



## IBM Terms of Use – SaaS Specific Offering Terms

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### IBM Silverpop Engage

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 Silverpop Engage – Message
- IBM Silverpop Engage – Database
- IBM Silverpop Transact for Engage - Database
- IBM Silverpop Multi-Factor Authentication
- IBM Silverpop Social Sign-In
- IBM Silverpop Inbox Monitoring
- IBM Silverpop Universal Behaviors
- IBM Silverpop Universal Behaviors Additional Data History – Less than 1 Million Database Records
- IBM Silverpop Universal Behaviors Additional Data History – Less than 5 Million Database Records
- IBM Silverpop Universal Behaviors Additional Data History – Unlimited Database Records
- IBM Silverpop Universal Behaviors Additional Stream – Less than 1 Million Database Records
- IBM Silverpop Universal Behaviors Additional Stream – Less than 5 Million Database Records
- IBM Silverpop Universal Behaviors Additional Stream – Unlimited Database Records
- IBM Silverpop Mobile Connector
- IBM Silverpop Web Analytics Integration
- IBM Silverpop WebEx Integration
- IBM Silverpop Citrix Integration
- IBM Silverpop Transact Magento
- IBM Silverpop CRM Integration
- IBM Silverpop CRM Integration with Scribe
- IBM Silverpop Email Insights - Bronze
- IBM Silverpop Email Insights - Silver
- IBM Silverpop Email Insights - Gold
- IBM Silverpop Email Insights - Platinum
- IBM Silverpop Email Insights Additional Email Preview
- IBM Silverpop Email Insights Additional 100 Thousand Email Opens
- IBM Silverpop Additional IP Address
- IBM Silverpop Essentials Ongoing Standard Services
- IBM Silverpop Essentials Ongoing Premium Services
- IBM Silverpop Partner Ongoing Services
- IBM Silverpop Engage Mobile

- IBM Silverpop Engage Mobile Ongoing Advisory Services
- IBM Silverpop Engage Mobile Ongoing Standard Services
- IBM Silverpop Engage Mobile Ongoing Standard Plus Services

## 2. Charge Metrics

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

- Access is a unit of measure by which the IBM SaaS may be obtained. An Access is the right 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 the Proof of Entitlement (PoE) or Transaction Document.
- Addressable Device is a unit of measure by which the IBM SaaS can be obtained. An Addressable Device is a device upon which an application is installed that is addressable by the IBM SaaS. Each application installation that is addressable by the IBM SaaS counts as a separate Addressable Device. Sufficient entitlements must be obtained to cover the number of Addressable Devices reported by the IBM SaaS during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- Application Instance is a unit of measure by which the IBM SaaS can be obtained. An Application Instance entitlement is required for each instance of an Application connected to the IBM SaaS. If an Application has multiple components, each of which serves a distinct purpose and/or user base, and each of which can be connected to or managed by the IBM SaaS, each such component is considered a separate Application. Additionally, test, development, staging, and production environments for an Application are each considered to be separate instances of the Application and each must have an entitlement. Multiple Application instances in a single environment are each considered to be separate instances of the Application and each must have an entitlement. Sufficient Entitlements must be obtained to cover the number of Application Instances connected to the IBM SaaS during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- 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.
- Digital Message is a unit of measure by which the IBM SaaS can be obtained. A Digital Message is an electronic communication managed or processed by the IBM SaaS. Sufficient entitlements must be obtained to cover the total number of Digital Messages managed or processed by the IBM SaaS during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- Engagement is a unit of measure by which the IBM SaaS 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.
- Event is a unit of measure by which the IBM SaaS can be obtained. Event entitlements are based on the number of occurrences of a specific event related to the use of the IBM SaaS. Event entitlements are specific to the IBM SaaS and the type of event may not be exchanged, interchanged, or aggregated with other Event entitlements of another IBM SaaS or type of event. Sufficient entitlements must be obtained to cover every event that occurs during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.
- 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 the Proof of Entitlement (PoE) or Transaction Document.
- Reputation Identity is a unit of measure by which the IBM SaaS can be obtained. A Reputation Identity is a combination of an Internet protocol (IP) address and/or domain used to improve the

deliverability of emails. Sufficient entitlements must be obtained to cover the number of Reputation Identities created for Customer within the IBM SaaS.

