

SPRINT CLOUDCOMPUTE INFRASTRUCTURE SERVICES PRODUCT ANNEX

The following terms and conditions, together with the Sprint Standard Terms and Conditions for Communication Services ("Standard Terms and Conditions") or Sprint Master or Custom Service Agreement ("Agreement"), as applicable, govern Sprint's provision and Customer use of the Sprint CloudCompute Infrastructure Services (the "Services"). Capitalized terms not otherwise defined in this Annex have the meaning defined in the Standard Terms and Conditions or in the Agreement. When attached to the applicable Sprint service agreement, this Annex supersedes the version posted at www.sprint.com/ratesandconditions.

1. Sprint CloudCompute Infrastructure Services Features and Options.

1.1. Service Features

- A. General.** The Services combines multi-tenancy of the same physical infrastructure with logical separation between customers to provide Customer with a dedicated compute and storage operating environment. The Services are provided from select data centers and may be provided by or through third parties ("Data Centers"). A Data Center consists of routers, switches and management infrastructure in a facility that hosts the Services.
- (1) The Services create a virtual computing platform (or "Virtual Data Center"). In these Virtual Data Centers, Customer can store, create and deploy multiple virtual machines. A Virtual Data Center consists of virtual central processing unit ("vCPU") and virtual random access memory ("vRAM"). vCPU is a thread or processor cycle of the physical processors of the environment. vRAM is system memory on the physical infrastructure.
- B. Sprint Service Tiers.** The Services are available in three different tiers: Silver, Gold and Platinum.
- C. Silver Service Features.** Sprint will provide the following features:
- (1) Sprint will configure one Virtual Data Center to include the following components:
- (a) vCPU
 - (b) vRAM
 - (c) Storage
- (2) Sprint will provide Customer access to a web-based Services administration console so Customer may store, create and deploy virtual machines within the Virtual Data Center.
- (3) When applicable per Customer's network requirements, Sprint will provide Multiprotocol Label Switching ("MPLS") Data Center connectivity – Secure access from the Virtual Data Centers to Sprint's Global MPLS virtual private network ("VPN").
- D. Gold Service Features.** Sprint will provide the following features:
- (1) All the features of Silver Service.
- (2) 24x7x365 monitoring, maintenance, and break-fix of the Virtual Data Center.
- (3) Configuration of virtual machines.
- (4) Vulnerability assessments.
- (5) Optional operating system management, firewall, back-up and restore services are available for additional fees.
- E. Platinum Service Features.** Sprint will provide the following features:
- (1) All the standard and optional features of Gold Service.
- (2) Sprint will provide additional capacity at a secondary data center enabling active-passive configuration and automatic failover. Customer may need to pay additional MPLS Data Center connectivity fees for the secondary data center.

- 2. Term.** The initial term of each Service Order shall be specified in the Service Order. Upon the expiration of the initial term of a Service Order, the Service Order will continue on a month-to-month basis unless otherwise renewed, cancelled, or terminated in accordance with the Agreement (each such renewal period a "Renewal Term"). The then-current term of a Service Order (either the initial term or any Renewal Term) is hereinafter referred to as the "Service Period".

3. Early Cancellation for Convenience.

- 3.1.** Customer may cancel a Service Order, or any components which are individually priced in a Service Order (“Components”) at any time during the applicable Service Period by providing Sprint with thirty (30) days’ prior written notice (such cancellation an “Early Cancellation for Convenience”). In addition to any fees due Sprint up to the effective date of any such Early Cancellation for Convenience, Customer will pay Sprint an Early Cancellation for Convenience fee equal to the sum of (i) all remaining fees which would otherwise be due to Sprint for any Components ordered by Sprint from Sprint’s third-party suppliers specifically for Customer prior to the date Sprint received Customer’s notice of cancellation; (ii) for Services, the fees set forth in paragraph 3.2 below; and (iii) for all other services, the fees set forth in paragraph 3.3 below. The Early Cancellation for Convenience fees will be due as of the effective date of the Early Cancellation for Convenience.
- 3.2.** For Services, the Early Cancellation for Convenience fee is equal to the average monthly fees for the Services based on the previous twelve (12) months of invoices related to the specific Service Order, multiplied by one less than the total number of years of the term of the Service Order. In the event the term of a Service Order is only for one (1) year, Customer will pay the average monthly fees for Services based on the previous twelve (12) months of invoices related to that Service Order.
- 3.3.** Additional Early Cancellation for Convenience fees may apply as set forth in the Agreement.
- 3.4.** Sprint may determine if cancellation of one or more Components logically requires the cancellation of other Components and may assess Early Cancellation for Convenience fees for these other Components as well. Sprint’s decision not to assess Early Cancellation for Convenience fees in any one or more instances shall not act as a waiver of Sprint’s right to assess any other Early Cancellation for Convenience fees.

