

Anycast DNS servers (Managed DNS) End User Terms

Managed DNS (premium DNS / anycast servers), including the provision of such anycast servers on a separate, single-tenant network at additional cost (“**Dedicated DNS**”) (collectively, the “**Managed DNS Services**” or “**Services**”) are provided by IBM United Kingdom Limited (“IBM”) to the entities to which we provide the Services (“**End Users**”) subject to the Terms set out below as updated from time to time (“**End User Terms**”).

In the event of any conflict between your contract for Services and these End User Terms, and to the extent that such conflict relates to the Services, the parties acknowledge and agree that the End User Terms shall prevail.

DEFINITIONS

“**Agreement**” means together these End User Terms and your contract for Services

“**Client**” means your client contracting entity as set out in your contract for Services

“**Service(s)**”, for the purposes of these End User Terms means the Managed DNS (premium DNS / anycast servers) and (where requested by Client at additional cost) the optional add-ons such as, but by no means limited to, HTTPS Redirects, Filter Chains, Monitors and Dedicated DNS

“**Supplier**” in these End User Terms shall mean the Com Laude contracting entity set out in your contract for Services

END USER TERMS

- 1) **RESTRICTIONS ON USE OF SERVICES:** Client agrees that it will not and will not authorise any other party to:
 - a) use the Services to undertake any activity or host content that: i) is unlawful, fraudulent, harmful, malicious, obscene, or offensive; ii) threatens or violates the rights of others; iii) disrupts or gains (or intends to disrupt or gain) unauthorized access to data, services, networks, or computing environments within or external to IBM; iv) sends unsolicited, abusive or deceptive messages, of any type; or v) distributes any form of malware;
 - b) use the Services for crypto-mining, unless otherwise agreed by IBM in writing;
 - c) reverse engineer any portion of the Services;
 - d) assign or resell direct access to the Services separately from the Services Supplier provides to Client;
 - e) knowingly interfere with or disrupt the operation of the Services provided to Client, or made available by Supplier to third parties;
 - f) transmit or make available in connection with the Services any denial of service attack, virus, worm, Trojan horse or other harmful code or activity;

- g) attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures relating to the Services without the express written consent of Supplier in each instance;
- h) knowingly take any action with respect to any Services that repeatedly imposes, or may repeatedly impose, in Supplier's reasonable opinion, an unreasonable or disproportionately large load on Supplier's or IBM's infrastructure;
- i) submit, post or make available false, incomplete or misleading information to the Services;
- j) impersonate any other person or business; or
- k) violate the rights of any other party or infringe upon any intellectual property rights of a party.

2) **LIMITED WARRANTY:** EXCEPT FOR (i) SERVICE-SPECIFIC WARRANTIES EXPRESSLY SET FORTH IN A STATEMENT OF WORK OR SERVICE TERMS AND (ii) ANY WARRANTY, REPRESENTATION OR CONDITION TO THE EXTENT THE SAME CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW, IBM, THE SUPPLIER AND ITS LICENSORS, AFFILIATES, AGENTS, SUBCONTRACTORS AND SUPPLIERS (WHICH INCLUDE IBM) MAKE NO REPRESENTATIONS OR WARRANTIES, AND EXPRESSLY DISCLAIM AND EXCLUDE ANY AND ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS, WHETHER EXPRESS OR IMPLIED, WHETHER ARISING BY OR UNDER STATUTE, COMMON LAW, CUSTOM, USAGE, COURSE OF PERFORMANCE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, SUPPLIER AND ITS LICENSORS, AFFILIATES, AGENTS, SUBCONTRACTORS AND SUPPLIERS (WHICH INCLUDE IBM) DO NOT WARRANT, AND EXPRESSLY DISCLAIM ANY REPRESENTATION OR WARRANTY, THAT ANY SERVICES PROVIDED WILL SATISFY THE CLIENT'S REQUIREMENTS OR THAT THEIR USE OR OPERATION WILL BE ERROR OR DEFECT-FREE OR UNINTERRUPTED, OR THAT ALL PRODUCT DEFECTS WILL BE CORRECTED. EXCEPT FOR SERVICE-SPECIFIC WARRANTIES EXPRESSLY SET FORTH IN A STATEMENT OF WORK OR SERVICE TERMS, THE SERVICES AND ANY CORRESPONDING SOFTWARE (IF MADE AVAILABLE), INCLUDING ALL CONTENT THEREIN, ARE PROVIDED "AS IS," WITH ALL FAULTS AND WITHOUT ANY GUARANTEES REGARDING QUALITY, PERFORMANCE, SUITABILITY, TIMELINESS, DURABILITY, INTEGRABILITY OR ACCURACY, AND CLIENT ACCEPTS THE ENTIRE RISK OF AND RESPONSIBILITY FOR SELECTION, USE, QUALITY, PERFORMANCE, SUITABILITY AND RESULTS OF USE THEREOF. IBM DOES NOT WARRANT THAT THE SERVICES WILL MEET THE REQUIREMENTS OF SUPPLIER'S RESELLERS OR END USERS. IBM DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF AN IBM PRODUCT OR THAT IBM WILL CORRECT ALL DEFECTS. WHILE IBM ENDEAVORS TO PROVIDE SECURITY MEASURES TO KEEP ALL

