



# IBM Terms of Use – SaaS Specific Offering Terms

## Weather Company Energy and Power Products

The Terms of Use (“ToU”) is composed of this IBM Terms of Use - SaaS Specific Offering Terms (“SaaS Specific Offering Terms”), including Appendix A hereto 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/) which are incorporated herein by reference.

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

“IBM SaaS” means the application programming interfaces (API's) which provide Client with access to Content as described in the following IBM SaaS offerings (collectively, the “Weather Company Energy and Power Products”). “Content” means weather data, both historical and forecasted, delivered via the IBM SaaS (including without limitation forecasts, maps, alerts and graphs) as described in these SaaS Specific Offering terms.

- Weather Company Energy Trader
- Weather Company Seasonal Forecasts for Energy and Utilities
- Weather Company Power Demand Forecasts

### 2. Charge Metrics

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

- a. Active User is a unit of measure by which the IBM SaaS can be obtained. An Active User is a unique person who has accessed the IBM SaaS in any manner directly or indirectly (for example, through a multiplexing program, device or application server) through any means who is assigned to or works at one (or the same in the case of multiple Active Users) physical Client office location. Sufficient entitlements must be obtained to cover the number of Active Users who have accessed the IBM SaaS during the measurement period specified in Client's Proof of Entitlement (PoE) or Transaction Document.
- b. Entity ID is a unit of measure by which the IBM SaaS can be obtained. An Entity ID is a unique identifier for any entity represented within the IBM SaaS. Sufficient entitlements must be obtained to cover the number of Entity IDs identified in 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 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.

#### 3.3 Verification

Client will i) maintain, and provide upon request, records, system tools output, and access to Client's premises, as reasonably necessary for IBM and its independent auditor to verify Client's compliance with the Agreement, and ii) promptly order and pay for required entitlements at IBM's then current rates and for other charges and liabilities determined as a result of such verification, as IBM specifies in an invoice. These compliance verification obligations remain in effect during the term of the IBM SaaS and for two years thereafter.

## 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 30 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 30 days written notice of termination. The IBM SaaS will remain available to the end of the calendar month after such 30 day period.

## 5. Technical Support

Technical support for the IBM SaaS is provided via email or phone. IBM will make available the IBM Software as a Service Support Handbook - <https://www-01.ibm.com/software/support/handbook.html> 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.

## 6. IBM SaaS Offering Additional Terms

### 6.1 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.

### 6.2 Termination of Service

Upon expiration or termination of Client's subscription, Client's credentials for accessing the specific Energy product(s) will be deleted.

### 6.3 Restrictions on Usage

- a. Client shall not use the IBM SaaS or Content to target or trigger advertising, serve advertising based on the Content being associated with the location of any user of a consumer facing technology (e.g., weather-triggered advertising), or use the IBM SaaS or Content for any marketing or content-based decisioning.
- b. Client shall not use the Content as part of any offering of any type emanating from a television or radio broadcast (e.g., over-the-air, cable, satellite) or subscription streaming service (e.g., Sling Television, Netflix, Hulu, Amazon Prime Video, HBO GO, or radio equivalent) delivered on, through or by any means or medium.
- c. Client's use of the IBM SaaS and Content is restricted solely to its own internal use. Client may not engage in any form of electronic reproduction, redistribution or retransmission or resell, sublicense, externally display or exhibit either the IBM SaaS or Content, or any parts thereof..
- d. Client shall i) use commercially reasonable efforts to prevent any portion of the Content from being collected or extracted from Client's computer systems, products or control ("Client's Custody") and ii) promptly notify IBM of any known or reasonably suspected collection or extraction of Content from Client's Custody. The parties shall then discuss in good faith and attempt to determine a commercially reasonable course of action to prevent such activity in the future. In the event the parties fail to agree upon or implement such commercially reasonable course of action within five (5) business days from the initial notice, then IBM shall have the right to suspend delivery of the Content until such time as necessary steps are taken to protect the Content residing in Client's Custody.
- e. Client shall adhere to privacy policies in connection with Client's access, use, sharing and storage of information collected through or in relation to its use of the Content.
- f. Client agrees that the Weather Company Energy and Power Products and related specifications and documentation are IBM confidential information and cannot be used or disclosed outside the terms of this ToU.
- g. Client acknowledges IBM may change the style, form or content of, and eliminate or discontinue segments of, the Content from time to time and at any time in its sole discretion; provided, IBM will

include Client in its communications to similarly situated customers regarding material changes in the Content.