4. Licenses.

- 4.1.** Sprint grants Customer, during the Service Period, a personal, non-exclusive, non-transferable, non-sublicenseable right to access and use the Services solely in accordance with the terms and conditions of this Agreement.
- 4.2.** In the event Sprint provides Customer with the use of any software listed in the Service Order, Sprint grants Customer a limited, personal, non-exclusive, non-transferable, non-sublicenseable license, for the duration of the Service Period, to use such software in object code form only on the hardware on which it is installed for the sole purpose of enabling Customer to use the Services. Sprint represents and Customer acknowledges that the software may be copyright protected and/or contain valuable trade secrets of the applicable third-party suppliers and that, as between Customer and Sprint, title to such software remains with Sprint and/or Sprint’s suppliers. Unless Customer receives Sprint’s advance written permission, Customer will not (a) disclose, resell, or sublicense to third parties any portion of such software; (b) copy or duplicate such software; (c) reverse engineer, decompile or disassemble such software; or (d) alter, modify, tamper with, or make derivative works of such software. Customer agrees not to use such software after termination or cancellation of the applicable Service Order without obtaining a valid license from Sprint or from the applicable third-party supplier. For certain software, additional licensing terms may apply as set forth in a Service Order. Customer will not assert or assist any other person in asserting any claim of intellectual property infringement against Sprint with respect to any of the Software or Services Customer has used. Any Open Source Software is provided to Customer under the terms of the applicable Open Source Software license, including any rights to the source code of the software granted by such license. As used herein, “Open Source Software” means any software that is distributed as open source and that requires as a condition of use, modification, and/or distribution of such software that (i) the source code form of the software be freely available, (ii) the licensee has the right to make derivative works of the software, and (iii) the software must be re-distributed at no charge. Open Source Software includes any software that is subject to the GNU General Public License, GNU Library General Public License, BSD License or any similar license. If Sprint installs third-party software provided by the Customer at Customer’s request and acceptance of license terms is effected electronically, Customer authorizes Sprint and Sprint’s third party supplier to accept the third-party license terms on Customer’s behalf and Customer is solely responsible for compliance with such terms.

5. Customer Responsibilities.

- 5.1.** Customer is responsible for obtaining all licenses and permissions necessary for Customer to install and utilize its Content in conjunction with the Services, including, without limitation, licenses for any third-party software included in the Content.
- 5.2.** Customer shall not resell the Services themselves directly or indirectly to third parties. This prohibition is not intended to prevent Customer from charging third parties to access Customer’s hosted sites and/or applications.

