

Paslaugos aprašas

„Weather Company Operations Dashboard“

Šiame paslaugos apraše aprašoma „Cloud Service“. Taikomuose užsakymo dokumentuose pateikiama kainų ir papildoma informacija apie Kliento užsakymą.

1. „Cloud Service“

1.1 Pasiūlymai

Klientas gali rinktis iš šių pasiūlymų.

1.1.1 „Weather Company Operations Dashboard“

„IBM Cloud Service for Weather Company Operations Dashboard“ („Cloud Service“) naudoja taikomųjų programų sąsajas ir žiniatinklyje bei mobiliuosiuose veikiančias taikomas programas, kurios leidžia Klientui gauti Duomenis. „Duomenys“ – tai orų duomenys ir rinkai būdingi duomenų tipai, kurie pateikiami per „Cloud Service“ (įskaitant, bet neapsiribojant, prognozes, žemėlapius, įspėjimus ir diagramas), kaip aprašyta šiame SA.

1.2 Pasirinktinės paslaugos

Toliau nurodyti pasiūlymai yra pasirinktiniai priedai prie „Weather Company Operations Dashboard“.

1.2.1 „Weather Company Operations Dashboard for Ground Transportation“

Šis paketas apima prieigą prie šių Duomenų:

Komponentas	Aprašas
„Weather Company Operations Dashboard for Ground Transportation Add-on“	Ši paslauga yra mobiliuosiuose ir žiniatinklyje veikianti taikomoji programa, skirta naudoti planšetiniuose kompiuteriuose, telefonuose ir kompiuteriuose, teikianti lokalizuotą, interaktyvią ir reaguojančią prieigą prie orų ir eismo paslaugų, leidžiančių keliaujančių aktyvų turinčioms įmonėms derinti realiojo laiko įžvalgas su prognozės įžvalgomis bei įspėjimais ir priimti svarbius verslo sprendimus bei didinti veiklos efektyvumą.

1.2.2 „Weather Company Operations Dashboard for Retail“

Šis paketas apima prieigą prie šių Duomenų:

Komponentas	Aprašas
„Weather Company Operations Dashboard for Retail Add-on“	Ši paslauga yra mobiliuosiuose ir žiniatinklyje veikianti taikomoji programa, skirta naudoti planšetiniuose kompiuteriuose, telefonuose ir kompiuteriuose, teikianti lokalizuotą, interaktyvią ir reaguojančią prieigą prie orų ir eismo paslaugų, leidžiančių keliaujančių aktyvų turinčioms įmonėms derinti realiojo laiko įžvalgas su prognozės įžvalgomis bei įspėjimais ir priimti svarbius verslo sprendimus bei didinti veiklos efektyvumą.

1.2.3 „Weather Company Operations Dashboard for Oil & Gas“

Šis paketas apima prieigą prie šių Duomenų:

Komponentas	Aprašas
„Weather Company Operations Dashboard for Oil & Gas Add-on“	Ši paslauga yra mobiliuosiuose ir žiniatinklyje veikianti taikomoji programa, skirta naudoti planšetiniuose kompiuteriuose, telefonuose ir kompiuteriuose, teikianti lokalizuotą, interaktyvią ir reaguojančią prieigą prie orų ir papildomų susijusių duomenų rinkinių, leidžiančių bet kur pasaulyje aktyvų turinčioms naftos ir dujų įmonėms derinti realiojo laiko įžvalgas su prognozės įžvalgomis bei įspėjimais ir priimti svarbius verslo sprendimus bei didinti operacinį efektyvumą.

Komponentas	Aprašas
„Weather Company Operations Dashboard for Oil & Gas – Sites“	Ši paslauga suteikia iš radarų, kuriuos klientas įsigijo per mobiliąjame ir žiniatinklyje veikiančią taikomąją programą, gautų duomenų integravimą realiuoju laiku. Klientai gali įsigyti vieną ar kelis radarus, o juos sumontavus duomenys yra perduodami atgal į IBM, kur jie apdorojami ir realiuoju laiku tampa pasiekiami per mobiliąjame ir žiniatinklyje veikiančią taikomąją programą.
„Weather Company Operations Dashboard for Oil & Gas with Radar“	Ši paslauga yra mobiliąjame ir žiniatinklyje veikianči taikomoji programa, skirta planšetiniams kompiuteriams ir telefonams, teikianči lokalizuotą, interaktyvią ir reaguojančią prieigą prie pasaulio orų duomenų kartu su duomenimis realiuoju laiku iš vieno ar kelių Kliento įsigytų radarų. Radarai gali būti montuojami bet kurioje pasaulio vietoje ir realiuoju laiku teikti vertingus duomenis tolimiausiose pasaulio dalyse. Be to, suteikiami kiti susijusių duomenų rinkiniai, leidžiantys naftos ir dujų įmonėms, turinčioms turto bet kurioje pasaulio vietoje, derinti realiojo laiko įžvalgas su prognozės įžvalgomis bei įspėjimais ir priimti lemiamus verslo sprendimus bei didinti operacinį efektyvumą.

