



# IBM Terms of Use – SaaS Specific Offering Terms

---

## IBM Commerce 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/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 Commerce Service
- IBM Order Management Service
- IBM Configure Price Quote Service
- Environment Options
  - IBM Commerce Service Integration Environment Option
  - IBM Order Management Service Integration Environment Option
  - IBM Configure Price Quote Service Integration Environment Option
  - IBM Commerce Service QA Environment Option
  - IBM Order Management Service QA Environment Option
  - IBM Configure Price Quote Service QA Environment Option
  - IBM Commerce Service Pilot Environment Option
  - IBM Order Management Service Pilot Environment Option
  - IBM Configure Price Quote Service Pilot Environment Option
- Base Subscription Options
  - IBM Call Center for Commerce on Cloud
  - IBM Commerce on Cloud Disaster Recovery Upgrade
  - IBM Commerce on Cloud Add-on Storage
  - IBM Commerce on Cloud Add-on VPN
  - IBM Commerce on Cloud Add-on Direct Connect 1GB
  - IBM Commerce on Cloud Add-on Direct Connect 10GB
  - IBM Commerce on Cloud Extra Time Zone Support
- IBM Commerce Service Base Subscription Options
  - IBM Configurator Add-on for IBM Commerce Service
- IBM Order Management Service Base Subscription Options
  - IBM Order Management Supply Collaboration
  - IBM Order Management Delivery and Service Scheduling
  - IBM Order Management Pricing
  - IBM Order Management Quoting
  - IBM Order Management Configurator
  - IBM Order Management Store
  - IBM Order Management Store Inventory Management

- Pay Per Use Services
  - IBM Commerce Additional Peak Hourly Burst Capability
  - IBM Order Management Additional Peak Hourly Burst Capability
- On Demand Set-Up Services and Set-up Services
  - IBM Commerce Service On Demand Set-up
  - IBM Order Management Service On Demand Set-up
  - IBM Configure Price Quote Service On Demand Set-up
  - IBM Commerce on Cloud Add-on Service Request Hours Set-up
  - IBM Commerce on Cloud Add-on Direct Connect 1 GB Set-up
  - IBM Commerce on Cloud Add-on Direct Connect 10 GB Set-up

## 2. Charge Metrics

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

- a. Hundred Thousand Order Lines is a unit of measure by which the IBM SaaS can be obtained. An Order means any document type defined in the IBM SaaS. Order Lines are the line items on an Order. Sufficient entitlements must be obtained to cover the total number of Order Lines managed or processed by the IBM SaaS, rounded up to the nearest one Hundred Thousand, during the measurement period specified in Client's PoE or Transaction Document.
- b. Thousand Order Lines is a unit of measure by which the IBM SaaS can be obtained. An Order means any document type defined in the IBM SaaS. Order Lines are the line items on an Order. Sufficient entitlements must be obtained to cover the total number of Order Lines managed or processed by the IBM SaaS, rounded up to the nearest one Thousand, during the measurement period specified in Client's PoE or Transaction Document.
- c. 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, through 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 PoE or Transaction Document.
- d. 50 Authorized Users 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, through 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, rounded up to the nearest fifty, during the measurement period specified in Client's PoE or Transaction Document.
- e. 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 Client's PoE or Transaction Document.
- f. Hour is a unit of measure by which the IBM SaaS can be obtained. Sufficient Hour entitlements must be obtained to cover the total number of whole or partial Hours of the IBM SaaS used during the measurement period specified in Client's PoE or Transaction Document.
- g. Connection is a unit of measure by which the IBM SaaS can be obtained. A Connection is a link or association of a database, application, server, or any other type of device to the IBM SaaS. Sufficient entitlements must be obtained to cover the total number of Connections which have been or are made to the IBM SaaS during the measurement period specified in Client's PoE or Transaction Document.
- h. Terabyte is a unit of measure by which the IBM SaaS can be obtained. A Terabyte is 2 to the 40th power bytes. Sufficient entitlements must be obtained to cover the total number of Terabytes processed by the IBM SaaS during the measurement period specified in Client's PoE or Transaction Document.

### 3. Charges and Billing

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

#### 3.1 IBM Configure Price Quote Required Entitlements

IBM Configure Price Quote Service is available under the charge metric of 50 Authorized Users. Client must have sufficient entitlements for its Direct Sales users and Partner Sales users separately, and, for clarity, one entitlement to 50 Authorized Users cannot be applied both to Direct Sales users and Partner Sales users. "Direct Sales" users are the Client's employee representatives who configure and quote prices for complex, or multi line item products for the Client's prospects. "Partner Sales" users are employed by the Client's dealers or distributors.

#### 3.2 Set-Up and On Demand Set-Up Charges

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

#### 3.3 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.

#### 3.4 Pay per Use Charges

Pay per use charges, as specified in the Transaction Document, will apply when the Client requests activation of the pay per use part.

### 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

Technical support for the IBM SaaS is provided via phone, email, and an online problem reporting system. IBM will make available the IBM Software as a Service Support Handbook, located online at [http://www-01.ibm.com/software/support/acceleratedvalue/SaaS\\_Handbook\\_V18.pdf](http://www-01.ibm.com/software/support/acceleratedvalue/SaaS_Handbook_V18.pdf), which provides technical support contact information and other information and processes. Technical support is offered with the IBM SaaS and is not available as a separate offering.

Severity	Severity Definition	Response Time Objectives	Response Time Coverage
1	<b>Critical business impact/service down:</b> Business critical functionality is inoperable or critical interface has failed. This usually applies to a production environment and indicates an inability to access services resulting in a critical impact on operations. This condition requires an immediate solution.	Within 1 hour	24x7
2	<b>Significant business impact:</b> A service business feature or function of the service is severely restricted in its use or you are in jeopardy of missing business deadlines.	Within 2 business hours	M-F business hours
3	<b>Minor business impact:</b> Indicates the service or functionality is usable and it is not a critical impact on operations.	Within 4 business hours	M-F business hours
4	<b>Minimal business impact:</b> An inquiry or non-technical request.	Within 1 business day	M-F business hours

## 5.1 Support Case Triage

As part of the IBM SaaS the IBM team will provide case management involving issues with the IBM SaaS (“Support Case Triage”) through the Client or their Authorized Third Party. As part of Support Case Triage, IBM will investigate the issue through diagnostic tasks. If the cause is determined to be related to the IBM SaaS, IBM supported Extensions (for which Client has contracted with IBM under a separate agreement) or infrastructure, then IBM will manage the case through to problem resolution. If the solution has to be provided from an area of Client responsibility, IBM will provide any relevant diagnosis uncovered in the triage process to assist the Client, or their Authorized Third Party, in problem resolution and continue to provide case management through case management tools.

