



# IBM Terms of Use – SaaS Specific Offering Terms

## IBM PureApplication Service Infrastructure

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/](http://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.

The ToU is governed by 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.

### 1. IBM SaaS

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

- IBM PureApplication Service C500-4-24 (4 core 24 GB) Infrastructure Instance
- IBM PureApplication Service C500-8-128 (8 core 128 GB) Infrastructure Instance
- IBM PureApplication Service C500-16-256 (16 core 256 GB) Infrastructure Instance
- IBM PureApplication Service Storage Expansion 1 TB
- IBM PureApplication Service C500-4-24 (4 core 24 GB) Platform and Infrastructure Instance
- IBM PureApplication Service C500-8-128 (8 core 128 GB) Platform and Infrastructure Instance
- IBM PureApplication Service C500-16-256 (16 core 256 GB) Platform and Infrastructure Instance

### 2. Charge Metrics

The IBM SaaS is sold under the following charge metric as specified in the Transaction Document:

- a. 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

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

#### 3.1 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.

### 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 thirty (30) 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 thirty (30) 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

Technical support is provided for the IBM SaaS offering and Enabling Software, as applicable, during the Subscription Period. Such technical support is included with the IBM SaaS and is not available as a separate offering.

Technical Support information can be found at the following URL:

[http://www.ibm.com/support/entry/portal/product/puresystems/pureapplication\\_service](http://www.ibm.com/support/entry/portal/product/puresystems/pureapplication_service)

## 6. IBM SaaS Offering Additional Terms

### 6.1 Data Collection

Customer is aware and agrees that IBM may, as part of the normal operation and support of the IBM SaaS, collect personal information from Customer (your employees and contractors) related to the use of the IBM SaaS, through tracking and other technologies. IBM does so to gather usage statistics and information about effectiveness of our IBM SaaS for the purpose of improving user experience and/or tailoring interactions with Customer. Customer confirms that it will obtain or have obtained consent to allow IBM to process the collected personal information for the above purpose within IBM, other IBM companies and their subcontractors, wherever we and our subcontractors do business, in compliance with applicable law. IBM will comply with requests from Customer's employees and contractors to access, update, correct or delete their collected personal information.

### 6.2 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.

## 7. Customer's Obligations

### 7.1 Associated Program Entitlements

Customers who acquire subscription entitlements to the following IBM SaaS offerings:

- IBM PureApplication Service C500-4-24 (4 core 24 GB) Infrastructure Instance
- IBM PureApplication Service C500-8-128 (8 core 128 GB) Infrastructure Instance, or
- IBM PureApplication Service C500-16-256 (16 core 256 GB) Infrastructure Instance

which will be referred to as "Infrastructure Parts", are required to have previously acquired license entitlements to an Associated IBM Program. The Associated IBM Program is licensed on a Processor Value Unit (PVU) basis as defined in the corresponding program license. The Associated IBM Program may be either:

- a. IBM PureApplication Software, or
- b. IBM PureApplication Service Platform.

Customer's entitlements to the Infrastructure Parts cannot exceed Customer's entitlements to the Associated IBM Program pursuant to the PVU conversion rating set forth in the table below.

Customer may not use the same Associated IBM Program entitlements within their on-premise installed environment when using these entitlements with the Infrastructure Parts.

#### PVU Rating of Infrastructure Parts

PureApplication Service Infrastructure Part	Associated IBM Program PVU Rating
PureApplication Service C500-4-24 (4 core 24 GB) Infrastructure Instance	280 PVU
PureApplication Service C500-8-128 (8 core 128 GB) Infrastructure Instance,	560 PVU
PureApplication Service C500-16-256 (16 core 256 GB) Infrastructure Instance	1120 PVU

For example, if the Customer has purchased:

- 2 instances of PureApplication Service C500-4-24 (4 core 24 GB) Infrastructure Instance and

- 3 instances of PureApplication Service C500-16-256 (16 core 256 GB) Infrastructure Instance

Based on the information from the table above, the total PVU capacity of this SaaS environment is 3920 PVUs calculated as: (2 x 280 PVUs) + (3 x 1120 PVUs).

Customer must allocate 3920 PVU entitlements from either of their Associated IBM Program entitlements to use with the Infrastructure Parts. Customer may not use these 3920 PVUs of entitlement within their on-premise environment for the duration of the Subscription Period. Should Customer no longer be entitled to the Infrastructure Parts, Customer may resume use of the previously allocated PVUs within their on-premise environment.

The Infrastructure Parts do 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 Infrastructure Parts, Customer must maintain current Subscription and Support for the Associated IBM Program. 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 Infrastructure Parts will terminate.

