



IBM Terms of Use – SaaS Specific Offering Terms

IBM Digital Recommendations

The Terms of Use (“ToU”) is composed of this IBM Terms of Use - SaaS Specific Offering Terms (“SaaS Specific Offering Terms”) and a document entitled IBM Terms of Use - General Terms (“General Terms”) available at the following URL: www.ibm.com/software/sla/slabd.nsf/sla/tou-gen-terms/.

In the event of a conflict, the SaaS Specific Offering Terms prevail over the General Terms. By ordering, accessing or using the IBM SaaS, Customer agrees to the ToU.

The ToU is governed by the IBM International Passport Advantage Agreement, the IBM International Passport Advantage Express Agreement, or the IBM International Agreement for Selected IBM SaaS Offerings, as applicable (“Agreement”) and together with the ToU make the complete agreement.

1. IBM SaaS

The following IBM SaaS offerings are covered by these SaaS Specific Offering Terms acquired under the terms of the IBM International Passport Advantage Agreement or the IBM International Passport Advantage Express Agreement:

- IBM Content Recommendations
- IBM Product Recommendations
- IBM Product Recommendations Analytics Independent

The following IBM SaaS offerings are covered by these SaaS Specific Offering Terms acquired under the terms of the IBM International Agreement for Selected IBM SaaS Offerings:

- IBM Coremetrics Content Recommendations
- IBM Coremetrics Intelligent Offer
- IBM Coremetrics Intelligent Offer Analytics Independent

2. Charge Metrics

The IBM SaaS is sold under the following charge metric(s):

- a. Thousand Revenue Conversion Unit (TRCU) is a unit of measure by which the IBM SaaS can be obtained. A Revenue Conversion Unit is a currency-independent measure of a Revenue amount relevant to the IBM SaaS. Currency-specific Revenue amounts must be converted into RCUs in accordance with the table located at http://www.ibm.com/software/licensing/conversion_unit_table. Each TRCU entitlement represents one Thousand RCUs. Sufficient TRCU entitlements must be obtained to cover the amount of Revenue processed or managed by the IBM SaaS during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
- b. Million Server Calls (MSCs) is a unit of measure by which the IBM SaaS can be obtained. A Server Call is data passed to and processed by IBM SaaS as a result of a tagged event, initiated by a tracked visitor for one Entity ID. A Server Call processed by different Entity IDs will be counted as a unique Server Call for each unique Entity ID. An Entity ID separates and/or controls access rights to data in the IBM SaaS which may encompass processed data from one or more Customer web sites. Each MSC entitlement represents one Million Server Calls. Sufficient Million Server Call entitlements must be obtained to cover the number of Server Calls processed during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.
For purposes of this IBM SaaS offering, a Client ID is the same as an Entity ID
- c. Engagement is a unit of measure by which the services can be obtained. An Engagement consists of professional and/or training services related to the IBM SaaS. Sufficient entitlements must be obtained to cover each Engagement.
- d. Ten Thousand USD Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Ten Thousand USD Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Ten Thousand United States Dollars (USD) as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total USD Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.

- e. Ten Thousand EUR Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Ten Thousand EUR Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Ten Thousand Euro as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total EUR Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.
- f. Ten Thousand GBP Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Ten Thousand GBP Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Ten Thousand United Kingdom Pound Sterling (GBP) as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total GBP Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.
- g. Million YEN Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Million YEN Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Million Japanese YEN as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total YEN Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.
- h. Ten Thousand CAD Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Ten Thousand CAD Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Ten Thousand Canadian Dollars (CAD) as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total CAD Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.
- i. Ten Thousand AUD Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Ten Thousand AUD Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Ten Thousand Australian Dollars (AUD) as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total AUD Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.
- j. Ten Thousand SGD Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Ten Thousand SGD Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Ten Thousand Singaporean Dollars (SGD) as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total SGD Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.
- k. Ten Thousand BRL Sales Revenue is a unit of measure by which the IBM SaaS can be obtained. Ten Thousand BRL Sales Revenue is the amount of revenue generated by Customer through tracked online initiatives expressed in Ten Thousand Brazilian Real (BRL) as tracked by the IBM SaaS. Sufficient entitlements must be obtained to cover the total BRL Sales Revenue generated during the measurement period specified in a Proof of Entitlement (PoE) or Transaction Document.

