



IBM Terms of Use – SaaS Specific Offering Terms

IBM Kenexa Survey Advantage on Cloud

IBM Kenexa Survey Advantage Entry on Cloud

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/. In the event of a conflict, the SaaS Specific Offering Terms prevail over the General Terms. By ordering, accessing or using the IBM SaaS, Customer agrees to the ToU.

1. IBM SaaS

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

- IBM Kenexa Survey Advantage on Cloud
- IBM Kenexa Survey Advantage on Cloud Additional Demographic
- IBM Kenexa Survey Advantage on Cloud Additional Demographic Response
- IBM Kenexa Survey Advantage on Cloud Additional Reporting Login
- IBM Kenexa Survey Advantage on Cloud Additional Open-Ended Comment Item
- IBM Kenexa Survey Advantage on Cloud Additional Scaled Survey Item
- IBM Kenexa Survey Advantage on Cloud Additional Language
- IBM Kenexa Survey Advantage on Cloud Additional Standard Norm
- IBM Kenexa Survey Advantage on Cloud Action Planning Feature
- IBM Kenexa Survey Advantage on Cloud Executive Summary
- IBM Kenexa Survey Advantage on Cloud Raw Data Extraction
- IBM Kenexa Survey Advantage on Cloud Participant Selected Demographics
- IBM Kenexa Survey Advantage on Cloud Pre-populated Demographics
- IBM Kenexa Survey Advantage on Cloud Pre-populated Participant Demographics
- IBM Kenexa Survey Advantage on Cloud Survey Champions Coaching
- IBM Kenexa Survey Advantage on Cloud Dashboard Report Generation
- IBM Kenexa Survey Advantage on Cloud Custom Benchmark
- IBM Kenexa Survey Advantage Entry on Cloud
- IBM Kenexa Survey Advantage Entry on Cloud Additional Language
- IBM Kenexa Survey Advantage Entry on Cloud Participant Selected Demographics
- IBM Kenexa Survey Advantage Entry on Cloud Dashboard Report Generation

2. Charge Metrics

The IBM SaaS is sold under one of the following charge metric(s) as specified in the Transaction Document:

- a. “Access” is a unit of measure by which the IBM SaaS may be obtained. An Access is the rights to use the IBM SaaS. Customer must obtain a single Access entitlement in order to use the IBM SaaS during the measurement period specified in Customer’s Proof of Entitlement (PoE) or Transaction Document.
- b. “Eligible Participant” is a unit of measure by which the IBM SaaS can be obtained. An Eligible Participant is a unique person employed in Customer’s Enterprise, whether or not given access to the IBM SaaS, or a unique person otherwise paid by or acting on behalf of Customer’s Enterprise who is given access to the IBM SaaS. Sufficient entitlements must be obtained to cover the number of Eligible Participants of Customer’s Enterprise during the measurement period specified in Customer’s Proof of Entitlement (PoE) or Transaction Document.

- c. "Engagement" is a unit of measure by which the services can be obtained. An Engagement consists of professional and/or training services related to the IBM SaaS. Sufficient entitlements must be obtained to cover each Engagement.

3. Charges and Billing

The amount payable for the IBM SaaS is specified in a Transaction Document.

3.1 Set-Up

Set-up charges will be specified in a Transaction Document.

3.2 On-Demand

On-Demand options will be invoiced in the month the on-demand option is ordered by Customer at the rate set forth in the Transaction Document.

3.3 Overages

If Customer's actual usage of the IBM SaaS during the measurement period exceeds the entitlement stated on the PoE, then Customer will be invoiced for the overage, as set forth in the Transaction Document.

4. IBM SaaS Subscription Period Renewal Options

Customer's PoE will set forth whether the IBM SaaS will renew at the end of the Subscription Period, by designating one of the following:

4.1 Automatic Renewal

If Customer's PoE states that Customer's renewal is automatic, Customer may terminate the expiring IBM SaaS Subscription Period by written request to Customer's IBM sales representative or IBM Business Partner, at least ninety (90) days prior to the expiration date as set forth in the PoE. If IBM or its IBM Business Partner does not receive such termination notice by the expiration date, the expiring Subscription Period will be automatically renewed for either one year or the same duration as the original Subscription Period as set forth in the PoE.