- 5.3.** Customer shall not use or permit the Services or any components of the Services to be used in violation of any applicable national, state, or local laws or regulations, including without limitation U.S. export laws or any laws governing Content or the business of Customer. Customer's use of the Services is also subject to acceptance of the policies of Sprint's third party suppliers, which are subject to change without prior notice to Customer. Without limiting the generality of the foregoing, Customer agrees that Customer is solely responsible for compliance with data protection and privacy laws related to Content. Without limiting the generality of the foregoing, Sprint reserves the right to suspend the Services (or any portion thereof) without notice in the event that Sprint believes that Customer's use (or any of Customer's end users' use) of the Services is in violation of this Section 5. Sprint reserves the right to terminate the Services upon notice to Customer, in the event of chronic, material, or uncured violations of this Section 5.
- 5.4.** Customer shall not use any Open Source Software in conjunction with the Services in ways that could cause the Services and/or any software and/or other intellectual property used to provide the Services to be subject to the terms of such Open Source Software license.
- 5.5.** If Customer becomes aware of any violation of the Agreement, any applicable law, or any Standard Terms and Conditions, Customer will promptly notify Sprint and provide Sprint and its third party suppliers with all reasonable assistance in exercising any rights or remedies Sprint, its third party suppliers or Customer may have against such person in respect of the violation.
- 6. Content.** By providing Customer with Services, Sprint does not acquire any right, title and/or interest in the content material (including but not limited to text, Customer-provided software, scripts, trademarks, logos, HTML coding, domain names, links, graphics, audio, video, and any data) that Customer installs or allows its third-party suppliers or users to install on the cloud or hosting environment (collectively "Content"). Customer is solely liable and responsible for the Content and use thereof, including without limitation, (i) compliance with all applicable laws, acceptable use policies, the Agreement and Annex, and any policies and procedures of Sprint or any of its third party suppliers, (ii) any claims related to the Content, (iii) any claims that the Content infringes, misappropriates, or otherwise violates the rights of another person; and (iv) backup of Content for records retention and disaster recovery purposes.
- 7. Limited Warranty.**
- 7.1.** Customer represents and warrants that: (i) it owns or otherwise has a right to use, all right, title, or interest in and to the Content, and (ii) the Content and Sprint's and its third party supplier's use of the Content as contemplated by this Annex will not infringe, misappropriate, or otherwise violate any third party proprietary rights or any applicable law.
- 7.2.** Sprint warrants that the Services will be performed by qualified personnel in a workmanlike manner. EXCEPT TO THE EXTENT PROVIDED OTHERWISE IN THIS SECTION "LIMITED WARRANTY", SPRINT AND ITS THIRD-PARTY SUPPLIERS MAKE NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND EXPRESSLY DISCLAIM ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, OR OTHERWISE ARISING FROM COURSE OF PERFORMANCE OR USAGE OF TRADE. NEITHER SPRINT NOR ITS THIRD-PARTY SUPPLIERS WARRANT THAT THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT WILL BE UNINTERRUPTED OR ERROR FREE OR THAT CERTAIN RESULTS MAY BE OBTAINED FROM THE USE THEREOF, OR THAT CUSTOMER'S CONTENT WILL BE SECURE OR NOT OTHERWISE MISAPPROPRIATED, LOST OR DAMAGED.
- 8. Indemnifications.**
- 8.1.** Sprint will indemnify, defend and hold harmless Customer its affiliates, successors, and assigns, including the applicable officers, directors, employees, and agents thereof for damages, costs and attorneys fees Customer incurs as a direct result of any unaffiliated third party claim based on any claim that the Services infringe any U.S. copyright, trademark or trade secret, except to the extent resulting from (i) Customer's modification of the Services or combination by Customer of the Services with other products or services if the Services would not have been infringing but for such combination or modification, (ii) Customer's use of such intellectual property in a manner for which it was not designed, (iii) Customer's failure to use an updated non-infringing version of the applicable intellectual property to the extent Customer was notified that the update cured an infringement, (iv) changes to the Services made by Sprint at the direction of the Customer or (v) the use of any Open Source Software by or at the request of Customer in connection with the Services.

- 8.2.** Customer will indemnify, defend and hold harmless Sprint, its third party suppliers and their affiliates, successors, and assigns, including the applicable officers, directors, employees, and agents thereof for damages, costs and attorneys fees Sprint incurs from any unaffiliated third-party claim arising from Customer's Content or Customer's or any end user's use of the Services.
- 8.3.** If any item for which Sprint has an indemnification obligation becomes, or in Sprint's reasonable opinion is likely to become, the subject of an infringement or misappropriation claim or proceeding, Sprint will, in addition to indemnifying Customer as provided in this Section 8, promptly take the following actions, at no additional charge to Customer, at Sprint's sole discretion: (i) secure the right to continue using the item or (ii) replace or modify the item to make it non-infringing. If neither of such actions can be accomplished by Sprint using commercially reasonable efforts, and only in such event, Sprint will remove the item from the Services and the applicable Services fees will be equitably adjusted to reflect such removal. This Section 8.3 and Section 8.1 state Customer's sole and exclusive remedy for Sprint's infringement or misappropriation of intellectual property of a third party.
- 8.4.** The party seeking indemnification shall give prompt notice of the claim and will tender the defense; provided, however, that such party's failure to provide notification shall not affect the indemnifying party's indemnification obligations except to the extent that the failure to notify delays or prejudices the indemnifying party's ability to defend the applicable claim. The indemnifying party shall conduct the defense and shall have control of the litigation, and the indemnified party shall cooperate in defending against the claim. The indemnified party shall have the right, at any time and at its own expense, to participate in the defense of the claim with counsel of its own choosing. The indemnifying party shall not make any settlement of the claim that results in any liability or imposes any obligation on the indemnified party without the prior written consent of the indemnified party. If the indemnifying party fails to (i) respond to the notice of a claim, (ii) assume the defense of a claim, or (iii) diligently defend the claim, the party seeking indemnification shall have the right to defend the claim in such manner as it may deem appropriate, at the reasonable cost, expense, and risk of the indemnifying party, and the indemnifying party shall promptly reimburse the indemnified party for all such costs and expenses.