DATA SECURE, IBM DOES NOT WARRANT IBM CAN PREVENT ALL THIRD-PARTY DISRUPTIONS OR UNAUTHORIZED THIRD-PARTY ACCESS. IBM WARRANTIES WILL NOT APPLY IF THERE HAS BEEN MISUSE, MODIFICATION, DAMAGE NOT CAUSED BY IBM, OR FAILURE TO COMPLY WITH WRITTEN INSTRUCTIONS PROVIDED BY IBM. NON-IBM PRODUCTS AND PREVIEW PRODUCTS, OR IDENTIFIED NON-WARRANTED IBM PRODUCTS, ARE SOLD UNDER THE AGREEMENT AS-IS, WITHOUT WARRANTIES OF ANY KIND. THIRD PARTIES MAY PROVIDE THEIR OWN WARRANTIES TO BP FOR NON-IBM PRODUCTS.

- 3) **LIMITATIONS ON LIABILITY:** NEITHER PARTY WILL BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR ECONOMIC CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING BUT NOT LIMITED TO ANY LOSS OF USE, INTERRUPTION OF BUSINESS, INACCURACY OF DATA, LOST PROFITS, BUSINESS, VALUE, REVENUE, GOODWILL OR ANTICIPATED SAVINGS REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED THE SERVICE-SPECIFIC FEES DUE TO BE PAID BY CLIENT TO SUPPLIER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE UPON WHICH THE FIRST CLAIM AROSE. THE LIMITATIONS ON LIABILITY SET FORTH IN THIS SECTION 3 SHALL NOT APPLY TO A PARTY'S LIABILITY RESULTING FROM A BREACH OF ITS OBLIGATIONS UNDER SECTION 1 OF THESE END USER TERMS OR BREACH OF ITS PAYMENT OBLIGATIONS UNDER THE CONTRACT FOR SERVICES.
- 4) **INDEMNIFICATION:** Client will indemnify, defend and hold harmless Supplier (including its directors, officers, employees and agents) from and against any and all third party claims, demands, losses, costs, expenses, damages and liabilities (including reasonable lawyers' fees) relating to Client's breach of Section 1 of these End User Terms.
- 5) **DNS SERVERS IN MAINLAND CHINA:** Should Client request the use of DNS servers in Mainland China, Client acknowledges and agrees that the Supplier's third party contractor, IBM has acquired an Internet Content Provider ("ICP") License to provide the Services to the Client on DNS servers in mainland China. As a condition to use the Services in mainland China, Client agrees to the following:
 - a) Client shall not use the Services to disseminate information that:
 - i. Advocates against the fundamental principle of the Constitution of the People's Republic of China ("PRC");
 - ii. Endangers PRC national security, sovereignty or the unification of the PRC or leaks any PRC national secrets;