4.2 Continuous Billing

When the PoE states that Customer's renewal is continuous, Customer will continue to have access to the IBM SaaS and will be billed for the usage of the IBM SaaS on a continuous basis. To discontinue use of the IBM SaaS and stop the continuous billing process, Customer will need to provide IBM or its IBM Business Partner with ninety (90) days written notice requesting that Customer's IBM SaaS be cancelled. Upon cancellation of Customer's access, Customer will be billed for any outstanding access charges through the month in which the cancellation took effect.

4.3 Renewal Required

When the PoE states that Customer's renewal type is "terminate", the IBM SaaS will terminate at the end of the Subscription Period and Customer's access to the IBM SaaS will be removed. To continue to use the IBM SaaS beyond the end date, Customer will need to place an order with Customer's IBM sales representative or IBM Business Partner to purchase a new Subscription Period.

5. Technical Support

Baseline Customer support is provided with the IBM SaaS offering and Enabling Software, as applicable, during the Subscription Period. The technical and Customer support available is detailed at:

www.ibm.com/software/support/kenexa/supportusv.html.

6. IBM SaaS Offering Additional Terms

6.1 Safe Harbor Certification

IBM abides by the U.S. - EU Safe Harbor Framework as set forth by the United States Department of Commerce regarding the collection, use and retention of information collected from the European Union. For more information about Safe Harbor or to access IBM's certification statement, go to

<http://www.export.gov/safeharbor/>.

6.2 Normative Data Rights

Notwithstanding anything to the contrary, for normative research, analyses, and reporting purposes only, IBM may retain and use the Customer content provided to IBM under this ToU in aggregated, anonymous

format (i.e., so that Customer cannot be identified as the source of the confidential information and so that personally identifiable information allowing the identification of individual employees and/or applicants is removed). The provisions of this section will survive the termination or expiration of the transaction.

6.3 Return or Removal of Customer Data

Upon Customer's written request following termination or expiry of either the ToU or the Agreement, IBM, subject to its backup and retention policies, will delete or return to Customer all Personal Data made available to the IBM SaaS.

6.4 Data Collection

Customer agrees that IBM may use cookies and tracking technologies to collect personally identifiable information in gathering usage statistics and information designed to help improve user experience and/or to tailor interactions with users in accordance with <http://www-01.ibm.com/software/info/product-privacy/index.html>. Where required by applicable law, Customer has notified the users and obtained their consent to do all of the above.

6.5 Data Processing

For transactions performed in all EU Member States, Iceland, Liechtenstein, Norway and Switzerland, the following terms apply:

US Hosted: Customer agrees that IBM may process Content including any Personal Data across a country border to the following countries: Australia, Brazil, Canada, England, Finland, France, Germany, Hong Kong, India, Ireland, Japan, New Zealand, Singapore, South Africa, Sweden, UAE, and the USA.

EU Hosted: Customer agrees that IBM may process Content including any Personal Data across a country border to the following countries: Australia, Brazil, Canada, England, Finland, France, Germany, Hong Kong, India, Ireland, Japan, New Zealand, Singapore, South Africa, Sweden, UAE, and the USA.

New Zealand Hosted: Customer agrees that IBM may process Content including any Personal Data across a country border to the following countries: New Zealand, Australia, and China.

Customer agrees that IBM may, on notice, vary this list of country locations when it reasonably determines it necessary for the provision of the Cloud Services.

When IBM's US-EU and Swiss-EU Safe Harbor Frameworks do not apply to a transfer of EEA or Swiss Personal Data, the parties or their relevant affiliates may enter into separate standard unmodified EU Model Clause agreements in their corresponding roles pursuant to EC Decision 2010/87/EU with optional clauses removed. All disputes or liability arising under these agreements, even if entered into by affiliates, will be treated by the parties as if the dispute or liability arose between them under the terms of this Agreement.