#### **6.4 Liability**

For the purposes of this offering the following are deleted from the Liability and Indemnity section of the Agreement:

“ii) damages for body injury (including death); iii) damages to real property and tangible personal property”

#### **6.5 Country Limitations on Usage**

Client is responsible for, and IBM's obligations under this ToU shall be conditioned on Client determining whether its use of the Content is permissible and, to the extent necessary, obtaining, all necessary licenses, permits, approvals or authorizations from any governmental entity or agency in the country or territory in which it operates or uses the Content.

#### **6.6 As Is Materials**

ALL WEATHER AND WEATHER-RELATED INFORMATION, FORECASTS AND ALERTS, ARE PROVIDED “AS IS,” AND IBM SHALL NOT BE RESPONSIBLE OR LIABLE FOR THE ACCURACY, RELIABILITY, COMPLETENESS OR AVAILABILITY OF SUCH MATERIALS.

#### **6.7 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.



**Appendix A**

**1. IBM SaaS Description**

Weather Company Energy and Power Products provide Client access to and use of the products ordered by Client. IBM will set up and enable Client’s use of the provided product(s) which will enable Client to access the product(s) via the agreed upon methods. The following are descriptions of the Weather Company Data Package offerings.

**1.1 Weather Company Energy Trader**

This package includes access to the following Content:

Component	Description
Weather Company Energy Trader - North America Standard - Gas	Weather Decision Support Platform providing forecasts covering the time period from present out to 5 months. Forecasts for days 1-15 are provided at both daily and hourly resolution. Forecasts issued at monthly resolution for months 1 through 5. Forecasts and Observations are provided for over 125 cities across North America. 1-15 day forecasts provided for both cities and the Natural Gas Regions across North America.* Product specifically geared towards companies that are only trading Natural Gas in North America
Weather Company Energy Trader - North America Standard - Power	Weather Decision Support Platform providing forecasts covering the time period from present out to 5 months. Forecasts for days 1-15 are provided at both daily and hourly resolution. Forecasts issued at monthly resolution for months 1 through 5. Forecasts and Observations are provided for over 125 cities across North America. 1-15 day forecasts provided for both cities and Power Regions across North America.* Product specifically geared towards companies that are only trading Electricity in North America
Weather Company Energy Trader - North America Basic	Weather Decision Support Platform providing forecasts covering the time period from present out to 5 months. Forecasts for days 1-15 are provided at both daily and hourly resolution. Forecasts issued at monthly resolution for months 1 through 5. Forecasts are provided for over 50 cities across North America. 1-15 day forecasts provided for both cities and Natural Gas Regions across North America.* Product specifically geared towards small companies trading natural gas in North America with a limited budget
Weather Company Energy Trader - Europe Premium - National	Weather Decision Support Platform providing forecasts covering the time period from present out to 5 months. Forecasts for days 1-15 are provided at both daily and hourly resolution. Forecasts issued at monthly resolution for months 1 through 5. Forecasts are provided for over 100 cities across Europe. 1-15 day forecasts provided for the following set of countries: UK, Ireland, France, Portugal, Spain, Benelux, Austria, Switzerland, Germany, Denmark, Finland, Sweden, Norway, Greece, Italy, Poland, Turkey, Ukraine, Czech Republic, Slovakia, Baltic Region, Western Russia, SE Europe Product specifically geared towards companies that are trading Power and/or Natural Gas in the European market.
Weather Company Energy Trader –	Weather Decision Support Platform providing forecasts covering the