## 5.2 Maintenance Windows

IBM’s standard weekly maintenance windows are currently scheduled for the IBM SaaS. These Maintenance Windows are the Client’s opportunity to request the application releases be applied to their Production Environment. Restrictions may apply and coordination with IBM is required. These maintenance windows do not necessarily mean the IBM SaaS will be down or unavailable and Service disruptions will be minimized for IBM activities. If the Client has maintenance activities for their extensions that maintenance activity must be performed during the maintenance windows. IBM will notify the Client if the IBM SaaS will not be available during the maintenance windows and the IBM SaaS planned downtime from the maintenance will not exceed eight hours in a calendar month.

Other scheduled and non-scheduled (emergency) down times may occur and Client will be notified of the IBM SaaS being unavailable at least one business day in advance unless the vulnerability, risk of loss or Service integrity is deemed by IBM to be too high.

## 6. IBM SaaS Offering Additional Terms

### 6.1 Safe Harbor Compliance

IBM abides by the U.S. - EU Safe Harbor Framework as set forth by the United States Department of Commerce regarding the collection, use and retention of information collected from the European Union. For more information about Safe Harbor or to access IBM’s certification statement, go to <http://www.export.gov/safeharbor/>.

### 6.2 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.

### 6.3 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.

## 7. Data Privacy and Security Description

This IBM SaaS follows, IBM’s Data Security and Privacy Principles, which are available at <https://www.ibm.com/cloud/resourcecenter/content/80> and any additional terms provided in this section. Any change to IBM’s data security policies will not degrade the security of the IBM SaaS.

The IBM SaaS does encrypt content during data transmission between the IBM network and the endpoint networks or machines depending on the protocol used. IBM recommends, but does not require, that the data is protected through file-level encryption while at rest, unless it contains Personally Identifiable Information (PII), in which case it must be encrypted. Client is responsible for ensuring transfer of content is via a secure protocol (as an example SFTP) while transmitting data.

## **7.1 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 Clients needs with regard to the type of content Client uses in connection with the IBM SaaS. Regulated and sensitive data is not permitted in the IBM SaaS unless expressly specified in this section, or written agreement between IBM and the Client.

The IBM SaaS may be used to process, store, transmit and derive information from, PII of Client's customers, users, personnel, and other individuals who may access the IBM SaaS, where allowed by law. Other types of regulated sensitive data such as Sensitive Personally Identifiable Information and Personal Health Information, are not permitted in the IBM SaaS.

## **7.2 Payment Card Industry (PCI) Account Data**

The IBM SaaS is not intended for storage, transmission or processing of PCI Account Data. To limit the risk of exposure, PCI Account Data should be re-directed, punched out using an iFrame, or other technology which passes the PCI Account Data from the Client's browser directly to the PCI compliant payment provider.

If necessary, the IBM SaaS will permit PCI Account Data to traverse the network and be processed on server images within the DMZ and Application tier. The PCI Account Data may be processed in memory and forwarded to the Client's payment provider, but is not permitted to be transferred to the database, or written to any file system on any device with the IBM SaaS.

IBM will comply, for the duration of the subscription, with the Payment Card Industry Data Security Standard (PCI DSS) for those controls that are managed by the IBM SaaS. The applicable controls will be documented through a Self-Assessment Questionnaire for Merchants Version D (SAQ D), which contains an Attestation of Compliance (AOC), or through an appropriate reporting method as specified by the PCI DSS.

## **8. General**

### **8.1 Service Requests**

A "Service Request" is a Client request that falls outside of standard IBM SaaS support, with which IBM may provide assistance or perform work on behalf of the Client. Some examples of a possible Service Request may include but are not limited to the following: (1) data requests – data updates, database configuration, database queries; (2) file operations – finding, moving, analyzing, providing files; (3) Client requested restarts outside of Maintenance Windows – Application or server; (4) resolving user-generated input problems, e.g. where a user has inadvertently affected the data integrity of the Application which can only be resolved via technical intervention; (5) integration point maintenance involving 3rd party dependencies or service partners; (6) change of a firewall rule unrelated to a IBM SaaS support issue; (7) running a report against the database; (8) database (DB) schema changes; (9) integration point changes requiring infrastructure changes, i.e. firewalls, messaging, etc.; and (10) minor data changes.

Each Service Request is measured in 30 minute units. For example, Service Requests that require 30 minutes or less of support services count as one Service Request in the monthly allocation. Service Requests that require one hour of support services count as two Service Requests in the monthly allocation.

The IBM SaaS includes a monthly allocation of fifty (50) hours, divided into One-Hundred (100), thirty (30) minute Service Requests units. Unused Service Request units do not roll into the following month. Additional Service Requests Units can be purchased.

### **8.2 Client Reference**

Client agrees that IBM may cite Client's company name and the general nature of the IBM SaaS and related services IBM provided to Client to IBM's other customers and prospective customers as an indication of IBM's experience, unless both Client and IBM specifically agree otherwise in writing.

### **8.3 Use of Client Data by IBM**

IBM may compile and analyze anonymous and aggregate data related to Client's use of the IBM SaaS, and may prepare reports, studies, analyses, and other work product resulting from this compilation and analysis (collectively the "Compiled Data"). IBM retains all ownership rights in to the Compiled Data. IBM may copy the Client's data to a Test server within the Test Environment for the exclusive purpose of testing and improving the quality of IBM's products.

## 8.4 Duties Upon Termination

In addition to the post-termination obligations set forth in the Agreement, upon expiration or termination of the Agreement or this Service Description for any reason:

- a. IBM will, at no additional charge and upon Client's written request submitted within 30 days after expiration or termination, provide a full and complete copy of Client's current transactional data to Client, in a format natively available within the Application, and after providing such data, delete archived data.
- b. If Client requires a formal termination plan, any effort or expenses incurred by IBM to support transition of the Environments to a non-IBM data center will be set forth in a separate agreement at rates and terms agreed upon by the parties.

