

IBM Technology



G-Cloud 15 IBM – IBM Turbonomic SAAS Service Definition Document

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Service Description

IBM Turbonomic SaaS

This Service Description describes the Cloud Service. The applicable order documents provide pricing and additional details about Client's order. Upon acceptance of Client's order, this Service Description and the Cloud Services Agreement found at <http://www.ibm.com/terms/csa> (or an equivalent agreement for Cloud Services between the parties) applies to Client's use of the Cloud Services.

1. Cloud Service

1.1 Offerings

The Client may select from the following available offerings.

1.1.1 IBM Turbonomic

IBM Turbonomic is an AI-powered software that provides analytics which dictate what actions to take to maintain optimal levels of application performance, as well as automate the execution of those actions. IBM Turbonomic monitors performance, makes near-real time decisions, and applies the appropriate resources at the right time to maintain maximum levels of performance.

1.1.2 IBM Turbonomic Cloud Optimization Essentials

IBM Turbonomic Essentials uses AI and automation to match application demands with appropriate cloud resources, such as CPU, memory, storage and network at the lowest cost while maintaining performance and meeting business level objectives. Turbonomic Essentials only supports optimizing applications and entities running in a cloud. An Instance of the Cloud Service is limited to optimizing applications up to an annual cloud spend of \$2 million. Turbonomic Essentials does not support managing applications or entities running in on-premises datacenters and does not support Enterprise Single Sign-On (SSO).

1.1.3 IBM Turbonomic Standard

IBM Turbonomic Standard ("Standard") is a Cloud Service that helps Clients understand and implement cost effective application performance and resource utilization through intelligent automation. This Standard edition only supports optimizing applications running in a cloud. Standard edition is intended for Clients with an annual cloud spend of more than \$2 million. The Standard edition allows Client to use SaaS reporting.

2. Data Processing and Protection Data Sheets

IBM's Data Processing Addendum at <http://ibm.com/dpa> (DPA) and the Data Processing and Protection Data Sheet(s) (referred to as data sheet(s) or DPA Exhibit(s)) in the links below applies to IBM's processing of personal data on behalf of Client.

IBM Turbonomic SaaS on AWS

<https://www.ibm.com/terms/?id=908399A6938347E9892E586A24E4923E>

IBM Turbonomic SaaS on Google Cloud

<https://www.ibm.com/terms/?id=B9ACF8A0517F11ECB7241FF603469C11>

3. Service Levels and Technical Support

3.1 Service Level Agreement

IBM provides the Client with the following availability service level agreement (SLA). IBM will apply the highest applicable compensation based on the cumulative availability of the Cloud Service as shown in the table below. The availability percentage is calculated as the total number of minutes in a contracted month, minus the total number of minutes of Service Down in the contracted month, divided by the total number of minutes in the contracted month. The Service Down definition, the claim process and how to contact IBM regarding service availability issues are in IBM's Cloud Service support handbook at https://www.ibm.com/software/support/saas_support_overview.html.

Availability	Credit (% of monthly subscription fee*)
Less than 99.9%	2%
Less than 99.0%	5%
Less than 95.0%	10%

* The subscription fee is the contracted price for the month which is subject to the claim.

3.2 Technical Support

Technical support for the Cloud Service, including support contact details, severity levels, support hours of availability, response times, and other support information and processes, is found by selecting the Cloud Service in the IBM support guide available at <https://www.ibm.com/support/home/pages/support-guide/>.

4. Charges

4.1 Charge Metrics

The charge metric(s) for the Cloud Service are specified in the Transaction Document.

The following charge metrics apply to this Cloud Service:

- Instance is each access to a specific configuration of the Cloud Services.
- Managed Virtual Server is comprised of processing units, memory and input/output capabilities that executes requested procedures, commands or applications managed by the Cloud Services.
- Monitored Costs are all fees from third-party cloud providers as reflected in Client's billing data including, without limitation, discounted public pricing constructs (e.g., reserved instances, savings plans or analogous products), support, taxes, and prior to the application of any one-time or recurring credits, discounts, refunds, and third-party marketplace fees. In the event Monitored Costs and Cloud Service fees are in different currencies, IBM will convert Monitored Costs at an applicable exchange rate. Each quantity measurement is equal to USD 100,000 Monitored Costs.

