



## IBM Terms of Use – SaaS Specific Offering Terms

### IBM Tealeaf Customer Behavior Analytics 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/slabd.nsf/sla/tou-gen-terms/](http://www.ibm.com/software/sla/slabd.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 Tealeaf CX on Cloud
- IBM Tealeaf CX on Cloud Reporting Data Retention Extension
- IBM Tealeaf CX on Cloud Capture Data Retention Extension

#### 2. Charge Metrics

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

- a. Million Interactions (MIs) is a unit of measure by which IBM SaaS can be obtained. An Interaction is a digital interaction with an application captured by the IBM SaaS, either at the network level (e.g., a request and response pair (“Hit”) over http or https) or otherwise. Sufficient MI entitlements must be obtained to cover the number of Interactions processed during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- b. 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 Partial Month Charges

The partial month charge is a pro-rated daily rate that will be charged to Customer and included in the first invoice. 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.

##### 3.2 Overage Charges

If Customer's actual usage of the IBM SaaS in any quarter (based on a calendar year beginning January 1) exceeds three (3) times 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. If Customer is provisioned within a given quarter, overage will be prorated accordingly.

#### 4. Remote Services (Human Based) Charges

Remote Services are acquired under the Engagement charge metric and will be billed at the rate specified in the Transaction Document.

##### 4.1 IBM Tealeaf CX on Cloud Onboarding Service

This onboarding service provides the following remote consulting, product training, and configuration for onboarding the Customer to IBM Tealeaf CX on Cloud based on the allocation of remotely delivered services listed below:

Provides up to 24 hours of services to assist Customer with the implementation and instrumentation of the Tealeaf software development kit (SDK).

Provides up to 24 hours of training to educate Customer on general product information and overall usage.

The IBM Tealeaf CX on Cloud Onboarding Service is purchased per Engagement with one engagement per Customer. The Remote Service expires 90 days from the date Customer is notified by IBM that access to the IBM SaaS is available regardless of whether all hours have been used.

## **5. 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:

### **5.1 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.

### **5.2 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.

### **5.3 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.

## **6. 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-01.ibm.com/software/support/handbook.html>

Additional support materials are available inside the IBM Client Success Portal at <http://support.ibmcloud.com/>.

## **7. IBM SaaS Offering Additional Terms**

### **7.1 Safe Harbor Compliance**

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/>.

### **7.2 Cookies**

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.

### **7.3 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

### 1. IBM Tealeaf CX on Cloud

IBM Tealeaf CX on Cloud is a SaaS based analytics solution specifically for native mobile and mobile web applications. The solution is designed to help customers understand and improve the overall end user experience by analyzing behavioral problems from large and complex data sets. Data including application interactions, device information, and user context will be captured and sent to the IBM hosted environment. IBM Tealeaf CX on Cloud comes with numerous “out of the box” reports, and dashboards that allow the customer to consume their results nearly immediately. In addition to the predefined reports and dashboards, users can customize both reports and dashboards to meet more specific analytic needs.

IBM Tealeaf CX on Cloud base package includes the following:

#### 1.1 Application Profiles

Included in the subscription fee is the ability to configure up to 10 Application Profiles. An Application Profile is a reporting entity with associated permissions assignable to the user. Typically an Application Profile has a one-to-one mapping with a single application or website. Please consult with the IBM Tealeaf Lab Services team if you wish to combine multiple application(s) and/or website(s) into a single Application Profile for reporting purposes.

The first Application Profile will be configured by IBM and available when the IBM SaaS is provisioned. If more than 10 Application Profiles are needed, a request can be submitted to IBM Support and agreed to by IBM and the Customer. Additional Application Profiles will not be unreasonably withheld.

#### 1.2 Data Retention Periods

Also included in the subscription fee for this IBM SaaS are the following data retention periods. All data is stored and removed based on a rolling window of time which is built around the concept of first in, first out. Data is stored for a set amount of time and is then discarded as the specified time window expires. Rolling windows begin as soon as data starts flowing into the system and is updated daily.

- a. 12 months of rolling Reporting Data. Reporting Data is defined as metric and dimensions associated with the reports and dashboards in the IBM SaaS offering.
- b. 14 calendar days of rolling Capture Data. Capture Data is defined as data collection from the Tealeaf SDK.

### 2. Data Retention Extensions

IBM Tealeaf CX on Cloud optional packages include the following:

#### 2.1 IBM Tealeaf CX on Cloud Reporting Data Retention Extension

The Reporting Data Retention Extension provides the option for Customer to retain certain stored data elements for an extended length of time, namely:

- Additional 12 months rolling retention of Reporting Data for a total maximum of 24 months of rolling Reporting Data storage.

