IBM Terms of Use – SaaS Specific Offering Terms for Federal

IBM WebSphere Cast Iron Live for US Federal

The Terms of Use (“ToU”) is composed of this IBM Terms of Use - SaaS Specific Offering Terms (“SaaS Specific Offering Terms”) and the IBM Terms of Use - General Terms for Federal (“General Terms”). The SaaS Terms of Use are also available at the following URL: [http://www-03.ibm.com/software/sla/sladb.nsf/sla/usg](http://www-03.ibm.com/software/sla/sladb.nsf/sla/usg). Customers placing a GSA Order with IBM, the complete agreement between the parties consist of terms and conditions as set forth in the current IBM GSA IT Schedule Contract, GS-35F-4984H, including the IBM Passport Advantage Agreement (Appendix S), the SaaS Specific Offering Terms for Federal and the IBM Terms of Use – General Terms for Federal (Chapter 9). Should a conflict arise among Appendix S, the General Terms and these SaaS Specific Offering Terms, the conflict shall be resolved in the following order of precedence: these SaaS Specific Offering Terms, the General Terms and the Appendix S.

Customers placing a non-GSA Order (Open Market) - except for those provisions solely specific to GSA Orders, terms and conditions equivalent to those of the current IBM GSA IT Schedule Contract shall apply. The complete agreement between the parties consist of terms and conditions equivalent to those set forth in the current IBM GSA IT Schedule Contract, GS-35F-4984H, including the IBM Passport Advantage Agreement (Appendix S), the SaaS Specific Offering Terms for Federal and the IBM Terms of Use – General Terms for Federal (Chapter 9). Should a conflict arise among Appendix S, the General Terms and these SaaS Specific Offering Terms, the conflict shall be resolved in the following order of precedence: these SaaS Specific Offering Terms, the General Terms and the Appendix S. The incorporation by reference of equivalent IBM GSA IT Schedule Contract terms and conditions shall not be considered a transaction under the Schedule Contract.

Customer may use the IBM SaaS only if Customer first accepts the Terms of Use. By issuing a Purchase Order or other ordering document to IBM for the SaaS offering, Customer agrees to the terms and conditions set forth herein.

1. IBM SaaS

The following IBM SaaS offerings are covered by these SaaS Specific Offering Terms:

- IBM WebSphere Cast Iron Live for Federal Standard Edition with 2 Application Endpoints
- IBM WebSphere Cast Iron Live for Federal Standard Edition Application Endpoints
- IBM WebSphere Cast Iron Live for Federal Standard Edition Unrestricted Application Endpoints
- IBM WebSphere Cast Iron Live for Federal Enterprise Edition with 2 Application Endpoints
- IBM WebSphere Cast Iron Live for Federal Enterprise Edition Application Endpoints
- IBM WebSphere Cast Iron Live for Federal Enterprise Edition Unrestricted Application Endpoints
- IBM WebSphere Cast Iron Live for Federal Enterprise Development Edition

2. Charge Metrics

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

a. 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 Customer’s Proof of Entitlement (PoE) or Transaction Document.

b. Application Instance is a unit of measure by which the IBM SaaS can be obtained. An Application Instance entitlement is required for each instance of an Application connected to the IBM SaaS. If an Application has multiple components, each of which serves a distinct purpose and/or user base, and each of which can be connected to or managed by the IBM SaaS, each such component is considered a separate Application. Additionally, test, development, staging, and production environments for an Application are each considered to be separate instances of the Application and each must have an entitlement. Multiple Application instances in a single environment are each considered to be separate instances of the Application and each must have an entitlement. Sufficient Entitlements must be obtained to cover the number of Application Instances connected to
the IBM SaaS during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.

3. Charges and Billing
The amount payable for the IBM SaaS is specified in a Transaction Document, IBM proposal or IBM quote.

3.1 Partial Month Charges
The partial month charge is a pro-rated daily rate that will be charged to Customer. 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.

