遲其審查及核准。針對「因應第三人應用程式」，「客戶」應監控「資料」之功能、效能及外觀，以利評量、即時通知及補救各種問題。

7.5 使用之國家/地區限制

「客戶」應負責判斷其對「資料」之使用是否被許可，且應於必要時向其操作或使用「內容」所在國家/地區之政府機關（構）取得一切必要之許可證明、權限、核准或授權，IBM 依本「服務說明」所負義務之前

提條件，係取決於「客戶」對「資料」之使用是否被許可及是否取得該等必要之許可證明、權限、核准或授權。

7.6 依現狀之材料 (materials)

所有資料與氣象及氣象相關資訊、預報及警報，悉「依現狀」提供，IBM 對於該等材料之精確度、可靠性、完整性或可用性，不負任何責任。

8. 軟體附加條款

Radar System 隨附若干「程式」，該等「程式」預先安裝於 Radar System，並受以下各節之「程式」授權條款之規範與拘束。安裝於 Radar System 之「程式」，其注意事項及其他相關資訊，請參閱「附錄 A」。

8.1 程式授權

「程式」係指為給予授權而提供之 IBM 廠牌電腦程式及相關著作物，視所付費用而定。「程式」不包括「機器碼」或「專案著作物」（「附件」可能訂有該等用詞之定義）。「程式」為享有著作權保護之著作且僅授權使用（非出售）。於 IBM 接受「程式」之訂單時，「客戶」被授與非專屬性授權，以行使下列行為：**a)** 僅限依「程式」之授權範圍使用「程式」，並受本「服務說明」、「合約」及任何相關「交易文件」之拘束；**b)** 製作及安裝複本以支援該項授權使用；及 **c)** 製作備份複本。貴客戶與獲得授權使用之「客戶」員工及承包商，均僅得於「客戶」之「企業」內使用「程式」，且不得以提供機器代管 (hosting) 或分時 (timesharing) 服務方式使第三人使用「程式」。貴客戶不得將「程式」之使用授權再授權、移轉、讓與予第三人。IBM 可能提供額外授權，惟需收取額外費用或適用不同條款。貴客戶並未取得無限制 (unrestricted) 之「程式」使用權利，「客戶」支付之費用亦非該「程式」之全部經濟價值。若干「程式」可能包含以下所載之另依個別合約規定而授權之第三人程式碼。

「程式」之授權以「客戶」遵守下述義務為條件：

- a. 複製並標明著作權標示及其他標示；
- b. 確保任何使用「程式」之人僅在「客戶」授權範圍內使用並遵守授權條款；
- c. 不得對「程式」進行逆向組合 (reverse assembling)、逆向編譯、解譯 (reverse compiling, translating) 或還原工程 (reverse engineering)；及
- d. 不得將「程式」或相關授權著作物之元件/元素 (elements) 與「程式」分開使用。

除「客戶」之「合約」另有規定者外，一律適用下列條款：

- e. 收費、稅捐、付款及循規驗證

「客戶」應履行下列事項：**i)** 在適用情形下，應維護並依要求而提供必要之記錄、系統工具輸出及允許進出「客戶」所在處所，以利 IBM 及其獨立稽核員查核「客戶」是否遵循「本合約」，包括「程式」之授權及計量（例如：子容量用量）；及 **ii)** 立即訂購必要授權（包括相關聯 S&S），並依 IBM 之當時費率支付該等授權所需費用，及 IBM 於發票中載明之前述查核判定之其他費用與債務。前揭循規驗證義務於「交易文件」期間及其後二年內仍有效。

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- g. 終止

如「客戶」未遵循本合約之規定，IBM 得終止「客戶」之「程式」使用授權。任一方終止授權後，「客戶」須立即銷毀該「程式」之所有複本。

8.2 獨立授權程式碼

倘規範本授權合約之國家/地區法令認定本段落之條款無效或無法執行，則不適用。下列每一個元件被視為「獨立授權程式碼」。依本「服務說明」檢附之「附件」所適用第三人授權合約條款之規定，為給予被授

權人 IBM 「獨立授權程式碼」之授權。縱使於本合約或被授權人可能與 IBM 所簽署之任何其他合約有任何條款，但除以下另有規定者外，否則該等第三人授權合約之條款規範被授權人之所有「獨立授權程式碼」之使用行為。

未來之「程式」更新或修正可能包含額外或已更新之「獨立授權程式碼」，該等「獨立授權程式碼」及相關授權，將於套用該等更新或修正前提供予被授權人。被授權人承認被授權人已閱讀並同意所附授權合約。倘被授權人不同意前揭第三人授權合約之條款，被授權人不得使用「獨立授權程式碼」。

依本「服務說明」所定「程式」條款取得之「程式」，被授權人為各該「程式」之原被授權人，倘被授權人不同意前揭第三人授權合約，被授權人應於對其核發權利證明書之日起三十日內，將各該「程式」退還原提供者。如係為受續約規範拘束之固定期間授權，被授權人得退還價金，惟應於起始期間之前三十日內退還各該「程式」及其權利證明書。

