



IBM Terms of Use – SaaS Specific Offering Terms

IBM SmartCloud Control Desk (SaaS)

The Terms of Use (“ToU”) is composed of this IBM Terms of Use - SaaS Specific Offering Terms (“SaaS Specific Offering Terms”) and a document entitled IBM Terms of Use - General Terms (“General Terms”) available at the following URL: www.ibm.com/software/sla/sladb.nsf/sla/tou-gen-terms/ .

The ToU is in addition to the IBM International Passport Advantage Agreement, the IBM International Passport Advantage Express Agreement, or the IBM International Agreement for Selected IBM SaaS Offerings, as applicable (“Agreement”) and together with the ToU make the complete agreement. Should a conflict arise between the General Terms and these SaaS Specific Offering Terms, these SaaS Specific Offering Terms will prevail over the General Terms.

Customer may use the IBM SaaS only if Customer first accepts the Terms of Use. By ordering, accessing or using the IBM SaaS Customer agrees to the ToU. By clicking an “Accept” button after being presented with these SaaS Specific Offering Terms, you are also accepting the General Terms.

IF YOU ARE ACCEPTING THE ToU ON BEHALF OF CUSTOMER, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND CUSTOMER TO THE ToU. IF YOU DO NOT AGREE WITH THE ToU OR DO NOT HAVE FULL AUTHORITY TO BIND CUSTOMER TO THE ToU THEN DO NOT IN ANY MANNER USE OR PARTICIPATE IN ANY OF THE FUNCTIONALITY OFFERED AS PART OF THE IBM SAAS.

Part 1 – IBM Terms

1. IBM SaaS

The following IBM SaaS offerings are covered by these SaaS Specific Offering Terms:

- IBM SmartCloud Control Desk (SaaS)
- IBM SmartCloud Control Desk (SaaS) Non-Production
- IBM SmartCloud Control Desk (SaaS) Non-Production Capacity Add-On
- IBM SmartCloud Control Desk (SaaS) Step-up for existing Customers

2. Charge Metrics

The IBM SaaS offering is sold under the following charge metrics:

- a. Authorized User is a unit of measure by which the IBM SaaS can be obtained. Customer must obtain separate, dedicated entitlements for each unique Authorized User given access to the IBM SaaS in any manner directly or indirectly (for example: via 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 IBM SaaS during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- b. Concurrent User is a unit of measure by which the IBM SaaS can be obtained. A Concurrent User is a person who is accessing the IBM SaaS at any particular point in time. Regardless of whether the person is simultaneously accessing the IBM SaaS multiple times, the person counts only as a single Concurrent User. Customer must obtain an entitlement for each simultaneous Concurrent User accessing the IBM SaaS in any manner directly or indirectly (for example: via a multiplexing program, device, or application server) through any means during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- c. Instance is a unit of measure by which the IBM SaaS can be obtained. An Instance is access to a specific configuration of the IBM SaaS. Sufficient entitlements must be obtained for each Instance of the IBM SaaS made available to access and use during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.

3. Charges and Billing

3.1 Billing Options

The amount payable for the IBM SaaS is specified in a Transaction Document. The billing options for the IBM SaaS subscription fee are as follows:

- a. Entire commitment amount upfront
- b. Monthly (in arrears)
- c. Quarterly (upfront)
- d. Annually (upfront)

The selected billing option will be valid for the length of the term specified in a PoE or a Transaction Document. The amount payable per billing cycle will be based on the annual subscription fee and number of billing cycles in a year.

3.2 Partial Month Charges

The Partial Month charge is a pro-rated daily rate that will be charged to Customer. The Partial Month Charges are calculated based on the remaining days of the partial month starting on the date Customer is notified by IBM that their access to the IBM SaaS is available.

3.3 Overage Charges

If Customer's actual usage of the IBM SaaS exceeds the entitlement specified in a PoE or Transaction Document, then Customer will be invoiced for the overage in accordance with the overage rates specified in the applicable PoE or Transaction Document.