4. IBM SaaS Subscription Renewal
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.

5. Technical Support
During the Subscription Period and after IBM notifies Customer that access to the IBM SaaS is available, technical support for the IBM SaaS is provided via email, online forums, and an online problem reporting system M-F business hours. Weekend inquiries will be handled during the next business day. Any enhancements, updates, and other materials provided by IBM as part of any such technical support are considered to be part of the IBM SaaS and therefore governed by this ToU. Technical support is included with the IBM SaaS and is not available as a separate offering.

More information about hours of availability, email addresses, online problem reporting systems, and other technical support communication vehicles and processes are described in the IBM Software as a Service Support Handbook.

6. IBM SaaS Offering Additional Terms
6.1 Cookies
Customer is aware and agrees that IBM may, as part of the normal operation and support of the IBM SaaS, collect personal information from Customer (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 Customer. Customer 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 Customer’s employees and contractors to access, update, correct or delete their collected personal information.

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

6.3 Enabling Software
This IBM SaaS offering may include the following Enabling Software:

- IBM WebSphere Cast Iron Live - Studio
- IBM WebSphere Cast Iron Live - Secure Connector
- IBM WebSphere Cast Iron Live - Template Integration Processes and Connectors

6.4 Cumulative Entitlements
Install and Application Instance entitlements are not alternative means for authorizing use of the IBM SaaS. Customer must obtain Application Instance entitlements to cover Customer’s application endpoints connected to the IBM SaaS, except that two application endpoints are permitted with each Install entitlement. Customer must obtain either sufficient Application Instance entitlements to cover all
Customer application endpoints greater than two that connect to the IBM SaaS or an entitlement to Unrestricted Application Endpoints for the relevant Installs. If the IBM SaaS is designated as a “Development Edition”, Customer is authorized to connect an unrestricted number of application endpoints to the IBM SaaS.

6.5 Developer Limitation

If the IBM SaaS is designated as a “Development Edition”, the IBM SaaS can only be deployed as part of Customer’s internal development and unit testing. Customer is not authorized to use the IBM SaaS for processing production workloads, simulating production workloads or testing scalability of any code, application or system. Customer is not authorized to use any part of the IBM SaaS for any other purposes without acquiring the appropriate production entitlements.

6.6 Prohibited Components

Notwithstanding any provision in the Agreement, if the IBM SaaS is designated as a “Standard Edition”, Customer is not authorized to use any of the following components or functions of the IBM SaaS:

a. Enterprise Application Endpoints
b. Data Quality Features
c. Template Development Kit
d. Management APIs
IBM Terms of Use – IBM SaaS Specification

Appendix A

IBM WebSphere Cast Iron Live For US Federal is a multi-tenant, cloud-based platform that provides tools and resources to integrate cloud and on-premise applications. Clients may choose from any supported cloud and on-premise applications.

Standard Edition allows clients to configure, run, and manage certain common application integrations, including connectivity to cloud and supported standard on-premise applications, data synchronization and data migration scenarios. Standard Edition includes the ability to connect two applications, with an option to acquire additional application endpoints. Application Endpoints adds the authorization to integrate additional applications. Unrestricted Application Endpoints includes the authorization to integrate applications without a cap. Development Edition provides a complete, shared development environment for nonproduction use, and includes the authorization to integrate applications in the development environment without a cap.

Enterprise Edition includes everything in the Standard Edition, plus advanced capabilities, including the ability to connect supported enterprise on-premise applications, perform user interface mashups, use data quality features, develop reusable templates, and manage and monitor the solution remotely through management application programming interfaces (APIs). Enterprise Edition includes the same variations as described above for Standard Edition.
Appendix B

IBM provides the following availability service level agreement ("SLA") for the IBM SaaS and is applicable if specified in Customer’s Proof of Entitlement (PoE) or Transaction Document:

The version of this SLA that is current at the commencement or renewal of the term of Customer’s subscription will apply. Customer understands that the SLA does not constitute a warranty to you.