6.6 Derived Benefit Locations

Where applicable, taxes are based upon the location(s) Customer identifies as receiving benefit of the IBM SaaS. IBM will apply taxes based upon the business address listed when ordering an IBM SaaS as the primary benefit location unless Customer provides additional information to IBM. Customer is responsible for keeping such information current and providing any changes to IBM.

Appendix A

IBM Kenexa Survey Advantage on Cloud is a SaaS solution that allows the Customer to survey up to 10,000 of its employees.

IBM Kenexa Survey Advantage on Cloud

IBM Kenexa Survey Advantage on Cloud provides the following:

- provisioning of the services for implementation of 1 survey (set up survey questionnaire, administer survey, provide instructions on use of the reporting site) for each 12 month period of the contract term;
- IBM's core 38 engagement survey items (standard survey content required);
- up to 10 additional items from IBM's supplemental bank and/or custom client items;
- up to 2 open-ended comment questions;
- up to 5 participant selected demographic questions with up to 15 response options each;
- customized survey welcome letter;
- web survey administration in 1 language (based on the then-current list of available languages);
- 1 paper survey in PDF format in 1 language for Customer data entry;
- generic survey access (all users access using the same Internet address (called "URL"));
- 1 communication template providing Customer examples of how to speak with employees about the survey and promote it;
- a single shared access to all survey results reporting;
- data access that includes demographic analysis of response numbers, survey sections, and survey questions, identification of highest and lowest scoring survey items, engagement analysis to include key driver analysis (identifies the top ten correlates to the employee engagement index), verbatim comments, consolidated report to include capability to create reports in Excel and PDF format, and custom report wizard;
- IBM Kenexa's overall benchmark (average of similar surveys across many organizations) to allow Customer to compare their survey scores to the scores of other organizations using the core 38 engagement survey items;
- 3 Manager's Guides in English that separately address i) survey report interpretation, ii) survey feedback meetings, and iii) survey action planning;
- 1 Word document in English containing focused listening questions and sample action steps;
- data delivery and storage during the Subscription Period and for up to 1 year after delivery of data for the last survey;
- mapping of historical non-third-party survey data available (after the first survey administration) with continuous SaaS subscription; and
- email support for survey participants in English during the survey administration period.

Optional Offerings:

- IBM Kenexa Survey Advantage on Cloud Additional Demographic – one additional demographic included on the survey above the 5 demographics included in the base. Each additional demographic may include up to 15 response options.
- IBM Kenexa Survey Advantage on Cloud Additional Demographic Response – one additional response option included for a demographic above the 15 response options included in the base for each demographic.
- IBM Kenexa Survey Advantage on Cloud Additional Open-Ended Comment Item – one additional comment item included on the survey above the 2 open-ended comment items included in the base.

