IBM Silverpop Engage SMS

This Service Description describes the Cloud Service IBM provides to Client. Client means and includes the company, its authorized users or recipients of the Cloud Service.

1. Cloud Service

The Cloud Service offering provided by IBM is described below. The applicable Quotation and Proof of Entitlement (PoE) are provided as separate Transaction Documents.

IBM Silverpop Engage SMS is a cloud-based text messaging capability within the Silverpop Engage digital marketing platform and provides the following capabilities:

- Ability to send SMS messages to Mobile Messaging Devices (meaning wireless devices capable of sending, receiving, or displaying content sent through SMS) in any country around the world where SMS is supported.
- SMS campaign builder provides marketers with easy-to-use frameworks and templates for building customer SMS interactions
- Drag and drop SMS campaigns using predefined templates for Text to Join, Text for Info, Text to Vote, Text to Screen, or Text to Win
- Campaign-level reporting to view aggregate SMS campaign data and individual campaign level data
- Ability to send SMS messages from third party systems by leveraging the Silverpop SMS Gateway API
- Use the Silverpop Query Builder to identify or filter users who performed one or more of these SMS events: Interacted with an SMS program, Been Sent a Message from SMS Program, and Interacted with a Multi-Step Program.

1.1 IBM Silverpop SMS International Long Code (Group ILCL-A)

This Cloud Service provides the Client with a standard, 10-digit telephone number owned by IBM Silverpop and used by multiple IBM Silverpop Clients for sending to and/or receiving text messages from Mobile Messaging Devices to an entitled country.

1.2 IBM Silverpop SMS National Long Code (Group NLCL-A)

This Cloud Service provides the Client with a standard, 10-digit telephone number used exclusively by the Client for sending to and/or receiving text messages from Mobile Messaging Devices to an entitled country.

1.3 IBM Silverpop SMS Shared Short Code (Group SSCL-A)

This Cloud Service provides the Client with a special, shortened telephone number owned by IBM Silverpop and used by multiple IBM Silverpop Clients for sending to and/or receiving text messages from Mobile Messaging Devices to an entitled country.

1.4 IBM Silverpop SMS Dedicated Short Code (Group DSCL-X*)

This Cloud Service provides the Client with a special, shortened telephone number used exclusively by the Client for sending to and/or receiving text messages from Mobile Messaging Devices to an entitled country.

1.5 IBM Silverpop SMS National Long Code Message Volume (Group NLCMV-#*), IBM Silverpop SMS Shared Short Code Message Volume (Group SSCMV-#*), IBM Silverpop SMS Dedicated Short Code Message Volume (Group DSCMV-#*), and IBM Silverpop SMS International Long Code Message Volume (Group ILCMV-#*)

These Cloud Service offerings are standard rate text messages sent through IBM Silverpop Engage SMS which are then handed off to a wireless operator for attempted delivery to a Mobile Messaging Device or that originate from a Mobile Messaging Device through a wireless operator and are received into the Silverpop Engage SMS application. Any SMS messages consisting of more than one hundred sixty (160) characters will be automatically be split into multiple messages of one hundred sixty (160) characters or less by IBM Silverpop and Client will be billed for each message.
Offering names with X* or #* means there are multiple offerings, each one of which is a different grouping of countries. In order to see what countries belong to a specific group, please go to the following link:

http://www.ibm.com/common/ssi/cgi-bin/ssialias?subtype=ST&infotype=SA&htmlfid=ZZJ12392USEN&attachment=ZZJ12392USEN.XLS.

2. Security Description

2.1 Security Policies
IBM has an information security team and maintains privacy and security policies that are communicated to IBM employees. IBM requires annual privacy and security training for personnel. IBM security policies are revalidated annually based on industry practices and IBM business requirements. Security incidents are handled based on comprehensive incident response procedures.

