



EMEA Statement of Work

for

ServiceSuite

Version 30 of September, 2007

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Statement of Work for Services

This Statement of Work (SOW) with its Schedule, and any documents referenced therein, and the IBM Customer Agreement (ICA) or any equivalent agreement in effect between the parties represents the complete agreement ("the Agreement") regarding the Services to be delivered by IBM, and replaces any prior oral or written communications between the parties concerning the Services. In the event of conflict in any terms, the Schedule prevails over this SOW and this SOW prevails over any other referenced documents..

The Machines, Programs and Services included under this SOW are as specified in the ServiceSuite Schedule (the "Schedule").

1.0 General Terms

1.1 Scope of Services

The Services available under this SOW consist of the Services described herein, including Enhanced Technical Support (ETS) Service, plus Other Services as specified in separate SOWs and Service Option Attachments. The Schedule to this SOW specifies your selected Services and Other Services plus applicable charges.

European Monetary Union: these Services do not address the capability of your systems to handle monetary data in the Euro denomination. You acknowledge that it is your responsibility to assess your current systems and take appropriate action to ensure that your systems are able to correctly process or properly exchange accurate monetary data in the Euro denomination.

1.2 Definitions

Eligible Machine means a Machine subject to the Services of this SOW as specified in the Schedule of this SOW or subsequently included under this SOW in accordance with section Automatic Inventory Increase.

Eligible Program means a Program subject to the Services of this SOW as specified in the Schedule of this SOW or subsequently included under this SOW in accordance with section Automatic Inventory Increase.

Contract Start Date is the date specified on the Schedule upon which this SOW becomes effective.

Customer Critical Problem means a problem for which you have no known temporary solution, resulting in a critical disruption of your business operations.

IBM Hardware Maintenance Operational Guide is a document available on request from IBM which provides further information on IBM's warranty and maintenance practices. The document is not legally binding and is subject to change by IBM.

Machine Identification Criteria (MIC) List is included within the Schedule of this SOW and specifies the Eligible Machines subject to the "Maintenance of IBM Machines" and "Maintenance of Non-IBM Machines" Services under this SOW, their applicable Type of Service and hours of coverage. A Type of Service defines a service delivery method and a response time objective.

Primary Technical Contact is your representative to whom IBM may direct general technical information pertaining to the Services and who will have the authority to act on your behalf in all matters regarding this SOW. The Primary Technical Contact must have sufficient technical knowledge of your Eligible Programs and Eligible Machines environment to enable effective communication with IBM's Support Center.

Specified Location means an installation location specified on the Schedule.

1.3 Hours of Coverage

- (a) "Prime Shift" means standard hours of coverage ("Business Day") from <type here local start time> a.m. to <type here local end time> p.m. in the local time zone of the Specified Location, <Type here the first day of local Business week> through <Type here the last day of local Business week> (excluding public holidays); and

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- (b) **“Full Shift”** means 24 hours a day, seven days a week (including public holidays).

The hours of coverage for each Eligible Machine and the Eligible Programs are as specified in the Schedule. Unless otherwise specified, IBM provides the Services during Prime Shift. You can change the hours of coverage of your Eligible Machines and Programs, subject to additional charge.

1.4 Contract Period

The Contract Period of this SOW is one year, or for the Initial Term Commitment, starting from the Contract Start Date, as specified on the Schedule and is automatically renewed thereafter on a yearly basis. Either party can select not to renew by providing written notification (at least one month prior to the end of the current Contract Period) to the other of their intent not to renew.

Charges at renewal will be recalculated based on the then current charges for the Services. Payment options will not change. Upon renewal the Contract Period is considered amended accordingly.

If you select a Term Commitment of 2, 3, 4, or 5 years, you receive the applicable discount during both the initial Contract Period and any subsequent renewal periods.

To meet your business requirements, the Contract Start Date may reflect the addition of an initial adjustment period of less than one year.

New Eligible Machines, Eligible Programs, Specified Locations, or Services added to this SOW following its Start Date will assume the same terms and conditions of this SOW.