- IBM Kenexa Survey Advantage on Cloud Additional Scaled Survey Item – an additional item included on the survey (above the core 38 engagement survey items and 10 additional items) that uses a response scale of “Strongly Disagree, Disagree, Neutral, Agree, Strongly Agree, Don’t Know”.
- IBM Kenexa Survey Advantage on Cloud Additional Language – the provisioning of the survey items (core 38 engagement survey items and IBM supplemental items) and standard text in a language in addition to the one language included in the base.
- IBM Kenexa Survey Advantage on Cloud Participant Selected Demographics – an administration method of the survey where participants receive an email invitation to participate in the survey using a unique survey URL and make demographic selections on the survey. Customer must provide an Excel or tab-delimited text file with first name, last name, email address, and a unique identifier for each participant.
- IBM Kenexa Survey Advantage on Cloud Pre-Populated Demographics – an administration method of the survey where participants receive an email invitation to participate in the survey using a unique survey URL and demographics are pre-populated for each participant and the demographic section of the survey is hidden from participant view. Customer must provide an Excel or tab-delimited text file with first name, last name, email address, a unique identifier, and demographic information for each participant.
- IBM Kenexa Survey Advantage on Cloud Pre-Populated Participant Demographics – an administration method of the IBM Kenexa Survey Advantage on Cloud Pre-Populated Demographics offering where Eligible Participants access the survey by entering a username and password that is supplied by Customer. Participants will receive the website URL, username, password login and organization information directly from Customer.
- IBM Kenexa Survey Advantage on Cloud Additional Reporting Login – a reporting login above the single shared access login included in the base. Each reporting login will have unique credentials to the IBM data reporting website and may have limited access to report data.
- IBM Kenexa Survey Advantage on Cloud Dashboard Report Generation – the capability to produce a PowerPoint report that summarizes data (response numbers, employee engagement index, performance enablement index and key drivers of engagement) from the IBM data reporting website. Up to three data groups may be selected to appear on the dashboard report.
- IBM Kenexa Survey Advantage on Cloud Additional Standard Norm – a level of normative data provided in addition to IBM Kenexa’s overall benchmark. This feature allows Customer to compare their survey scores to scores of organizations in a higher benchmark of either the IBM Kenexa 75th percentile benchmark or the IBM Kenexa 90th percentile benchmark.
- IBM Kenexa Survey Advantage on Cloud Action Planning Feature – a tool for users (such as human resources) to record and track action planning information. Users can access action plans at any time to update information. A summary of all action plans entered by a user can be downloaded in an Excel report.
- IBM Kenexa Survey Advantage on Cloud Executive Summary – IBM will develop a PowerPoint presentation designed to provide meaningful insight and directive action in addition to summarizing survey data. This summary is designed for executive level Customer officers as well as key human resources personnel.
- IBM Kenexa Survey Advantage on Cloud Survey Champions Coaching – IBM will conduct a telephone conference workshop after the survey ends, for up to 20 of Customer’s managers, for up to two hours. The workshop is designed to help the Customer: 1) gain an understanding of survey data, 2) review survey data with work groups, and 3) take action on survey results.
- IBM Kenexa Survey Advantage on Cloud Raw Data Extraction – IBM will create an Excel file containing raw data (participant responses) from the survey. The Excel file is designed to include survey answer data and question codes and question text from the survey. Questions with scaled responses are reported as numeric values. Questions with free-text entry are reported verbatim. Demographic items are reported as text. Personally identifiable information is not included in the raw data.
- IBM Kenexa Survey Advantage on Cloud Custom Benchmark – IBM will create one benchmark (average of similar surveys across many organizations) defined by Industry, Country, or Region (Region may include up to 10 Countries and will be reported as a single score for each item) to

allow Customer to compare their survey scores to the scores of other organizations using the core 38 engagement survey items.

IBM Kenexa Survey Advantage Entry on Cloud

IBM Kenexa Survey Advantage Entry on Cloud provides the base functionality as IBM Kenexa Survey Advantage on Cloud described above, except:

- a. the following are not included:
 - (1) IBM Kenexa's overall benchmark;
 - (2) 3 Manager's Guides in English that separately address i) survey report interpretation, ii) survey feedback meetings, and iii) survey action planning;
 - (3) 1 Word document in English containing focused listening questions and sample action steps in English; and
 - (4) 1 communication template providing Customer examples of how to speak with employees about the survey and promote it; and
- b. optional offerings are limited to those described below.

Optional Offerings:

- IBM Kenexa Survey Advantage Entry on Cloud Additional Language - the provisioning of the survey items (core 38 engagement survey items and IBM supplemental items) and standard text in a language in addition to the one language included in the base.
- IBM Kenexa Survey Advantage Entry on Cloud Participant Selected Demographics – IBM will provide an administration method of the survey where participants receive an email invitation to the survey with a unique survey URL and make demographic selections on the survey. Customer must provide an Excel or tab-delimited text file with first name, last name, email address, and a unique identifier for each participant.
- IBM Kenexa Survey Advantage Entry on Cloud Dashboard Report Generation – the capability to produce a PowerPoint report that summarizes data (response numbers, employee engagement index, performance enablement index and key drivers of engagement) from the IBM data reporting website. Up to 3 data groups may be selected to appear on the dashboard report.