



# IBM Terms of Use – SaaS Specific Offering Terms

## IBM Watson Analytics

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, Client 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 Watson Analytics Plus
- IBM Watson Analytics Professional
- IBM Watson Analytics Professional Dedicated

### 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. Client 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 Client's Proof of Entitlement (PoE) or Transaction Document.
- b. Gigabyte is a unit of measure by which the IBM SaaS can be obtained. A Gigabyte is defined as 2 to the 30th power bytes of data (1,073,741,824 bytes). Gigabytes are used to measure the uncompressed size of data sets loaded to the IBM SaaS. Sufficient entitlements must be obtained to cover the number of Gigabytes hosted in the IBM SaaS at any point during the measurement period.

### 3. Charges and Billing

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

#### 3.1 Set-Up Charges

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

#### 3.2 Partial Month Charges

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

### 4. Term and Renewal Options

The term of the IBM SaaS begins on the date IBM notifies Client of their access to the IBM SaaS, as documented in the PoE. The PoE will specify whether the IBM SaaS renews automatically, proceeds on a continuous use basis, or terminates at the end of the term.

For automatic renewal, unless Client provides written notice not to renew at least 90 days prior to the term expiration date, the IBM SaaS will automatically renew for the term specified in the PoE.

For continuous use, the IBM SaaS will continue to be available on a month to month basis until Client provides 90 days written notice of termination. The IBM SaaS will remain available to the end of the calendar month after such 90 day period.

### 5. Technical Support

During the Subscription Period, technical support is provided for the duration of this IBM SaaS as set forth in the IBM Software as a Service Support Handbook at

<http://www.ibm.com/software/support/handbook.html> or a subsequent URL provided by IBM. Technical support is included with the IBM SaaS and is not available as a separate offering.

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

### **6.1 Cookies**

Client is aware and agrees that IBM may, as part of the normal operation and support of the IBM SaaS, collect information from Client (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 Client. Client 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 Client's employees and contractors to access, update, correct or delete their collected personal information.

### **6.2 Personal Information and Regulated Content**

This IBM SaaS is not designed to any specific security requirements for regulated content, such as personal information or sensitive personal information. Client is responsible to determine if this IBM SaaS meets Client's needs with regard to the type of content Client uses in connection with the IBM SaaS.

### **6.3 Use of Client Content by IBM for Cognitive Analytics**

IBM may use Client's content and data that Client provides to the IBM SaaS for the purpose of IBM's internal research, testing and development of improvements or enhancements to the IBM SaaS or for the development of new services that provide a more tailored and meaningful experience for users. In doing so, IBM may compile and analyze, in aggregated and anonymized format, summary information reflecting the use of the IBM SaaS by Client's authorized users, and may prepare reports, studies, analysis and other work product resulting from this compilation and analysis (collectively the "Compiled Data"). IBM retains ownership rights in and to the Compiled Data.

### **6.4 Derived Benefit Locations**

Where applicable, taxes are based upon the location(s) Client 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 Client provides additional information to IBM. Client is responsible for keeping such information current and providing any changes to IBM.

### **6.5 Destruction of Content**

IBM will destroy Client's data or content upon the expiration or cancellation of the IBM SaaS, or earlier upon Client's request.

### **6.6 Safe Harbor**

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. Twitter Content in Watson Analytics**

### **7.1 Definitions**

- a. "Analysis Reports" means the results or output created by Client's applications on the IBM SaaS from the process of analyzing and deriving information from the Twitter Content. Such results may not contain Twitter Content, but may contain content that is duplicative to that in the Twitter Content, such as search terms and references to the subject matter of the Tweets.
- b. "Tweet ID" means a unique identification number generated for each Tweet.
- c. "Tweets" means a public posting with a text body of no more than 140 characters made by any end user of the Twitter service.
- d. "Twitter Content" means Tweets, Tweet IDs, public Twitter end user profile information, and any other Twitter data and information made available to Client.

## 7.2 Use of Twitter Content

Client shall not be given any access to the raw Twitter Content. The IBM SaaS provides a means for Client to select and use Twitter Content solely within the IBM SaaS for the sole purpose of conducting analysis on the Twitter Content and producing Analysis Reports.

Twitter Content is neither owned nor controlled by IBM. Twitter Content may include materials that are illegal, inaccurate, misleading, indecent, or otherwise objectionable. IBM or its suppliers have no obligation to review, filter, verify, edit or remove any Twitter Content. However, IBM or its suppliers may, at their sole discretion, do so. Client must utilize the functionality provided by IBM to promptly delete or modify any Twitter Content that may be stored on the IBM SaaS. Client shall have a right to download and remove the Analysis Report from the SaaS.