1.5 Your Responsibilities

You agree to:

- (a) designate your Primary Technical Contact within 3 business days from your signature of this SOW;
- (b) promptly, upon your signature of this SOW, provide IBM with an inventory in which you identify all Eligible Machines to be covered at each Specified Location. You also agree to identify all Eligible Machines for which IBM is to provide warranty service;
- (c) notify IBM whenever you wish to add Eligible Machine types to an existing Specified Location or set up new Specified Locations; IBM will inform you of the relative additional charge;
- (d) notify IBM of any changes at your Specified Locations to your program and machine inventory and processing capacity, which is within the scope of this SOW, within one month after the change occurs. Such changes may cause a revision to your charges for the Service;
- (e) ensure that any access codes IBM provides to you are used only by your authorised personnel;
- (f) provide IBM with information that IBM requests which is related to IBM's provision of the Services to you and notify IBM of any changes;
- (g) use any electronic diagnostic and service delivery facilities IBM provides to you only in support of Eligible Machines and Eligible Programs identified in the Schedule to this SOW;
- (h) give IBM your authorization to remotely access your Eligible Machines and Eligible Programs in order to enable IBM's performance of the Services;
- (i) provide IBM with appropriate remote access to your Eligible Machines and Eligible Programs via modem, the Internet or other IBM approved connectivity mode for the provision of remote Services such as problem diagnosis and correction. You are responsible for supplying the modem and telephone lines required at your facility and for providing IBM with access to your Eligible Machines and Eligible Programs. Failure to deliver remote access to your Eligible Machines and Eligible Programs may delay the problem resolution time;
- (j) be responsible for adequately protecting your Eligible Machines, Eligible Programs and all other programs and data contained therein whenever IBM accesses them;
- (k) be responsible for the security of your information and for maintaining procedures for the reconstruction of lost or altered files, data and programs;

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- (l) pay any communications charges associated with your accessing of the Services unless IBM specifies otherwise;
- (m) ensure you are properly licensed for all Eligible Programs for which you request Services;
- (n) review on a regular basis the IBM web sites specified in this SOW to verify whether there have been any additions or deletions or changes to the Programs and Machines eligible to the Services under this SOW;
- (o) provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to problems with Eligible Machines and Programs for which you request assistance ;
- (p) install on your Eligible Machines(s) the appropriate Programs IBM will specify to you that may be required for the use of remote electronic tools ;
- (q) be responsible for the installation of microcode, firmware and fixes which IBM recommends to you; and
- (r) use the information obtained under this Service only for the support of the information processing requirements within your Enterprise.

1.6 Mutual Responsibilities

If at any time either party requests a review of the machine and program inventory, each party will cooperate in updating the last formal inventory. This cooperation will be limited to the exchange and consolidations of the inventory files.

1.7 Services Program License

The following terms apply to each Program IBM provides with a Service that is not otherwise accompanied by a license agreement.

IBM grants you a nonexclusive license to use the Program on the Eligible Machine designated by IBM to assist in problem determination or other system support in conjunction with the Services.

You may not:

- (a) modify the Program's machine readable instructions or data or merge them into another Program;
- (b) reverse assemble, reverse compile, or otherwise translate the Program, unless expressly permitted by applicable law without the possibility of contractual waiver;
- (c) sublicense, assign, or transfer the license for the Program; or
- (d) distribute the Program to any third party.

IBM provides the Program WITHOUT WARRANTIES OF ANY KIND.

If IBM does not supply a backup copy, you may make one copy of the Program for backup purposes provided you reproduce the copyright notice and any other legend of ownership on the copy. The backup copy is subject to the same terms as the original.

Your license terminates when:

- (a) the Service terminates, is withdrawn or expires and is not renewed;
- (b) the Program is no longer needed to perform the Service; or
- (c) the Eligible Machine which IBM designated for the Program is removed from productive use within your Enterprise.

1.8 Automatic Inventory Increases Machines

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Any new Machine of the same type as an existing Eligible Machine installed at a Specified Location will be automatically added to this SOW:

- on the day following its installation, for a Machine you acquired directly from IBM; and
- on the day following the end date of the IBM warranty period for a Machine, acquired from an IBM Business Partner and known by IBM.

