



IBM Terms of Use – SaaS Specific Offering Terms

IBM Insights Foundation for Energy 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/.

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 Insights Foundation for Energy Premium User On Cloud
- IBM Insights Foundation for Energy Standard User On Cloud
- IBM Insights Foundation for Energy Consumer User On Cloud
- IBM Insights Foundation for Energy Asset Analytics On Cloud
- IBM Insights Foundation for Energy Setup On Cloud

2. Charge Metrics

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

- a. 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
- b. Concurrent User is a unit of measure by which the IBM SaaS can be obtained. A Concurrent User is a person who is accessing the IBM SaaS at any particular point in time. Regardless of whether the person is simultaneously accessing the IBM SaaS multiple times, the person counts only as a single Concurrent User. Customer must obtain entitlements for the maximum number of Concurrent Users simultaneously accessing the IBM SaaS in any manner directly or indirectly (for example: via a multiplexing program, device, or application server) through any means during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- c. Asset is a unit of measure by which the IBM SaaS can be obtained. An Asset is any tangible resource or item of value to be managed, including production equipment, facilities, transportation, IT hardware and software. Any resource or item with a unique identifier in the IBM SaaS is separate Asset. Sufficient entitlements must be obtained to cover the Assets accessed or managed 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

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

3.2 Partial Month Charges

The partial month charge is a pro-rated daily rate that will be charged to Customer. The partial month charges are calculated based on the remaining days of the partial month starting on the date Customer is notified by IBM that their access to the IBM SaaS is available.

3.3 Overage Charges

If Customer's actual usage of the IBM SaaS 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 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.

4.3 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. Technical Support

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

- a. IBM provides Customer assistance for Customer's routine, short duration installation and usage (how-to) questions as well as code-related questions.
- b. IBM provides electronic problem reporting and assistance via telephone during the normal business hours (published prime shift hours) of Customer's IBM support center. (This assistance is not available to Customer's end users.) IBM provides Severity 1 assistance 24 hours a day, every day of the year.
- c. IBM may request that Customer allow IBM to remotely access Customer's system to assist Customer in isolating the problem cause. Customer remains responsible for adequately protecting Customer's system and all data contained in it whenever IBM remotely accesses it with Customer's permission.

Technical support does not include assistance for 1) the design and development of applications, 2) Customer's use of the IBM SaaS in other than their specified operating environment or 3) failures caused by products and services for which IBM is not responsible under these Terms of Use.

6. Service Level Objectives

The service level objectives for this IBM SaaS are:

- 99.5% availability outside of regularly scheduled maintenance windows
- Maximum 5 second response time indicating web page activity is occurring

Service level objectives are a goal and do not constitute a warranty to Customer. There is no refund, credit, or other remedy available to Customer in the event IBM does not meet the service level objectives.

7. Enabling Software

Enabling Software is any program or associated material made available to Customer as part of the IBM SaaS. The Enabling Software included with the IBM SaaS is:

- IBM SPSS Modeler Premium 16
- IBM Cognos Framework Manager 10.2.1
- IBM SPSS Data Access Pack v7.1

The Enabling Software is provided exclusively for use with PMQ Artifacts.

7.1 IBM SPSS Data Access Pack

The IBM SPSS Data Access Pack is provided exclusively for use by the following Enabling Software: IBM SPSS Modeler Premium 16.

Neither Customer nor any application, program or device is authorized to directly use or access the services of the IBM SPSS Data Access Pack, except Customer may access the IBM SPSS Data Access Pack to perform administrative functions for the IBM SPSS Data Access Pack such as backup, recovery and authorized configuration.

7.2 Use of Enabling Software

Enabling Software will be subject to an applicable license agreement. Notwithstanding any terms to the contrary in the license agreement that Customer accepts upon installation of the Enabling Software, Enabling Software may only be used in conjunction with the IBM SaaS in accordance with the terms of this ToU and solely to modify the PMQ Artifacts or to create new PMQ Artifacts (collectively "**Customized PMQ Artifacts**"), as defined below, for use with the IBM SaaS.

Should Customer's access to the IBM SaaS be terminated, Customer's use of the Enabling Software and the PMQ Artifacts will also be terminated, and Customer must remove all Enabling Software and PMQ Artifacts from its systems and destroy all copies.