#### 1.2 IBM Tealeaf CX on Cloud Capture Data Retention Extension

The Capture Data Retention Extension provides the option for Customer to retain certain stored data elements for an extended length of time, namely:

- Additional 14 calendar days rolling retention of Capture Data for a total maximum of 28 calendar days rolling Capture Data storage.

## 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 your subscription will apply. You understand that the SLA does not constitute a warranty to you.

### 1. Definitions

- a. “Authorized Contact” means the individual you have specified to IBM who is authorized to submit Claims under this SLA.
- b. “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.
- c. “Claim” means a claim submitted by your Authorized Contact to IBM pursuant to this SLA that a Service Level has not been met during a Contracted Month.
- d. “Contracted Month” means each full month during the term of the IBM SaaS measured from 12:00 a.m. GMT on the first day of the month through 11:59 p.m. GMT on the last day of the month.
- e. “Customer” or “you” or “your” means an entity that is subscribing for the IBM SaaS directly from IBM, and that is not in default of any material obligations, including payment obligations, under its contract with IBM for the IBM SaaS.
- f. “Downtime” means a period of time during which production system processing for the IBM SaaS has stopped and your users are unable to use all aspects of the Cloud Service for which they have permissions. Downtime does not include the period of time when the Cloud Service is not available because of:
  - Planned System Downtime;
  - Force Majeure;
  - Problems with Customer or third party applications, equipment, or data;
  - Customer or third party acts or omissions (including anyone gaining access to the IBM SaaS by means of your passwords or equipment);
  - 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 by Customer or a third party on Customer’s behalf.
- g. “Event” means a circumstance or set of circumstances taken together, resulting in a failure to meet a Service Level.
- h. “Force Majeure” means acts of God, terrorism, labor action, fire, flood, earthquake, riot, war, governmental acts, orders or restrictions, viruses, denial of service attacks and other malicious conduct, utility and network connectivity failures, or any other cause of the IBM SaaS unavailability that was outside IBM’s reasonable control.
- i. “Planned System Downtime” means a scheduled outage of the IBM SaaS for the purpose of maintenance.
- j. “Service Level” means the standard set forth below by which IBM measures the level of service it provides in this SLA.

### 2. Availability Credits

- a. In order to be eligible to submit a Claim you must have logged a support ticket for each Event with the IBM customer support help desk for the applicable IBM SaaS, in accordance with IBM procedure for reporting Severity 1 support issues. You must provide all necessary detailed information about the Event and reasonably assist IBM with the diagnosis and resolution of the Event to the extent required for Severity 1 support tickets. Such ticket must be logged within twenty-four (24) hours of your first becoming aware that the Event has impacted your use of the IBM SaaS.

- b. Your Authorized Contact must submit your Claim for an Availability Credit no later than three (3) business days after the end of the Contracted Month that is the subject of the Claim.
- c. Your Authorized Contact must provide to IBM all reasonable details regarding the Claim, including but not limited to, detailed descriptions of all relevant Events and the Service Level claimed not to have been met.
- d. Availability Credits are based on the duration of the Downtime measured from the time you report that you were first impacted by the Downtime. For each valid Claim, IBM will apply the highest applicable Availability Credit based on the achieved Service Level 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.
- e. For Bundled Service (individual IBM SaaS packaged and sold together for a single combined price), the Availability Credit will be calculated based on the single combined monthly price for the Bundled Service, and not the monthly subscription fee for each individual IBM SaaS. You may only submit Claims relating to one individual IBM SaaS in a bundle in any Contracted Month, and IBM will not be liable for Availability Credits with respect to more than one IBM SaaS in a bundle in any Contracted Month.
- f. If you 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, then 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%.
- g. 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 you to IBM for the IBM SaaS.
- h. IBM will use its reasonable judgment to validate Claims based on information available in IBM's records, which will prevail in the event of a conflict with data in your records.
- i. THE AVAILABILITY CREDITS PROVIDED TO YOU IN ACCORDANCE WITH THIS SLA ARE YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM.

**3. Service Levels – Availability of the IBM SaaS during a Contracted Month**

Achieved Service Level (during a Contracted Month)	Availability Credit (% of Monthly Subscription Fee for Contracted Month which is the subject of a Claim)
< 99.9%	2%
< 99.0%	5%
< 95%	10%

“Achieved Service Level”, 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 style="width: 50%; margin: 0 auto;"/> 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.

- Non-production environments, including but not limited to, test, disaster recovery, quality assurance, or development.
- Claims made by an IBM Customer's users, guests, participants and permitted invitees of the IBM SaaS.