

# SERVICE AGREEMENT

THIS AGREEMENT is hereby made effective from the date of online registration by and between Sify Technologies Limited, a company incorporated under the laws of India having registered office at II floor, Tidel Park, No 4 Canal Bank Road, Taramani, Chennai 600 113 (herein after referred as "Sify") and the Customer registered online on Sify Portal provisioning for Cloudinfinnit Services. The terms and conditions herein are hereby accepted and agreed by the Customer and Sify and made effective from the date of online registration by the Customer.

## 1. SCOPE OF ARRANGEMENT

- 1.1 This agreement states the terms and conditions and service levels by which Sify will deliver Cloud Solutions (hereinafter referred to as "Services") and the Customer will receive the Services as stated in the cloud solutions service catalogue. Further, Sify Cloudinfinnit is part of Sify cloud solution stack representing the Public cloud service offerings including Infrastructure as a Service, Platform as a Service and Software as a Service
- 1.2 Sify will provide the Services pursuant to the online Order submitted by Customer on the online portal (<http://www.cloudinfinnit.in>) and any specifications thereto provided on the said portal, thereto if any, accepted online and deemed executed by both parties.
- 1.3 In the event any terms set forth herein apply specifically to a Service not requested by the Customer, such terms(s) shall not apply to the Customer.

This Cloudinfinnit includes certain schedules and attachments attached hereto or to be attached in the future (together the "Schedules"). Depending on the components chosen by Customer, as indicated in the Service Catalogue, which consist of the following components;

- (i) InfinitCompute
- (ii) InfinitStorage
- (iii) InfinitSecurity
- (iv) InfinitNetwork
- (v) InfinitAnalytics
- (vi) InfinitProtect

In addition to the terms set forth herein, use of each Service is subject to the additional terms set out in the relevant schedules attached herewith.

## 2. DEFINITIONS

Terms used herein but not otherwise defined shall have the same meanings ascribed to them in the General Terms and Conditions for Delivery of Services.

- 2.1 "**Cloudinfinnit Service**" means, collectively the Data Center – Cloud computing platform (Compute / Storage / Security / Network / Analytics, Protect, Platforms and Managed services), or independent services such as Managed Services, Security Services, as further described in Service Schedules.
- 2.2 "**Service Window**" - Sify will provide 24x7 support for the proposed engagement.
- 2.3 "**Schedules**" means the forms so entitled attached hereto, containing the specific terms and conditions that apply to each Service element.
- 2.4 "**Users**" means the persons authorized by the Customer to use the Service.