## 9. Client Indemnification

With respect to the IBM SaaS herein, Client agrees to indemnify, defend and hold IBM harmless against any third party claim arising out of or relating to 1) any content created within an Environment(s) by Client or Client's designated third party, or otherwise provided, uploaded, or transferred to an Environment by Client or Client's designated third party (the foregoing excludes content provided by or on behalf of IBM, if any), 2) data created within the IBM SaaS by or on behalf of Client, or provided, uploaded, or transferred to the Environment by Client, or 3) violation of the restrictions on use of the IBM SaaS as set forth in the Agreement by Client or Client's IBM SaaS Users, provided that: (i) prompt written notice of any such claim is given to Client; (ii) Client has sole control of the defense and settlement of such claims; and (iii) IBM provides all information and assistance reasonably requested by Client at Client's sole cost and expense.

## 10. Third Party Services

The IBM SaaS may contain integrations with, links to or be used to access Third Party Services. Access to Third Party Services is provided "AS-IS", WITH NO WARRANTY OF ANY KIND, 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.

Client is responsible for entering into and complying with separate agreements with the third parties for the access to, or use of, such Third Party Services. IBM does not provide these Third Party Services under this offering in the IBM SaaS. Except to extent that Client may separately acquire such Third Party Services from IBM in a separate transaction, IBM is not a party to any such separate agreements, and as an express condition of the Agreement, Client agrees to comply with the terms of such separate agreements to the extent that it wishes to use them in conjunction with the IBM SaaS. If Client on behalf of itself, any IBM SaaS user or any end user, consents to the transmission of Content to such Third Party Service that is linked to or made accessible by the IBM SaaS, Client, the IBM SaaS user, and end user provide IBM with the consent to enable any such transmission of Content, but such interaction shall be deemed to be solely between Client and the third party offering the Third Party Service.

## 11. Offering Standards

This section describes the offering standards that describe certain functional and technical limits and parameters of each Base Subscription ("Offering Standards"). Unless otherwise agreed in writing between IBM and Client, Client's use of the IBM SaaS and any implementation or configuration of the IBM SaaS and any permitted Extensions are subject to the limits and parameters described in the below Offering Standards. Usage beyond the limits and parameters below requires written agreement of IBM and may result in additional charges for the IBM SaaS in addition to any charges for associated implementation or customization services. The Offering Standards vary between the Base Subscriptions and are outlined in the sub-sections which follow.

### 11.1 IBM Commerce Service Offering Standards

The peak order lines per hour supported by IBM Commerce Service increases as the number of annual lines increases. If the Client requires to increase the peak lines per hour on a temporary or permanent basis, then the "IBM Commerce Service Additional Peak Hourly Burst Capability" part must be ordered. If this number is exceeded, the performance of the IBM SaaS may degrade and the SLA no longer applies. Additional capacity can be acquired through purchase of IBM Commerce Service Additional Peak Hourly Burst Capability.

This table indicates the peak order lines per hour supported for the number of Hundred Thousand Order Line entitlement units subscribed:

Hundred Thousand Order Line Units Subscribed	Peak Order Lines per Hour
1	150
2 to 6	300
6 to 10	675
11 to 17	1,020
18 to 25	1,365
26 to 37	2,055
38 to 50	2,745
51 to 75	4,500
76 to 100	6,000
101 to 125	7,500
126 to 250	9,000
251 to 275	10,500
276 to 500	15,000
501 to 750	21,000
751 to 1,000	30,000
1001 to 1250	39,000
1251 to 2,500	75,000
2501 to 3750	120,000
3751 to 5,000	240,000
5001 and above	To be determined by IBM based on actual requirements

For example: A Client who has subscribed to 16 Hundred Thousand Order Lines units can have a Peak Order Lines Per Hour of 1,020 lines. Subscription to the “IBM Commerce Service Additional Peak Hourly Lines Capability” allows the Client to increase their capacity by a thousand Order Lines in any hour per Thousand Order Lines entitlement. Multiple additional units can be purchased to increase the capacity by multiples of 1,000 order lines per hour.

Item	Offering Standard
Inventory Uploads	Inventory updates must be delta changes resulting in no more than 10% of the total catalog being transferred to the IBM SaaS in any rolling fifteen minute period.
Average Lines Per Cart	Specified in Transaction Document
Catalog Size	Specified in Transaction Document
Registered Shoppers	Specified in Transaction Document

## 11.2 IBM Order Management Service Offering Standards

The peak order lines per hour supported by Order Management Service increases as the number of annual lines increases. If the Client requires to increase the peak lines per hour on a temporary or permanent basis, then the “IBM Order Management Service Additional Peak Hourly Burst Capability” part must be ordered. If this number is exceeded the performance of the IBM SaaS may degrade and the SLA no longer applies. Additional capacity can be acquired through purchase of IBM Order Management Service Additional Peak Hourly Burst Capability.

This table indicates the peak order lines per hour supported for the number of Hundred Thousand Order Line entitlement units subscribed:

Hundred Thousand Order Line Units Subscribed	Peak Order Lines per Hour
1	500
2 to 6	2,500
6 to 10	5000
11 to 17	6,000
18 to 25	9,000
26 to 37	10,000
38 to 50	18,000
51 to 75	20,000
76 to 100	24,000
101 to 125	30,000
126 to 250	40,000
251 to 275	50,000
276 to 500	60,000
501 to 750	70,000
751 to 1,000	80,000
1,001 to 1,250	120,000
1,251 to 2,500	155,000
2,501 to 3,750	260,000
3,751 to 5,000	360,000
5,001 to 7,500	500,000
7,501 to 10,000	800,000
10,001 and above	To be determined by IBM based on actual requirements

For example: A Client who has subscribed to 42 Hundred Thousand Order Lines units can have a Peak Order Lines Per Hour of 18,000 lines. Subscription to the “Additional Peak Hourly Lines Capability” allows the Client to increase their capacity by a thousand Order Lines in any hour per Thousand Order Lines entitlement. Multiple additional units can be purchased to increase the capacity by multiples of 1,000 order lines per hour.

