



1. Scope of Services

IBM will provide you the activities (hereinafter globally referred to as “the Services”), as specified in this SOW or in Service Option Attachments (SOAs) attached to this SOW - on the machines (hereinafter referred to as “ETS Eligible Machines”) and on the programs (hereinafter referred to as “ETS Eligible Programs), when the related ETS Support Group is specified in the related Schedule.

2. Definitions

Annual Service Period – period of 12 months which commence upon the effective date of this SOW (as expressly defined as the “Effective Date” or as the “Contract Start Date”) and as specified in the Schedule of the SOW, and any subsequent 12 months period.

Base Support Contracts – the following agreements, as applicable: IBM Software Maintenance, IBM Support Line, IBM Hardware Maintenance, IBM ServicePac, IBM Subscription and Support, and IBM Passport Advantage “Subscription and Support” or any equivalent maintenance support agreements that apply to your ETS Eligible Machines or ETS Eligible Programs.

Customer Critical Problem – problem with an ETS Eligible Program or ETS Eligible Machine, for which you have no known work around, resulting in a critical disruption in your business operations.

ETS Eligible Programs and Machines – 1) Programs listed within the ETS Support Groups that are specified in the Service Option Attachments (SOAs) attached to this SOW and 2) Machines that are specified as ETS Eligible Machines in the Schedule of this SOW and/or listed in the ETS Support Groups that are specified in the Service Option Attachments (SOAs) attached to this SOW.

ETS Review Report – collection of documents (collectively called “ETS Review Report”) which include status of reported problems, technical information, recommendations and additional data relevant to the delivery of the Services.

ETS Support Group – list of Programs and/or Machines that are eligible to a specific Enhanced Technical Support service options. The available ETS Support Groups are located at IBM's Internet address <http://www.ibm.com/services/sl/products>.

Qualified Call – your customer service request qualified by IBM as eligible for this SOW.

Remote Account Advocate Team – an IBM appointed team of specialist that will work with your Primary Technical Contact to establish and maintain a framework for technical communications for the services covered in this SOW or in SOA attached to this SOW.

Response Time – the elapsed time between your service requests being registered in IBM's Call Management System and a qualified representative contacting your as a first step of problem determination..

Service Provider – a non IBM organization that provides technical support for non IBM products.

3. Changes to Machines and Programs listed in the ETS Support Groups

IBM reserves the right to periodically change the Programs and Machines listed in the ETS Support Groups. This will accordingly result in additions and removals of your ETS Eligible Machines and/or ETS Eligible Programs.

IBM reserves the right to withdraw any ETS Support Group, upon three (3) months' written notice to you. Check with your IBM Business Partner if any credit apply.

4. IBM Responsibilities

IBM will provide the Services during Prime Shift unless expressly stated otherwise.

4.1 Remote Account Advocate Team

The Remote Account Advocate Team will:

- (1) conduct an initial call with your Primary Technical Contact to:
 - (a) review the Services terms and any associated documents;
 - (b) obtain an overview of technical IT environment regarding the ETS Eligible Machines and ETS Eligible Programs to be supported under the Services at your Specified Location;
 - (c) understand the current support structure within your organization;
 - (d) understand critical system(s), application(s), key dates and times in your business environment covered by the Services; and
 - (e) schedule the initial setup of the applicable tools;
- (2) perform an initial test of all appropriated remote support electronic connections to your ETS Eligible Machines and the applicable diagnostic tools; and
- (3) schedule regular calls with your Primary Technical Contact to review your account status. The frequency of the conference calls is provided in the SOA attached to this SOW when the related ETS Support Group is specified in the Schedule of this SOW.

At your discretion, the IBM Business Partner who sold you the Services may also attend at the regular conference calls.

It is your Primary Technical Contact responsibility to provide all the necessary information to your IBM Business Partner (e.g. the scheduled time, the phone number and, if required, the access code provided by IBM), in order to attend the planned conference calls.

During these conference calls, the Remote Account Advocate Team will provide an ETS Review Report which will includes all the applicable reports and information, as described in this SOW and in the SOAs attached to this SOW.

In case of a Customer Critical Problem caused by an ETS Eligible Program or ETS Eligible Machine, the Remote Account Advocate Team will coordinate the support activities within IBM. This includes engaging the appropriated level of support expertise, invoking IBM's predefined escalation guidelines, and provides follow-up status to your Primary Technical Contact until the problem is resolved.

4.2 Committed Response Time

For the ETS Eligible Programs, IBM will commit to respond, by telephone, to calls relating to Customer Critical Problem within thirty (30) minutes during Full Shift.

For the ETS Eligible Machines, IBM will commit to respond, by telephone, to calls relating to Customer Critical Problems within thirty (30) minutes during the hours of hardware maintenance coverage specified in the Schedule or in any applicable Base Support Contracts.

For all the calls relating to non Customer Critical Problem, IBM will use commercially reasonable efforts to respond within 2 hours during Prime Shift.

All Customer Critical Problems must be reported by telephone along with details of the affected software component and also the machine type and serial number.

A problem will be deemed to not have been reported if this information is not provided.

IBM's initial response may result in technical resolution of your problem or it may constitute the basis for determining, where applicable, if and what additional IBM's actions are required.

4.3 Customized Proactive Maintenance Services

The Remote Account Advocate Team will provide service status reports and proactive advices based on information gathered by IBM electronic tools or from you via regular conference calls with your Primary Technical Contact.