3. Charges and Billing

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

3.1 Setup

3.1.1 IBM Product Recommendations Analytics Independent One-Time Setup / IBM Coremetrics Intelligent Offer Analytics Independent One-Time Setup

IBM shall charge a one-time setup fee upon initial provisioning of the IBM Product Recommendations Analytics Independent / IBM Coremetrics Intelligent Offer Analytics Independent SaaS. The rate and billing term will be specified in the Transaction Document and billed accordingly.

3.2 Partial Month Charges

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

3.3 Overage Charges

If Customer's actual usage of the IBM SaaS in any business quarter (based on a calendar year) exceeds three (3) times the entitlement specified in a PoE or Transaction Document, then Customer will be

invoiced for the overage in accordance with the overage rates specified in the applicable PoE or Transaction Document.

3.4 Remote Services (Human Based)

Remote Services are purchased on a per Engagement charge metric and are invoiced when ordered. Services expire 90 days from date of purchase regardless of whether all hours have been used.

4. Remote Services

4.1 IBM Product Recommendations Premium Onboarding Services / IBM Coremetrics Intelligent Offer Premium Onboarding Services

Provides up to 48 hours of remote consulting, best practices, training and configuration for onboarding Customers to IBM Product Recommendations / IBM Coremetrics Intelligent Offer or IBM Product Recommendations Analytics Independent / IBM Coremetrics Intelligent Offer Analytics Independent, as applicable.

4.2 IBM Content Recommendations Premium Onboarding Services / IBM Coremetrics Content Recommendations Premium Onboarding Services

Provides up to 48 hours of remote consulting, best practices, training and configuration for onboarding Customers to IBM Content Recommendations / IBM Coremetrics Content Recommendations.

4.3 IBM Digital Recommendations Optimization / IBM Coremetrics Digital Recommendations Optimization

Provides up to 20 hours of remote consulting, best practices and support to help optimize configuration and use for Customers who have already been onboarded (or in conjunction with onboarding) for either IBM Product Recommendations / IBM Coremetrics Intelligent Offer or IBM Content Recommendations / IBM Coremetrics Content Recommendations.

5. IBM SaaS Subscription Period Renewal Options

Customer's PoE will set forth whether the IBM SaaS will renew at the end of the Subscription Period by designating one of the following:

5.1 Automatic Renewal

If Customer's PoE states that Customer's renewal is automatic, Customer may terminate the expiring IBM SaaS Subscription Period by written request to Customer's IBM sales representative or IBM Business Partner, at least ninety (90) days prior to the expiration date as set forth in the PoE. If IBM or its IBM Business Partner does not receive such termination notice by the expiration date, the expiring Subscription Period will be automatically renewed for either one year or the same duration as the Subscription Period as set forth in the PoE.

5.2 Continuous Billing

When the PoE states that Customer's renewal is continuous, Customer will continue to have access to the IBM SaaS and will be billed for the usage of the IBM SaaS on a continuous basis. To discontinue use of the IBM SaaS and stop the continuous billing process, Customer will need to provide IBM or its IBM Business Partner with ninety (90) days written notice requesting that Customer's IBM SaaS be cancelled. Upon cancellation of Customer's access, Customer will be billed for any outstanding access charges through the month in which the cancellation took effect.

5.3 Renewal Required

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

6. Technical Support

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

Technical Support information can be found at the following URL:

<http://www.ibm.com/support>

7. IBM SaaS Offering Additional Terms

7.1 IBM Product Recommendations Analytics Independent / IBM Coremetrics Intelligent Offer Analytics Independent

Included in the subscription fee for this IBM SaaS is the following:

- a. Based on IBM's assessment, Customer will be provided an appropriate number of Client IDs in order to meet their recommendations needs. If necessary, this includes from 1-50 Clients IDs at no charge to Customer.
- b. IBM Digital Analytics Digital Data Exchange / IBM Coremetrics Digital Data Exchange, as applicable, per Client ID
- c. IBM Digital Analytics Import / IBM Coremetrics Import, as applicable, with the standard data importation modules (Category Definition File, Enterprise Products Report and Forecast Metrics)

7.2 Links to Third Party Websites or Other Services

If Customer or an IBM SaaS User transmits Content to a third party website or other service that is linked to or made accessible by the IBM SaaS, Customer and the IBM User provide IBM with the consent to enable any such transmission of Content, but such interaction is solely between Customer and the third party website or service. IBM makes no warranties or representations about such third party sites or services, and shall have no liability for such third party sites or services.