- j. Thousand Database Record is a unit of measure by which the IBM SaaS can be obtained. A Database Record is the collection of fields in a database related to a single entity and accessible as a single unit. Each Thousand Database Record entitlement represents one Thousand Database Records. Sufficient Thousand Database Record entitlements must be obtained to cover the total number of Database Records available to be processed by the IBM SaaS 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 Set-Up Charges and On Demand Charges**

Set-up charges will be specified in a Transaction Document. IBM will charge a setup fee upon initial provisioning of the Set-up part. On-Demand options will be invoiced in the month the on-demand option is employed by Customer at the rate set forth in the Transaction Document.

- a. IBM Silverpop Additional Domain Setup and IBM Silverpop Additional Domain On Demand Setup  
This service updates the IBM SaaS environment to use an additional Reputation Identity beyond the amount provided with IBM Silverpop Engage
- b. IBM Silverpop CRM Integration Setup  
This service updates the IBM SaaS environment to integrate one instance of a specific CRM instance with a single Silverpop Engage database.
- c. IBM Silverpop Additional Environment Setup and IBM Silverpop Additional Environment On Demand Setup  
This service provides Customer with an additional Silverpop Engage organization (an independent environment set up in Engage usually to add an additional company or division.)
- d. IBM Silverpop Instructor Led Training (Webinar / IBM Facility) Setup and IBM Silverpop Instructor Led Training (Webinar / IBM Facility) On Demand Setup  
This service provides a single day of Silverpop Engage training. Each day includes up to eight hours of instruction and practice (including multiple short breaks and an hour break for lunch). The agenda can be tailored to cover the topics the Customer would like to learn. The training is delivered through a webinar environment or at an approved IBM facility.
- e. IBM Silverpop Fast Start Setup  
This service provides up to 15 hours of remote product consulting for onboarding Customer to Silverpop Engage. This engagement will provide initial set up and extended training guidance through scheduled meetings on various topics including: provisioning, deliverability/ramp-up, initial data load, initial mailings, out of the box reporting, and additional advanced Silverpop Engage feature enablement to best suit the Customer's needs. Program hours must be used within the first 90 days of the initial set up of Silverpop environment.
- f. IBM Silverpop Fast Start Enterprise Setup  
This service provides up to 30 hours of remote product consulting for onboarding Customer to Silverpop Engage. This engagement will provide initial set up and extended training guidance through scheduled meetings on various topics including: provisioning, deliverability/ramp-up, initial data load, initial mailings, out of the box reporting, and additional advanced Silverpop Engage feature enablement to best suit the Customer's needs. Program hours must be used within the first 90 days of initial set up of Silverpop environment.
- g. IBM Silverpop Customer Enablement Setup  
This service provides up to 300 hours of remotely delivered product and technical consulting, best practices and guidance on recommended usage of the IBM Silverpop Engage solution. This will include discovery, project plan and resource plan development, consultation, integration planning and design, documentation and project management as agreed to with the Customer. This service additionally provides up to 50 hours of remote managed services, including list and mailing import, segmentation management, scoring model creation, asset preparation/configuration, campaign deployment, reporting and other in-product activities on behalf of Customer. Silverpop standard

turnaround for managed services is 5 business days for standard single mailing events. Some activities may require longer production cycles. This service must be consumed within 12 months of purchase.

h. IBM Silverpop Managed Enablement Setup

This service provides up to 150 hours of remotely delivered product and technical consulting, best practices and guidance on recommended usage of IBM Silverpop Engage. This will include discovery, project plan and resource plan development, consultation, integration planning and design, documentation and project management as agreed to with the Customer. This service additionally provides up to 250 hours of remote managed services, including list and mailing import, segmentation management, scoring model creation, asset preparation/configuration, campaign deployment, reporting and other in-product activities on behalf of Customer. Silverpop standard turnaround for managed services is 5 business days for standard single mailing events. Some activities may require longer production cycles. This service must be consumed within 12 months of purchase.