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縱有前揭規定，全新 HP 工作站仍包含五年保證期間，由 HP 提供下一營業日之服務（不含假日）。

注意事項與資訊

Weather Company 作業儀表板解決方案系統注意事項與資訊

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目錄

本 IBM 注意事項檔案包含以下

各節：

- BOOST
- BSD-3 CLAUSE
- MIT

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前次更新日期：2016 年 7 月

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WINDOWS 10 IOT ENTERPRISE & MOBILE (ALL EDITIONS)

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 - (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. **Specific Use.** The manufacturer designed the licensed device for a specific use. You may only use the software for that use.
- f. **Backup copy.** You may make a single copy of the software for backup purposes, and may also use that backup copy to transfer the software if it was acquired as stand-alone software, as described below.

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. Transfer

- a. **Software preinstalled on device.** If you acquired the software preinstalled on a device, you may transfer the license to use the software directly to another user, only with the licensed device. The transfer must include the software and, if provided with the device, an authentic Windows label including the product key. Before any permitted transfer, the other party must agree that this agreement applies to the transfer and use of the software.
- b. **Stand-alone software.** If you acquired the software as stand-alone software, you may transfer the software to another device that belongs to you. You may also transfer the software to a device owned by someone else if (i) you are the first licensed user of the software and (ii) the new user agrees to the terms of this agreement. You may use the backup copy we allow you to make or the media that the software came on to transfer the software. Every time you transfer the software to a new device, you must remove the software from the prior device. You may not transfer the software to share licenses between devices.

5. 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.

6. 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.

7. 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/georestrict) and (aka.ms/exporting).

8. 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.

9. 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.

10. Governing Law.

The laws of the state or country where you live (or if a business where your principal place of business is located) govern all claims and disputes concerning the software, its price, or this agreement, including breach of contract claims and claims under state consumer protection laws, unfair competition laws, implied warranty laws, for unjust enrichment, and in tort, regardless of conflict of law principles. In the United States, the FAA governs all provisions relating to arbitration.

11. Consumer Rights, Regional Variations.

This agreement describes certain legal rights. You may have other rights, including consumer rights, under the laws of your state or country. You may also have rights with respect to the party from which you acquired the software. This agreement does not change those other rights if the laws of your state or country do not permit it to do so. For example, if you acquired the software in one of the below regions, or mandatory country law applies, then the following provisions apply to you:

- a. **Australia.** References to "Limited Warranty" are references to the express warranty provided by Microsoft or the manufacturer or installer. This warranty is given in addition to other rights and remedies you may have under law, including your rights and remedies in accordance with the statutory guarantees under the Australian Consumer Law.

In this section, "goods" refers to the software for which Microsoft or the manufacturer or installer provides the express warranty. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

- b. **Canada.** You may stop receiving updates on your device by turning off Internet access. If and when you re-connect to the Internet, the software will resume checking for and installing updates.
- c. **European Union.** The academic use restriction in Section 12.d(i) below does not apply in the jurisdictions listed on this site: (aka.ms/academicuse).
- d. **Germany and Austria.**
 - (1) **Warranty.** The properly licensed software will perform substantially as described in any Microsoft materials that accompany the software. However, the manufacturer or installer, and Microsoft, give no contractual guarantee in relation to the licensed software.
 - (2) **Limitation of Liability.** In case of intentional conduct, gross negligence, claims based on the Product Liability Act, as well as, in case of death or personal or physical injury, the manufacturer or installer, or Microsoft is liable according to the statutory law.

Subject to the preceding sentence, the manufacturer or installer, or Microsoft will only be liable for slight negligence if the manufacturer or installer or Microsoft is in breach of such material contractual obligations, the fulfillment of which facilitate the due performance of this agreement, the breach of which would endanger the purpose of this agreement and the compliance with which a party may constantly trust in (so-called "cardinal obligations"). In other cases of slight negligence, the manufacturer or installer or Microsoft will not be liable for slight negligence.
- e. **Other regions.** See (aka.ms/variations) for a current list of regional variations

12. Additional Notices.

- a. **Networks, data and Internet usage.** Some features of the software and services accessed through the software may require your device to access the Internet. Your access and usage (including charges) may be subject to the terms of your cellular or internet provider agreement. Certain features of the software may help you access the Internet more efficiently, but the software's usage calculations may be different from your service provider's measurements. You are always responsible for (i) understanding and complying with the terms of your own plans and agreements, and (ii) any issues arising from using or accessing networks, including public/open networks. You may use the software to connect to networks, and to share access information about those networks, only if you have permission to do so.
- b. **H.264/AVC and MPEG-4 visual standards and VC-1 video standards.** The software may include H.264/MPEG-4 AVC and/or VC-1 decoding technology. MPEG LA, L.L.C. requires this notice:

THIS PRODUCT IS LICENSED UNDER THE AVC, THE VC-1, AND THE MPEG-4 PART 2 VISUAL PATENT PORTFOLIO LICENSES FOR THE PERSONAL AND NON-COMMERCIAL USE OF A CONSUMER TO (i) ENCODE VIDEO IN COMPLIANCE WITH THE ABOVE STANDARDS ("VIDEO STANDARDS") AND/OR (ii) DECODE AVC, VC-1, AND MPEG-4 PART 2 VIDEO THAT WAS ENCODED BY A CONSUMER ENGAGED IN A PERSONAL AND NON-COMMERCIAL ACTIVITY AND/OR WAS OBTAINED FROM A VIDEO PROVIDER LICENSED TO PROVIDE SUCH VIDEO.