5. Additional Terms

For Cloud Service Agreements (or equivalent base cloud agreements) executed prior to January 1, 2019, the terms available at <https://www.ibm.com/acs> apply.

5.1 Verification

Client will i) maintain, and provide upon request, records, and system tools output, as reasonably necessary for IBM and its independent auditor to verify Client's compliance with the Agreement, and ii) promptly order and pay for required entitlements at IBM's then current rates and for other charges and liabilities determined as a result of such verification, as IBM specifies in an invoice. These compliance verification obligations remain in effect during the term of the Cloud Service and for two years thereafter.

5.2 AI Technology Terms

a. Foundation and Embedding Models

The Cloud Service may include generative AI foundation models and/or embedding models as described in the documentation for the Cloud Service. Each foundation model and embedding model included in the Cloud Service will contain a model information document that provides information about that model ("Model Information"), including details on the model provider. The available IBM-developed foundation models and embedding models are considered part of the IBM Cloud Service.

Client is prohibited from extracting the Model Weights. "Model Weights" means the numerical values associated with the parameters of the training, optimization and performance of a model.

All Client inputs to any model, including by inferencing or prompting the model and any content provided by Client for further training of a model, including fine-tuning or prompt-tuning, are Client Content. Except as set forth in Section (c) ("Output Indemnity") below, Client is solely responsible for

any Outputs and their subsequent use. IBM does not claim to have ownership rights to the Output that is not based on IBM's content, unless the Output is based on IBM's content.

b. **AI Use Restrictions**

This Cloud Service is not intended for use in a high-risk context as defined under applicable regulations, including the EU AI Act.

c. **Output IP Indemnity**

IBM's obligation to protect Client against third party claims as set forth in the applicable agreement includes third party claims that the result generated by the Covered Model in response to a Client's prompt or other input (collectively, "Output") infringes that third party's patent or copyright provided that (in addition to the exclusions and Client obligations provided in the relevant base agreement):

- (1) Client has a paid subscription to the Cloud Service at the time Client generates the Output.
- (2) Client enables all available filters and logging features recommended by IBM in the product documentation or delivered with the Cloud Service or the Covered Model, and Client supplies information collected by such filters and features as requested by IBM in connection with a third party claim;
- (3) If applicable, Client was using a supported version of the Covered Model;
- (4) the Output at issue was generated in connection with an Indemnified Use Case;
- (5) Client takes mitigating actions reasonably requested by IBM, which may include ceasing use of the allegedly infringing Output; and
- (6) Client had no reasonable basis to know that the Content or Output was infringing or likely to cause an infringement.

"Covered Model" means an IBM developed foundation model provided with the Cloud Service ("IBM Covered Model"); and a third-party foundation model provided with the Cloud Service and identified in the product documentation as being an indemnified third party model ("Third Party Covered Model").

"Indemnified Use Cases" means use within Client's enterprise of an IBM Cloud Service in a manner consistent with the Cloud Service's intended use as described in its published documentation or the Model Information or other Transaction Documents (such as license information or program specifications).

All other terms of '(a) Foundation and Embedding Models' and of the Liability and Intellectual Property Protection terms in the base agreement remain in effect.

d. **Previews**

If this generative AI feature is provided to Client as a "preview," then, (i) the terms related to "preview" in the applicable base agreement apply, (ii) any indemnitees do not apply to this preview, and (iii) in exceptional circumstances it may be necessary for IBM to take steps to suspend or limit unreasonable use by Client of the preview.

e. **Feedback**

IBM may provide Client opportunities to voluntarily provide feedback in connection with the use of this generative AI feature, which IBM may use for any purpose, except for training generative AI models.

6. **Overriding Terms**

6.1 **Data Use**

The following prevails over anything to the contrary in the Content and Data Protection section of the base Cloud Service terms between the parties: IBM will not use or disclose the results arising from Client's use of the Cloud Service that are unique to Client's Content or that otherwise identify Client. IBM may however use Content and other information that results from Content in the course of managing and providing the Cloud Service provided that any data subject to applicable privacy regulations will be rendered into a form that no longer constitutes personal data. IBM will use Client's Content and other information that results from Content, excluding personal data, only for research, testing, and offering development. IBM may share threat identifiers and other security information embedded in Client personal data for threat detection and