Other offering standards and volumes that apply to the IBM SaaS are stated in this table:

Item	Offering Standard
Inventory Uploads	Inventory updates must be delta changes resulting in no more than 10% of the total catalog being transferred to the IBM SaaS in any rolling fifteen minute period
Average Lines Per Order	Specified in Transaction Document
Catalog Size	Specified in Transaction Document

### 11.3 IBM Configure Price Quote Service Offering Standards

IBM Configure Price Quote Service Offering Standards are specified in the Transaction Document.



## 12. Definitions

**Application** –the IBM software products that provide the base functionality for the IBM SaaS, including the original and all whole or partial copies: 1) machine-readable instructions and data, 2) components, 3) audio-visual content (such as images, text, recordings, or pictures), 4) related licensed materials, and 5) license use documents or keys, and documentation, which are provided by IBM and which Client may access through the IBM SaaS.

**Disaster** – a natural or human-induced event which disrupts the operations of vital technology infrastructure and systems creating a complex or irreversible disruption to the IBM SaaS, as defined in the Disaster Recovery Plan.

**Disaster Recovery Plan** – provides the detailed criteria needed to make the decision to declare a Disaster, and procedures required to activate the disaster recovery center in the event of a Disaster which impacts the primary site. Disaster Recovery Plan is reviewed and tested annually.

**Environment** - or “Application Environment” refers to a deployable instance of the Application, including the infrastructure necessary to support that Application for its intended use, and refers to the Integration Environment, Test Environment, Pre-Production Environment, Production Environment or Disaster Recovery Environment, as the context requires.

**Extensions** – are the software artifacts and configuration provided by the Client, or their authorized third party, to extend the IBM SaaS by implementing the Client’s business process flow, manage specific data needs, and provide Client specific branding, in support of the Client’s business requirements. This can be, but not limited to, software code, database extensions, scripts or files created to customize Client’s utilization of the IBM SaaS, including Integrations to Third Party Services or data sources. Extensions are the responsibility of the Client.

**Go-Live** – is the activation of the Production Environment Site for use by the Client for normal business activities and/or use by the Client in servicing, in anyway, their customers and/or use by the Client in support of revenue generation.

**Integration/Interface/Data Process** – each refers to any interface or communication point from the IBM SaaS to an external (to IBM) system or service. Integrations/Interfaces/Data Process could be between Client’s back-end ERP systems, partner systems, or data processes such as data loads. Integrations/Interfaces/Data Processes are typically used for data exchange mechanisms, and may be monitored.

**Payment Card Industry (PCI) Account Data** – cardholder account information contained on a payment card, or associated with a payment card transaction, including major debit, credit, prepaid, e-purse, ATM, POS cards, including Cardholder Data (CHD) and Sensitive Account Data (SAD) subject to security and handling guidelines set by the Payment Card Industry Data Security Standard (PCI DSS).

**Performance Testing** – is used to validate the IBM SaaS capability to support traffic/transactional volumes that have been specified by Client and sized for by IBM.

**Personally Identifiable Information (PII)** – is any information which identifies an individual or provides identifiable information regarding an individual. PII includes information that relates to individuals in their personal capacity (e.g. an individual’s home address) as well as information that relates to individuals in their professional or business capacity (e.g. an individual’s business address). PII also includes publicly available data about an individual, such as information available on the Internet. PII includes information provided by the individual themselves through data collection forms, information systematically observed about individuals (e.g. an individual’s learning activity completion or other behaviors or activities), and information inferred by a data controller or processor about individuals (e.g. an individual’s propensity to buy a certain product or their expertise). It should be noted that the data privacy requirements of Austria, Liechtenstein, and Switzerland also consider information related to legal entities (such as company name) to be PII. PII may also be known as Personal Data in some countries.

**Recovery Point Objective** – is the maximum tolerable period in which data might be lost from an IT service due to a Disaster.

**Recovery Time Objective** – is the targeted duration of time, and a service level, within which a business process must be restored after a Disaster is declared in order to avoid unacceptable consequences associated with a break in business continuity.

**Security Patch** – is a fix for a security-related vulnerability that affects the Application.

**Sensitive Personally Identifiable Information (SPII)** – is Personally Identifiable Information (PII) that requires stricter handling guidelines than other types of PII because of the increased risk to an individual if the data are compromised.

SPII includes:

- National ID numbers
- National or Social Insurance Identifiers
- Bank account numbers
- Passport information
- Driver's license and State ID information
- Student information
- Credit and debit card numbers (CHD)
- Healthcare related information
- Medical insurance information

An individual's citizenship or immigration status, medical information, ethnic, religious, sexual orientation or lifestyle information, mother's maiden name, date of birth, and account passwords, if used in combination with the identity of an individual (directly or indirectly inferred), are also Sensitive PII.

**Third Party Services** – are third party data services, databases, web services, software, or other third party content accessed via the IBM SaaS.

**Upgrade** – is a new version or release of the base Application that replaces an earlier version or release, and typically includes new features and functions. An Upgrade is usually treated as IBM Initiated Release as defined above.

## Appendix A

### 1. IBM SaaS Description

IBM Commerce on Cloud provides selling and fulfillment application functionality. IBM manages the infrastructure (network, storage and compute resources), provides upgrades to the application and maintains the infrastructure and applicable security and privacy controls.

The IBM SaaS is designed to enable the Client to implement Extensions to meet Client's unique business requirements.

#### 1.1 Base Subscriptions

The following describes the IBM SaaS subscription options (each a "Base Subscription") that are available as the applicable IBM SaaS. The Transaction Document identifies which Base Subscription(s) have been purchased. References to the IBM SaaS in this document apply to the Base Subscription(s) purchased.

##### 1.1.1 IBM Commerce Service

IBM Commerce Service is an e-commerce IBM SaaS that enables digital selling for business-to-consumer (B2C), business-to-business (B2B), indirectly through channel partners or all of these simultaneously. The primary capabilities include:

- a. Catalog Management Marketing and Promotion Types
- b. Contract Management
- c. Navigation and Search
- d. Pricing Support
- e. System Integration Support
- f. Multiple Storefront Creation and Management

##### 1.1.2 IBM Order Management Service

IBM Order Management Service is an omni-channel order management IBM SaaS that enables internal and external sources of supply to achieve Client service levels and business rules. The IBM SaaS consolidates orders across multiple channels to provide a single view of demand, inventory and supply across global networks via collaboration with Client's suppliers. The IBM SaaS integrates with warehouse, financial, tax, payment and other internal and external processes.