i. IBM Silverpop Product Consulting – Bronze Setup

This service provides up to 75 hours of remotely delivered product and technical consulting, best practices and guidance on recommended usage of IBM Silverpop Engage. This may include discovery, project plan and resource plan development, consultation, integration planning and design, documentation and project management as agreed to with the Customer. This service must be consumed within 6 months of purchase.

j. IBM Silverpop Product Consulting – Silver Setup

This service provides up to 175 hours of remotely delivered product and technical consulting, best practices and guidance on recommended usage of IBM Silverpop Engage. This may include discovery, project plan and resource plan development, consultation, integration planning and design, documentation and project management as agreed to with the Customer. This service must be consumed within 12 months of purchase.

k. IBM Silverpop Product Consulting – Gold Setup

This service provides up to 300 hours of remotely delivered product and technical consulting, best practices and guidance on recommended usage of Silverpop Engage. This may include discovery, project plan and resource plan development, consultation, integration planning and design, documentation and project management as agreed to with the Customer. This service must be consumed within 12 months of purchase.

l. IBM Silverpop Managed Services – Bronze Setup

This service provides up to 50 hours of remotely delivered managed services, including list and mailing import, segmentation management, scoring model creation, asset preparation/configuration, campaign deployment, reporting and other in-product activities on behalf of the Customer. Silverpop standard turnaround for managed services is 5 business days for standard single mailing events. Some activities may require longer production cycles. This service must be consumed within 6 months of purchase.

m. IBM Silverpop Managed Services – Silver Setup

This service provides up to 150 hours of remotely delivered managed services, including list and mailing import, segmentation management, scoring model creation, asset preparation/configuration, campaign deployment, reporting and other in-product activities on behalf of Customer. Silverpop standard turnaround for managed services is 5 business days for standard single mailing events. Some activities may require longer production cycles. This service must be consumed within 12 months of purchase.

n. IBM Silverpop Managed Services – Gold Setup

This service provides up to 250 hours of remotely delivered managed services, including list and mailing import, segmentation management, scoring model creation, asset preparation/configuration, campaign deployment, reporting and other in-product activities on behalf of Customer. Silverpop standard turnaround for managed services is 5 business days for standard single mailing events. Some activities may require longer production cycles. This service must be consumed within 12 months of purchase

- o. **IBM Silverpop IP Reputation Warm Up Setup and IBM Silverpop IP Reputation Warm Up On Demand Setup**  
This service provides up to 35 hours of remotely delivered managed services over a 30 day period to execute ramp up of a single IP address used by IBM Silverpop Engage. Up to two non-critical, non-time-sensitive emails are in scope for the purpose of reputation building (self-sustained HTML ready mailing content required). This service does not guarantee white listing or IP ramp up success, as this is dependent upon many external factors.
- p. **IBM Silverpop Engage Mobile – Onboarding and Implementation Advisory Services**  
This service provides up to 15 hours of remotely delivered product consulting including: mobile account provisioning; mobile feature training for marketers; up to one hour of implementation training for developers; email, phone or meeting based product Q&A. This service must be consumed within 90 days of purchase.
- q. **IBM Silverpop Engage Mobile – Onboarding and Implementation Standard Services**  
This service provides a combination of the following: up to 20 hours of email or phone based question and answer, initial push notification implementation acceptance testing cycle on any two native applications using Android or iOS notification services, up to one hour of remote console training for marketers and implementation training for developers. This service must be consumed within 90 days of purchase.
- r. **IBM Silverpop Engage Mobile – Onboarding and Implementation Standard Plus Services**  
This service provides a combination of the following: up to 30 hours of email or phone based question and answer, optional weekly 30-minute meetings, initial push notification implementation acceptance testing cycle on any four native applications using Android or iOS notification services, up to two hours push notification campaign strategy services, up to one software integration support with IBM or 3rd party software compatible with IBM Silverpop Engage Mobile. This service must be consumed within 90 days of purchase.

### **3.2 Partial Month Charges**

A partial month charge as specified in the Transaction Document may be assessed on a pro-rated basis.