2.2 Access Control
IBM authorized staff use two-factor authentication to an intermediate “gateway” management host. IP Blocking may be utilized to prevent access by known compromised Internet sites and users in U.S. embargoed countries. Access to Client data and transfer of data in or out of the hosting environment is monitored for unauthorized activity. Wireless networking is prohibited within the IBM production environments that support this Cloud Service.

The Cloud Service enforces the encryption of data transmissions via the public Internet for all user connections. The Cloud Service encrypts Client data at rest.

2.3 Service Integrity and Availability
Modifications to operating systems, application software, and firewall rules are controlled under IBM’s change management process. IBM monitors the service on a 24x7 basis. Internal and external vulnerability scanning is conducted regularly by authorized administrators and third party vendors to help detect potential system security exposures. Preventative and detective security systems (e.g. antivirus, intrusion detection, and vulnerability scanning) are used in all IBM data centers. IBM’s data center services support standard protocols for the transmission of data over public networks. Examples include HTTPS/TLS and SFTP. Backup data is written directly to disk in a secure secondary data center or encrypted prior to transfer to external storage.

2.4 Activity Logging
IBM maintains logs of activity for systems, applications, data repositories, middleware, and network infrastructure devices that are capable of and configured for logging activity. To minimize the possibility of tampering and to enable central analysis, alerting and reporting, activity logging is automatically collected in real-time in central log repositories. Data is signed to prevent tampering. Logs are analyzed in real-time and via periodic analysis reports to detect anomalous behavior. Operations personnel are alerted to anomalies and escalate to a 24x7 on-call security specialist when needed.

2.5 Physical Security
IBM maintains physical security standards to ensure physical security requirements for third party data center providers meet IBM standards. Access to the data centers is limited to access points that are controlled by two-factor authentication and are monitored by security personnel via surveillance cameras. Access is restricted to only authorized staff that have approved access. Operations staff verify the approval, capture the authorized person’s biometric data, and issue an access badge granting the necessary access. Usage of badges is logged. Visitors must be announced in advance, are registered upon entering the premises, and are escorted while in non-public areas. Delivery areas, loading docks, and other points where persons may enter the premises are controlled and isolated.

2.6 Compliance
The providers of the facilities that host IBM production data centers for the Cloud Service issue SSAE 16 SOC Type II attestation reports (or their equivalent) annually. The relevant attestations reports are available to Client and its auditors upon request under valid non-disclosure provisions.

IBM Silverpop Engage SMS relies on or incorporates third party technology provided by mGage. mGage’s Safe Harbor certification status may be reviewed at www.export.gov/safeharbor/.

3. Service Level Agreement
IBM provides the following availability service level agreement (“SLA”) for the Cloud Service as specified in the Transaction Document. The SLA is not a warranty.
3.1 Definitions

a. "Availability Credit" means the compensation IBM will provide for a validated Claim. The Availability Credit will be applied in the form of a credit against a future invoice for the Cloud Service if acquired directly from IBM. If the Cloud Service is acquired from an IBM Business Partner, then IBM will make a rebate directly available to Client.

b. "Claim" means a claim Client submits to IBM that a service level has not been met during a Contracted Month.

c. "Contracted Month" means each full calendar month during the Cloud Service term 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 Cloud Service for which Client is entitled to use is not available. Additionally, Downtime includes a period of time during which the Cloud Service is unable to send or receive data via the data processing elements of the Cloud Service. Downtime does not include the period of time when the Cloud Service is not available because of:

1. a scheduled or announced maintenance outage;
2. Events or causes beyond IBM’s control (e.g., natural disaster, internet outages, emergency maintenance, internet service provider or telecommunication carriers actions or inactions, etc.);
3. problems with content, equipment, or applications Client uses with the Cloud Service or any third party software, hardware, or other technology;
4. Client’s failure to adhere to required system configurations and supported platforms or Client system administration, commands, or programming errors;
5. Client’s caused security breach or any security testing performed by Client; or
6. IBM’s compliance with any designs, specifications, or instructions that Client provides to IBM or a third party provides to IBM on Client’s behalf.

e. "Event" means a circumstance or set of circumstances taken together, resulting in a failure to meet a service level.