Machine upgrades including additional features and elements and model conversions on an existing Eligible Machine will also be automatically added to this SOW as specified above for a new Machine.

IBM will amend its MIC List and notify you of applicable increased charges. Each added Machine and upgrade will assume the highest level of Maintenance Service and Warranty Service Upgrade, if any, you are already receiving for other Eligible Machines of the same type at the same Specified Location.

You may cancel the automatic inventory increase by notifying IBM in writing within one month after the date IBM invoices you for the increased charges. Such right to cancel does not apply to automatic inventory increase as a result of Machine upgrades including additional features, model conversions and elements installed on an existing Eligible Machine.

You will be charged for any maintenance services which IBM performs at your request on machines not included within the MIC List. Such maintenance services will be subject to the terms and conditions of this SOW.

Licensed Programs

When an IBM software maintenance agreement acquired at the time of purchase of a licensed Program expires, then the licensed Program(s) that was subject to such expired agreement will be included automatically under this SOW provided that i) the Program is a eligible for Software Maintenance or SupportLine and ii) the Program is installed on an Eligible Machine at a Specified Location. IBM will update the inventory as a result of any such inclusion. In addition, you are required to inform IBM of any such inventory change at a Specified Location.

You may cancel this automatic inventory increase for a Program by notifying IBM in writing within one month after the date IBM invoices you for the increased charges for the Software Maintenance or SupportLine Service. Such right to cancel does not apply if the Program is an upgrade, new feature, new release or new version of an existing Eligible Program, or a further copy of an existing Eligible Program on an Eligible Machine. These cases must remain under this SOW and receive the same level of Service as the existing Eligible Program.

You will be charged for any software maintenance or product support which IBM performs at your request on Programs not included as Eligible Programs. Such software maintenance or product support will be subject to the terms and conditions of this SOW.

1.9 Charges and Payment

Your charges are calculated taking into account your Eligible Machine inventory, your list of Eligible Programs, your Service selections, your term commitment if any, and your selected payment options.

Your Service charges may be adjusted by IBM whenever a Specified Location, Eligible Machine, Eligible Program, or Service is added, deleted, or changed. Charges will be at the then current IBM charges for such additions and changes. IBM may also revise charges in accordance with the terms of the Agreement.

If you have elected for prepayment for a period of one year or more then charges for Eligible Machines and Programs and Services selected at the beginning of the prepayment period will not increase during that period. During the prepayment period all newly added Eligible Machines and Programs and Services, as well as changes to existing Eligible Machine configurations, Eligible Programs and Services, will assume the then current IBM charges

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through to the end of the prepayment period. At the end of the prepayment period all selected Eligible Machines, Eligible Programs and Services will be subject to then current IBM charges. You will receive the benefit of a decrease in applicable charges for amounts which become due on or after the effective date of the decrease.

1.10 Termination

You may terminate the Services for an Eligible Machine, on providing one months notice to IBM, if you permanently remove it from productive use within your Enterprise. No adjustment fee will apply.

You may also terminate any of the Services for an Eligible Program by providing IBM three months' written notice, after the Services have been under this SOW for at least one year. You will receive a credit for any remaining prepaid period associated with the Services you terminate in accordance with the provisions of this SOW.

If you have selected Term Commitment and if you choose to terminate any of the Services before the end of term and these are not being replaced by equivalent Services, you may do so by providing IBM three months' written notice, after the Services you want to terminate have been covered under this SOW for at least one year, and paying an adjustment fee equal to:

- (a) for 2 years Term Commitment = 17% of the non prepaid annual charge
- (b) for 3 years Term Commitment = 25% of the non prepaid annual charge
- (c) for 4 years Term Commitment = 33% of the non prepaid annual charge
- (d) for 5 years Term Commitment = 42% of the non prepaid annual charge.

Where "non prepaid annual charge" means the annual charge including all applicable discounts except for a prepayment discount. After allowing for applicable adjustments, you will receive a credit for any remaining prepaid amount associated with the Services you terminate in accordance with the provisions of this SOW.