4. Account Creation and Access

When IBM SaaS Users register for an account ("Account"), IBM may provide the IBM SaaS User with an Account identification and password. Customer is responsible for ensuring that each IBM SaaS User manages and keeps their Account information current. At any time Customer may request that any Personal Data provided as part of registering for an Account or use of the IBM SaaS be corrected or removed from Account information and this information will be corrected or removed, but removal may prevent access to the IBM SaaS.

Customer is responsible for ensuring that each IBM SaaS User protects their Account identification and password and controls who may access an IBM SaaS User Account or use any IBM SaaS on Customer's behalf.

5. Renewal of a Subscription Period

5.1 Automatic Renewal of a Subscription Period

If Customer's PoE designates the subscription renewal as automatic, Customer may renew Customer's expiring IBM SaaS Subscription Period by written authorization to renew (e.g., order form, order letter, purchase order), prior to the expiration date, in accordance with the terms of the Agreement.

IF IBM DOES NOT RECEIVE SUCH AUTHORIZATION BY THE EXPIRATION DATE, THE EXPIRING IBM SaaS SUBSCRIPTION PERIOD IS AUTOMATICALLY RENEWED FOR EITHER A ONE YEAR TERM OR THE SAME DURATION AS THE ORIGINAL TERM UNLESS, PRIOR TO THE EXPIRATION DATE, IBM RECEIVES, EITHER DIRECTLY FROM CUSTOMER OR THROUGH CUSTOMER'S RESELLER, AS APPLICABLE, CUSTOMER'S WRITTEN NOTIFICATION THAT CUSTOMER DOES NOT WANT TO RENEW. OTHERWISE, CUSTOMER AGREES TO PAY SUCH RENEWAL CHARGES.

5.2 Continuous Billing

If Customer's PoE designates the subscription renewal as billing will continue following the end of the Subscription Period, Customer will continue to have access to the IBM SaaS and will be billed for usage of the IBM SaaS on a continuous billing basis. To discontinue use of the IBM SaaS and stop the continuous billing process, Customer must provide IBM with ninety (90) days written notice requesting cancellation of their IBM SaaS. Upon cancellation of Customer's access to the IBM SaaS, Customer will be billed for any outstanding access charges through the month in which the cancellation took effect.

5.3 Customer Renewal Required

If Customer's PoE designates the subscription renewal as one that terminates, the IBM SaaS offering will not renew at the end of the initial Subscription Period. In order to continue use of the IBM SaaS beyond the initial Subscription Period, Customer must obtain a new subscription for the IBM SaaS. Please contact an IBM sales representative or Customer's reseller, as applicable, to obtain a new IBM SaaS subscription.

6. Technical Support

Technical support for the IBM SaaS is available during the subscription period.

Email Support & SaaS Support Portal Hours of Operation are as follows:

8:00 a.m. – 8:00 p.m. Eastern Standard Time zone, U.S., Monday – Friday (excluding holidays)

Support Hotline: 1-855-221-1166 in the U.S.

Email: support@ibmserviceengage.com

After Hours & System Down Support:

After Hours & System Down Support is available only for Severity 1 issues on business days, weekends, and holidays.

S e v e r i t y	Severity Definition	Response Time Objectives	Response Time Coverage
1	Critical business impact/service down: Business critical functionality is inoperable or critical interface has failed. This usually applies to a production environment and indicates an inability to access services resulting in a critical impact on operations. This condition requires an immediate solution.	Within 1 hour	24x7
2	Significant business impact: A service business feature or function of the service is severely restricted in its use or you are in jeopardy of missing business deadlines.	Within 2 business hours	M-F business hours
3	Minor business impact: Indicates the service or functionality is usable and it is not a critical impact on operations.	Within 4 business hours	M-F business hours
4	Minimal business impact: An inquiry or non-technical request	Within 1 business day	M-F business hours

7. IBM SaaS Offering Additional Terms

7.1 Non-Production Limitation

If the IBM SaaS is designated as "Non-Production", the IBM SaaS can be used by Customer only for internal non-production activities, including testing, performance tuning, fault diagnosis, internal benchmarking, staging, quality assurance activity and/or developing internally-used additions or extensions to the IBM SaaS using published application programming interfaces. Customer is not authorized to use any part of the IBM SaaS for any other purpose without acquiring the appropriate production entitlements.