## 7.3 Volume of Twitter Data

Plus Clients are limited to the following:

- 25,000 Tweets per data set

Professional Clients are limited to the following:

- 50,000 Tweets per data set

## 7.4 Restrictions on Twitter Content

Client shall not:

- a. Use Twitter Content in violation of any applicable law including but not limited to privacy laws or for any unauthorized or improper purposes.
- b. Use Twitter Content provided as part of the SaaS to perform analysis on a small group of individuals or a single individual for any unlawful or discriminatory purpose.
- c. Use Twitter Content provided as part of the SaaS to perform analysis that will be included as a part of an advertising network.
- d. Use the Twitter Content to produce analysis that performs a regularly-produced, time-based series of measurements made using the same, or similar, methodologies for the purpose of comparing television program performance over time, or against a defined set or subset of other television programs.
- e. Use any aggregate Twitter user metrics, such as number of users or accounts, obtained while accessing and using the Twitter Content as part of the SaaS for any purpose.
- f. Use the Twitter Content for any other purpose except for the limited purpose allowed for in the SaaS.

## 7.5 Termination by IBM

Client's use of the Twitter Content shall cease upon termination of the IBM SaaS.

Notwithstanding the foregoing, in addition to the rights of suspension and termination in the Agreement, IBM may cease providing access to the Twitter Content at any time without notice and without the obligation to provide Client a refund, credit, or other compensation.

## 7.6 Warranty and Indemnification Disclaimer for Twitter Content

NOTWITHSTANDING THE WARRANTY SET FORTH IN THE AGREEMENT, THE TWITTER CONTENT IS PROVIDED SOLELY "AS IS", "AS AVAILABLE" WITH ALL FAULTS, AND CLIENT'S USE OF THE TWITTER CONTENT IS AT ITS SOLE RISK. IBM DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE, IN CONNECTION WITH THE TWITTER CONTENT. IBM DOES NOT WARRANT THAT THE ACCESS TO THE TWITTER CONTENT WILL BE UNINTERRUPTED, OR ERROR-FREE. THIS DISCLAIMER OF WARRANTY MAY NOT BE VALID IN SOME JURISDICTIONS AND CLIENT MAY HAVE WARRANTY RIGHTS UNDER LAW WHICH MAY NOT BE WAIVED OR DISCLAIMED. ANY SUCH WARRANTY EXTENDS ONLY FOR THIRTY (30) DAYS FROM THE EFFECTIVE DATE OF THIS AGREEMENT (UNLESS SUCH LAW PROVIDES OTHERWISE). ANY OBLIGATION FOR IBM TO INDEMNIFY CLIENT UNDER THE AGREEMENT DOES NOT APPLY IN ANY WAY TO CLIENT'S ACCESS AND USE OF THE TWITTER CONTENT.

## **7.7 U.S. Government Use**

The Twitter Content is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Any use, modification, derivative, reproduction, release, performance, display, disclosure or distribution of the Twitter Content by any government entity is prohibited, except as expressly permitted by the terms of this Agreement. Additionally, any use by U.S. government entities must be in accordance with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4. If Client uses the Twitter Content in its official capacity as an employee or representative of a U.S., state or local government entity and Client is legally unable to accept the jurisdiction, venue or other clauses herein, then those clauses do not apply to such entity, but only to the extent as required by applicable law. Contractor/manufacturer is Twitter, Inc. 1355 Market Street, Suite 900, San Francisco, California 94103.

## Appendix A

### 1. IBM Watson Analytics

IBM Watson Analytics delivers a unified analytics experience on the cloud and helps users focus on the drivers that impact their business. By automating the steps of data access and predictive analysis, the IBM SaaS identifies and explains hidden patterns and relationships to accelerate understanding of why things happened.

The IBM SaaS offering includes the following capabilities:

- Engaging User Experience – presentation of data and insights in a format which allows users to understand and interact with their data
- Data Discovery – visually explore and interact with data to find patterns and derive insights
- Guided Analytic Discovery – embedded predictive analytics that automatically performs statistical correlations and key driver analysis
- Natural Language Dialogue – Interact with data through a keyword-driven English language interface using familiar business terms
- Data Access – automatically accesses and then uniquely scores the readiness of Client's data for analysis, highlighting potential data issues that could compromise results

#### 1.1 IBM Watson Analytics Plus

Watson Analytics Plus is a single-user environment that includes the following capabilities:

- Load .xls, .xlsx or .csv files containing no more than 1,000,000 rows and 256 columns
- Total Storage of 2 GB. Data storage includes source files loaded into the cloud environment and content created within the application
- Export to PPT file format
- Storytelling

Storytelling is a set of capabilities available within Watson Analytics that allows a user to bring analyses created in Watson Analytics together into an assembled narrative. Within a story a user can use existing content or build directly new content and then work with text, images, webpages, media and animation to create rich interactive presentations. This feature is currently offered as a "Beta Function".