The following IBM SaaS offerings do not require entitlement to the Associated IBM Programs noted above:

- PureApplication Service C500-4-24 (4 core 24 GB) Platform and Infrastructure Instance
- PureApplication Service C500-8-128 (8 core 128 GB) Platform and Infrastructure Instance, or
- PureApplication Service C500-16-256 (16 core 256 GB) Platform and Infrastructure Instance

## 7.2 Bring Your Own Software and License (BYOSL) Requirements

Customers are required to bring sufficient software license entitlements (Entitlements) to Eligible Products uploaded to and used in the IBM SaaS.

When a Customer uses Entitlements for an Eligible Product under BYOSL with this IBM SaaS offering, those Entitlements are dedicated to the IBM SaaS Instance and Customer may not use such Entitlements to the Eligible Product outside the IBM SaaS at the same time.

Customer's PoE for the Eligible Product designates the available level of authorized use that may be used within the IBM SaaS. Customer may not exceed their available level of authorized use for each Eligible Product uploaded to the IBM SaaS.

Eligible Products available for use with the IBM SaaS offering may be licensed on a PVU or Virtual Server basis. Such Eligible Products are specifically designed for use with IBM Pure Application on-premise products and may also be used with this IBM SaaS offering.

For Eligible Products licensed by PVUs, please reference the table titled PVU Requirements for BYOSL for Eligible Product PVU Entitlements required for each IBM SaaS server type.

### PVU Requirements for BYOSL

IBM SaaS Offering	Eligible Product PVU's Required
PureApplication Service C500-4-24 (4 core 24 GB) Infrastructure Instance	280 PVU
PureApplication Service C500-4-24 (4 core 24 GB) Platform and Infrastructure Instance	280 PVU
PureApplication Service C500-8-128 (8 core 128 GB) Infrastructure Instance	560 PVU
PureApplication Service C500-8-128 (8 core 128 GB) Platform and Infrastructure Instance	560 PVU
PureApplication Service C500-16-256 (16 core 256 GB) Infrastructure Instance	1120 PVU
PureApplication Service C500-16-256 (16 core 256 GB) Platform and Infrastructure Instance	1120 PVU

For Eligible Products licensed on a Virtual Server basis, Customer must comply with the Virtual Server license terms as defined in the applicable Eligible Product license.

### 7.3 Eligible Product Use, Entitlement Tracking Requirements, and Conditions

Customer is responsible for remaining in compliance with all terms of the applicable International Passport Advantage Agreement or International Passport Advantage Express Agreement related to Entitlements and entitlement tracking requirements below.

For Eligible Products managed and deployed through the IBM IBM SaaS, Customers must use the license management capability in the IBM SaaS by:

- a. entering an accurate number of Entitlements being allocated to each IBM SaaS Instance.
- b. ensuring part number information is included and tracked for any Eligible Product added to the IBM SaaS environment by updating pattern metadata when installing additional an Eligible Product into a pattern. The IBM SaaS must be enabled to track the additional Eligible Product. Please refer to IBM SaaS [documentation](#) for additional information.
- c. Customer acknowledges that the compliance verification terms in the applicable IBM Program license agreement extends to the IBM SaaS offerings on which your Eligible Product Entitlements are deployed. By using the IBM SaaS offering, Customer agrees to provide IBM with administrative access to such environment and permit IBM to conduct data discovery as may be necessary in connection with a software license review.
- d. Provided Customer complies with the Eligible Product license and use conditions for the IBM SaaS, these terms will supersede any conflicting terms regarding eligibility and usage reporting for Sub-Capacity Licensing as specified in the International Passport Advantage Agreement or the International Passport Advantage Express Agreement.

### Appendix A

IBM PureApplication Service provides a way for clients to run patterns, in a dedicated off-premise cloud infrastructure.

A pattern is an application blueprint, a pre-defined architecture of an application that is captured in a form that can be easily deployed into PureApplication cloud infrastructure.

Patterns developed for deployment into IBM PureApplication System models W1500 and W2500 will deploy into the PureApplication Service. Patterns developed for deployment into IBM PureApplication Service will deploy into IBM PureApplication System models W1500 and W2500.

PureApplication Service provides the Image Construction and Composition Tool and Plugin Development Kit for creating custom patterns that can be deployed into both PureApplication Service and PureApplication System cloud infrastructure.

PureApplication Service will provide facilities for importing patterns into and exporting patterns from the PureApplication Service environment.

PureApplication Service includes facilities to enable users to monitor and manage software licenses in order to stay compliant with license management requirements.

Upon service provisioning, the service user (as identified in the provisioning form) will be provided an ip address or URL and user credentials (user id and password) through which the user can get access to the service.



