

Service Description

IBM Emptoris Sourcing on Cloud

This Service Description describes the Cloud Service IBM provides to Client. Client means the contracting party and its authorized users and recipients of the Cloud Service. The applicable Quotation and Proof of Entitlement (PoE) are provided as separate Transaction Documents.

1. Cloud Service

IBM Emptoris Sourcing on Cloud is a system where Clients can manage sourcing events including: request for information (RFI), request for quotes (RFQ), request for proposals (RFP), buyer surveys, reverse English auctions, and forward auctions. The system allows Clients to create, run, monitor, report (using standard reports), and award bids and responses submitted from suppliers.

The infrastructure for the Cloud Service has been configured to support:

- 300 Concurrent Users running RFP, RFI, RFQ or buyer survey events; or
- 270 Concurrent Users running English reverse and English forward auctions; or
- 60 Concurrent Users running Japanese or Dutch reverse or forward auctions.

Concurrent Users are defined as users who are logged onto and active in the system concurrently. The system may be configured to process additional volume of Concurrent Users depending upon various factors. Additional infrastructure resources may be required to support larger usage volumes.

The base features allow Client to:

- create and run RFIs, RFQs, RFPs, buyer surveys, reverse English auctions, and forward auctions;
- create templates of the above event types;
- leverage the smart data framework and library functions to help create events;
- report on data events using a set of standard reports; and
- set up one buying organization.

The advanced features provide Client:

- sourcing desktop intelligence (SDI) to export bid data and access capabilities in Microsoft Excel to perform a number of analytical tasks;
- scenario analysis to create constraints to meet Client's unique sourcing requirements and business preferences with pre-built sourcing optimization functionality;
- optimized auctions to create constraints that will enable a buyer to run optimization throughout the event so cost will not be the only factor for ranking a supplier in an auction;
- flexible bidding to allow bundle bidding, business volume bidding and volume business discounts;
- supplier decision support and collaboration which provides feedback to suppliers on their bids, allowing them to offer innovative solutions, emphasize their competitive advantage and optimize their bids; and
- one and two envelope bidding that allows a buyer to configure an RFP as a one envelope or two envelope structure.

1.1 Base Subscriptions

The following describes the Cloud Service subscription options (each a "Base Subscription") that are available as the applicable Cloud Service. The Transaction Document identifies which Base Subscription(s) have been purchased. References to the Cloud Service in this document apply to the Base Subscription(s) purchased.

1.1.1 IBM Emptoris Sourcing Premium on Cloud

This Cloud Service includes the base features and advanced features.

1.1.2 IBM Emptoris Sourcing on Cloud

This Cloud Service includes the base features only.

1.2 Optional Features

1.2.1 IBM Emptoris Sourcing on Cloud Advanced Add-on

This Cloud Service adds the advanced features to IBM Emptoris Sourcing on Cloud. Client must have an existing IBM Emptoris Sourcing on Cloud subscription to purchase this option.

1.2.2 IBM Emptoris Sourcing on Cloud Burst Option for EchOSTM

This Cloud Service offering provides the capability to increase capacity needs higher than the standard server configuration by adding additional servers to the configuration.

1.2.3 IBM Emptoris Sourcing on Cloud Event Monitoring

This Cloud Service offering is an on-demand service that will coordinate with Client to run and monitor events as well as train suppliers and support them throughout the lifecycle of the event.

1.2.4 IBM Emptoris Sourcing on Cloud Read Only

The Client is permitted to view, monitor, search, run reports and score the Events to which they have been invited.

1.2.5 IBM Emptoris Sourcing on Cloud for Non-Production Environment

This Cloud Service can be used as part of the Client's non-production activities, including but not limited to testing, performance tuning, fault diagnosis, benchmarking, staging, quality assurance activity and/or developing internally used additions or extensions to the Cloud Service using published application programming interfaces.

2. Content and Data Protection

The Data Processing and Protection data sheet (Data Sheet) provides information specific to the Cloud Service regarding the type of Content enabled to be processed, the processing activities involved, the data protection features, and specifics on retention and return of Content. Any details or clarifications and terms, including Client responsibilities, around use of the Cloud Service and data protection features, if any, are set forth in this section. There may be more than one Data Sheet applicable to Client's use of the Cloud Service based upon options selected by Client. The Data Sheet may only be available in English and not available in local language. Despite any practices of local law or custom, the parties agree that they understand English and it is an appropriate language regarding acquisition and use of the Cloud Services. The following Data Sheet(s) apply to the Cloud Service and its available options. Client acknowledges that i) IBM may modify Data Sheet(s) from time to time at IBM's sole discretion and ii) such modifications will supersede prior versions. The intent of any modification to Data Sheet(s) will be to i) improve or clarify existing commitments, ii) maintain alignment to current adopted standards and applicable laws, or iii) provide additional commitments. No modification to Data Sheet(s) will materially degrade the data protection of a Cloud Service.