NO LICENSE IS GRANTED OR SHALL BE IMPLIED FOR ANY OTHER USE. ADDITIONAL INFORMATION MAY BE OBTAINED FROM MPEG LA, L.L.C. SEE WWW.MPEGLA.COM

- c. **Malware protection.** Microsoft cares about protecting your device from malware. The software will turn on malware protection if other protection is not installed or has expired. To do so, other antimalware software will be disabled or may have to be removed.
- d. **Limited rights versions.** If the software version you acquired is marked or otherwise intended for a specific or limited use, then you may only use it as specified. You may use other programs with the software as long as the other programs directly support the manufacturer's specific use for the device, or provide system utilities, resource management, or anti-virus or similar protection.
 - (1) **Academic.** For academic use, you must be a student, faculty or staff of an educational institution at the time of purchase.
 - (2) **Evaluation.** For evaluation (or test or demonstration) use, you may not sell the software, use it in a live operating environment, or use it after the evaluation period. Notwithstanding anything to the contrary in this Agreement, evaluation software is provided "AS IS".
 - (3) **NFR.** You may not sell software marked as "NFR" or "Not for Resale".

13. Entire Agreement.

This agreement (together with the printed paper license terms or other terms accompanying any software supplements, updates, and services that are provided by the manufacturer or installer, or Microsoft, and that you use), and the terms contained in web links listed in this agreement, are the entire agreement for the software and any such supplements, updates, and services (unless the manufacturer or installer, or Microsoft, provides other terms with such supplements, updates, or services). You can review this agreement after your software is running by going to (aka.ms/useterms) or going to Settings – System – About within the software. You can also review the terms at any of the links in this agreement by typing the URLs into a browser address bar, and you agree to do so. You agree that you will read the terms before using the software or services, including any linked terms. You understand that by using the software and services, you ratify this agreement and the linked terms. There are also informational links in this agreement. The links containing notices and binding terms are:

- Windows 10 Privacy Statement (aka.ms/privacy)
- Microsoft Services Agreement (aka.ms/msa)
- Adobe Flash Player License Terms (aka.ms/adobe-flash)

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Check with your device manufacturer to determine if your device is covered by a warranty.

HP 終端使用者授權合約

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- f. **Recovery Solution.** Any software recovery solution provided with/for your HP Product, whether in the form of a hard disk drive-based solution, an external media-based recovery solution (e.g. floppy disk, CD or DVD) or an equivalent solution delivered in any other form, may only be used for restoring the hard disk of the HP Product with/for which the recovery solution was originally purchased. The use of any Microsoft operating system software contained in such recovery solution shall be governed by the Microsoft License Agreement.

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To use a Software Product identified as an upgrade, you must first be licensed for the original Software Product identified by HP as eligible for the upgrade. After upgrading, you may no longer use the original Software Product that formed the basis for your upgrade eligibility. By using the Software Product, you also agree that HP may automatically access your HP Product when connected to the internet to check the version or status of certain Software Products and may automatically download and install upgrades or updates to such Software Products on to your HP Product to provide new versions or updates required

to maintain the functionality, performance, or security of the HP Software and your HP Product and facilitate the provision of support or other services provided to you. In certain cases, and depending on the type of upgrade or update, notifications will be provided to you (via pop-up or other means), which may require you to initiate the upgrade or update.

3. **ADDITIONAL SOFTWARE.**

This EULA applies to updates or supplements to the original Software Product provided by HP unless HP provides other terms along with the update or supplement. In case of a conflict between such terms, the other terms will prevail.

4. **TRANSFER.**

- a. **Third Party.** The initial user of the Software Product may make a one-time transfer of the Software Product to another end user. Any transfer must include all component parts, media, printed materials, this EULA, and if applicable, the Certificate of Authenticity. The transfer may not be an indirect transfer, such as a consignment. Prior to the transfer, the end user receiving the transferred product must agree to all the EULA terms. Upon transfer of the Software Product, your license is automatically terminated.
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6. **LIMITATION ON REVERSE ENGINEERING.**

You may not reverse engineer, decompile, or disassemble the Software Product, except and only to the extent that the right to do so is mandated under applicable law notwithstanding this limitation or it is expressly provided for in this EULA.

7. **TERM.**

This EULA is effective unless terminated or rejected. This EULA will also terminate upon conditions set forth elsewhere in this EULA or if you fail to comply with any term or condition of this EULA.

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