- Infographics
- Templates
- Twitter Content
- Connections to: DropBox, Box, and Microsoft OneDrive

#### 1.2 IBM Watson Analytics Professional

Watson Analytics Professional is a multi-user environment that includes all of the capabilities of IBM Watson Analytics Plus as well as the following additional features and expanded capacities:

- Load .xls, .xlsx or .csv files containing no more than 10,000,000 rows and 500 columns
- Single Tenant where data storage includes source files loaded into the cloud environment and content created within the application
- Expanded Twitter Content
- Connection to Cognos 10 Reports

#### 1.3 IBM Watson Analytics Professional Dedicated

Watson Analytics Dedicated is a multi-user cloud environment that includes all of the capabilities of IBM Watson Analytics Professional as well as the following additional features and expanded capacities:

- Single Tenant with data storage including source files loaded into the cloud environment and content created within the application
- Dedicated environment

## **1.4 Optional Add-Ons**

### **1.4.1 IBM Watson Analytics Plus Storage Add-on**

Available as an add-on to a monthly subscription of IBM Watson Analytics Plus. Each subscription entitlement to this IBM SaaS provides an additional 10 GB of storage for user created content, beyond the maximum defined in the contracted tier.

### **1.4.2 IBM Watson Analytics Multiple User Storage Add-on**

Available as an add-on to a monthly subscription of IBM Watson Analytics Professional and Professional Dedicated. Each subscription entitlement to this IBM SaaS provides an additional 50 GB of storage for user created content, beyond the maximum defined in the contracted tier.

## **1.5 Disaster Recovery and Backup**

All IBM SaaS offerings provide Client with a disaster recovery plan and content backup support.

### **1.5.1 Disaster Recovery**

If a catastrophic event arises as a result of 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 IBM SaaS unavailability outside IBM's reasonable control, IBM will restore Client's access to the IBM SaaS within 14 days.

### **1.5.2 Content Backup**

Content backups are taken daily and copied to an off-site location to protect the content from a catastrophic event. Every 7 days, a full database backup is taken and each subsequent day a comparative differential backup is taken. IBM will retain the last 7 days of daily differential backups and the last 28 days of full backups. Backups are encrypted at rest on a disk-based backup system and during transmission to the offsite location.

## **2. Beta Functions in Watson Analytics**

Beta Functions provided with the IBM SaaS are not part of the IBM SaaS. Beta Functions are provided under the same terms as the IBM SaaS, except as provided below. Some or all of the Beta Functions may not be made generally available by IBM as or in a product or offering. Client is permitted to use the Beta Functions only for internal use for evaluation purposes and not for use in a production environment. Client may use the Beta Functions until IBM withdraws them or terminates access to it. IBM provides the Beta Functions without obligation of support and "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF TITLE, NON-INFRINGEMENT OR NON-INTERFERENCE AND ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Client should take precautions to avoid any loss of data that might result when the Beta Functions can no longer be used.

Client agrees IBM may use all feedback and suggestions provided.



## Appendix B

IBM provides the following availability service level agreement (“SLA”) for the IBM SaaS as specified in a PoE. The SLA is not a warranty. The SLA is available only to Client and applies only to use in production environments.

### 1. Availability Credits

Client must log a Severity 1 support ticket with the IBM technical support help desk within 24 hours of first becoming aware of an event that has impacted the IBM SaaS availability. Client must reasonably assist IBM with any problem diagnosis and resolution.

A support ticket claim for failure to meet an SLA must be submitted within four business days after the end of the contracted month. Compensation for a valid SLA claim will be a credit against a future invoice for the IBM SaaS based on the duration of time during which production system processing for the IBM SaaS is not available (“Downtime”). Downtime is measured from the time Client reports the event until the time the IBM SaaS is restored and does not include time related to a scheduled or announced maintenance outage; causes beyond IBM’s control; problems with Client or third party content or technology, designs or instructions; unsupported system configurations and platforms or other Client errors; or Client-caused security incident or Client security testing. IBM will apply the highest applicable compensation based on the cumulative availability of the IBM SaaS during each contracted month, as shown in the table below. The total compensation with respect to any contracted month cannot exceed 10 percent of one twelfth (1/12th) of the annual charge for the IBM SaaS.

### 2. Service Levels

Availability of the IBM SaaS during a contracted month

Availability during a contracted month	Compensation (% of monthly subscription fee* for contracted month that is the subject of a claim)
99.0-99.75 %	2%
95.0-98.99 %	5%
Less than 95.0 %	10%

\* If the IBM SaaS was acquired from an IBM Business Partner, the monthly subscription fee will be calculated on the then-current list price for the IBM SaaS in effect for the contracted month which is the subject of a claim, discounted at a rate of 50%. IBM will make a rebate directly available to Client.

Availability, expressed as a percentage, is calculated as: the total number of minutes in a contracted month minus the total number of minutes of Downtime in a contracted month divided by the total number of minutes in the contracted month.

Example: 500 minutes total Downtime during contracted month

43,200 total minutes in a 30 day contracted month – 500 minutes Downtime = 42,700 minutes	= 5 % Availability credit for 98.8% availability during the contracted month
<hr style="width: 50%; margin: 0 auto;"/> 43,200 total minutes	