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

<https://www.ibm.com/software/reports/compatibility/clarity-reports/report/html/softwareReqsForProduct?deliverableId=1E6F4280B87211E7A5A50513C295686A>

Client is responsible to take necessary actions to order, enable, or use available data protection features for a Cloud Service and accepts responsibility for use of the Cloud Services if Client fails to take such actions, including meeting any data protection or other legal requirements regarding Content.

IBM's Data Processing Addendum at <http://ibm.com/dpa> (DPA) and DPA Exhibit(s) apply and are referenced in as part of the Agreement, if and to the extent the European General Data Protection Regulation (EU/2016/679) (GDPR) applies to personal data contained in Content. The applicable Data Sheet(s) for this Cloud Service will serve as the DPA Exhibit(s). If the DPA applies, IBM's obligation to provide notice of changes to Subprocessors and Client's right to object to such changes will apply as set out in DPA.

3. Service Level Agreement

IBM provides the following availability service level agreement ("SLA") for the Cloud Service as specified in a PoE. The SLA is not a warranty. The SLA is available only to Client and applies only to use in production environments.

3.1 Availability Credits

Client must log a Severity 1 support ticket with the IBM technical support help desk within 24 hours of first becoming aware that there is a critical business impact and the Cloud Service is not available. Client must reasonably assist IBM with any problem diagnosis and resolution.

A support ticket claim for failure to meet an SLA must be submitted within 3 business days after the end of the contracted month. Compensation for a valid SLA claim will be a credit against a future invoice for the Cloud Service based on the duration of time during which production system processing for the Cloud Service is not available ("Downtime"). Downtime is measured from the time Client reports the event until the time the Cloud Service is restored and does not include time related to a scheduled or announced maintenance outage; causes beyond IBM's control; problems with Client or third party content or technology, designs or instructions; unsupported system configurations and platforms or other Client errors; or Client-caused security incident or Client security testing. IBM will apply the highest applicable compensation based on the cumulative availability of the Cloud Service during each contracted month, as shown in the table below. The total compensation with respect to any contracted month cannot exceed 10 percent of one twelfth (1/12th) of the annual charge for the Cloud Service.

For bundled Cloud Services (individual Cloud Service offerings packaged and sold together as a single offering for a single combined price), the compensation will be calculated based on the single combined monthly price for the bundled Cloud Service, and not the monthly subscription fee for each individual Cloud Service. Client may only submit claims relating to one individual Cloud Service in a bundle at a given time.

3.2 Service Levels

Availability of the Cloud Service during a contracted month

Availability during a contracted month	Compensation (% of monthly subscription fee* for contracted month that is the subject of a claim)
Less than 99%	2%
Less than 97%	5%
Less than 95%	10%

* If the Cloud Service was acquired from an IBM Business Partner, the monthly subscription fee will be calculated on the then-current list price for the Cloud Service in effect for the contracted month which is the subject of a claim, discounted at a rate of 50%. IBM will make a rebate directly available to Client.

Availability, expressed as a percentage, is calculated as: the total number of minutes in a contracted month minus the total number of minutes of Downtime in a contracted month divided by the total number of minutes in the contracted month.

4. Technical Support

Technical support for the Cloud Service is provided via telephone, email, online forums, and an online problem reporting system. IBM's software as a service support guide available at https://www.ibm.com/software/support/saas_support_guide.html provides technical support contact and other information and processes. Technical support is offered with the Cloud Service and is not available as a separate offering.

5. Entitlement and Billing Information

5.1 Charge Metrics

The Cloud Service is available under the charge metric specified in the Transaction Document:

- Authorized User is a unit of measure by which the Cloud Service can be obtained. Client must obtain separate, dedicated entitlements for each unique Authorized User given access to the Cloud Service in any manner directly or indirectly (for example, through a multiplexing program, device or application server) through any means. Sufficient entitlements must be obtained to cover the number of Authorized Users given access to the Cloud Service during the measurement period specified in Client's PoE or Transaction Document.

- Instance is a unit of measure by which the Cloud Service can be obtained. An Instance is access to a specific configuration of the Cloud Service. Sufficient entitlements must be obtained for each Instance of the Cloud Service made available to access and use during the measurement period specified in Client's PoE or Transaction Document.