Customer must be entitled to the IBM SmartCloud Control Desk (SaaS) to obtain entitlements to Non-Production instance(s) of the IBM SaaS.

IBM SmartCloud Control Desk (SaaS) Non-Production instances do not include high availability or the same frequency of backup as provided with the production instance. For performance reasons, no more than 30 users can use the non-production Instance simultaneously in any manner directly or indirectly (for example: via a multiplexing program, device, or application server) through any means.

Each IBM SmartCloud Control Desk - (SaaS) Non-Production Capacity Add-On entitlement increases the size of one IBM SmartCloud Control Desk - (SaaS) Non Production instance to allow an additional 30 users to access the instance simultaneously. If Customer adds capacity to an IBM SmartCloud Control Desk (SaaS) Non-Production instance by purchasing the IBM SmartCloud Control Desk – (SaaS) Non-Production Capacity Add-On, that additional capacity cannot be re-assigned to another IBM SmartCloud Control Desk (SaaS) Non-Production instance at a later date.

7.2 Step up Limitation

The SmartCloud Control Desk (SaaS) Step-up for existing Customers ("Step-up SaaS") offering requires the Customer to have previously acquired appropriate license entitlements to the associated IBM program. The associated IBM program for this Step-up SaaS is IBM SmartCloud Control Desk. Customer's entitlements to the Step-up SaaS cannot exceed Customer's entitlements to the associated IBM program.

When acquiring Step-up SaaS, Customer may not use the same associated IBM program license entitlements within their on-premise installed environment as well as with the Step-up SaaS entitlements. For example, if Customer has 23 Authorized User entitlements to the associated IBM program and chooses to purchase 10 Step-up SaaS Authorized User entitlements, the 10 Step-up SaaS Authorized Users may only access the IBM SaaS environment and may no longer utilize the software installed on-premise. The Customer will then have 13 Authorized User entitlements available for continued use with their on-premise environment.

The Step-up SaaS does not include Subscription and Support for the associated IBM program. Customer represents they have acquired the applicable (1) license entitlements and (2) Subscription and Support for the associated IBM program. During the Subscription Period of the Step-up SaaS, Customer must maintain current Subscription and Support for the IBM program entitlements used in conjunction with the Step-up SaaS entitlements. In the event either Customer's license to use the associated IBM program or Customer's Subscription and Support for the associated IBM program is terminated, Customer's right to use the Step-Up SaaS will terminate.

7.3 Links to Third Party Websites or Other Services

If Customer or an IBM SaaS User transmits Content to a third party website or other service that is linked to or made accessible by the IBM SaaS, Customer and the IBM User provide IBM with the consent to enable any such transmission of Content, but such interaction is solely between Customer and the third party website or service. 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.

IBM Terms of Use

Part 2 – Country-unique Terms

The following terms replace or modify the referenced terms in Part 1. All terms in Part 1 that are not changed by these amendments remain unmodified and in effect. This Part 2 is comprised of amendments to this Terms of Use and is organized as follows:

- Americas country amendments;
- Asia Pacific country amendments; and
- Europe, Middle East, and Africa country amendments.

AMERICAS COUNTRY AMENDMENTS

BELIZE, COSTA RICA, DOMINICAN REPUBLIC, EL SALVADOR, HAITI, HONDURAS, GUATEMALA, NICARAGUA, AND PANAMA

5.1 Automatic Renewal of a Subscription Period

The following replaces the paragraph that begins "IF IBM DOES NOT RECEIVE SUCH AUTHORIZATION BY THE EXPIRATION DATE":

IBM will renew, for an additional payment, the expiring IBM SaaS Subscription Period for either a one year term or the same duration as the original term, if IBM or Customer's reseller receives (1) Customer's order to renew (e.g., order form, order letter, purchase order) prior to the expiration of the current Subscription Period or (2) Customer's payment within 30 days of Customer's receipt of the IBM SaaS invoice for the next term.