### **3.3 Overage Charges**

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.

For an IBM SaaS that uses the Digital Message charge metric, IBM will invoice Customer based upon the selected billing frequency for the Digital Message entitlements Customer orders. Actual usage will be metered and overage charges will be due if actual message usage exceeds the total number of entitled messages in aggregate for up to 12 monthly measurement periods during the Subscription Period.

Customer will be invoiced in arrears for overage charges each month, at the overage rate specified in the PoE, once the total aggregate has been reached. Such overage charges are due in addition to the base monthly entitlement charge.

If the Subscription Period is greater than 12 months, the aggregate total number of entitlements will be based on 12 monthly measuring periods. The aggregate total will reset to zero after the 12th monthly measuring period. Overage charges for the next 12 monthly measuring periods will not be due until the actual message usage exceeds the total number of entitled messages in aggregate for such 12 monthly measurement periods.

For Customers leveraging ramp periods, each period is treated in the same manner as the subscription period and the same principles apply.

If a Subscription Period is less than 12 months or less than 12 monthly periods remain in a Subscription Period, the number of monthly entitlements remaining in a subscription will be used for the total number of entitled messages in aggregate.

- a. **Example 1:** Customer has a 12 month Subscription Period and has acquired one million Digital Messages per month. If Customer sends more than 12 million Digital Messages before the end of the 12 month Subscription Period, Customer will be invoiced the following month for the quantity in excess and all usage in the coming months will be billed in arrears till the end of the Subscription Period.

- b. Example 2: Customer has a three year Subscription Period and has acquired one million Digital Messages per month. If Customer sends more than 12 million messages before the end of the first 12 months period, Customer will be invoiced the following month for the quantity in excess and all usage until the end of the 12 months period. At the end of the each 12 months period, the usage count will reset. If Customer sends more than 12 million Digital Messages before the end of the next 12 months period, Customer will be invoiced the following month for the quantity in excess and all usage in the coming months will be billed in arrears until either the usage count is reset or the end of the remaining Subscription Period.

## **4. Ongoing Services Subscription**

### **4.1 IBM Silverpop Essentials Ongoing Standard Services**

This service is intended for self-service **Customers** in emerging markets or mid-market who want to **establish** solid fundamentals and practices. This offering is a 12-month program working with a Silverpop consultant. It is not intend for project-based work but for on-going structured guidance facilitated by a Silverpop consultant. The service will not exceed 4 hours per month.

### **4.2 IBM Silverpop Essentials Ongoing Premium Services**

**This service** is intended for self-service **Customers** in emerging markets or mid-market who want to accelerate their email marketing capabilities and expertise. This offering is a 12-month program working with a Silverpop consultant. It is not intend for project-based work but for on-going structured guidance and learning facilitated by a Silverpop consultant. The service will not exceed 7 hours per month.

### **4.3 IBM Silverpop Partner Ongoing Services**

**This service** will be delivered by a Silverpop consultant to enable partners. The intent is to provide product guidance that will accelerate the adoption of marketing automation capabilities and practices. This offering is a 12-month program that includes hours allocated to assist partners on **Customer** projects. It is not intended for project-based work but for on-going structured guidance and learning facilitated by a Silverpop consultant. The service will not exceed 12 hours per year.

### **4.4 IBM Silverpop Engage Mobile - Ongoing Advisory Services**

This service provides up to 15 hours (total per year) of questions and answers via email or phone.

### **4.5 IBM Silverpop Engage Mobile - Ongoing Standard Services**

This service provides a combination of the following: up to 30 hours (total per year) of questions and answers via email or phone, up to two push notification implementation acceptance testing cycles per year, up to 5 hours (total per year) for guidance around usage of console and overall push strategy.

### **4.6 IBM Silverpop Engage Mobile - Ongoing Standard Plus Services**

This service provides a combination of the following: up to 40 hours (total per year) of questions and answers via email or phone, up to four push notification implementation acceptance testing cycles per year, priority response for support tickets, up to two hours (total per year) of support to advise on seasonal marketing, up to 10 hours (total per year) for guidance around usage of console and overall push strategy, optional weekly 30-minute meetings to address key performance indicator and short and long-term application/push notification goals.