7.3 Safe Harbor Certification

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

7.4 Cookies

Customer agrees that IBM may use cookies and tracking technologies to collect personally identifiable information in gathering usage statistics and information designed to help improve user experience and/or to tailor interactions with users in accordance with <http://www-01.ibm.com/software/info/product-privacy/index.html>.

7.5 Derived Benefit Locations

Where applicable, taxes are based upon the location(s) Customer identifies as receiving benefit of the IBM SaaS. IBM will apply taxes based upon the business address listed when ordering a IBM SaaS as the primary benefit location unless Customer provides additional information to IBM. Customer is responsible for keeping such information current and providing any changes to IBM.

7.6 Service Level Agreement

If Customer's PoE designates an applicable Service Level Agreement ("SLA"), the IBM SaaS is delivered subject to the SLA attached to this TOU as Appendix B and the remedies stated in that SLA. The SLA is Customer's sole and exclusive remedy with respect to the service level commitments defined therein.

Appendix A

IBM Digital Recommendations solutions allow Customers to automate and optimize the process of making personalized offer recommendations. The Digital Recommendations service supports both offer optimization for products (IBM Product Recommendations / IBM Coremetrics Intelligent Offer) and general content (IBM Content Recommendations / IBM Coremetrics Content Recommendations) which are licensed as separate solutions.

Content Recommendations automates and optimizes the process of making personalized content suggestions on the Customer's website. The Content Recommendations user interface provides the capability to determine content recommendation strategy and define Customer specific business rules to meet Customer needs.

Product Recommendations / Intelligent Offer automates and optimizes the process of making personalized product suggestions on the Customer's website, in their email campaigns and other marketing channels. The Product Recommendations / Intelligent Offer user interface provides the capability to determine recommendation strategy to meet Customer needs. A business rules management component provides a graphical user interface for defining advanced business rules that can override or fine tune the final product recommendations made by the solution's affinity algorithms. An A/B testing component is also included and specifically designed to run A/B/C & D split tests to determine the relative impact different product recommendation offer strategies have on site visitor conversions.

Product Recommendations Analytics Independent / Intelligent Offer Analytics Independent provides the same services as Product Recommendations / Intelligent Offer however without the requirement of a subscription to IBM Digital Analytics / IBM Coremetrics Web Analytics.

Service Level Agreement

Appendix B

This Service Level Agreement (SLA) is for the following IBM SaaS:

- IBM Content Recommendations / IBM Coremetrics Content Recommendations
- IBM Product Recommendations / IBM Coremetrics Intelligent Offer
- IBM Product Recommendations Analytics Independent / IBM Coremetrics Intelligent Offer Analytics Independent

IBM provides this SLA to its Customers subject to the following terms. The version of this SLA that is current at the commencement or renewal of the term of your subscription will apply.

1. Definitions

- a. "Application Downtime" means a period of time during which users of the IBM hosted portions of the application interface are unable to use all aspects of the Service for which they have appropriate permissions. By way of clarification, there is no "Downtime" if any user can use any aspect of the Service for which they have appropriate permissions.
- b. "Authorized Contact" means the individual you have specified to IBM who is authorized to submit Claims under this SLA.
- c. "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 Service.
- d. "Claim" means a claim submitted by your Authorized Contact to IBM pursuant to this SLA that a Service Level has not been met during a Contracted Month.
- e. "Contracted Month" means each full month during the term of the Service measured from 12:00 a.m. GMT on the first day of the month through 11:59 p.m. GMT on the last day of the month.
- f. "Customer" or "you" or "your" means an entity that is subscribing for the Service directly from IBM, and that is not in default of any material obligations, including payment obligations, under its contract with IBM for the Service.
- g. "Downtime" means Application Downtime and/or Inbound Processing Downtime applicable to the corresponding Service Level shown on the table below. Downtime does not include the period of time when the Service is not available as a result of:
 - Planned System Downtime.
 - Force Majeure.
 - Problems with Customer or third party applications, equipment, or data.
 - Customer or third party acts or omissions (including anyone gaining access to the Service by means of your passwords or equipment).
 - Failure to adhere to required system configurations and supported platforms for accessing the Service.
 - IBM's compliance with any designs, specifications, or instructions provided by Customer or a third party on Customer's behalf.
- h. "Event" means a circumstance or set of circumstances taken together, resulting in a failure to meet a Service Level.
- i. "Force Majeure" means acts of God, terrorism, labor action, fire, flood, earthquake, riot, war, governmental acts, orders or restrictions, viruses, denial of service attacks and other malicious conduct, utility and network connectivity failures, or any other cause of Service unavailability that was outside IBM's reasonable control.
- j. "Inbound Data Collection Downtime", if applicable, means a period of time during which the Service is unable to collect inbound data via the inbound data processing elements of the Service.
- k. "Planned System Downtime" means a scheduled outage of the Service for the purpose of service maintenance.