The details of the service elements available for each product family is provided in the SOA attached to this SOW when the related ETS Support Group is specified in the Schedule of this SOW.

4.4 Problem isolation at multiple IT environment level

IBM will assist you, on a best effort basis, in isolating problems reported by you when they relate to multiple platforms and/or multiple IT environments at your Specified Locations.

If IBM identifies a possible failure on a non IBM products not supported by IBM, IBM will provide you all the technical information collected during the problem determination analysis for your use when submitting the problem to your Service Provider.

Coordination activity with the Service Provider and problem resolution remains your sole responsibility in relation with your Service Provider. You remain responsible for implementing the recommendations provided by your Service Provider.

IBM will not be responsible for the solution of the problem on products not covered by Base Support Contracts.

4.5 On-site Software Support for Customer Critical Problems

IBM will provide On-site Software Support for Customer Critical Problem as follows: if IBM has detected a Customer Critical Problem relating to an ETS Eligible Program that cannot be remotely analyzed nor resolved in an efficient way, then IBM will investigate the problem by providing on-site support at the Specified Location(s). This on-site support activity will be provided at IBM sole discretion..

5. Your Additional Responsibilities

You agree to:

- a. maintain, for the duration of this SOW, the applicable Base Support Contracts (including coverage hours) for all products to be covered by the Services. In particular, you agree to refer to the Service Option Attachment(s) (SOAs) applicable to this SOW for the specific Base Support Contracts. If you terminate any of these Base Support Contracts (or change the coverage hours), you must immediately notify the Remote Account Advocate Team who will help to determine the appropriate changes to your coverage under the Services covered by this SOW;
- b. designate and communicate to the Remote Account Advocate Team within three (3) business days from the start date of this SOW a Primary Technical Contact who (a) will be the focal point for all communication with the Remote Account Advocate Team relative to the Services, (b) will participate in the review calls with the Remote Account Advocate Team or assign a back-up to do so, and (c) who will have the authority to act on your behalf in matters regarding the Services covered by this SOW;
- c. ensure that Customer Critical Problems are reported by the Primary Technical Contact or by a delegated person with equivalent technical knowledge of ETS Eligible Programs and ETS Eligible Machines environment;
- d. submit the Customer Critical Problems relating to an ETS Eligible Program by telephone along with details of the affected software component and the associated machine type and serial number. A problem will be deemed not having been reported if this information is not completely provided in due time to IBM;
- e. review, on a regular basis, the ETS Eligible Programs and ETS Eligible Products listed on the ETS Support Groups covered by this SOW to determine whether there have been

any additions or deletions (for example, products removed at their end of currency date) that may impact the product support you are receiving under this Services. Questions regarding such changes should be directed to the Remote Account Advocate Team;

- f. install any tools and perform the actions that the Remote Account Advocate Team recommends to your organization and that both parties mutually agree are necessary for the efficient implementation of this Services. Details of these tools will be discussed during the initial review call. Tools supplied by IBM are to be used only for purposes of the execution of the Services;
- g. ensure you are properly licensed for all Eligible Programs for which you requests the Services; and

6. Claims for Non Compliance with the Committed Response Time

6.1 Calculation of Credits

If IBM fails to meet the committed service level for a Qualified Call, then you are entitled to claim a credit from IBM equivalent to 4% of IBM's published annual service charge of the related ETS Support Group that covers the ETS Eligible Machine or ETS Eligible Program for which you claim the credit. The IBM's published annual service charge for the ETS Support Group is also available, upon your request, from IBM or from your IBM Business Partner.

You are entitled to no more than two (2) credits per ETS Support Group per Annual Service Period.

6.2 Reports

Upon your request, IBM will provide a report in relation to the incident for which you wants to claim for a credit.

6.3 Exclusions

Service credits shall not apply for any failure of an ETS Eligible Machine or an ETS Eligible Program beyond IBM's control or due to any of, but not limited to, the following:

- a. failure due to problems with your provided content or programming errors including, but not limited to, content installation and integration;
- b. failure due to system administration, commands, file transfers performed by your representatives;
- c. failure due to work performed at your request or due to other activities you manage;
- d. lack of availability or untimely response, from your Primary Technical Contact or by a delegated person with equivalent technical knowledge, to IBM's respond by telephone; and
- e. denial of service attacks, natural disasters, changes resulting from government, political, or other regulatory actions or court orders, strikes or labor disputes, acts of civil disobedience, acts of war, acts against parties (including carriers and IBM's other vendors), and other force major events.

6.4 Exclusivity of Remedies

You and IBM agree that credits are liquidated damages and that such credits will constitute your sole and exclusive remedy with respect to the ETS Eligible Machine or ETS Eligible Program failure for which the credits are due.

If you had purchased the Services from an IBM Business Partner, this SOW does not give you any entitlement to claim against your IBM Business Partner.

You also agree to have no entitlement to claim for Non Compliance with the Committed Response Time to your Business Partner.

6.5 Settlement of Credits

In order to receive a credit, you must notify IBM no later than fifteen (15) days after the last day of the calendar month in which you believe the committed service level for a Qualified Call has not been met by IBM, or, in case of termination of this SOW, prior to the termination date. Failure to so notify IBM within this time period will result in loss of your eligibility for the subject credit.

After investigation of your claim, IBM will notify you of any credit due, and you will be entitled to receive a payment for the related sums.

Any credits owed from IBM to you upon the expiration or termination of this SOW will be settled within one (1) month following the effective date of expiration or termination.

You are entitled to receive a service credit only if you had paid for the Services.