ARGENTINA, BRAZIL, CHILE, COLUMBIA, ECUADOR, MEXICO, PERU, URUGUAY, VENEZUELA

5.1 Automatic Renewal of a Subscription Period

Does not apply for Public Bodies who are subject to the applicable Public Sector Procurement Legislation.

BRAZIL

5.1 Automatic Renewal of a Subscription Period

The following is added after the second paragraph:

The transaction document will describe the process of the written communication to Customer containing the applicable price and other information for the renewal period.

UNITED STATES OF AMERICA

5.1 Automatic Renewal of a Subscription Period

The following sentence is added at the end of the paragraph that begins "IF IBM DOES NOT RECEIVE SUCH AUTHORIZATION BY THE EXPIRATION DATE" in 5.1 Automatic Renewal of a Subscription Period:

CUSTOMER MAY TERMINATE THE IBM SaaS AT ANY TIME AFTER THE END OF THE INITIAL SUBSCRIPTION PERIOD ON ONE MONTH'S WRITTEN NOTICE, EITHER DIRECTLY TO IBM OR THROUGH CUSTOMER'S IBM RESELLER, AS APPLICABLE, IF IBM HAS NOT RECEIVED CUSTOMER'S WRITTEN AUTHORIZATION (e.g., order form, order letter, purchase order) TO RENEW CUSTOMER'S EXPIRING IBM SaaS SUBSCRIPTION PERIOD. IN SUCH EVENT, CUSTOMER MAY OBTAIN A PRORATED REFUND.

ASIA PACIFIC COUNTRY AMENDMENTS

BANGLADESH, BHUTAN, AND NEPAL

5.1 Automatic Renewal of a Subscription Period

*The following replaces the paragraph that begins "**IF IBM DOES NOT RECEIVE SUCH AUTHORIZATION BY THE EXPIRATION DATE**" in 5.1 Automatic Renewal of a Subscription Period:*

IBM will renew, for an additional payment, the expiring IBM SaaS Subscription Period for either a one year term or the same duration as the original term, if IBM or Customer's reseller receives (1) Customer's order to renew (e.g., order form, order letter, purchase order) prior to the expiration of the current Subscription Period or (2) Customer's payment within 30 days of Customer's receipt of the IBM SaaS invoice for the next term.

EUROPE, MIDDLE EAST, AFRICA (EMEA) COUNTRY AMENDMENTS

BAHRAIN, KUWAIT, OMAN, QATAR, SAUDI ARABIA, AND UNITED ARAB EMIRATES

5.1 Automatic Renewal of a Subscription Period

*The following replaces the paragraph that begins "**IF IBM DOES NOT RECEIVE SUCH AUTHORIZATION BY THE EXPIRATION DATE**" in 5.1 Automatic Renewal of a Subscription Period:*

IBM will renew, for an additional payment, the expiring IBM SaaS Subscription Period for either a one year term or the same duration as the original term, if IBM or Customer's reseller receives (1) Customer's order to renew (e.g., order form, order letter, purchase order) prior to the expiration of the current Subscription Period or (2) Customer's payment within 30 days of Customer's receipt of the IBM SaaS invoice for the next term.

Appendix A

IBM SmartCloud Control Desk (SaaS) is a service management solution that includes or supports the following processes:

- a. Knowledge Management
- b. Service Asset & Configuration Management
- c. Service Catalog Management
- d. Change Management
- e. Release & Deployment Management
- f. Incident Management
- g. Financial Management
- h. Service Level Management
- i. Problem Management
- j. Request Fulfillment

In addition, IBM SmartCloud Control Desk (SaaS) is delivered with basic content covering reports, templates, user roles, and security groups, enables integrations for certain systems, and provides tools to help support application configuration and custom report definition.