3.2 Availability Credits

To submit a Claim, Client must log a Severity 1 support ticket (as defined via the information provided below in the Technical Support section) for each Event with the IBM technical support help desk within 24 hours of first becoming aware that the Event has impacted use of the Cloud Service. Client must provide all necessary information about the Event and reasonably assist IBM with the diagnosis and resolution.

A Claim for Availability Credit must be submitted within three business days after the end of the Contracted Month in which the Claim arose.

a. Availability Credits are based on the duration of Downtime measured from the time Client reports the Downtime. For each valid Claim, IBM will apply the highest applicable Availability Credit based on the cumulative availability of the Cloud Service 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.

The total Availability Credits awarded with respect to any Contracted Month cannot exceed 20 percent of one twelfth (1/12th) of the annual charge for the Cloud Service.

3.3 Service Levels

<table>
<thead>
<tr>
<th>Availability during a Contracted Month</th>
<th>Availability Credit (% of Monthly Subscription Fee* for Contracted Month that is the subject of a Claim)</th>
</tr>
</thead>
<tbody>
<tr>
<td>99% - 99.949%</td>
<td>2%</td>
</tr>
<tr>
<td>98% - 98.999%</td>
<td>5%</td>
</tr>
<tr>
<td>97% - 97.999%</td>
<td>10%</td>
</tr>
</tbody>
</table>
* If the Cloud Service was acquired from an IBM Business Partner, the monthly subscription fee will be calculated on the then-current list price for the Cloud Service in effect for the Contracted Month which is the subject of a Claim, discounted at a rate of 50%.

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 a Contracted Month.

Example: 50 minutes total Downtime during Contracted Month

<table>
<thead>
<tr>
<th>43,200 total minutes in a 30 day Contracted Month</th>
<th>2% Availability Credit for 98.884% availability during the Contracted Month</th>
</tr>
</thead>
<tbody>
<tr>
<td>– 50 minutes Downtime</td>
<td>= 2% Availability Credit for 98.884% availability during the Contracted Month</td>
</tr>
<tr>
<td>= 43,150 minutes</td>
<td></td>
</tr>
</tbody>
</table>

3.4 Other Information about this SLA

This SLA is available to the Client company and does not apply to claims made by a user of the Cloud Service or for any beta or trial services. The SLA only applies to the Cloud Services in productive use. It does not apply to non-production environments, including but not limited to test, disaster recovery, quality assurance, or development.

4. Technical Support

Technical support is provided for the Cloud Service and Enabling Software, as applicable, during the subscription period. Such technical support is included with the Cloud Service and is not available as a separate offering.

Technical Support information, Severity definitions, and links to submit support requests for IBM Silverpop Engage can be found at the following URL: http://www.ibm.com/software/info/silverpop/support/.

5. Entitlement and Billing Information

5.1 Charge Metrics

The Cloud Service is available under the charge metric specified in the Transaction Document:

a. Access is a unit of measure by which the Cloud Service can be obtained. An Access is the right to use the Cloud Service. Client must obtain a single Access entitlement in order to use the Cloud Service during the measurement period specified in the Proof of Entitlement (PoE) or Transaction Document.

b. Digital Message is a unit of measure by which the Cloud Service can be obtained. A Digital Message is an electronic communication managed or processed by the Cloud Service. Sufficient entitlements must be obtained to cover the total number of Digital Messages managed or processed by the Cloud Service during the measurement period specified in Client’s Proof of Entitlement (PoE) or Transaction Document.