7.3 PMQ Artifacts

"PMQ Artifacts" means predefined and preconfigured materials available with the IBM SaaS:

- IBM SPSS Modeler models, IBM Cognos Business Intelligence models, reports, active reports and dashboards.

Customer may not alter or delete any copyright information or notices contained in the PMQ Artifacts.

PMQ Artifacts and Customized PMQ Artifacts, as defined above, may only be used with the IBM SaaS and may not be used independently. The IBM SaaS does not provide subject matter expertise on creation or validation of Customized PMQ Artifacts. Deployment of Customized PMQ Artifacts to the IBM SaaS is separate from the IBM SaaS and may require separate services.

IBM has no obligation of support for PMQ Artifacts and Customized PMQ Artifacts. IBM provides the PMQ Artifacts without obligation of support and "AS IS", WITH NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING THE WARRANTY OF TITLE, NON-INFRINGEMENT OR NON-INTERFERENCE AND THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. General

8.1 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.

8.2 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.

8.3 High Risk Activities

Customer may not use or authorize others to use the IBM SaaS or any part of the IBM SaaS, alone or in combination with other products, in situations where IBM SaaS failure could give rise to a material threat of death or serious personal injury, or severe physical or environmental damage ("High Risk Activities") including but not limited to the following: design, construction, control, or maintenance of aircrafts, nuclear facilities, mass transit systems, air traffic control systems, weapons systems, oil drilling and pipeline, life support systems or, implantable medical equipment.

Appendix A

1. Standard Users

Subscription to the IBM Insights Foundation for Energy Standard User On Cloud SaaS offering includes the following capabilities:

- a. Consolidation and visualization of data from disparate sources such as from sensors, SCADA (Supervisory Control And Data Acquisition) systems, telemetry, work order history, events or geo-spatial information (visualization on map requires integration to a GIS server, not provided with the IBM SaaS)
- b. Perform asset predictive maintenance analytics and reporting to identify assets that are at risk of failure by providing asset condition and failure projections
- c. Raise and capture events based on thresholds on the data that is processed by the IBM SaaS
- d. Generate and view reports about events or other data captured in the IBM SaaS
- e. View key performance indicators (KPIs) based on events or other data captured in the IBM SaaS
- f. Execute standard operating procedures (SOPs) that help to automate a standard response to an event, KPI threshold or a condition defined in a report
- g. Use of an executive dashboard which is a specialized interface that allows IBM SaaS Users with at a glance summary information

2. Premium Users

Users of the IBM Insights Foundation for Energy Premium User On Cloud SaaS offering have access to all Standard User capabilities as stated above as well as access to the following Premium User application configuration and development capabilities:

- a. Ability to administer the IBM SaaS via administrative interfaces
- b. Import and export data/results from/to Customer's and third parties' systems to help facilitate system integration
- c. Create and modify PMQ Artifacts for their environment using the Enabling Software
- d. Create and modify SOPs related to their environment
- e. Create and modify views related to their environment
- f. Create and modify KPIs related to their environment
- g. Create and modify reports related to their environment
- h. Create and modify analytical models related to their environment

3. Consumer Users

Users of the IBM Insights Foundation for Energy Consumer User On Cloud SaaS offering have access to the following capabilities:

- a. Consumer Users may access the system to use read-only features like dashboards
- b. Download reports or generate pre-defined reports
- c. Consumer Users do not have any access to any Standard or Premium User capabilities.

4. Asset Analytics

Subscription to the IBM Insights Foundation for Energy Asset Analytics On Cloud SaaS offering includes the following capabilities:

- a. Asset Analytics is used to measure and define the maximum number of assets that can be managed in the IBM SaaS.
- b. It enables Standard and Premium Users to run on assets the analytical models included in the IBM SaaS or other custom built analytical models.

- c. It enables Consumer Users to access read-only features on assets included in the IBM SaaS or custom built.
- d. Asset Analytics can only be used in conjunction with Premium and Standard Users and optionally with Consumer Users.

5. Setup

IBM Insights Foundation for Energy Setup On Cloud enables the activation of the IBM SaaS before the start of the IBM SaaS billing period for Users and Assets.

Users do not have access to the IBM SaaS during the activation period.

The activation period will be utilized for the configuration of the IBM SaaS with the Customer's environment.