9. Limitations of Liability.

- 9.1.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES INCLUDING WITHOUT LIMITATION, INTERRUPTION OF BUSINESS, LOST PROFITS, LOST REVENUE ARISING OUT OF THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE SERVICES, THE USE OF THE SERVICES OR THE INABILITY TO USE THE SERVICES), EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 9.2.** SPRINT'S AGGREGATE LIABILITY AMOUNT ("THE AGGREGATE LIABILITY CAP") TO CUSTOMER FOR ALL CLAIMS RELATING TO OR ARISING OUT OF THIS AGREEMENT WHETHER BASED ON CLAIMS IN CONTRACT, STRICT LIABILITY, TORT, WARRANTY, EQUITY OR OTHERWISE, SHALL NOT EXCEED THE TOTAL FEES PAID AND PAYABLE BY CUSTOMER FOR THE SERVICES DURING THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE MOST RECENT EVENT WHICH GAVE RISE TO CUSTOMER'S CLAIM; PROVIDED THAT IF SUCH EVENT OCCURS DURING THE FIRST SIX (6) MONTHS AFTER THE EFFECTIVE DATE, LIABILITY FOR SUCH CLAIM SHALL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL MONTHLY RECURRING FEES DUE TO SPRINT PURSUANT TO THE AGREEMENT DURING SUCH SIX (6)-MONTH PERIOD. THERE SHALL BE ONLY ONE AGGREGATE LIABILITY CAP UNDER THIS AGREEMENT EVEN IF THERE ARE MULTIPLE CLAIMS; EACH CLAIM SHALL REDUCE THE AMOUNT AVAILABLE IN THE AGGREGATE LIABILITY CAP.
- 9.3.** EXCEPT FOR A FAILURE OF SPRINT TO COMPLY WITH ITS OBLIGATIONS WITH RESPECT TO BACKUP SERVICES EXPRESSLY SET FORTH IN SECTION 1.1.D(5), SPRINT SHALL NOT BE LIABLE FOR ANY DAMAGES RESULTING FROM THE LOSS, MISAPPROPRIATION OR CORRUPTION OF ANY CONTENT INCLUDING WITHOUT LIMITATION RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICE INTERRUPTIONS.
- 9.4.** THE LIMITATIONS AND EXCLUSIONS ABOVE ARE NOT APPLICABLE TO LIABILITY DIRECTLY ATTRIBUTABLE TO: (I) A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (II) A PARTY'S UNAUTHORIZED USE OF THE OTHER PARTY'S INTELLECTUAL PROPERTY, MATERIALS OR ASSETS, (III) DAMAGES DUE TO TANGIBLE PERSONAL PROPERTY OR REAL PROPERTY RESULTING FROM A PARTY'S NEGLIGENCE, (IV) A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 8 ABOVE, AND (V) A PARTY'S BREACH OF THE CONFIDENTIALITY PROVISIONS OF THE AGREEMENT AS RELATED TO THE APPLICABLE SERVICE ORDER, EXCLUDING ANY BREACH OF SECTION 6 ABOVE.

9.5. DAMAGES AS LIMITED BY THIS SECTION 9 ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY IF ANOTHER REMEDY IS PROVIDED AND SUCH REMEDY IS DEEMED TO FAIL OF ITS ESSENTIAL PURPOSE.