The IBM Order Management Service includes:

- a. Distributed Order Management – Aggregates, manages and monitors orders from all channels. Intelligent sourcing engine coordinates fulfillment across the extended enterprise. Provides a single order repository to modify, cancel, track, and monitor the order lifecycle.
- b. Global Inventory Visibility – Consolidates inventory information from multiple systems, generating a single view of all supply and demand. Provides role-specific views of inventory.
- c. Reverse Logistics – Links multiple return/repair requests to original sales orders, to enable repair lifecycle tracking. Tracks reverse inventory back to the appropriate location, based upon business rules.

##### 1.1.3 IBM Configure Price Quote Service

IBM Configure Price Quote Service is IBM SaaS that enables:

- a. Configurator - customize products and services based on multiple options and item-specific business rules.
- b. Pricing - manage and update product and service pricing for Client's applicable market segments.
- c. Quoting - allow creation of multiple quotes, and allow negotiation and conversion of accepted quote into an order.

- d. Catalog - deliver catalog information across the demand chain and manage the selling of products services, bundles, parts and accessories.

## 1.2 Deployment of IBM-Initiated Updates

IBM performs the required maintenance and updates of the IBM SaaS. Implementation of IBM-Initiated Updates do not count towards Client's monthly allocation of Service Requests.

IBM will implement upgrades, patches, and Security Patches (collectively, "IBM-Initiated Updates") to maintain the IBM SaaS. IBM will provide Client a 90 day notice prior to implementing the IBM-Initiated Update in the Production Environment, and will provide Client a 30 day notice prior to implementing the Security Patch in the Production Environment. IBM may, however, apply Security Patches IBM deems necessary to fix significant vulnerabilities and exposures to the application and infrastructure layer of the Production Environment with no notice or Client testing period.

IBM will provide Client a 60 day testing period to test in both the Integration and Test Environments prior to promoting the IBM-Initiated Update to the Pre-Production and Production Environment. IBM provide Client with a 30 day testing period on the Integration and Test Environments prior to promoting the Security Patch to the Pre-Production and Production Environment (collectively, the applicable "QA Testing Period").

Upon Client completion of the IBM-Initiated Update within the QA Testing Period, Client will notify IBM of any issues or advise that IBM may promote the IBM-Initiated Update to the Pre-Production and Production Environments within the 30 days immediately following the Client's approval.

If an IBM-Initiated Update remains unimplemented in the Production Environment after the expiration of the QA Testing Period due to an issue found within an Extension:

- a. Client will have 15 days to resolve the issue and grant permission to promote the IBM-Initiated Update;
- b. any warranties provided in the Agreement shall not apply to the IBM SaaS;
- c. IBM may charge Client for additional costs incurred by IBM to support the un-updated IBM SaaS; and
- d. IBM may, at its option, give Client 30 days' notice that Client's access to the IBM SaaS will be suspended unless the IBM-Initiated Update has been promoted to the Production Environment. Notwithstanding the above, if IBM is unable to promote an IBM-Initiated Update because Client withholds its consent due to a complex unresolved issue IBM at its discretion may work with the Client to define a mutually agreeable remediation and promotion plan.

If IBM determines that as a result of an IBM-Initiated Update not being promoted to the Production Environment a high severity security vulnerability exists or potentially exists, IBM may immediately suspend Client's access to the IBM SaaS until the IBM-Initiated Update has been promoted.

Should the IBM-Initiated Update remain unimplemented in the Production Environment because of an Extension Issue, or lack of Client permission to promote the change was not due to the IBM-Initiated Update's effect on Extensions, Client agrees to indemnify, defend and hold IBM harmless against any third party claims arising in connection with the use of the IBM SaaS following the QA Testing Period to the extent such claim could have been avoided by implementing the IBM-Initiated Update.

## 1.3 Extensions

Extensions permit the Client to configure the IBM SaaS to meet Client's business requirements by creating software extensions to the IBM SaaS Application. Extensions are content provided in the use of the IBM SaaS and are not part of the IBM SaaS. Client is responsible for the development, management, maintenance and support of all Extensions. Client may contract separately with IBM or a third party contractor specifically authorized in writing by IBM to create Extensions.

- a. Client-created Extensions are subject to the following additional terms and conditions:
  - (1) Client agrees to comply with the Offering Standards in connection with the development and delivery of Extensions.
  - (2) IBM will have the right to review and approve or reject the design documents, testing plans, test results and object code for Extensions for compliance with the terms of the Agreement.
  - (3) IBM may require Client to perform performance tests specified by IBM. Client shall provide such design documents, testing plans and results, and object code to IBM for review a

reasonable time in advance of the IBM SaaS going live and shall co-operate with IBM in resolving issues identified by IBM.