5.2 Set-Up Charges

Set-up charges will be specified in the Transaction Document. IBM will charge a setup fee upon initial provisioning of the Set-up part. On-Demand options will be invoiced in the month the on-demand option is employed by the Client at the rate set forth in the Transaction Document.

a. IBM Silverpop SMS International Long Code (Group ILCS-AA) and IBM Silverpop SMS Shared Short Code (Group SSCS-XX*)

This service updates the Cloud Service environment with the SMS capability. Each IBM Silverpop Client must select a unique alphanumeric keyword to identify their mobile messages and distinguish them from others who are also simultaneously using the code.

b. IBM Silverpop SMS National Long Code (Group NLCS-XX*) and IBM Silverpop SMS Dedicated Short Code (Group DSCS-XX*)
This service updates the Cloud Service environment with the SMS capability. Each IBM Silverpop Client is randomly assigned a code from an available pool of numbers.

Offering names with XX* means there are multiple offerings, each one of which is a grouping of countries. In order to see what countries belong to a specific group, please go to the following link:
http://www.ibm.com/common/ssi/cgi-bin/ssialias?subtype=ST&infotype=SA&htmlfid=ZZJ12392USEN&attachment=ZZJ12392USEN.XLS.

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

5.4 Overage Charges
If actual usage of the Cloud Service during the measurement period exceeds the entitlement specified in the PoE, Client will be charged for the overage as specified in the Transaction Document.

For a Cloud Service with a Digital Message charge metric, IBM will invoice Client based upon the selected billing frequency for the Digital Message entitlements Client orders. Actual usage will be metered and overage charges will be due if actual message usage exceeds the total number of entitled messages in aggregate for up to 12 monthly measurement periods during the subscription period.

Client will be invoiced in arrears for overage charges each month, at the overage rate specified in the POE, once the total aggregate has been reached. Such overage charges are due in addition to the base monthly entitlement charge.

If the subscription period is greater than 12 months, the aggregate total number of entitlements will be based on 12 monthly measuring periods. The aggregate total will reset to zero after the 12th monthly measuring period. Overage charges for the next 12 monthly measuring periods will not be due until the actual message usage exceeds the total number of entitled messages in aggregate for such 12 monthly measurement periods.

If a subscription period is less than 12 months or less than 12 monthly periods remain in a subscription period, the number of monthly entitlements remaining in a subscription will be used for the total number of entitled messages in aggregate.

For Clients leveraging ramp periods, each period is treated in the same manner as the subscription period and the same principles apply.

Example 1: Client has a 12 month Subscription Period and has acquired one million Digital Messages per month. If Client sends more than 12 million Digital Messages before the end of the 12 month Subscription Period, Client will be invoiced the following month for the quantity in excess and all usage in the coming months will be billed in arrears till the end of the Subscription Period.

Example 2: Client has a three year Subscription Period and has acquired one million Digital Messages per month. If Client sends more than 12 million messages before the end of the first 12 months period, Client will be invoiced the following month for the quantity in excess and all usage in the coming months will be billed in arrears until the usage count is reset or the end of the remaining Subscription Period.

6. Term and Renewal Options

6.1 Term
The term of the Cloud Service begins on the date IBM notifies Client of their access to the Cloud Service, as documented in the PoE. Client may increase their level of use of the Cloud Service during the term by contacting IBM or their IBM Business Partner, and the increase will be confirmed in a Transaction Document.

6.2 Term Renewal Options
The Transaction Document will specify which of the following applies to renewal of the Cloud Service term.

6.2.1 Automatic Renewal
Where renewal is automatic, the Cloud Service will automatically renew for a term specified in the Transaction Document (either a one year term or the same duration as the expiring term) unless Client has provided written termination at least 90 days prior to the term expiration date.
6.2.2 Renewal Required
Where the renewal type is specified as “terminate”, the Cloud Service will terminate at the end of the term and Client access will end. To continue use of the Cloud Service beyond the term end date, Client must order a new subscription term.

7. Enabling Software
This Cloud Service includes enabling software, which should be used only in connection with Client’s use of the Cloud Service for the Cloud Service term. If the enabling software contains sample code, Client may make derivative works of the sample code for use with the Cloud Service. If enabling software is accompanied by a separate license agreement, the term of such license agreement(s) also applies, as limited by this section. In the event of conflict, the terms of this Service Description prevail over any such accompanying license agreement. Client is responsible to remove enabling software upon expiration or termination of the Cloud Service.