1.11 Required Consents

You are responsible for promptly obtaining and providing to IBM all Required Consents necessary for IBM to provide the Services described in this SOW. A Required Consent means any consents or approvals required to give IBM and its subcontractors the right or license to access, use and/or modify (including creating derivative works) the hardware, software, firmware and other products you use, without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such products.

You will indemnify, defend and hold IBM, its subcontractors and majority-owned subsidiaries, harmless from and against any and all claims, losses, liabilities and damages (including reasonable attorneys' fees and costs) arising from or in connection with any claims (including patent and copyright infringement) made against IBM, alleged to have occurred as a result of your failure to provide any Required Consents.

IBM will be relieved of the performance of any obligations that may be affected by your failure to promptly provide any Required Consents to IBM.

2.0 Maintenance of IBM Machines

IBM will provide the Maintenance of IBM Machines Service for the IBM Eligible Machines specified in the MIC List in the Schedule. This Service consists of:

- (a) Remotely assisting you in determining whether system problems are machine or program related (problem determination);
- (b) Onsite and remote diagnostic and remedial maintenance service in accordance with the Type of Service specified for the Eligible Machine in the MIC List in order to keep the IBM

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Eligible Machines in, or restore them to, conformance with their officially published specifications;

- (c) If available for your IBM Eligible Machines, installation of monitoring Programs to endeavour to:
 - i. detect and analyze permanent errors;
 - ii. correlate temporary errors; and
 - iii. identify and report media problems.

IBM retains ownership of all such monitoring Programs. You are licensed to run such Programs as required by IBM solely to enable IBM to provide the Services herein;

- (d) The services of support specialists from IBM manufacturing, engineering, and development locations as deemed necessary by IBM;
- (e) The planning, scheduling and installation of any engineering changes or field change orders required to improve the serviceability, performance and/or safety of the IBM Eligible Machines;
- (f) Assisting you in establishing and implementing electronic support facilities such as Service Agent and IBM ServiceLink;
- (g) Activation, for use by IBM personnel, of electronic facilities to remotely diagnose, apply fixes and update your IBM Eligible Machines.

2.1 Service Agent

For IBM Eligible Machines that IBM designates, IBM will provide a Program to assist IBM in:

- (a) detecting and analysing permanent errors;
- (b) correlating temporary errors ;
- (c) tracking performance and trends; and
- (d) identifying and reporting media problems.

IBM will advise you of any enabled interactive functions which will be available for your use.

IBM grants you a license for the Program as specified under the terms of the Services Program License section of this SOW.

You agree to provide disk space for the Program, connection to your control unit, and if required by IBM, the modem linkage, appropriate telephone connection, and applicable user ID. You may be required to provide the workstation on which the Program will be loaded and interfaced to the IBM Eligible Machine.

3.0 IBM ServiceLink

The following terms apply whenever a Service under this SOW includes IBM ServiceLink; an electronic access to IBM's databases containing IBM product support information.

IBM will:

- (a) provide instructions for accessing the databases;
- (b) provide user IDs to your designated IBM ServiceLink Customer Service Administrator; and
- (c) waive all IBM's dial connectivity charges and network traffic charges for dial access to IBM ServiceLink.

You agree to:

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- (a) notify IBM of your designated authorised users of the IBM ServiceLink databases. You may designate only your employees as users;
- (b) assign a user to be the IBM ServiceLink Customer Service Administrator (hereinafter referred to as "CSA"). The CSA is responsible for:
 - (i) following the CSA procedures IBM provides;
 - (ii) registering your users for access to IBM product databases; and
 - (iii) acting as the primary interface between your users and IBM;
- (c) ensure your users use the information obtained from IBM ServiceLink only for the support of your information processing requirements. You may not use information obtained from IBM ServiceLink for any product development purpose or in any sales or marketing activity or to provide support to any third parties;
- (d) provide the equipment (such as workstations, modems, and communication features) necessary to use IBM ServiceLink;
- (e) obtain programs necessary to establish dial access to IBM ServiceLink;
- (f) be responsible for any unauthorised use of your user IDs; and
- (g) pay the charges of any third party telecommunications service provider you use to access IBM ServiceLink.