- (4) Client agrees to have in place and maintain a program to prevent malware, including viruses, Trojan horses, denial-of-service and other disruptive and covert technologies from being included in the Extensions.
  - (5) IBM may monitor and scan Extensions for security vulnerabilities and/or malware. IBM may remove the Extensions from any IBM SaaS environment or suspend the IBM SaaS until the security vulnerability or malware issue is resolved.
  - (6) Extensions will not include or add any third party commercial or packaged software product that operates independently of the IBM SaaS, and the addition of any such third party commercial or packaged software is prohibited.
  - (7) Client is responsible to train and maintain staff with an appropriate knowledge and skill level to work with the IBM SaaS and Extensions during the term of the subscription. Any training or educational assistance that is required is at the Client's expense. Should it be determined by IBM that the Client is not able to perform its required tasks with reasonable assistance, IBM, at its sole discretion, may require that Client engage in hands-on knowledge transfer activities with IBM professional services personnel. Such knowledge transfer activities shall be, unless between IBM and its affiliates, at the Client's expense. IBM will provide such training to Client upon Client's request for an additional charge.
  - (8) Client, or their licensors retain all right, title, and interest or license in and to the Extensions provided to IBM for hosting with the IBM SaaS. Client represents and warrants to IBM that Client has all rights necessary to provide the Client Extensions to IBM for the purpose of hosting with the IBM SaaS and that neither the Client Extensions nor the hosting by IBM with the IBM SaaS violate any third party patent or copyright.
  - (9) Client grants to IBM, on a world-wide, royalty-free, fully-paid, revocable, sub-licensable basis, all rights and licenses to, and agrees to promptly obtain and keep in effect Required Consents for all Extensions, necessary for IBM and its subcontractors to host the Extensions and otherwise perform its obligations. Upon request, Client will provide to IBM evidence of any such rights, licenses, or Required Consents. IBM will be relieved of its obligations to the extent that they are affected by Client's failure to promptly obtain and provide to IBM any such rights, licenses, or Required Consents. In this paragraph, "Required Consents" means any consents, licenses or approvals required to give IBM and its subcontractors the right or license to access, use and/or modify in electronic form and in other forms solely as necessary to perform under this Service Description, including making derivative works, the Extensions, without infringing the ownership or intellectual property rights of the providers, licensors, or owners of such Extensions.
  - (10) Client will ensure code, data and other artifacts introduced by Client through the Extensions, do not increase the security risk, or require additional certification requirements unless expressly agreed to by IBM through an amendment or addendum to this Service Description. Without limiting any of the foregoing, Client will: (a) perform web application and static code vulnerability scans on all Extensions to identify any security exposures; and (b) disclose to IBM in writing the existence of any exposures that were identified by a vulnerability scan that are included in or is provided in connection with the Extensions.
- b. Client is responsible to deploy and perform all testing of Extensions to Integration and Test Environments.
  - c. Prior to Go-Live, Client deploys Extensions to Pre-Production, Production and Disaster Recovery Environments.
  - d. After the Client's Go-Live, IBM will deploy Extensions to Pre-Production, Production and Disaster Recovery Environments through a Service Request.
  - e. Additional Integration, Test, Pre-Production or Production Environment deployments to be performed by IBM in support of Extensions, such as creation of Extensions or activation of other integrated components, may be described in a separate statement of work between IBM and Client, and will be subject to separate fees invoiced in accordance with the terms and fees contained in such a statement of work.

## 1.4 IBM SaaS Environments

The base IBM SaaS provides the functional infrastructure for running the software for which IBM provides the support and necessary network, hardware and system upgrades. As part of the Base Subscription, IBM provides one of each of the following environments. Additional environments, or standalone environments are available upon request and for an additional charge.

- **Integration Environment:** Provides a single, functionally equivalent instance of production and the supporting infrastructure used solely for the integration and functional testing of the new IBM SaaS, including the Application and any Extensions. Integration Environment is anticipated to be deployed to several times per day in order to arrive at a build that is ready to be deployed to the Test Environment
- **Test Environment, also known as QA Environment:** Provides a single, functionally equivalent instance of production and the supporting infrastructure used solely for quality assurance, performance and final testing of the new IBM SaaS, including the Application and any Extensions. Test Environment only has stable code streams deployed in preparation for the final promotion to Pre-Production, Production and Disaster Recovery Environments.
- **Pre-Production Environment:** Provides a limited production replica for deployment and Client's acceptance testing of the configurations of the final Application with any Extensions. This Environment is maintained to production operational and compliance standards at all times, but is not covered as part of the Service Level Agreement. This is the primary location for Client conducted user acceptance testing and the final performance evaluation/testing prior to going live in Production.
- **Production Environment:** The final resting point for all "Run" software in the IBM SaaS lifecycle management. Access to this system is restricted to IBM personnel or authorized users only. The Production Environment comprises the Application, systems, and supporting systems infrastructure, that the end users and the Clients of an organization access and use on an operational basis to execute its business processes and transactions.
- **Disaster Recovery Environment:** Provides a limited production replica capable of hosting the subscription volumes and which is synchronized with the Production Environment and maintained dormant on the Pre-Production infrastructure. The Disaster Recovery Environment is maintained in an always ready state in the unavoidable event the production data center should be unrecoverable and IBM declares a Disaster Event. When the Disaster Recovery Environment is activated, the Pre-Production Environment will be unavailable.

## 1.5 IBM SaaS Integration

The IBM SaaS supports a variety of methods to integrate with legacy and supportive services. The following capabilities are provided as part of the IBM SaaS, with, or without, the use of virtual or physical circuits.

- Application Program Interface (API) – a set of routines, protocols, and tools for building software and applications.
- Message Queue (MQ) – provides for inter-process communication (IPC), or for inter-thread communication within the same process. This permits the IBM SaaS to be an endpoint for MQ networks, or point-to-point communications. The IBM SaaS does not provide routing between two (2) or more, endpoints which are not part of the IBM SaaS.
- Secure File Transfer Protocol (SFTP) – or, SSH File Transfer Protocol, is a network protocol that provides file access, file transfer, and file management over a secure and reliable data stream. The IBM SaaS provides a SFTP server for inbound file transfers destined to be consumed by the Extensions. Outbound transfer from the IBM SaaS of data, and reports, can be accomplished through a java-based SFTP client, imbedded in the Application or Extensions. SFTP transfers require file-level encryption to protect the data at rest.

## 1.6 Monitoring

IBM provides the following monitoring designed to assess the IBM SaaS from the physical hardware's health to the performance of the IBM SaaS:

- Cloud Infrastructure Monitoring – monitors the health and well-being of the cloud infrastructure platform;

- Application Monitoring – monitors the health and well-being of the Application;
  - Synthetic Monitoring – “simulated user click” to monitor the health and well-being of Extensions running in conjunction with the Application.
- a. Production Environment Monitoring
    - (1) IBM will respond to the platform monitors in accordance with the severity of the fault and impact. IBM will treat detected Application unavailability as a Severity 1 support case and begin triaging the issue.
    - (2) IBM will provide monitoring of Client developed synthetic use-cases, and will monitor and open the appropriate support case based on the impact to the IBM SaaS and begin triage of the issue. Synthetic monitoring is limited to the monitoring of “simulated user clicks”. IBM monitors the Client’s synthetic monitoring to assess the availability of the IBM SaaS from the user’s perspective. This is accomplished through an automated method of simulating the click-paths of a given user experience.
  - b. Non-Production Environment Monitoring
    - (1) IBM will treat detected Test or Pre-Production Environment Application unavailability as a Severity 2 support case and then triage the issue. If the issue is within an area of Client responsibility IBM will notify the Client and continue to track the case.
    - (2) IBM will treat detected Integration Environment application unavailability as a Severity 3 support case and resolve the issue by way of restoring to the last known working backup or reinstalling.