1. Definitions

a. "Availability Credit" means the remedy IBM will provide for a validated Claim. The Availability Credit will be applied in the form of a credit or discount against a future invoice of subscription charges for the IBM SaaS.

b. “Claim” means a claim Customer submits to IBM that an SLA has not been met during a Contracted Month.

c. "Contracted Month" means each full month during the term of the IBM SaaS measured from 12:00 a.m. Eastern US time on the first day of the month through 11:59 p.m. Eastern US time on the last day of the month.

d. “Downtime” means a period of time during which production system processing for the IBM SaaS has stopped and Customer’s users are unable to use all aspects of the IBM SaaS for which they have permissions. Downtime does not include the period of time when the IBM SaaS is not available because of:

- A scheduled or announced maintenance outage;
- Events or causes beyond IBM’s control (e.g., natural disaster, internet outages, emergency maintenance, etc.);
- Problems with Customer’s or a third party’s applications, equipment, or data;
- Customer’s failure to adhere to required system configurations and supported platforms for accessing the IBM SaaS; or
- IBM’s compliance with any designs, specifications, or instructions provided to IBM by Customer or a third party on Customer’s behalf.

e. “Event” means a circumstance or set of circumstances taken together, resulting in a failure to meet an SLA.

2. Availability Credits

a. To submit a Claim, Customer must log a Severity 1 support ticket for each Event with the IBM technical support help desk, within 24 hours of Customer first becoming aware that the Event has impacted Customer’s use of the IBM SaaS. Customer must provide all necessary information about the Event and reasonably assist IBM with the diagnosis and resolution of the Event.

b. Customer must submit the Claim for an Availability Credit no later than three (3) business days after the end of the Contracted Month in which the Claim arose.

c. Availability Credits are based on the duration of the Downtime measured from the time Customer reports that Customer was first impacted by the Downtime. For each valid Claim, IBM will apply the highest applicable Availability Credit based on the achieved SLA during each Contracted Month, as shown in the table below. IBM will not be liable for multiple Availability Credits for the same Event in the same Contracted Month.

d. For Bundled Service (individual IBM SaaS packaged and sold together for a single combined price), the Availability Credit will be calculated based on the single combined monthly price for the Bundled Service, and not the monthly subscription fee for each individual IBM SaaS. Customer may only submit Claims relating to one individual IBM SaaS in a bundle in any Contracted Month, and IBM will not be liable for Availability Credits with respect to more than one IBM SaaS in a bundle in any Contracted Month.
e. If Customer purchased the IBM SaaS from a valid IBM reseller in a remarketing transaction in which IBM maintains primary responsibility for fulfilling the IBM SaaS and SLA commitments, the Availability Credit will be based on the then-current Relationship Suggested Value Price (RSVP) for the IBM SaaS in effect for the Contracted Month which is the subject of a Claim, discounted at a rate of 50%.

f. The total Availability Credits awarded with respect to any Contracted Month shall not, under any circumstance, exceed ten percent (10%) of one twelfth (1/12th) of the annual charge paid by Customer to IBM for the IBM SaaS.

3. Service Levels

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

<table>
<thead>
<tr>
<th>Availability during a Contracted Month</th>
<th>Availability Credit (% of Monthly Subscription Fee for Contracted Month which is the subject of a Claim)</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt;99.5%</td>
<td>10%</td>
</tr>
<tr>
<td>&lt;99.0%</td>
<td>50%</td>
</tr>
<tr>
<td>&lt;95%</td>
<td>75%</td>
</tr>
</tbody>
</table>

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

Example: 50 minutes total Downtime during Contracted Month

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\frac{43,200 \text{ total minutes} - 50 \text{ minutes Downtime}}{43,200 \text{ total minutes}} = 10\% \text{ Availability Credit for 99.8\% Achieved Service Level during the Contracted Month}
\]

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, quality assurance, or development.
- Claims made by Customer’s users, guests, participants and permitted invitees of the IBM SaaS.