10. Confidential Information; Use of Data.

10.1. Customer agrees that Sprint needs access to and use of certain information about Customer and Customer's access and use of the Services to provide and improve the Services. Sprint's third party suppliers may access, collect, use or disclose Customer's information or require Sprint to disclose Customer's information to the third party supplier or some other third party. If Customer accesses, uses or authorizes third party content and services, Customer agrees and authorizes Sprint to provide information related to Customer's use of the Services. Sprint's obligation to protect Content from unauthorized use, access or disclosure is: (i) to provide the security services specifically set forth in the applicable Service Order(s) and (ii) maintain and enforce the then-current standard Sprint security policies and standards applicable to the Services as practiced at the service locations from which Sprint is providing the Services to Customer. Customer is solely responsible for implementing any additional safeguards that it deems necessary to protect Content from unauthorized access, use or disclosure. After the effective date of cancellation or termination of this Agreement or any individual Service Order, Sprint will erase or destroy the applicable Content in accordance with Sprint's then-standard policies and practices.

10.2. In addition, Sprint may disclose content to comply with laws or respond to requests from a regulatory or judicial body or as required by legal process. In the event Sprint is required to respond to such requests or legal process, Sprint reserves the right to charge Customer on a time-and-materials basis for its efforts.

10.3. On an on-going basis, Customer authorizes and consents to Sprint and its third party suppliers and each of their third parties collecting and using Customer data and information about Customer's access and use of the Services (including without limitation, times and methods of access, services utilized, types of information stored, names, addresses, telephone numbers, account numbers, internet protocol addresses, etc.) to provide and improve the Services or to comply with applicable law or any court order request of any governmental or regulatory authority. In addition, Customer authorizes Sprint to aggregate such data together in an anonymous form, or to de-identify data, for use by Sprint or for sharing with third parties for any legal purpose.

11. Security Services and Security Policies.

11.1. Sprint will provide the security services set forth in the applicable Service Order. Customer acknowledges that (a) the security services do not by themselves guarantee network security or privacy or prevent security incidents, and (b) it is Customer's responsibility to design a comprehensive security program in conjunction with any other service providers or professionals chosen by Customer and to safeguard its data transmissions and its Content from loss, corruption or disclosure to an unintended third-party. Except to the extent caused by Sprint's failure to provide security services, Sprint is not responsible for (i) unauthorized access to Customer's Content, or (ii) damages arising out of unauthorized access.

11.2. If Sprint notifies Customer of a security risk that could or has compromised Customer's environment, then, for any hardware, software or systems that are managed or maintained by Customer, Customer agrees at its sole cost and expense to (i) apply all of Sprint's recommended security patches in accordance with Sprint's instructions and within the time frames Sprint specifies, and/or (ii) take appropriate action as recommended by Sprint. While Sprint will give Customer prior notice to the extent practicable under the circumstances, Sprint may suspend the Services (or any part thereof) without notice if Customer has failed to apply a required security patch or to take appropriate action to mitigate a security risk that has been identified by Sprint, and Sprint believes in its reasonable judgment that such failure jeopardizes Sprint's network, Sprint's other clients, or third parties.

12. **Off-Shore Service and Support.** Customer acknowledges that some of the Services may be performed by Sprint or its affiliates or its third-party suppliers outside the country(ies) where the Services are obtained. As such, information pertaining to Customer's use of the Services may be incorporated into Sprint's (or Sprint's third party supplier's) global database(s) to assist Sprint (or Sprint's third party supplier's) in providing the Services. Customer further acknowledges and agrees that such information on Customer's use of the Services, as well as Customer's personal and business data and applications originating outside the United States, may be transferred to, stored in or accessed in country(ies) outside of where the Services are obtained. Customer shall be solely responsible for obtaining any required consents to such off-shore support, transfer, storage and access from Customer's employees and other end users of the Services.

13. **Changes to Services.** Sprint may make changes to the underlying components of the Services at any time during Customer's existing term without notice to Customer, provided that the applicable Services have not, in Sprint's reasonable judgment, materially changed. For material changes, Sprint will provide Customer with reasonable notice of such material change and the opportunity to comment.
14. **Service Level Agreements.** Applicable Service Level Agreements, as Sprint may amend from time to time, will apply during the term of the Service Order.
15. **Conflict.** In the event of a conflict between the Agreement and this Annex, this Annex will control with respect to the applicable Services.