- 2.5 **“Portal and Monitoring”**: Sify’s service portal offering and will be a single point for information on customer’s infrastructure that is being managed. The portal offers 24x7x365 access to manage your infrastructure, trouble ticket & change management systems, events, inventory and SLA performance reports.
- 2.6 **“Business Day”** is any day other than Saturday, Sunday or Public Holiday on which commercial banks are generally open for business in India.
- 2.7 **“Content”** means information made available, displayed, transmitted or stored.
- 2.8 **“Service Desk”** means Sify’s Customer Support Centers which will be operational 24x7x365 basis for the proposed engagement.
- 2.9 **“Customer Hardware”** means the hardware owned by the Customer that is acceptable to Sify, and is supported by Sify as part of its service delivery.
- 2.10 **“Customer Software”** means the software owned by the Customer that is acceptable to Sify, and is supported by Sify as part of its service delivery.
- 2.11 **“Software Licenses”** means the software used by Sify for rendering the DC-VAS service. The term “Software” shall also include any updates, upgrades, bug-fixes or new versions of the Software delivered by SIFY hereunder. Software licenses may include Hypervisor Layer (Vmware, HyperV, others), Microsoft OS and other software, Linux OS, etc., including any necessary updates and upgrades thereto, to be used by Customer to use the Service. Sify will sub-license to the Customer the right to allow its Users to use such software for the applicable Term. Customer, at its sole expense, will provide Users with the Client workstations and make such sub-licensed Client software available for use by its Users.
- 2.12 **“Emergency Maintenance”** means the repair or replacement of facility components or equipment requiring immediate attention because the functioning of a critical system is impaired or because health, safety or security of human life is endangered. The service unavailability during Emergency Maintenance will be excluded from the downtime calculations.
- 2.13 **“Fault”** means a fault, failure or malfunction in the Proper Operational Condition of the Service.
- 2.14 **“Hardware”** means server, switches and appliances deployed by Sify in providing the Service.
- 2.15 **“Operation Percentage / Operational Condition”** means that the Sify Cloud Solutions and Services, including all Sify Hardware and Software, is functioning properly in accordance with the OEM’s specifications and parameters set forth in this Agreement. The Operational Percentage means the percentage of the total time during any given calendar month that the Services are not subject to an Service Outage.
- 2.16 **“Service Outage”** An “Service Outage” means that the Service fails in accordance with Customer’s configuration selection and the parameters defined in respective schedules. Outage does not include service suspension (i) for reasons outside of Sify’s reasonable control or (ii) during times of maintenance. If a dispute arises about whether or not an Outage occurred, Sify shall make a determination in good faith based on its system logs, monitoring reports and configuration records. The “Outage Percentage” means the total duration of an Outage during a given month divided by the total time during such month.
- 2.17 **“Scheduled Outage or Scheduled Maintenance”** is the time window during which Sify Cloud Solutions and Services may be temporarily interrupted for any or all services, for doing upgrades or maintenance or for any other mutually agreed upon reason or purpose; in order to prevent or remedy a defect which may affect Customer’s use or access to the Services. The service unavailability during Scheduled Outage or Scheduled Maintenance will be excluded from the downtime calculations. Scheduled Maintenance will be normally be carried out between 10 p.m. Saturday and 6:00 a.m. the following Sunday. Sify shall give Customer at least seven (7) days notice of any scheduled maintenance / outage event.

2.18 "**Severity Level 1**" means the severity level of a Fault (System Unusable) which critically affects the use of SIFYDC-VAS Service to the extent that the servers are inaccessible. Service shall be deemed unavailable if a Fault of Severity Level 1 is reported or identified, whatever is earlier.

2.19 "**Severity Level 2**" means the Service is degraded where Users can access the Service but experience significant difficulties or delays. Service shall be deemed unavailable if a Fault of Severity Level 2 is reported or identified, whatever is earlier.

2.20 "**Severity Level 3**" means the severity level of a Fault which does not cause major impact on the use of Service, but only minor delays. A Fault of Severity Level 3 shall not be deemed to have rendered the Service unavailable.

### 3. **Obligation of the customer.**

- a) **Customer Undertakings.** The Customer represents warrants and agrees that it will not use, nor authorize, assist or permit any User or third party to use, the Service:
- (i) in violation of any applicable laws or with all policies and instructions communicated by Sify.
  - (ii) for any unlawful, fraudulent or immoral purpose, including, without limitation, the transmission of any Content in violation of applicable laws
  - (iii) to tamper with, alter or change the Service or the Sify's Facilities, or otherwise abuse the Service in any manner that interferes with Sify's Facilities or the use of Service by any other person.
- b) **Rights to Suspend.** If Sify reasonably believes that there is, or is likely to be, a breach of any of the Customer's obligations hereunder, Sify may, in its sole discretion, immediately restrict or suspend all or a portion of the Service or prevent the display or transmission of Content, without any liability to the Sify, and then notify the Customer of such action and the reason for it. Sify will attempt to provide such notification to the Customer prior to taking such action if, in Sify's judgment, it can do so without interfering with its ability to prevent the breach from occurring or continuing.