1.2.4 „Weather Company Operations Dashboard Solution Systems“

Šis paketas apima prieigą prie šių elementų:

Komponentas	Aprašas
„Weather Company Operations Dashboard for Oil & Gas – Radar System“	„Radar System“, apimanti Programas, Atskirai licencijuojamą kodą ir HP sistemą, kuri yra ne IBM kompiuteris, perduodama su kiekvienu Kliento įsigytu radaru. „Radar System“ prijungiama prie radaro ir realiuoju laiku skaito bei perduoda radaro įrašytus duomenis atgal į IBM.

2. Duomenų tvarkymo ir apsaugos duomenų lapai

IBM Duomenų tvarkymo priede <http://ibm.com/dpa> (DTP) bei Duomenų tvarkymo ir Apsaugos duomenų lape (-uose) (nurodomame (-uose) kaip duomenų lapas (-ai) arba DTP įrodymas (-ai) toliau nurodytuose saituose pateikiama papildoma „Cloud Service“ duomenų apsaugos informacija ir jos parinkty, susijusios su galimu tvarkyti Turinio tipu, įtrauktai tvarkymo veiksmams, duomenų apsaugos funkcijomis ir Turinio saugojimo bei grąžinimo specifika. DTP taikomas, jei (ir tik tokia apimtimi) Turinyje esantiems asmens duomenims taikomas Europos Bendrasis duomenų apsaugos reglamentas (ES/2016/679) (GDPR).

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

3. Paslaugos lygiai ir techninis palaikymas

3.1 Paslaugos lygio sutartis

IBM teikia Klientui toliau nurodytus pasiekiamumo paslaugos lygio sutarties (PLS) įsipareigojimus. IBM taikys aukščiausią galimą kompensaciją, pagrįstą „Cloud Service“ kaupiamuoju pasiekiamumu, kaip nurodyta toliau esančioje lentelėje. Pasiekiamumo procentas apskaičiuojamas iš bendro minučių skaičiaus sutartinį mėnesį atėmus bendrą Paslaugos neveikimo minučių skaičių sutartinį mėnesį, gautą rezultatą padalijus iš bendro minučių skaičiaus sutartinį mėnesį. Paslaugos neveikimo apibrėžimas, prašymų pateikimo procesas ir informacija, kaip susisiekti su IBM dėl paslaugos pasiekiamumo problemų, pateikiama „IBM Cloud Service“ palaikymo vadove

https://www.ibm.com/software/support/saas_support_overview.html.

Prieinamumas	Kreditas (% mėnesio prenumeratos mokesčio*)
Mažiau nei 99,9 %	2 %
Mažiau nei 99,0 %	5 %
Mažiau nei 95,0 %	10 %

* Prenumeratos mokestis yra teiginyje minimo mėnesio sutartinė kaina.

3.2 Techninė pagalba

„Cloud Service“ techninį palaikymą, įskaitant palaikymo kontaktinę informaciją, sudėtingumo lygius, pasiekiamumo palaikymo valandas, atsakymo laiką ir kitą palaikymo informaciją ir procesus rasite pasirinkę „Cloud Service“ IBM palaikymo vadove svetainėje <https://www.ibm.com/support/home/pages/support-guide/>.

4. Mokesčiai

4.1 Mokesčio apskaičiavimas

„Cloud Service“ mokesčio apskaičiavimas nurodytas Operacijų dokumente.

Šiai „Cloud Service“ taikomas toliau aprašytas mokesčio apskaičiavimas.

- Įgaliotasis vartotojas – tai unikalus vartotojas, kuriam bet koku tiesioginiu arba netiesioginiu būdu (pavyzdžiui, naudojant tankinimo programą, įrenginį arba taikomųjų programų serverį) ir bet kokiomis priemonėmis suteikiama teisė naudotis prieiga prie „Cloud Services“.
- Kliento įrenginys yra bet koks įrenginys, pateikiantis užklausą arba gaunantis vykdymo komandas, atliekantis procedūras ar vykdamas taikomas programas iš serverio aplinkos, turinčios prieigą prie „Cloud Service“.
- Subjekto ID yra unikalus bet kurio „Cloud Service“ subjekto identifikatorius.
- Egzempliorius yra kiekviena prieiga prie konkrečios „Cloud Services“ konfigūracijos.
- Bendrosios pajamos JAV doleriais yra metinių Kliento pardavimų ir kitų pajamų šaltinių bendra suma, kaip nurodyta Kliento išleistoje naujausioje viešoje ataskaitoje, arba, jei tai yra ne pelno įmonė, naujausioje Kliento audituotoje finansų ataskaitoje. Ne JAV dolerių valiutos konvertuojamos į JAV dolerių ekvivalentą pagal konvertavimo vienetų lentelę, pateikiamą http://www.ibm.com/software/passportadvantage/conversion_unit_table.html.