## 1.7 Back-up

IBM will back-up Production, Pre-Production and Disaster recovery data a minimum once daily to a local disk store. The data includes key infrastructure configuration, product configuration, Extensions and files required to recover a failed system. Local backups will be moved to a remote storage location on a nightly basis and retained for seven days. The backups augment the Disaster Recovery Plan.

## 1.8 Disaster Recovery

IBM will provide Client recovery capabilities to a Tier 3 disaster recovery facility for Client’s Production Environment. IBM will perform Disaster Recovery using commercially reasonable efforts to restore the IBM SaaS with a Recovery Time Objective (RTO) of 48 hours and with a Recovery Point Objective (RPO) of 24 hours. In the event of an IBM declared Disaster, IBM will communicate with Client on an hourly basis as to the status of the recovery process, including progress regarding the RTO and RPO. When the Disaster Recovery Environment is activated, the Pre-Production Environment will be unavailable.

## 1.9 Data Storage Allocation

Client’s data storage allocation is for the Production Environment and includes storage sized to retain two (2) years of historical Order Lines for which Client is entitled as specified in the Transaction Document. In the event that these limitations are exceeded based on system storage events, Client will be responsible for additional storage allocation fees.

## 1.10 Shared Infrastructure Mail Service (Outbound Only)

Shared outbound mail delivery is provided as part of the IBM SaaS. Clients may configure the application to utilize these shared resources for non-business critical emails, notifications, system level status emails and/or email alerts. The IBM SaaS can be used for transactional emails at no charge, however IBM does not warrant the delivery, provide support for mass email campaigns or troubleshooting of email issues such as spam surfaced from third party email systems. Customer can contract with a separate email service (for example: IBM Marketing Cloud) for guaranteed email delivery, enhanced delivery options and support of transactional emails and marketing campaigns (mass emails). Integrations to third party mail service requires performance of such service through Extensions and will require a separate contract with the provider.

## 2. Set-Up and Production Readiness

IBM will provide up to six months set-up activities to prepare the IBM SaaS for Production Readiness. The set-up activities comprise:

- a. provisioning of the IBM SaaS environments;

- b. installation of the latest version of the Application, with all applicable patches, onto the Application Environments;
- c. establishment of network connectivity and inter-connections with Client's backend systems; and
- d. preparing the Production Environment to enable the Client to complete the initial deployment of the Client's Extensions.

Should set-up activities, for reasons outside of IBM's control, take longer than six months Client will be charged an On Demand Set-up fee for each month. Setup activities do not include implementation services (including customization, configuration and implementation of the Client's e-commerce solution supported by the IBM SaaS or otherwise to meet Client's particular business or technical needs—including volumetric requirements, look and feel and other and interface requirements and building of Extensions), which will be handled under a separate services agreement.

"Production Readiness" occurs when the following criteria are met: (1) The set-up activities are complete; and (2) the Client has completed the initial deployment of the Extensions onto the Production Environment.

Monthly IBM SaaS subscription fees, as identified in the Transaction Document, commence at Production Readiness.

### **3. Optional / Additional Features**

#### **3.1 Optional Environments**

The following optional environments can be used to supplement the base IBM SaaS or used as a standalone environment, as specified in the Transaction Document.

- a. Integration Environment Option – provides an Integration Environment that can be used for managing separate code streams or testing. The following options are available:
  - (1) IBM Commerce Service Integration Environment Option
  - (2) IBM Order Management Service Integration Environment Option
  - (3) IBM Configure Price Quote Service Integration Environment Option
- b. QA Environment – provides a Test Environment that can be used for managing separate code streams and testing. The following options are available:
  - (1) IBM Commerce Service QA Environment Option
  - (2) IBM Order Management Service QA Environment Option
  - (3) IBM Configure Price Quote Service QA Environment Option
- c. Pilot Environment – provides a Production Environment for a subset of customers that is maintained to production standards for up to 12 months. This option operates at production standards and provides the ability to test with live customers. SLA and disaster recovery are excluded. The following options are available:
  - (1) IBM Commerce Service Pilot Environment Option
  - (2) IBM Order Management Service Pilot Environment Option
  - (3) IBM Configure Price Quote Service Pilot Environment Option

#### **3.2 Network Integration Options**

The following are the supported, but not required, options for integrating with Client networks.

- a. Whitelisting Connections over the Internet – limits access to the IBM SaaS, or parts of the IBM SaaS, to specific internet public addresses. The limit access provides the flexibility to limit access to Client designated locations. Whitelisting is included in the IBM SaaS.
- b. Virtual Private Network (VPN) through the Internet – extends a private network across a public network. A VPN is created by establishing a virtual point-to-point connection through the use of dedicated connections, virtual tunneling protocols, or traffic encryption. A VPN is only required by the IBM SaaS if an integration connection is unencrypted, or not properly protected, through the Internet. Redundant circuits are required for high availability. VPN is not included in the Base Subscription and is a purchasable, optional Add-on for the IBM SaaS. VPN is available through the optional part, IBM Commerce on Cloud Add-on VPN.



- c. Direct Connect to SoftLayer – utilizes a Single Mode Fiber (SMF) connection from the Client’s remote location to a SoftLayer Point of Presence through a Client provided carrier service, such as, but not limited to, Multiprotocol Label Switching (MPLS) or Metro Area Network (MAN), etc. Redundant circuits are required for high availability which can be terminated to separate locations within the SoftLayer network. Direct Connect is not included in the Base Subscription and is a purchasable, optional Add-on for the IBM SaaS.
- d. Content Delivery Network (CDN) – depending on the needs of the business, may be required to enhance the performance to the end user. The end user could be ecommerce shoppers or customer service representatives, who, by the nature of the business would be across a particular region or in multiple regions. CDN is not included in the IBM SaaS. Client is responsible for the evaluation, provisioning and procurement of a third party CDN as required to meet the Client’s performance needs.