### 4. **PAYMENT TERMS**

4.1. The Customer shall pay the service charges as per the terms and prices displayed in the online Order and confirmed through the emailed invoice

4.2. Pricing and Billing for Services provided by Sify shall commence from the date of Notice of Service Commencement.

4.3. The Customer shall pay the one time charges and recurring charges as set out in the portal in advance through online payment. Sify shall bill the Customer monthly in advance for monthly recurring charges. The Customer shall ensure that his account has sufficient credit so as to cover the variable charges in an elastic plan.

4.4. Any additional usage by the Customer shall be billed immediately or monthly in arrears on the basis of the Customer's subscription of services.

4.5. The payments against the invoices shall be considered due from the date of receipt of online invoice. Hence, the Customer shall make payment against the invoices immediately from the date of receipt of emailed invoice, failing which, shall result in insufficient funds at the month beginning leading to de-commissioning of the services.

4.6. All amounts payable by the Customer in terms hereof shall be made without any deduction, set-off or counter claim and free and clear of any deduction or other charges of whatever nature imposed by any taxing or government authority.

4.7. The charges of Services and /or Goods are exclusive of all taxes, duties, levies, imposts, fees or other charges whatsoever, all of which shall be paid by the Customer as detailed on the Sify provisioning portal.

4.8. In the event that the Service Charges remains unpaid 30 days after becoming due, Sify shall be entitled for late charges on the overdue payment at the rate of eighteen percent (18%) per annum calculated on a yearly basis and based on a three hundred and sixty five (365) day year and on the number of actual days elapsed, shall be imposed on the outstanding amount upon the expiry of the relevant due date, until full settlement. If the outstanding remains unpaid for over 90 days from becoming due, without prejudice to its right to recover the amount, Sify shall either have the right to suspend and discontinue the services as stated here in above.

## 5. TERM & TERMINATION

- a. The term of this service shall commence on the service effective date and shall renew automatically for successive periods unless
  - i). either party terminates immediately, in the case where the customer subscribe to the services for a period of one month or less; or
  - ii) either party gives the other written notice of intent to terminate and not renew at least ninety (30) days prior to the end of the initial term or any renewal term, in the case where the customer subscribe to the services for a period of more than one month.
- b. This service may be terminated by either party in the event that such party has the right to terminate the customer Agreement.
- c. Upon termination of this service , Customer shall relinquish use of the Internet protocol addresses or address blocks assigned to it by SIFY in connection with the Services.
- d. Unless and otherwise specified in the Customer Agreement, if after the termination or expiration of the Agreement, the Customer fails to remove all equipment and/or other properties belonging to them from the Sify Data Center premises within 45 days of such termination or expiration, the Customer;
  - i. agrees that Sify Datacenter may dispose off such property as it deems appropriate and
  - ii. releases Sify Datacenter from any and all liability arising out of such disposal

### 5.1 TERMINATION TRASITION ASSISTANCE:

Upon any notice of termination of this Agreement, to the extent technically feasible, Sify shall assist Customer in the migration of the data of Customers that are located on Sify's servers/storage, in a comma separated values file or other format reasonably requested by Customer. If termination of this Agreement is due to Sify's breach, Sify shall migrate Customer's data to a setup as reasonably requested by Customer, at no cost to Customer.

## 6. Non Disclosure Agreement (NDA)

- a) **Confidentiality.** "Confidential Information" shall mean and encompass information, know-how and data, of a technical, commercial, financial or any other nature, disclosed to either Party by or on behalf of the other Party prior to or during the term of this agreement.
  - (i) It shall cover all messages, documents and files or other communication in writing and marked "confidential" by the disclosing Party; (or)
  - (ii) Drawings, models, prototypes, photographs, software programs or in any machine readable form, which information is stated by the disclosing Party to be confidential; (or)
  - (iii) orally, and identified in writing as confidential to the disclosing Party within 15 (fifteen) days from disclosure;.