**Appendix B**

IBM provides the following availability service level agreement (“SLA”) for the IBM SaaS and is applicable if specified in Customer’s Proof of Entitlement (PoE) or Transaction Document:

The version of this SLA that is current at the commencement or renewal of the term of Customer’s subscription will apply. Customer understands that the SLA does not constitute a warranty to you.

**1. Definitions**

- a. "Availability Credit" means the remedy IBM will provide for a validated Claim. The Availability Credit will be applied in the form of a credit or discount against a future invoice of subscription charges for the IBM SaaS.
- b. "Claim" means a claim Customer submits to IBM that an SLA has not been met during a Contracted Month.
- c. "Contracted Month" means each full month during the term of the IBM SaaS measured from 12:00 a.m. Eastern US time on the first day of the month through 11:59 p.m. Eastern US time on the last day of the month.
- d. "Downtime" means a period of time during which production system processing for the IBM SaaS has stopped and Customer’s users are unable to use all aspects of the IBM SaaS for which they have permissions. Downtime does not include the period of time when the IBM SaaS is not available because of:
  - A scheduled or announced maintenance outage;
  - Events or causes beyond IBM’s control (e.g., natural disaster, internet outages, emergency maintenance, etc.);
  - Problems with Customer’s or a third party’s applications, equipment, or data;
  - Customer’s failure to adhere to required system configurations and supported platforms for accessing the IBM SaaS; or
  - IBM’s compliance with any designs, specifications, or instructions provided to IBM by Customer or a third party on Customer’s behalf.
- e. "Event" means a circumstance or set of circumstances taken together, resulting in a failure to meet an SLA.

**2. Availability Credits**

- a. To submit a Claim, Customer must log a Severity 1 support ticket for each Event with the IBM technical support help desk, within 24 hours of Customer first becoming aware that the Event has impacted Customer’s use of the IBM SaaS. Customer must provide all necessary information about the Event and reasonably assist IBM with the diagnosis and resolution of the Event.
- b. Customer must submit the Claim for an Availability Credit no later than three (3) business days after the end of the Contracted Month in which the Claim arose.
- c. Availability Credits are based on the duration of the Downtime measured from the time Customer reports that Customer was first impacted by the Downtime for a unique instance of the IBM SaaS in a specific datacenter. For each valid Claim, IBM will apply the highest applicable Availability Credit based on the achieved SLA during each Contracted Month, as shown in the table below. IBM will not be liable for multiple Availability Credits for the same Event in the same Contracted Month.
- d. If Customer purchased the IBM SaaS from a valid IBM reseller in a remarketing transaction in which IBM maintains primary responsibility for fulfilling the IBM SaaS and SLA commitments, the Availability Credit will be based on the then-current Relationship Suggested Value Price (RSVP) for the IBM SaaS in effect for the Contracted Month which is the subject of a Claim, discounted at a rate of 50%.
- e. The total Availability Credits awarded with respect to any Contracted Month shall not, under any circumstance, exceed ten percent (10%) of one twelfth (1/12th) of the annual charge paid by Customer to IBM for the IBM SaaS for a specific instance of the IBM SaaS. Availability Credits are not awarded on the full invoice value of the IBM SaaS subscription, but rather on the value of the specific instance or instances for which the Downtime occurred.

**3. Service Levels**

Availability of the IBM SaaS during a Contracted Month is as follows:

<b>Availability during a Contracted Month</b>	<b>Availability Credit (% of Monthly Subscription Fee for Contracted Month which is the subject of a Claim)</b>
---	---

< 99.9%	2%
< 95.0%	5%
< 90.0%	10%

Availability, expressed as a percentage, is calculated as: (a) the total number of minutes in a Contracted Month, minus (b) the total number of minutes of Downtime in a Contracted Month, divided by (c) the total number of minutes in a Contracted Month.

Example: 50 minutes total Downtime during Contracted Month

43,200 total minutes in a 30 day Contracted Month -- 50 minutes Downtime = 43,150 minutes <hr/> 43,200 total minutes	= 2% Availability Credit for 99.8% Achieved Service Level during the Contracted Month
--	--

#### 4. Exclusions

This SLA is made available only to IBM Customers. This SLA does not apply to the following:

- Beta and trial services.
- Claims made by Customer's users, guests, participants and permitted invitees of the IBM SaaS.
- Items not managed by the IBM SaaS offering, including:
  - (1) Virtual machines deployed in the IBM SaaS offering.
  - (2) Pre-entitled Shared Services. Shared Services are predefined patterns deployed by Customer and shared by multiple application deployments in the IBM SaaS offering, including virtual applications, virtual systems, and virtual appliances. Shared Services are available for deployment as part of the IBM SaaS offering.