



# IBM Terms of Use – SaaS Specific Offering Terms

## IBM Behavior Based Fan Insight

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 Behavior Based Fan Insight

### 2. Charge Metrics

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

- Eligible Participant is a unit of measure by which the IBM SaaS can be obtained. Each individual or entity eligible to participate in any service delivery program managed or tracked by the IBM SaaS is an Eligible Participant. Sufficient entitlements must be obtained to cover all Eligible Participants managed or tracked within the IBM SaaS during the measurement period specified in Client’s Proof of Entitlement (PoE) or Transaction Document.

For purpose of this IBM SaaS an Eligible Participant is the number of unique customer records processed by the IBM SaaS.

### 3. Charges and Billing

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

#### 3.1 Partial Month Charges

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

#### 3.2 Overage Charges

If Client’s actual usage of the IBM SaaS during the measurement period exceeds the entitlement stated on the PoE, then Client will be invoiced for the overage, as set forth in the Transaction Document.

### 4. IBM SaaS Subscription Period Renewal Options

Client’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 Client’s PoE states that Client’s renewal is automatic, Client may terminate the expiring IBM SaaS Subscription Period by written request to Client’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 Continuous Billing

When the PoE states that Client’s renewal is continuous, Client 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, Client will need to provide IBM or its IBM Business Partner with ninety (90) days written notice requesting that Client’s IBM SaaS be cancelled. Upon cancellation of Client’s access, Client will be billed for any outstanding access charges through the month in which the cancellation took effect.

### **4.3 Renewal Required**

When the PoE states that Client's renewal type is "terminate", the IBM SaaS will terminate at the end of the Subscription Period and Client's access to the IBM SaaS will be removed. To continue to use the IBM SaaS beyond the end date, Client will need to place an order with Client's IBM sales representative or IBM Business Partner to purchase a new Subscription Period.

### **5. Technical Support**

During the Subscription Period, technical support is provided for the duration of this IBM SaaS as set forth in the SaaS 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 personal 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 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.

#### **6.3 Personally Identifiable Information**

The IBM SaaS will enable Client to upload and manage content containing information which may be considered {personal and sensitive personal information (PI/SPI)} under applicable privacy laws:

- Contact information (e.g. address, phone and cell numbers, email)

## Appendix A

### 1. IBM Behavior Based Fan Insight

The IBM SaaS offering is designed to help sports teams and live event venues target fans by leveraging advanced analytics capabilities

Features include:

- Create segmentations based on purchasing transactions and demographics.
- Publish fan profiles to data-warehousing system for usage by other client systems.
- Predict fan behavior and target promotions for up-sell and cross-sell offers.
- Reduce churn of ticket holders.
- Generate marketing lists for unique fan segment campaigns.
- Deliver KPI dashboard displaying key metrics for detailed campaign performance tracking by segments.

## Appendix B

IBM provides the following availability service level agreement (“SLA”) for the IBM SaaS and is applicable if specified in Client’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 Client’s subscription will apply. Client understands that the SLA does not constitute a warranty to you.

### 1. Definitions

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

### 2. Availability Credits

- a. To submit a Claim, Client must log a Severity 1 support ticket for each Event with the IBM technical support help desk, within 24 hours of Client first becoming aware that the Event has impacted Client’s use of the IBM SaaS. Client must provide all necessary information about the Event and reasonably assist IBM with the diagnosis and resolution of the Event.
- b. Client must submit the Claim for an Availability Credit no later than three (3) business days after the end of the Contracted Month in which the Claim arose.
- c. Availability Credits are based on the duration of the Downtime measured from the time Client reports that Client was first impacted by the Downtime. For each valid Claim, IBM will apply the highest applicable Availability Credit based on the achieved SLA during each Contracted Month, as shown in the table below. IBM will not be liable for multiple Availability Credits for the same Event in the same Contracted Month.
- d. 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. Client 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.

- e. If Client purchased the IBM SaaS from a valid IBM reseller in a remarketing transaction in which IBM maintains primary responsibility for fulfilling the IBM SaaS and SLA commitments, the Availability Credit will be based on the then-current Relationship Suggested Value Price (RSVP) for the IBM SaaS in effect for the Contracted Month which is the subject of a Claim, discounted at a rate of 50%.
- f. 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 Client to IBM for the IBM SaaS.

**3. Service Levels**

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

Availability during a Contracted Month	Availability Credit (% of Monthly Subscription Fee for Contracted Month which is the subject of a Claim)
< 99.75%	2%
< 97.0%	5%
< 95%	10%

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

Example: 50 minutes total Downtime during Contracted Month

43,200 total minutes in a 30 day Contracted Month -- 50 minutes Downtime = 43,150 minutes <hr style="width: 50%; margin: 0 auto;"/> 43,200 total minutes	= 2% Availability Credit for 99.8% Achieved Service Level during the Contracted Month
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**4. Exclusions**

This SLA is made available only to IBM Clients. 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 Client’s users, guests, participants and permitted invitees of the IBM SaaS.