**Each party agrees to:**

- a) preserve and protect the confidentiality of the other party's Confidential Information;
- b) refrain from using the other party's Confidential Information except as contemplated herein

Sify further agrees that it will not change or copy, read or distribute Customer's data, except as required to perform the Services

Notwithstanding the foregoing, either party may disclose Confidential Information which is:

- (i) already publicly known;
- (ii) independently developed by the receiving party without reference to the Confidential Information of the disclosing party;
- (iii) otherwise known to the receiving party through no wrongful conduct of the receiving party, or required to be disclosed by law or court order.
- (iv) In connection with use of Logos for marketing purposes and business representation by either party.

Neither party shall disclose any of the terms of this Agreement to any third party without the prior written consent of the other party; provided, however, that either party may disclose the existence of this Agreement to any third party and either party may disclose the terms of this Agreement:

- (i) to legal counsel of the parties;
- (ii) in confidence, to accountants, banks, and financing sources and their advisors solely for the purposes of a party's securing financing;
- (iii) in connection with the enforcement of this Agreement or rights under this Agreement; or
- (iv) in confidence, in connection with an actual or proposed merger, acquisition, or similar transaction solely for use in the due diligence investigation in connection with such transaction.

(In the event that one of the Parties, or anyone to whom Confidential Information is disclosed pursuant to this agreement becomes legally compelled to disclose any of the confidential Information, such party (the "Compelled Party") shall provide the other party with prompt notice so that such other party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Article. In the event that such protective order or other remedy is not obtained or in the event that the other Party waives compliance with the provisions of this Article, the compelled Party will furnish only that portion of the Confidential Information which the Compelled Party is legally required to disclose and will seek to obtain reliable assurance that confidential treatment will be accorded to the Confidential Information

## 7. WARRANTY LIMITATIONS

- a. **Disclaimer of Actions Caused by and/or Under the Control of Third Parties** Except for warranties and representations made herein, Sify MAKES NO REPRESENTATIONS AND DISCLAIMS ALL WARRANTIES AND LIABILITY REGARDING THE DATA, PRODUCTS, OR SERVICES OF ANY THIRD PARTY, INCLUDING THE PROVIDERS OF ELECTRICAL OR TELECOMMUNICATIONS PRODUCTS OR SERVICES. CUSTOMER ACKNOWLEDGES THAT AN INTERRUPTION IN THE HOSTING SERVICES DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF Sify, SUCH AS A FAILURE OF TELECOMMUNICATIONS SYSTEMS, SHALL NOT BE CONSIDERED A SERVICE OUTAGE FOR PURPOSES OF ANY WARRANTY PROVIDED IN THIS SIFYDC-VAS.
- b. **Sole Remedies to Service outage:** SOLE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE, INTERRUPTION OF SERVICES DUE TO OUTAGES, OR OTHER BREACH OF WARRANTY SHALL BE THE OUTAGE CREDIT PROVIDED IN THIS SERVICE. Sify DISCLAIMS ANY AND ALL OTHER LIABILITIES OR REMEDIES FOR SUCH OUTAGES, INTERRUPTIONS, OR BREACH OF WARRANTY. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE LIABILITY OF Sify AND ITS SIFYS ARISING FROM ANY SUCH OUTAGE, INTERRUPTION, OR BREACH OF WARRANTY SHALL BE EXPRESSLY LIMITED AS SET FORTH IN THIS SERVICE.

## 8. Service Level Agreement

**Services Availability Parameters.** For the purpose of uniformity, the Service Availability for each Service will be calculated as under. The Availability Guarantee for each component is covered in respective service schedule(s).

Service will be considered unavailable if the Fault reported to the Sify's Support Center by Customer or identified by Sify itself is of Severity Level 1 or Severity Level 2 ("Service Outage"). Sify will calculate, on a monthly basis, the time of Service Outage experienced by each Service Component. A month shall be deemed to begin at 12:00 AM Greenwich Mean Time (GMT) on the first day of a calendar month and end 12:00 GMT on the first day of the next calendar month ("Month"). At the end of a month, Sify shall calculate the total amount of time the Service was unavailable measured from the time when a Fault of Severity Level 1 or 2 was reported to the Sify's Customer Support or is identified by the Sify, whichever first occurs, until the time the Fault is repaired and the Service restored (the "Service Outage Time"). Such Service Outage Time shall be used to determine any Service Outage credit that the Customer shall be entitled to ("Service Outage Credit"). The Service Outage Credit will be a percentage of the Monthly Recurring Charge ("MRC") for the Service as set forth in respective service schedules and will apply only to the Service(s) for which such credit was derived ("Affected Service(s)"), and the Service Outage Credit will be calculated individually for each Affected Service.

