



IBM Terms of Use – SaaS Specific Offering Terms

IBM Application Performance Management

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/slabd.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 Monitoring (SaaS)
- IBM Application Diagnostics (SaaS)
- IBM Monitoring (SaaS) Step up for existing IBM Tivoli Monitoring Customers
- IBM Monitoring (SaaS) Step up for existing IBM Tivoli Monitoring for Virtual Environments Customers
- IBM Monitoring (SaaS) Step up for existing IBM SmartCloud Monitoring Customers
- IBM Monitoring (SaaS) Step up for existing IBM Tivoli Composite Application Manager for Microsoft Applications Customers
- IBM Monitoring (SaaS) Step up for existing IBM SmartCloud Application Performance Management Entry Customers
- IBM Application Diagnostics (SaaS) Step up for existing IBM Tivoli Composite Application Manager for Application Diagnostics Customers
- IBM Application Diagnostics (SaaS) Step up for existing IBM Application Performance Diagnostics Customers

2. Charge Metrics

The IBM SaaS is sold under the following charge metric(s):

- a. Average Managed Virtual Server is a unit of measure by which the IBM SaaS can be obtained. A server is a physical computer that is comprised of processing units, memory, and input/output capabilities and that executes requested procedures, commands, or applications for one or more users or client devices. Where racks, blade enclosures, or other similar equipment is being employed, each separable physical device (for example, a blade or a rack-mounted device) that has the required components is considered itself a separate server. A Virtual Server is either a virtual computer created by partitioning the resources available to a physical server or an unpartitioned physical server. Sufficient Average Managed Virtual Server entitlements must be obtained to cover the average number of Virtual Servers managed by the IBM SaaS 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 Step up Limitation

For IBM SaaS offerings designated as "Step-up for existing Customers" ("Step-up SaaS"), customer must have previously acquired appropriate license entitlements to the associated IBM program as identified in the name of the Step-up SaaS offering. For example, Customer who purchases IBM Monitoring (SaaS) Step up for existing IBM Tivoli Monitoring Customers must have licensed entitlements to the associated IBM program of IBM Tivoli Monitoring. 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 Managed Virtual Server entitlements to the associated IBM program and chooses to purchase 10 Step-up SaaS Average Managed Virtual Server entitlements, Customer can monitor 10 Step-up SaaS Average Managed Virtual Servers from the IBM SaaS environment and 13 Managed Virtual Servers from the software installed on-premise.

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(s). 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(s) or Customer's Subscription and Support for the associated IBM program(s) is terminated, Customer's right to use the Step-Up SaaS will terminate.

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

1. IBM Monitoring (SaaS)

The IBM Monitoring (SaaS) provides end-user experience and resource monitoring to alert users to problems with applications and help resolve them quickly and efficiently.

Entry users have the following capabilities:

- IBM Application Performance Management UI (APM UI) allows users to view the health of applications and drill down to see more details such as related events and KPIs for the components associated with that application.
- Automatically discovers and defines application structure, which can be modified or removed.
- Installs and configures agents automatically, with little to no manual intervention required.
- Allows users to identify real end user experience for the application with response time broken down across components.
- Allows users to see key health metrics for all monitored resources.
- Allows users to create and modify thresholds to visually identify issues and receive alerts.

2. IBM Application Diagnostics (SaaS)

The IBM Application Diagnostics (SaaS) provides deep diagnostic information to pinpoint the root cause of application performance issues, so they can be resolved quickly.

Diagnostics users have the following capabilities:

- IBM Application Performance Management UI (APM UI) allows users to view the health of applications and drill down to see more details such as related events and KPIs for the components associated with that application.
- Automatically discovers and defines application structure, which can be modified or removed.
- Installs and configures agents automatically, with little to no manual intervention required.
- Allows users to see key health metrics for their application servers.
- Breaks performance down to the code level and includes key diagnostic information such as context data and stack traces.