## **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 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, Severity definitions, and links to submit support requests for IBM Silverpop Engage can be found at the following URL: <http://www.ibm.com/software/info/silverpop/support/>.

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

### **7.1 Enabling Software**

This IBM SaaS offering may include Enabling Software provided by IBM or a third party supplier. If Customer downloads or installs any Enabling Software, Customer agrees not to use such Enabling Software for any purpose other than to facilitate or enable Customer's access and use of the IBM SaaS. If Enabling Software is presented with a separate license agreement (for example, the IBM International License Agreement for Non-Warranted Programs ("ILAN") or other IBM or third party license agreement) at the time of installation or download, such separate agreement will govern its use. Customer agrees that Customer accepts such terms by accepting this ToU or downloading, installing, or using the Enabling Software.

### **7.2 Safe Harbor Compliance and EU Data Protection**

IBM abides by the U.S. - EU and U.S.-Swiss Safe Harbor Frameworks 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/>.

IBM Silverpop CRM Integration with Scribe relies on or incorporates third party technology provided by Scribe. Scribe's Safe Harbor certification status may be reviewed at [www.export.gov/safeharbor/](http://www.export.gov/safeharbor/).

Social Sign-In relies on or incorporates third party technology provided by Janrain. Janrain's Safe Harbor certification status may be reviewed at [www.export.gov/safeharbor/](http://www.export.gov/safeharbor/).

If Customer makes Personal Data available to the IBM SaaS, as between the Customer and IBM, Customer is considered the sole controller of the Personal Data, and Customer appoints IBM as a processor to process (as those terms are defined in EU Directive 95/46/EC) such Personal Data. IBM will only process such Personal Data to the extent required to make the IBM SaaS available in accordance with this ToU. IBM shall reasonably cooperate with Customer in its fulfillment of any legal requirement, including providing Customer with access to the Personal Data. Customer agrees that IBM may process Content made available to the IBM SaaS, including any Personal Data, across country borders to IBM in the United States. If IBM changes the way it processes or secures Personal Data and such change causes Customer to be noncompliant with applicable data protection laws, Customer may terminate the affected IBM SaaS within 30 days of IBM's notification of the change.

### **7.3 Data Collection**

Customer agrees to: (i) provide a clear and conspicuous link to Customer's website terms of use and privacy policy which includes a link to IBM's (<http://www.ibm.com/software/marketing-solutions/privacy/index.html>) and Customer's data collection and use practices; (ii) provide notice that cookies and clear gifs/web beacons are being placed on the visitor's computer by IBM working on Customer's behalf along with an explanation of the purpose and utilization of such technology; and (iii) to the extent required by law, obtain consent from website visitors prior to the placement of cookies and clear gifs/web beacons placed by Customer or IBM on Customer's behalf on website visitor's devices.

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 (Customer's 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 the IBM SaaS to improve user experience and/or tailor interactions between the Customer and IBM. Customer confirms 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 IBM's 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.

#### **7.4 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.

#### **7.5 Distribution Lists**

Customer will not use any distribution lists with the IBM SaaS that include persons who have not given permission to be included on such list for the purpose of receiving email communications specifically from Customer, unless Customer has an existing business or personal relationship with such persons. Customer is required to include a valid opt-out mechanism in each message.

#### **7.6 No Resale**

Customer's right to use the IBM SaaS is personal to the Customer. Customer shall not resell the IBM SaaS or provide third parties (other than employees or contractors working on Customer's behalf) with access to the IBM SaaS without IBM's prior written consent.

#### **7.7 Data Retention**

Specific data elements of the IBM SaaS shall be available within the IBM SaaS as follows: email messages and content, unused or inactive databases and templates - 450 days; web tracking for known visitors - 180 days; web tracking for anonymous visitors - 30 days; and Universal Behaviors - 180 days (the "Data Retention Period"). These data elements may be removed from IBM's network and systems after the Data Retention Period has expired, and in any event, IBM may destroy all copies of these data elements, and any other related Customer data, 30 days following termination or expiration of the Subscription Period. Customer will retain back-up copies of all content provided for use in connection with the IBM SaaS.