- l. "Service" means the Service to which this SLA applies, as shown on the first page of this SLA.
- m. "Service Level" means the standard set forth below by which IBM measures the level of service it provides in this SLA.

2. Availability Credits

In order to be eligible to submit a Claim you must have logged a support ticket for each Event with the IBM customer support help desk for the applicable Service, in accordance with IBM procedure for reporting Severity 1 support issues. You must provide all necessary detailed information about the Event, including the time you were first impacted by the Event, and reasonably assist IBM with the diagnosis and resolution of the Event to the extent required for Severity 1 support tickets. Such ticket must be logged within twenty-four (24) hours of your first becoming aware that the Event has impacted your use of the Service.

Your Authorized Contact must submit your Claim for an Availability Credit no later than three (3) business days after the end of the Contracted Month that is the subject of the Claim.

Your Authorized Contact must provide to IBM all reasonable details regarding the Claim, including but not limited to, detailed descriptions of all relevant Events and the Service Level claimed not to have been met.

IBM will measure internally total combined Downtime during each Contracted Month applicable to the corresponding Service Level shown on the table below. Availability Credits will be based on the duration of the Downtime measured from the time you report that you were first impacted by the Downtime. If Customer reports an Event of Application Downtime and an Event of Inbound Data Processing Downtime occurring simultaneously, then IBM will treat the overlapping periods of Downtime as a single period of Downtime, and not as two separate periods of Downtime. For each valid Claim, IBM will apply the highest applicable Availability Credit based on the achieved Service Level during each Contracted Month, as shown on the tables below. IBM will not be liable for multiple Availability Credits for the same Event(s) in the same Contracted Month.

For Bundled Service (individual Services 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 Service. You may only submit Claims relating to one individual Service in a bundle in any Contracted Month, and IBM will not be liable for Availability Credits with respect to more than one Service in a bundle in any Contracted Month.

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

The total Availability Credits awarded with respect to any Contracted Month shall not, under any circumstance, exceed twenty percent (20%) of one twelfth (1/12th) of the annual charge paid by you to IBM for the Service.

IBM will use its reasonable judgment to validate Claims based on information available in IBM's records, which will prevail in the event of a conflict with data in your records.

THE AVAILABILITY CREDITS PROVIDED TO YOU IN ACCORDANCE WITH THIS SLA ARE YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM.

3. Service Levels

Service	Applicable Service Level	
	Application availability during a Contracted Month	Inbound Data Collection availability during a Contracted Month
IBM Content Recommendations / IBM Coremetrics Content Recommendations	Y	Y

IBM Product Recommendations / IBM Coremetrics Intelligent Offer	Y	Y
IBM Product Recommendations Analytics Independent/ IBM Coremetrics Intelligent Offer Analytics Independent	Y	Y

Achieved Service Level during a Contracted Month	Availability Credit (% of Monthly Subscription Fee for Contracted Month which is the subject of a Claim)
99% - 99.949%	2%
98% -.98.999%	5%
97% - 97.999%	12%
Less than 97.000%	20%

“Achieved Service Level” 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, with the resulting fraction expressed as a percentage.

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/> 43,200 total minutes in a 30 day Contracted Month	= 2% Availability Credit for 99.884% Achieved Service Level
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4. Exclusions

This SLA is made available only to IBM Customers. This SLA does not apply to the following:

- Beta and trial Services.
- Non-production environments, including but not limited to test, disaster recovery, Q&A, or development.
- Claims made by an IBM Customer’s users, guests, and participants of the Service.
- If you have breached any material obligations under the Terms of Use, Acceptable Use Policy or your contract for the Service, including without limitation, breach of any payment obligations.