SLA for each Service component is delivered basis customer subscription and applicable plan. SLA for the components / complete solutions is applicable after subscription of the services.

**(a) SLA Adherence Matrix and applicable Outage Duration:**

SLA Adherence (%)	Service Outage Duration (in Hours) in a Month Rounded off to nearest hour
< 99.99%	0.072 (4.32 minutes) – 0.72 hours (43.2 minutes)
< 99.95%	0.36 (.5) hour – .72 (1) hour
< 99.9%	0.72 (1) hour – 3.6 (4) hours
< 99.5%	3.6 (4) – 7.2 (8) hours
< 99.0%	7.2 (8) – 14.4 (15) hours
< 98.0%	14.4 (15) – 21.6 (22) hours
< 97.0%	21.6 (22) – 24 hours

**1 Exclusions.** Customer will not be entitled to receive any credits pursuant to the Delivery Guarantee or Service Availability Guarantee, for administrative setup delays or Service Outage experienced, which are associated with (in whole or in part):

- a. Interruption due to emergency & scheduled maintenance, alteration, or implementation;
- b. Negligence or other conduct of Customer or its agent/client including a failure or malfunction resulting from applications;
- c. A shut down due to circumstances reasonably believed by Sify to be a significant threat to the normal operation of the Services, the Sify facility, or access to or integrity of Customer IT infrastructure or its data (e.g., hacker or virus attack);
- d. Failure or malfunction of any equipment or services not provided by Sify;
- e. Failure of Customer to purchase minimum redundant systems necessary to support this warranty
- f. Failure of access to Customer's network and the Internet, unless such failure is caused solely by Sify;
- g. Any act or omission of Customer or any of its agents, contractors or vendors, including without limitation, custom scripting or coding (for example, CGI, Perl, HTML, ASP) or Customer's failure to follow agreed-upon procedures or to provide the requisite Client Hardware or Software in respect of the Services;
- h. Force Majeure Events (Section 9.10), including without limitation, outages on the Internet;
- i. DNS issues beyond the reasonable direct control of Sify; or
- j. Service Level Agreements do not apply in the event of disconnection and subsequent reconnection of the services due to non-payment of any charges payable to Sify.
- k. Any unavailability or other degradation of the Service which is associated with or caused by Scheduled Maintenance events on the Sify Facilities (which are not otherwise due to the fault or negligence of Sify);

**2 Service Outage Credits**

- 2.1 Customer must provide Sify with a written request for a credit due hereunder as defined in Service Outage Reporting (Section 2.16).
- 2.2 If Customer is entitled to receive credits on more than one guarantee as set forth herein due to the same service-affecting incident, Customer will only receive the credit that it would otherwise be entitled to receive under a single guaranteed criterion for service which has least guarantee.
- 2.3 In no event shall the total amount of Service Outage credits issued to Customer per month exceed fifty percent (50%) of the MRC invoiced to Customer for the affected Service for that month.
- 2.4 Credits are calculated after deduction of all discounts and other special pricing arrangements, and may not be applied to governmental fees, taxes, surcharges, local access charges or any other charges other than monthly recurring service (MRC) charges.
- 2.5 Credits will generally be reflected on the subsequent invoice following the billing month in which the Service Outage occurs. The credits provided in this Service Level Agreement are Customer's sole and exclusive remedies for all matters related to the guaranteed criteria.
- 2.6 Any credits accrued but remaining unused after termination of the applicable Service may only be applied to charges accruing to the affected Service or new purchases of Services. All unused credits will expire the later of twelve months after their accrual or upon the expiration or termination of the last Service Order with Sify. Termination of a Service, the General Terms and Conditions due to Customer's non-payment or other breach will immediately void all accrued, but unused credits.