5. Papildomos sąlygos

„Cloud Service“ sutartims (arba atitinkamoms debesies technologijomis pagrįstoms sutartims), vykdytoms iki 2019 m. sausio 1 d., taikomos sąlygos, pateikiamos <https://www.ibm.com/acs>.

5.1 Patikrinimas

Klientas i) palaikys ir gavęs prašymą teiks įrašus ir sistemos įrankių išvestį, kai tai pagrįstai bus reikalinga IBM ir jos nepriklausomam auditoriui, kad patikrintų, kaip Klientas laikosi šios Sutarties sąlygų, ir ii) nedelsdamas užsakys bei apmokės visas reikiamas teises pagal tuo metu IBM galiojančius tarifus ir kitus tokio patikrinimo metu nustatytus mokesčius bei prievoles, nurodytas IBM sąskaitoje faktūroje. Šie sąlygų laikymosi patikrinimo įsipareigojimai galioja „Cloud Service“ laikotarpį ir dvejus metus po jo.

5.2 Įgalinimo programinė įranga

„Cloud Service“ yra ši įgalinimo programinė įranga:

- IŠPLĒTIMAS
- BSD-3 CLAUSE
- MIT
- „Microsoft Windows“

Toliau nurodyta įgalinimo programinė įranga pateikiama Klientui laikantis šių sąlygų:

„Weather Company Operations Dashboard for Android“	https://www-03.ibm.com/software/sla/slabd.nsf/displayLs/11DE6B4E0088700C8525827F003B2CEB?OpenDocument
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5.3 Paslaugos nutraukimas

Pasibaigus Kliento prenumeratos galiojimui arba ją nutraukus, Kliento kredencialai, skirti „Cloud Service“ pasiekti, bus panaikinti.

5.4 Naudojimo apribojimai šalyje

Klientas yra atsakingas (o IBM įsipareigojimai pagal šį PA priklauso nuo Kliento sprendimo, ar jo Duomenų naudojimas yra leistinas ir būtinas) už visų reikiamų licencijų, leidimų, patvirtinimų ar įgaliojimų gavimą iš visų valdžios įstaigų ar agentūrų šalyje, kurioje Klientas vykdo veiklą ar naudoja Duomenis.

5.5 Medžiaga „tokia, kokia yra“

Visa eismo sąlygų ir su eismo sąlygomis susijusi informacija, prognozės ir įspėjimai pateikiami „TOKIE, KOKIE YRA“. IBM nėra atsakinga už tokios medžiagos tikslumą, patikimumą, išsamumą ar pasiekiamumą.

5.6 „Weather Company Operations Dashboard Solution Systems“ papildomos sąlygos

5.6.1 Programos licencija

Programa yra IBM firminė kompiuterio programa ir susijusi medžiaga, kuri už mokestį teikiama pagal licenciją. Į programą nėra įtrauktas Kompiuterinis kodas ar Projekto medžiaga, kaip šie terminai gali būti apibrėžti Priede. Programos yra saugomos autorių teisių ir licencijuojamos (jos nėra parduodamos). IBM priėmus užsakymą dėl Programos, Klientui suteikiama neišimtinė licencija: a) Programą naudoti tik tiek, kiek leidžiama, ir tik pagal SA, Sutartį ir bet kurią atitinkamą Operacijų dokumentą; b) daryti jos kopijas ir ją įdiegti, kad būtų galima naudoti leistinu būdu; c) pasidaryti atsarginę kopiją. Programą Klientas, jo įgaliotieji darbuotojai ir rangovai gali naudoti tik Kliento Įmonėje ir jokiai trečiajai šaliai negali teikti prieglobos ar laiko paskirstos paslaugų. Klientas negali jokios Programos licencijos sublicencijuoti, perleisti ar perduoti. Už papildomą mokestį ir pagal kitas sąlygas galima įsigyti papildomų teisių. Klientui nesuteikiama neribotų teisių naudotis Programa ir Klientas už Programą nesumoka visos Programos ekonominės vertės. Tam tikrose Programose gali būti panaudotas trečiosios šalies kodas, kuris licencijuojamas pagal toliau nurodytus atskirus susitarimus.