#### **7.8 Third Party Code Notices**

The IBM SaaS includes the following software which may not be used for Evil purposes: janrain4j\_1.1.0, JSON, JSON-lib-2.3, JDK15, flexjson, and packtag.



## Appendix A

### 1. IBM Silverpop Engage

IBM Silverpop Engage is a cloud-based digital marketing platform that supports omni-channel marketing and lead management. Silverpop Engage uses customer data and individual behaviors, collected from a variety of sources, to inform and drive personalized interactions in real time on behalf of Customer.

An IBM Silverpop Engage subscription provides the following capabilities:

- **Message Creation and Delivery:** a web-based editor enables users to create and edit message content, and provides point-and-click access to link tracking, personalization, and dynamic content.
- **Advanced Segmentation:** segmentation capabilities allow users to target contacts based on their behavioral, profile or preference data.
- **Multi-Channel Messaging:** send integrated campaign messaging across various channels, including email, social, web and mobile. Silverpop Engage includes features that help ensure that customer touch points are kept integrated to convey a consistent and personalized experience.
- **Automated Campaigns:** use a visual campaign builder to create marketing programs, from simple drip strategy campaigns to those with complex, multiple touch points. Send automated messages when a lead routes or performs a certain action using nurture campaigns based on the individual action of each lead.
- **Scoring:** rank customers and prospects based on buying criteria, demographics and behaviors such as website visits, form submissions and message interaction or on time-based components including recency and frequency. When contacts reach a certain score, marketing automation features route them for the appropriate follow-up.
- **Web Tracking:** monitor how contacts interact with Customer online, for example using calculators, live chats, and social buttons and then use these behaviors to move a contact into a marketing program or as part of a behavioral scoring model.
- **Landing Pages and Web Forms:** design and publish landing pages and web forms, which capture inquiry information that can be utilized to create custom pages.
- **Reporting:** more than 80 customizable reports are available that span various marketing channels -- including email campaigns, social and mobile.
- **Relational Tables:** store multiple lines of data on purchases, event attendance, activities and map it to a single record, offering a holistic customer view. This data can be utilized in queries and segmentation, dynamic content and in personalization in messages.
- **B2B Lead Management:** manage and score leads, use automation to nurture them through the pipeline and maximize Customer's marketing efforts.
- **Social:** organizations can share email marketing messages on social networking sites and produce detailed reports on the results, post or schedule posts that coincide with their email sends and insert a link to a forward-to-a-friend Web page or include a forward-to-a-friend form in the message body.
- **Application Programming Interfaces (APIs):** the Silverpop Engage API Suite is accessible via REST, SOAP, and XML protocols and utilizes standard web protocols (HTTP POST, HTTPS, FTP, FTPS) and file formats (XML, CSV, TSV, PSV). Real-time requests and responses are handled via HTTP/HTTPS and batches of data are handled via FTP/ FTPS.

A Silverpop Engage subscription includes five (5) sending domains, one (1) custom branded host domain and up to ten environments. Customers with commitments to send more than three million email messages per year are eligible to receive a dedicated Internet protocol (IP) address.

### 2. Optional Features

Optional features are available for an additional charge:

- **IBM Silverpop Transact for Engage - Database** provides the ability to deliver real-time, custom branded, one-to-one transactional messages generated by triggers in emails, web forms, landing

pages or tele-sales. Silverpop Engage Transact is a dedicated sending architecture specifically designed for the unique needs of transactional or triggered messages such as receipts, notifications, alerts, itineraries, etc. It can be connected to an in-house system currently triggering messages. Provided with the product are an IP address and custom domain, link and message delivery tracking, bounce and reply management and tracking on message distribution, activity, and delivery metrics.