- iii. Is detrimental to the PRC national honour and interest;
 - iv. Agitates societal hatred, societal discrimination or undermines societal unity of the PRC;
 - v. Is detrimental to the PRC national policy on religion, promotes occult or superstition;
 - vi. Disseminates rumours to disrupt societal order or undermine the social stability of the PRC;
 - vii. Teaches lewd behaviour, obscene behaviour, pornography, gambling, violence, murder, terror, or solicits a crime;
 - viii. Is defamatory and libellous of others or violates other legal rights; or
 - ix. Consists of any other content explicitly prohibited by law.
- b) Client shall be permitted to use up to 50,000,000 China queries per month corresponding with the query band it falls into. In the event Client exceeds 50,000,000 China queries in any given month, Client shall be billed an additional overage fee set forth by the Supplier for such additional queries. Additionally, Client agrees to negotiate in good faith a separate agreement with the Supplier in respect of the continued use thereafter of China queries per month.
 - c) Client agrees to indemnify, defend and hold harmless Supplier, IBM and its affiliates (including its and their respective directors, officers, employees and agents) from and against any and all third party Claims arising from a breach of any of Client's obligations set forth in Subsection 5 a above.
 - d) Neither Supplier nor IBM shall have no liability for Service interruptions caused as a result of a termination or suspension of IBM's ICP License.

6) SANCTIONED TERRITORIES

Client warrants that it is not located in and the Services will not be used by any of the Client's entities in Belarus, Cuba, Iran, North Korea, Russia, Syria, or the Crimea, Donetsk, Luhansk, Kherson, or Zaporizhia (Zaporizhzhia) regions of Ukraine (collectively, "Prohibited Destinations"). Client also warrants that it is not and any Client entities using the Service are not (i) majority-owned subsidiaries of any entity located or headquartered in any Prohibited Destination; or (ii) entities majority-owned by citizens of the Prohibited Destinations, or majority-owned by entities headquartered in any Prohibited Destination.

7) RESELLERS' OBLIGATIONS: If Client is a reseller of the Services, Client:

- a) must comply with all applicable laws and regulations, including, without limitation, the US Foreign Corrupt Practices Act, and all other laws and regulations prohibiting corruption and bribery;

- b) will not, and will ensure its resellers will not directly or indirectly make, authorize, offer or promise any payment, gift, or other thing of value or advantage (including, for example, accommodations, airfare, entertainment or meals) to any person or entity for the purpose of wrongfully influencing decisions or for any other purpose that is otherwise unlawful;
- c) will not (and will put in place adequate procedures to ensure that any of its employees or contractors involved in reselling the DNS services will not) (i) offer or make payments or gifts (monetary or otherwise such as travel, entertainment, meals, and other items of value) to anyone for the purpose of wrongfully influencing decisions in favour of Supplier or IBM, directly or indirectly (this includes any form of facilitation payments (i.e., small bribes paid to facilitate routine government action), or (ii) use any of the margin Client earns on its sale of the Services to directly or indirectly make or give, offer or promise to make or give, or authorize the making or giving of any payments, gifts or other things of value to any person employed or retained by IBM, End User or any reseller;
- d) will not (and will put in place reasonable procedures to ensure that any of its employees or contractors involved in reselling the Services will not) and will ensure that all resellers will not, facilitate any tax evasion by any third party. Supplier may terminate the Agreement immediately in case of (1) a breach of this paragraph; or (2) when IBM reasonably believes such a breach has occurred or is likely to occur;
- e) have and maintain throughout the term of the Agreement business controls to support such compliance (which includes, among other things, applying a process for evaluating the integrity and role of any of its resellers, to ensure lawful conduct);
- f) keep and maintain throughout the term of the Agreement and for at least two years thereafter, all transaction documents and records related to such compliance and controls;
- g) comply with the IBM Code of Conduct at <http://www.ibm.com/terms/?id=COC> and
- h) must not resell the Services to End Users in Belarus, Cuba, Iran, North Korea, Russia, Syria, or the Crimea, Donetsk, Luhansk, Kherson, or Zaporizhia (Zaporizhzhia) regions of Ukraine (collectively, "Prohibited Destinations") or to (i) majority-owned subsidiaries of any entity located or headquartered in any Prohibited Destination; or (ii) entities majority-owned by citizens of the Prohibited Destinations, or majority-owned by entities headquartered in any Prohibited Destination.

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