Mexico	<p>time period from present out to 5 months. Forecasts for days 1-15 are provided at both daily and hourly resolution. Forecasts issued at monthly resolution for months 1 through 5. Forecasts are provided for over 35 cities across Mexico. 1-15 day forecasts provided for both cities and Power Demand Regions across Mexico.*</p> <p>Product specifically geared towards companies involved in trading or has exposure to the Mexican market.</p>
Weather Company Energy Trader - Asia Premium - National	<p>Weather Decision Support Platform providing forecasts covering the time period from present out to 5 months. Forecasts for days 1-15 are provided at both daily and hourly resolution. Forecasts issued at monthly resolution for months 1 through 5. Forecasts are provided for over 30 cities across Asia where weather impacts natural gas demand. 1-15 day forecasts provided for the following set of countries: China, Japan, S. Korea</p> <p>Product specifically geared towards companies that are trading Natural Gas/LNG in Asia or who are trading the European market and want to monitor weather in Asia for potential market impact in Europe</p>
Weather Company Energy Trader - Australia Premium - National	<p>Weather Decision Support Platform providing forecasts covering the time period from present out to 5 months. Forecasts for days 1-15 are provided at both daily and hourly resolution. Forecasts issued at monthly resolution for months 1 through 5. Forecasts are provided for cities across Eastern Australia where weather impacts natural gas and power demand. An example of cities in which 1-15 day forecasts are provided for includes Sydney, Brisbane and Melbourne</p> <p>Product specifically geared towards companies that are trading the Australian energy markets.</p>

## 1.2 Weather Company Seasonal Forecasts for Energy and Utilities

This package includes access to the following Content:

Component	Description
Weather Company Seasonal Forecasts for Energy & Utilities - North America	Forecast discussion delivered in PDF format which provides temperature and precipitation forecasts for the next 5 months for North America. Discussion is issued the Tuesday of the 2 <sup>nd</sup> full week of the month and updated again during the last week of the month.
Weather Company Seasonal Forecasts for Energy & Utilities - Europe	Forecast discussion delivered in PDF format which provides temperature and precipitation forecasts for the next 5 months for Europe. Discussion is issued the Tuesday of the 2 <sup>nd</sup> full week of the month and updated again during the last week of the month.
Weather Company Seasonal Forecasts for Energy & Utilities - Asia	Forecast discussion delivered in PDF format which provides temperature and precipitation forecasts for the next 5 months for Asia. Discussion is issued the last week of the month.
Weather Company Sub-Seasonal Forecasts for Energy & Utilities - North America	Forecast discussion delivered in PDF format which provides temperature and precipitation forecasts for weeks 3, 4, & 5 for North America. Discussion is updated every Tuesday at ~11am ET.
Weather Company Sub-Seasonal Forecasts for Energy & Utilities - Europe	Forecast discussion delivered in PDF format which provides temperature and precipitation forecasts for weeks 3, 4, & 5 for Europe. Discussion is updated every Wednesday at ~11am ET.

### 1.3 Weather Company Power Demand Forecasts

This package includes access to the following Content:

Component	Description
Weather Company Power Demand Forecasts - PJM	1-15 day forecast of the expected electricity demand in the PJM Power Region. Forecasts are updated every hour and displayed alongside the latest observations, weather model forecasts and the forecast issued by operator of the PJM Power Region.*
Weather Company Power Demand Forecasts - ERCOT	1-15 day forecast of the expected electricity demand in the ERCOT Power Region. Forecasts are updated every hour and displayed alongside the latest observations, weather model forecasts and the forecast issued by operator of the ERCOT Power Region.*
Weather Company Power Demand Forecasts - MISO	1-15 day forecast of the expected electricity demand in the MISO Power Region. Forecasts are updated every hour and displayed alongside the latest observations, weather model forecasts and the forecast issued by operator of the MISO Power Region.*

\* Regions are as defined or understood by the Federal Energy Regulatory Commission, U.S. Energy Information Administration or CENACE (The National Energy Control Center of Mexico).