5.2 Set-Up Charges

An on-demand set-up charge, if ordered, will be billed at the rate specified in the Transaction Document for each setup service.

5.3 Billing Frequency

Based on selected billing frequency, IBM will invoice Client the charges due at the beginning of the billing frequency term, except for overage and usage type of charges which will be invoiced in arrears.

6. Term and Renewal Options

The term of the Cloud Service begins on the date IBM notifies Client of their access to the Cloud Service, as documented in the PoE. The PoE will specify whether the Cloud Service renews automatically, proceeds on a continuous use basis, or terminates at the end of the term.

For automatic renewal, unless Client provides written notice not to renew at least 90 days prior to the term expiration date, the Cloud Service will automatically renew for the term specified in the PoE.

For continuous use, the Cloud Service will continue to be available on a month to month basis until Client provides 90 days written notice of termination. The Cloud Service will remain available to the end of the calendar month after such 90 day period.

7. Additional Terms

7.1 General

Client agrees IBM may publicly refer to Client as a subscriber to the Cloud Services in a publicity or marketing communication.

Client may not use Cloud Services, alone or in combination with other services or products, in support of any of the following high risk activities: design, construction, control, or maintenance of nuclear facilities, mass transit systems, air traffic control systems, automotive control systems, weapons systems, or aircraft navigation or communications, or any other activity where failure of the Cloud Service could give rise to a material threat of death or serious personal injury.

7.2 Enabling Software

The Cloud Service requires the use of enabling software that Client downloads to Client systems to facilitate use of the Cloud Service. Client may use enabling software only in connection with use of the Cloud Service. Enabling software is provided "AS-IS".

7.3 Cloud Service Upgrades

IBM will install and configure software upgrades to the production or non-production environments at a mutually agreed time, subject to scheduling availability during business hours in the Client's time zone. Clients that subscribe to Essential or Premier Premium Support can request scheduling during weekends based on scheduling availability. Premier Premium Support Clients receive priority for scheduling during weekend upgrade scheduling.

IBM will provide notice 12 months prior to the termination of support for the version of the IBM software provided as part of the Cloud Service. IBM will work with Client to migrate each of Client's Instances of the Cloud Service to a supported version of the software prior to the termination of support date. Client will be responsible for the migration costs. If the migration to a supported version of the software is not completed within the notice period, other than as a result delays caused solely by IBM or its subcontractors, IBM may terminate this agreement upon 30 days written notice to Client.

7.4 Database Refreshes

IBM will replicate production database contents to Client's non-production environment once per quarter, for each non-production system purchased. Refresh services will be performed at a mutually agreed time, subject to scheduling availability.

7.5 Client Provided Certificates

The Cloud Service will be configured to use an IBM provided internet uniform resource unless Client requests specifically to use Client's own internet uniform resource locator. If Client chooses to use its own internet uniform resource locator for the Cloud Service then Client will bear all responsibility, maintenance and costs for the renewal of the uniform resource locator and any required certificates. Client must deliver the required certificates and setup information to IBM before the provisioning of Client's Cloud Service is completed.

7.6 Cumulative Entitlements Requirement

Clients must obtain an Instance entitlement, as well as sufficient Authorized User entitlements to cover the Cloud Service Users of IBM Emptoris Sourcing on Cloud and IBM Emptoris Sourcing Premium on Cloud.

7.7 Entitlements Not Required

Administrative users are included in the Cloud Service offering. Client is not required to obtain Authorized User entitlements for administrative users of the Cloud Service.

An administrative user is authorized to create the following: internal or external users, internal or external organizations, currency tables, system level templates, categories, data sources, groups, roles and workflows. An administrative user may also manage the following: notifications, system level configurations, categories and master supplier records.

Any external user (users associated with external third parties with whom Client is engaged) may be provided access to the Cloud Service and are considered Guest Users. Client is not required to obtain Authorized User entitlements for Guest Users of the Cloud Service. Guest Users are Client's responsibility, including but not limited to a) any claims made by the Guest Users relating to the Cloud Service; b) charges incurred by the Guest User; or c) any misuses of the Cloud Service by these Guest Users. Guest Users are provided support for the following items only:

- Password and login issues
- Navigation
- Browser issues
- Product functional questions

Please contact IBM for support in languages other than English.

7.8 OJEU Requirements

If a Client utilizes the OJEU feature where the sourcing system transmits data to the Tenders Electronic Daily (TED) site, the Client is responsible for applying to the OJEU and passing the GAMMA testing. The data transmission is solely between the Client and this third party site. IBM makes no warranties or representations about such third party sites or services and shall have no liability for such third party sites or services.