## **9. MISCELLANEOUS PROVISIONS**

### **9.1 NOTICES**

Any notice or other communication required or permitted hereunder shall be sufficiently given if manually delivered or sent by registered or certified airmail or fax or E-mail, and, in the case of airmail, prepaid and directed to the other party at its mailing address first set forth above. Any party may, by giving notice as provided sent by registered or certified airmail shall be deemed to have been given ten (10) days after the date on which it is proved to have been so mailed. Any such notice or communication sent by fax or e-mail shall be deemed to have been given one (1) day after the date on which it is sent and receipt has been confirmed.

### **9.2 GOVERNING LAW**

This Agreement and the obligations of the parties hereto shall be interpreted, construed and enforced in accordance with the internal laws of India, without giving effect to the conflict of laws / principles thereof. The Courts at Chennai shall have exclusive jurisdiction over all matters connected with this agreement.

### **9.3 WAIVER**

No express or implied consent to or waiver of any breach or default by any party hereto in the performance by the other parties of its obligations under this Agreement shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such party of the same or any other obligations of such party under this Agreement. Failure on the part of any party to complain of any act or failure to act or to declare the other party as defaulting, irrespective of how long such failure continues, shall not constitute a waiver against such failing party of the rights of the other party under this Agreement.

### **9.4 SEVERABILITY**

If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to any other person or circumstance shall not be affected thereby and shall be enforced to the

greatest extent permitted by law.

#### **9.5 ENTIRE AGREEMENT – AMENDMENT**

This agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. Except as specifically provided herein, neither this agreement nor any provision hereof can be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by all of the parties

#### **9.6 TERMINOLOGY**

All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural; and the plural shall include the singular. Titles of articles, sections, subsections and paragraphs in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement

#### **9.7 COUNTERPARTS**

This Agreement can be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument

#### **9.8 ASSIGNMENT**

This Agreement cannot be assigned by any party hereto without the express written consent of the other two parties

#### **9.9 LEGAL FEES**

In any legal action brought in connection with this agreement for the operations of the Customer, the prevailing party shall be entitled to recover its legal fees from the non-prevailing parties

#### **9.10 FORCE MAJEURE**

If the performance of any obligation of any of the parties is prevented or restricted or interfered with by reason of fire, explosion, strike, labor dispute, casualty, riots, sabotage, accident, lack or failure of transportation facilities, flood, war, civil commotion, terror attack, lightning, acts of God, any law, order or decree of any government or subdivision thereof or any other cause similar to those above enumerated, beyond the reasonable control of the party, the party so affected shall, upon the giving of prompt notice to the other parties, be excused from performance hereunder to the extent and for the duration of such prevention, restriction or interference.

#### **9.11 INTERPRETATION**

No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or drafted such provision.

#### **9.12 ARBITRATION:**

Any dispute and/or difference that may arise between the Parties hereto in regard to this Agreement and/or the arrangement there under, the carrying out of its terms and conditions and/or the interpretation thereof in any way whatsoever shall be referred to the conciliation of any authorized representative of the Parties and a solution shall be sought within 15 days of such referral. In the event of any resolution not being found despite conciliatory efforts, the dispute and/or difference shall be referred to a sole Arbitrator to be mutually appointed by the Parties. In the event of differences on appointment of a sole arbitrator, the Parties agree to appoint three arbitrators, one to be appointed by Customer and another to be appointed by SIFY. The two arbitrators shall appoint the third arbitrator who shall act as the governing arbitrator. The Arbitration proceedings shall be governed by the



provisions of the Arbitration and Conciliation Act 1996 and its statutory modification in force for the time being. Language of arbitration shall be English. Place of Arbitration shall be Chennai