

Agreement for Support Line for OSS on Power Systems™

Using this IBM Agreement for Support Line for OSS on Power Systems (the Agreement) and the IBM Client Relationship Agreement for Services (CRA) available on <http://www-304.ibm.com/jct03004c/support/operations/uk/en/documentations>), Client may acquire the IBM Services described herein.

1. Scope of Service

IBM provides Support Line for Open Source Software (OSS) on Power Systems (called “Service”) to remotely assist client with the operation of supported original software supplier (Supplier) products (Eligible Products) and system environments only. Supported Supplier versions are located at <http://www-03.ibm.com/services/supline/products/>, or as otherwise provided by IBM.

2. Contract Period

When Client orders the IBM Power System Machine, Client must specify one year or three years of this Service (the Contract Period). The selected Contract Period begins on the date Client purchases the Service. Service will terminate at the end of the Contract Period, depending on the selected period.

This Service does not automatically renew.

3. Service Description

For all Eligible Products, IBM will provide remote assistance (via telephone from IBM’s support center, or electronically) in response to requests pertaining to the following:

- a. basic, short duration installation, usage, and configuration questions;
- b. code-related problem questions;
- c. diagnostic information reviews to assist in isolation of a problem cause (for example, assistance interpreting traces and dumps for installation and code-related problems); and
- d. available corrective service information for known defects and methods to obtain available program patches from the Open Source supplier.

IBM will assist Client in determining the cause of the problem and provide corrective information if it is available from the Open Source editor or supplier. IBM is not responsible for the resolution of defects in the programs supported under this Agreement.

IBM will provide Client with guidance on how to obtain patches, maintenance updates or refreshes (collectively Fixes) directly from the Open Source supplier. For Eligible Products, IBM may also direct Client to IBM’s Open Source support partner (Support Partner), where Fixes may be available in the form of patches under separate terms solely between Client and IBM’s open support partner. IBM’s Support Partner may make such patches available to the Open Source supplier for inclusion and distribution as errata updates and patches. There is no guarantee that the patches will be created or accepted by Open Source supplier as part of the main code branch. If a new defect (referenced or without known correction) is identified, IBM will report the defect to the Open Source supplier, and will inform Client of known actions taken and the availability of corrective information. Open Source supplier-licensed or Support Partner-licensed software, including Fixes, is directly distributed and licensed to Client by the Open Source supplier or Support Partner under the terms and conditions of the Open Source supplier’s or Support Partner’s end user license agreement (EULA). While IBM may place an order with the Open Source supplier or Support Partner on Client’s behalf as a convenience, Client acknowledges and agrees that IBM is neither a party to the EULA nor a distributor, licensor, or reseller of the Open Source supplier-licensed software, including any Fixes. While the Open Source supplier or Support Partner may provide Client with certain warranties, representations, or indemnities under the EULA, IBM does not provide, whether express or implied, any warranty, representation, indemnity, or other license with respect to the Open Source supplier-licensed or Support Partner-licensed software and is merely providing Services under this Agreement on Client’s behalf at Client’s request. Without limiting the generality of the foregoing, IBM provides no indemnity for any claim or alleged claim that all or any portion of the Open Source supplier-licensed or Support Partner-licensed software may infringe a third party’s intellectual property right.

3.1 Response Criteria

IBM will use commercially reasonable efforts to respond, by telephone or electronically, to Service calls from Client within two hours during Prime Shift. IBM's initial response may result in resolution of Client's request or it will form the basis for determining what additional actions may be required to achieve technical resolution of Client's request. During Off Shift IBM will use commercially reasonable efforts to respond to Service calls which Client specify to be client critical problems within two hours.

Note: Support requests for client critical problems during Off Shift must be reported by a voice call.

4. Charges

The charges for the selected service are detailed in the documentation provided to the Client at purchase of the IBM Power System Machine.

5. Client Responsibilities

Client:

- a. will designate the Client Primary Technical Contact (PTC), Client's representative for IBM to direct general technical information pertaining to the Service. The PTC must have sufficient technical knowledge regarding the Eligible Products in Client's environment to enable effective communication with the IBM support center;
- b. agrees to ensure that any access codes IBM provides are used only by authorized Client personnel;
- c. will have valid licensing and subscription (as applicable) in place for Eligible Programs covered by this Service;
- d. will, if requested, provide appropriate remote access to Eligible Products and provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to software problems. Client remains responsible for adequately protecting Client's system and all data contained therein whenever IBM remotely accesses it with permission. If Client declines such remote system access, IBM may be limited in its ability to provide the full Service necessary to resolve the problem. If IBM is unable to do so, IBM will notify Client and close the service call;
- e. is responsible for obtaining all necessary permissions to use, provide, store and process content in Services and grants IBM permission to do the same. Client's content may be subject to governmental regulation or may require security measures beyond those specified by IBM for an offering. Client will not input or provide such content unless IBM has first agreed in writing to implement additional required security measures;
- f. will pay his own communication charges associated with accessing this Service including but not limited to, phone and internet charges; and

If making his facilities, software, hardware, networks or other similar resources available to IBM, Client will promptly obtain any licenses or approvals necessary for IBM or its subcontractors to use, access and modify such resources to the extent necessary for IBM to perform the Service, including the development of any Materials.

5.1 Data Protection

Client acknowledges that Personal Data other than Business Contact Information is not required for the performance of the Services by IBM. Accordingly, Client agrees not to provide or otherwise make available any Personal Data other than Business Contact Information to IBM in respect of the Services. Client acknowledges that IBM has no obligation to review data provided by Client to determine if it contains Personal Data; however, if IBM becomes aware of Personal Data in the data provided by Client, Client instructs IBM to delete or return the Personal Data, at Client's request. For the purposes of this clause, "Business Contact Information" means business-related contact information disclosed by Client to IBM, including names, job titles, business addresses, business telephone numbers and email addresses of Client's employees and contractors.

6. Termination

IBM may withdraw this Service or support for an Eligible Product on at least three months' written notice to Client. If IBM withdraws a Service for which Client has prepaid and IBM has not yet fully provided it to Client, IBM will give Client a prorated refund upon request.

THE TERMS IN THIS AGREEMENT AND THE IBM CLIENT RELATIONSHIP AGREEMENT FOR SERVICES GOVERN CLIENT'S PURCHASE OF THIS SERVICE. THESE TERMS ARE THE COMPLETE AND EXCLUSIVE AGREEMENT REGARDING THIS SERVICE AND REPLACE ANY PRIOR ORAL OR WRITTEN COMMUNICATIONS BETWEEN CLIENT AND IBM CONCERNING THIS SERVICE. BY PURCHASING THIS SERVICE, CLIENT CONFIRMS THAT CLIENT HAS READ AND ACCEPTS THESE TERMS WITHOUT MODIFICATION.

Neither party is relying on any representation not specified in this Agreement. For a change to the Agreement terms to be valid, both of us must acknowledge acceptance of the change. Additional or different terms in any written communication from Client (such as a purchase order) are void.