- **IBM Silverpop Multi-Factor Authentication** provides functionality to support the use of an authentication code as a secondary log-on requirement, in addition to a user's username/password combination, to grant access to a Silverpop Engage account through a web browser.
- **IBM Silverpop Social Sign-in** provides the ability for a company to build web forms that offer a social identity registration option instead of filling out the fields on the form manually. Social Sign-In relies on or incorporates third party technology provided by Janrain. Use of the Social Sign-in technology is subject to the terms, conditions, and availability of the respective social sign networks accessed through use of Social Sign-In and the underlying Janrain technology.
- **IBM Silverpop Inbox Monitoring** allows Customers to measure general inbox delivery to large Internet Service Providers (ISPs) and Inbox Providers across multiple regions
- **IBM Silverpop Universal Behaviors** provide event level integration between Silverpop Engage and other technology applications. The behavioral events and data collected from these applications can be stored within Silverpop Engage and leveraged by features such as programs, scoring and queries. Included are supported integrations with existing IBM products, three data streams for additional integrations and 180 days of data storage.
- **IBM Silverpop Universal Behaviors Additional Data History** provides an additional 180 days of event data storage for IBM Silverpop Universal Behaviors. This is an add-on to IBM Silverpop Universal Behaviors for Customers who require data storage greater than the standard 180 days for Universal Behaviors.
- **IBM Silverpop Universal Behaviors Additional Stream** provides an additional data stream for IBM Silverpop Universal Behaviors. This is for Customers who need an additional data stream beyond the unlimited IBM integrated product data streams and the three additional third party or custom data streams available with IBM Silverpop Universal Behaviors base license.
- **IBM Silverpop Mobile Connector** provides system level integration between Silverpop Engage and Customer's own mobile application. The integration allows for data collected from the mobile application to be stored within Silverpop Engage and accessed/used by Engage features such as programs and queries, and data from Silverpop Engage to be used within the mobile application.
- **IBM Silverpop Web Analytics Integrations** provides integration between Silverpop Engage (one Org) and one of the following web analytics systems: IBM Digital Analytics or Adobe Omniture.
- **IBM Silverpop WebEx Integration** provides Engage product functionality for use with one instance of Cisco WebEx. This integration imports attendee session and profile data into a Silverpop Engage Relational Table on a daily basis. The Customer must purchase their WebEx license separately.
- **IBM Silverpop Citrix Integration** provides Engage product functionality for use with one instance of the Citrix GoToWebinar, GoToMeeting, or GoToTraining products. This integration imports attendee session and profile data into a Silverpop Engage Relational Table on a daily basis. The Customer must purchase their Citrix license separately.
- **IBM Silverpop Transact Magento Integration** enables the routing of relevant transactional emails generated by a Magento instance through the Silverpop Transact transactional email service. A license for Magento is also required, which the Customer must purchase separately from the vendor.
- **IBM Silverpop CRM Integration** enables Customer to establish a synchronization of data between certain commercially available customer relationship management (CRM) systems, such as Salesforce.com, Microsoft Dynamics CRM, and Silverpop Engage. Integration is limited to one CRM system instance and one Silverpop Engage database. This offering does not include integration with Scribe. If that type of integration is needed, the IBM Silverpop CRM Integration with Scribe offering should be used.
- **IBM Silverpop CRM Integration with Scribe** enables Customer to establish a synchronization of data between certain commercially available relationship management (CRM) systems and

Silverpop Engage. Integration is limited to one CRM system instance and one Silverpop Engage database. IBM Silverpop CRM Integration with Scribe relies on or incorporates third party technology provided by Scribe.