### 3.3 IBM SaaS Add-Ons

- a. The following add-ons are available for each of the Base Subscriptions:
  - (1) IBM Call Center for Commerce on Cloud – customer service representative visibility and execution of selling and ordering processes within the IBM Commerce or within the IBM Order Management Services.
  - (2) IBM Commerce on Cloud Disaster Recovery Upgrade - provides an enhanced business continuation of four hours RTO and two hours RPO.
  - (3) IBM Commerce on Cloud Add-on Storage
  - (4) IBM Commerce on Cloud Add-on VPN
  - (5) IBM Commerce on Cloud Add-on Direct Connect 1GB - connects the IBM SaaS to a remote data center utilizing a one Gigabit physical circuit leveraging MPLS, MAN, or similar private circuit.
  - (6) IBM Commerce on Cloud Add-on Direct Connect 10GB - connects the IBM SaaS to a remote data center utilizing a 10 Gigabit physical circuit leveraging MPLS, MAN, or similar private circuit.
  - (7) IBM Commerce on Cloud Extra Time Zone Support - enables support for non-severity 1 in an additional second or third, time zone.
- b. The following add-on is only available for the IBM Commerce Service Base Subscription:
  - (1) IBM Configurator Add-on for IBM Commerce Service - enable Client to customize complex products and services, within the web store, based on multiple options and item-specific business rules.
- c. The following add-ons are only available for the IBM Order Management Service Base Subscription:
  - (1) IBM Order Management Supply Collaboration – Automatically create purchase orders (POs) to send to suppliers for drop shipment or replenishment, manages PO lifecycle, and track exceptions including updating order status automatically from POs tied.
  - (2) IBM Order Management Delivery and Service Scheduling - Provides scheduling delivery, installation, and other add-on services at time of order transaction. It uses rules-based promising, provider selection, and crew allocation with integrated control of inventory, delivery and services execution.
  - (3) IBM Order Management Pricing - Provides rules based pricing based on configured orders as a common cross-channel pricing service.
  - (4) IBM Order Management Quoting - Enable creation and negotiation of proposals, automate approval process, and enforce price rules.
  - (5) IBM Order Management Configurator - Enable customers, sales representatives and channel partners to customize complex products and services based on multiple options and item-specific business rules.
  - (6) IBM Order Management Store - Enable global view of physical store inventory to be managed by store employees:
    - (a) Real-time inventory checks and order placement
    - (b) Alternative fulfillment options

- (i) Store pickup
- (ii) Ship from store
- (iii) Direct shipment from distribution center
- (c) Special orders
- (7) IBM Order Management Store Inventory Management - Allows Store Users to use advanced inventory location information (where the inventory can be found in store) and advanced features such as batch picking of multiple orders in one walk through the store.

### 3.4 Pay Per Use Services

To accommodate calendar months where the number of peak Order Lines per hour supported in the IBM SaaS exceed the maximum peak Order Lines entitled, Client may increase the bursting capabilities from the standard that is specified in the Offering Standards section below. The bursting capability may be increased in increments of 1000 Order Lines per hour and will be charged on a pay per use basis. Client will be charged for this capability during the months in which they have requested the expanded processing capacity and only for as long as the capability remains available for Client's use. This service must be ordered at least 60 days in advance of the month(s) when the expected burst will occur. The bursting capability applies to the following offerings:

- IBM Commerce Additional Peak Hourly Burst Capability
- IBM Order Management Additional Peak Hourly Burst Capability

### 3.5 On Demand Set-Up Services and Set-up Services

- a. On Demand Set-up services are available for each Base Subscription offering in excess of the six month set-up period should Production Readiness not be achieved within at most six months. The On Demand Set-up part fee will be charged for each month the IBM SaaS has not reached the Production Readiness state. The following On Demand Set-up services are available:
  - IBM Commerce Service On Demand Set-up
  - IBM Order Management Service On Demand Set-up
  - IBM Configure Price Quote Service On Demand Set-up
- b. IBM Commerce on Cloud Add-on Service Request Hours Set-up – This Set-up service establishes additional Service Request Hours to be made available to Client for use above the monthly Service Request Hours included with the Base Subscription.
- c. IBM Commerce on Cloud Add-on Direct Connect 1 GB Set-up – This Set-up service establishes the Direct Connect 1 GB offering available on a subscription basis. The Set-up service is required to facilitate use of this offering.
- d. IBM Commerce on Cloud Add-on Direct Connect 10 GB Set-up -- This Set-up service establishes the Direct Connect 10 GB offering available on a subscription basis. The Set-up service is required to facilitate use of this offering.



## 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 three 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:

- a. time related to a scheduled or announced maintenance outage;
- b. causes beyond IBM’s control;
- c. problems with Client or third party content or technology, designs or instructions;
- d. unsupported system configurations and platforms or other Client errors;
- e. Client-caused security incident or Client security testing;
- f. Extensions;
- g. the failure of Extensions to utilize or call to, or to properly extend to, the appropriate API or User Exit of the Service;
- h. improper use of a Service API or Service functionality;
- i. any configuration, setting, or change, outside of IBM’s control that impacts availability;
- j. the inability of IBM to promote a Security Patch into production as a result of Client’s refusal to approve such promotion or other actions undertaken by Client to block such promotion; or
- k. usage of the IBM SaaS beyond the limits of the applicable Offering Standards.

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.

For bundled IBM SaaS (individual IBM SaaS offerings packaged and sold together as a single offering for a single combined price), the compensation will be calculated based on the single combined monthly price for the bundled IBM SaaS, 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 at a given time.

### 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)
<99.9%	2%
<99.0%	5%
<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

$\begin{array}{r} 43,200 \text{ total minutes in a 30 day contracted month} \\ - 500 \text{ minutes Downtime} \\ \hline = 42,700 \text{ minutes} \end{array}$	$\frac{42,700 \text{ minutes}}{43,200 \text{ total minutes}}$	$= \{X\% \} \text{ Availability credit for } 98.8\% \text{ availability during the contracted month}$
---	---	---

## 2.1 Exclusions

This SLA does not apply to the following: (1) Pilot Environment; (2) if Client has breached any material obligations under the Service Description or Agreement, including without limitation, purchased subscription levels or breach of any payment obligations as in the Transaction Document; (3) the inability of IBM to promote a Security Patch into production as a result of Client's refusal to approve such promotion or other actions undertaken by Client to block such promotion; (4) Extensions; the failure of Extensions to utilize or call to, or to properly extend to, the appropriate API or User Exit of the IBM SaaS; (5) improper use of a IBM SaaS API or IBM SaaS functionality; or (6) any configuration, setting, or change, outside of IBM's control that impacts availability.