Programai suteikta licencija galioja su sąlyga, kad Klientas:

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- b. užtikrina, kad kiekvienas Programos naudotojas ja naudotųsi Klientui leistinu būdu ir laikosi licencijos sąlygų;
- c. Programos neišmontuoja, nedekompiluoja, neverčia ir jai netaiko atvirkštinės inžinerijos būdų; ir
- d. nė vieno iš Programos elementų ar susijusios licencijuotos medžiagos nenaudoja atskirai nuo Programos.

Išskyrus atvejus, kai Kliento Sutartyje nurodoma kitaip, taikomos tokios sąlygos:

- e. Mokesčiai, mokėjimas ir patikrinimas

Klientas: i) išlaikys ir gavęs prašymą pateiks įrašus, sistemos įrankių išvestis ir suteiks galimybę patekti į Kliento patalpą, kai tai pagrįstai bus reikalinga IBM ir jos nepriklausomam auditoriui, kad šis patikrintų Kliento Sutarties laikymąsi, įskaitant Programos licencijas ir metrikas, tokias kaip talpos dalies naudojimas, kai jis taikomas; ir ii) nedelsdamas užsakys ir sumokės už reikiamas teises (įskaitant susijusio PP) pagal tuo metu IBM taikomus tarifus, taip pat kitus mokesčius ir įsipareigojimus, nustatytus pagal tokį patikrinimą, kaip IBM nurodys sąskaitoje faktūroje. Šie sąlygų laikymosi patikrinimo įsipareigojimai galioja visą Operacijų dokumento laikotarpį ir dvejus metus po jo.

- f. Atsakomybė ir nuostolių atlyginimas

IBM neprisiima atsakomybės už pretenzijas, kurios pateikiamos dėl Ne IBM programų, dėl gaminių, kuriuos pateikė ne IBM ar dėl bet kokio įstatymo ar trečiosios šalies teisių pažeidimo, kuris atsirado dėl Kliento medžiagos, projektų, specifikacijų, pasenusios IBM programos versijos ar leidimo naudojimo, jei pretenzijos dėl pažeidimo buvo galima išvengti naudojant naujausią versiją ar leidimą.

- g. Nutraukimas

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- b. „IBM“ PANEIGIA BET KOKIAS IR VISAS APIBRĖŽTAS IR NUMANOMAS GARANTIJAS IR SĄLYGAS, ĮSKAITANT, BET NEAPSIRIBOJANT, PAVADINIMO, NEPAŽEIDŽIAMUMO AR ĮSIKIŠIMO GARANTIJAS IR NUMANOMAS TINKAMUMO PREKYBAI IR TAM TIKRAM TIKSLUI GARANTIJAS BEI SĄLYGAS, SUSIJUSIAS SU ATSKIRAI LICENCIJUOTU KODU;
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- „Microsoft“ (B priedas)
- HP (C priedas)
- „Creative Commons“ (D priedas)

5.6.3 Ne IBM kompiuteriai

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Klientas ne IBM kompiuterius gali įsigyti tik siekdamas naudoti Kliento įmonėje toje šalyje, kurioje jie buvo pirkti, ir negali jų perparduoti, išnuomoti ar perduoti. Leidžiama finansuoti išperkamosios nuomos būdu.

5.6.4 Kompensacija ir atsakomybė

IBM neprisiima atsakomybės už pretenzijas, kurios pateikiamos vien tik ar iš dalies dėl ne IBM kompiuterių, dėl gaminių, kuriuos pateikė ne IBM, ar dėl bet kokio teisės akto ar trečiosios šalies teisių pažeidimo, kuris atsirado dėl Kliento medžiagos, projektų ar specifikacijų.

5.6.5 Ne IBM Kompiuterių garantija ir atsakomybės atsisakymas

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Pranešimai ir informacija

„WEATHER COMPANY OPERATIONS DASHBOARD SOLUTION SYSTEMS“ PRANEŠIMAI IR INFORMACIJA.

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TURINYS

ŠI IBM PRANEŠIMŲ FAILŲ SUDARO ŠIE DALYKAI

SKYRIAI:

- IŠPLĖTIMAS
- BSD-3 CLAUSE
- MIT

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1. IŠPLĖTIMO LICENCIJA

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Boost

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WINDOWS 10 IOT ENTERPRISE & MOBILE (ALL EDITIONS)

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- 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.
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- 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:

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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.**

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- (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:

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