- **IBM Silverpop Additional IP Address** is the fee for an additional IP address.
- **IBM Silverpop Email Insights** enables users to preview the look and feel of mailings across multiple different email clients (including but not limited to Gmail, Outlook, iPhone and Android), track email client usage across mailing lists helping to optimize email programs based on the specific devices and email clients that customers use, determine the preferred device of each unique email recipient and send targeted content based on this preference and automatically update recipient-level records with additional data such as geo-location, average engagement time and preferred email client or device. An 'email open' is registered each time an email recipient receives an email from Customer and the email recipient opens the email. An 'email preview' is registered each time Customer submits an email template further to this feature for preview. Email Insights includes technology components provided by Litmus.
  - **Silverpop Email Insights – Bronze** provides up to 10 email previews and 10,000 email opens per month
  - **Silverpop Email Insights – Silver** provides up to 50 email previews and 200,000 email opens per month
  - **Silverpop Email Insights – Gold** provides up to 500 email previews and 2,000,000 email opens per month
  - **Silverpop Email Insights – Platinum** provides up to 1,000 email previews and 5,000,000 email opens per month
- Additionally, if Customer's needs exceed the number of email previews or email opens provided with the package purchased, Customer can expand its entitled quantity by purchasing **IBM Silverpop Email Insights Additional Email Preview** or **IBM Silverpop Email Insights Additional 100 Thousand Email Opens**, as applicable.
- **IBM Silverpop Engage Mobile** enables Customer to collect data from their smartphone applications and send push notifications (including but not limited to iPhone, iPad and Android). The functionality includes the ability to send personalized push notifications with actions that drive engagement with Customer's smartphone application. An SDK is provided that enables the application to send push notifications as well as register the device and send events to Silverpop.

## Appendix B

IBM provides the following availability service level agreement (“SLA”) for the IBM SaaS. Customer understands that the SLA does not constitute a warranty.

### 1. Definitions

- a. “Application Downtime” – means a period of time during which users of the IBM hosted portions of the application interface are unable to use all aspects of the Service for which they have appropriate permissions. By way of clarification, there is no “Downtime” if any user can use any aspect of the Service for which they have appropriate permissions.
- 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 Service.
- c. “Claim” means a claim Customer submits to IBM pursuant to the SLA that a Service Level has not been met during a Contracted Month.
- d. “Contracted Month” means each full month during the term 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.
- e. “Data Processing Downtime” – means a period of time during which the Service is unable to collect data via the data processing elements of the Service.
- f. “Downtime” means Application Downtime and/or Data Processing Downtime. Additionally, Downtime includes a period of time during which the IBM SaaS is unable to send or receive data via the data processing elements of the IBM SaaS. Downtime does not include the period of time when the IBM SaaS is not available because of:
  - (1) a scheduled or announced maintenance outage;
  - (2) Events or causes beyond IBM’s control (e.g., natural disaster, internet outages, emergency maintenance, internet service provider or telecommunication carriers actions or inactions, etc.);
  - (3) problems with Customer’s applications, equipment or data, or a third party’s applications, equipment or data;
  - (4) Customer’s failure to adhere to required system configurations and supported platforms for accessing the Service; or
  - (5) IBM’s compliance with any designs, specifications, or instructions that Customer provides to IBM or a third party provides to IBM 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. “Service” means the IBM SaaS to which this SLA applies.
- i. “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. To submit a Claim, Customer must log a Severity 1 support ticket (as defined below in the Technical Support section) for each Event with the IBM technical support help desk, within twenty-four (24) hours of first becoming aware that the Event has impacted Customer’s use of the Service. 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 a 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 it was first impacted by the Downtime. If Customer reports an Event of Application Downtime and an Event of Data Processing Downtime occurring simultaneously, then IBM will treat

the overlapping periods of Downtime as a single period of Downtime, and not as two separate periods of 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.

- d. The total Availability Credits awarded with respect to any Contracted Month shall not, under any circumstance, exceed 20 percent (20%) of one twelfth (1/12th) of the annual charge paid by Customer to IBM for the Service.

### 3. Service Levels

Availability of the IBM SaaS during a Contracted Month

Availability during a Contracted Month	Availability Credit (% of Monthly Subscription Fee for Contracted Month that is the subject of a Claim)
99% - 99.949%	2%
98% - 98.999%	5%
97% - 97.999%	10%
Less than 97.000%	20%

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 style="width: 50%; margin: 0 auto;"/> 43,200 total minutes in a 30 day Contracted Month	2% Availability Credit for 99.884% Achieved Service Level
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### 4. Other information about this SLA

This SLA is made available only to IBM's Customers and does not apply to claims made by users, guests, participants and permitted invitees of the Service or to any beta or trial services that IBM provides. The SLA only applies to the Services that are in production use. It does not apply to non-production environments, including but not limited to test, disaster recovery, quality assurance, or development.