8. General
8.1 Mobile Messaging Specific Terms
a. IBM Silverpop International Long Code and IBM Silverpop Shared Short Code
Acts or inactions by any other IBM Silverpop Client sharing the same code may adversely affect the availability of the code. IBM Silverpop shall not be liable to Client for any interruption in the Services associated with the shared code arising out of such actions or inactions of any other IBM Silverpop Client simultaneously using the shared code.

b. IBM Silverpop International Long Code, IBM Silverpop National Long Code, and IBM Silverpop Dedicated Short Code
Clients planning on running Text to Win campaigns must have their code configured and approved for contest/sweepstakes use by the wireless carriers. Client must verify compliance for each country a contest/sweepstakes will be active in.

c. IBM Silverpop National Long Code and IBM Silverpop Dedicated Short Code
IBM Silverpop, on behalf of Client, will acquire/migrate the code that Client may already have and submit the necessary paperwork required for Client’s use of the code to the wireless operators in the specific country for approval and activation/migration. IBM Silverpop provides standard code management services on behalf of Client which includes notifying and processing code renewal on behalf of Client. Some campaigns may be restricted or require additional approvals from wireless operators before running. IBM will work with Client and the wireless operator to accomplish this. The time it takes for the wireless operators to activate/migrate a code typically takes between 8-12 weeks from when the activation/migration form is submitted to the wireless operators. Actual time may vary and is at the sole discretion of the wireless operators.

8.2 Privacy Notice and Policy
Client agrees to: (i) provide a clear and conspicuous link to Client’s website terms of use and privacy policy which includes a link to IBM's (http://www.ibm.com/software/marketing-solutions/privacy/index.html) and Client’s data collection and use practices; (ii) provide notice that cookies and clear gifs/web beacons are being placed on the visitor's computer by IBM working on Client’s behalf along with an explanation of the purpose and utilization of such technology; and (iii) to the extent required by law, obtain consent from website visitors prior to the placement of cookies and clear gifs/web beacons placed by the Client or IBM on Client’s behalf on website visitor’s devices.
Client is aware and agrees that IBM may, as part of the normal operation and support of the Cloud Services, collect personal information from the Client (Client’s employees and contractors) related to the use of the Cloud Services, through tracking and other technologies. IBM does so to gather usage statistics and information about effectiveness of our Cloud Services to improve user experience and/or tailor interactions with the Client. Client confirms that it will obtain or has 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.
8.3 Derived Benefit Locations
Where applicable, taxes are based upon the location(s) receiving the benefit of the Cloud Service. IBM will apply taxes based upon the business address listed in Client’s order unless Client provides additional information to IBM. Client is responsible for keeping such information current and providing any changes to IBM.

8.4 Distribution Lists
Client will not use any distribution lists with the Cloud Service that include persons who have not given permission to be included on such list for the purpose of receiving communications specifically from the Client, unless the Client has an existing business or personal relationship with such persons. Client is required to include a valid opt-out mechanism in each message.

8.5 No Resale
Client will not resell the Cloud Service or provide third parties (other than employees or contractors working on Client’s behalf) with access to the Cloud Service without IBM’s prior, written consent.

8.6 Data Retention
Specific data elements of the Cloud Services will be available within the Cloud Services as follows: Mobile Devices Messages and content, unused or inactive databases - 450 days; and Mobile Device Messages sent/received history – 90 days; (the “Data Retention Period”). These data elements may be removed from IBM’s network and systems after the Data Retention Period has expired, and in any event, IBM may destroy all copies of these data elements, and Client’s other related data, 30 days following termination or expiration of the Term. Client will retain back-up copies of all content provided for use in connection with the Cloud Service.

8.7 Third Party Code Notices
This Cloud Service includes the following software which may not be used for Evil purposes: janrain4j_1.1.0, JSON, JSON-lib-2.3, JDK15, flexjson, and packtag.