4.0 IBM Electronic Services

The Electronic Services enables you to electronically receive defect support for your licensed Programs. IBM provides this Service on an "AS IS" basis to you and your end users at the Specified Location.

This Service is only available for iSeries (and AS/400) and zSeries (and S/390).

This Service provides the following:

- (a) the right to receive:
 - (i) PTFs (Program Temporary Fix) and request their electronic or physical delivery; and
 - (ii) preventive packages and request their physical delivery.
- IBM also provides information concerning the installation of new Program releases and the installation of PTF's;
- (b) the ability to report a suspected IBM Eligible Machine problem to the IBM Support Center and receive an electronic response;
 - (c) notification of the availability of PTF's and APAR's (Authorised Program Analysis Report).

5.0 Maintenance of Non-IBM Machines

IBM will provide Multi-Vendor Services ("MVS") to assist you in coordinating and managing service activities for the non-IBM Eligible Machines listed as such in the MIC List in the Schedule of this SOW.

Prior to providing MVS, a non-IBM machine must be in good working order to qualify for the Service. IBM may perform an inspection before accepting a non-IBM machine for MVS. If it is not in an acceptable condition, you will have to restore it to good working order, which IBM may perform for a charge.

IBM will provide remedial or preventive maintenance Service for non-IBM Eligible Machines to maintain their functional operation in accordance with specifications known to IBM.

MVS is subject to the availability of the necessary spare parts and vendors' /manufacturers' support documentation. IBM may remove from MVS a non-IBM Eligible Machine when it no longer meets such criteria.

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IBM will not accept for exchange repair service (if applicable) non-IBM Eligible Machines which are defaced, modified, or damaged beyond repair.

IBM's arrangements for Services described herein may include the use of subcontractors.

Exclusions

This Service does not cover:

- (a) non-IBM Eligible Machine installation and engineering change activity unless otherwise specified;
- (b) correction of date related errors. IBM will make the final determination of whether a date related error is the source of the problem;
- (c) service of microcode or firmware or programs, with the exception of eligible IOS® or the machine resident program for Cisco Eligible Products;
- (d) service of features, parts, or devices not supplied by either
 - (i) the non-IBM Eligible Machine's original manufacturer or IBM; or
 - (ii) IBM during the performance of this Service;
- (e) service for accessories, supply items, and certain parts, such as batteries, frames, and covers;
- (f) service of a non-IBM Eligible Machine damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by you;
- (g) service of a non-IBM Eligible Machine with removed or altered Machine or parts identification labels;
- (h) failures caused by a product for which IBM is not the service provider; or
- (i) failures caused by non-IBM Eligible Machine alterations.

Non-IBM Eligible Machines must meet IBM's safety and serviceability requirements.

6.0 Warranty Service Upgrade

For certain IBM Eligible Machines, you may select a Service upgrade from the standard warranty service to a higher level of service. You may not terminate the Warranty Service Upgrade or transfer it to another IBM Eligible Machine during the warranty period. IBM provides Warranty Service Upgrade for IBM Eligible Machines as specified in the Schedule to this SOW. When the warranty period ends, the IBM Eligible Machine will be covered by Maintenance of IBM Machines Service at the same level of service you selected for Warranty Service Upgrade.

Certain IBM Eligible Machine types with a same day on-site response-time objective may require the installation and use of remote connectivity tools and equipment for direct problem reporting, remote problem determination and resolution.

7.0 IBM Software Maintenance

For the Software Maintenance Eligible Programs specified in the Schedule, and for which you are licensed, IBM will provide during the Contract Period the following:

- (a) Program updates (including new versions and releases), announced during the Contract Period, as they become commercially available and you request them; and
- (b) remote assistance in response to your requests pertaining to :
 - (i) basic, short duration installation, usage, and configuration questions;
 - (ii) questions regarding Program publications;
 - (iii) code-related problem questions;

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- (c) diagnostic information review to assist in isolation of a problem cause (for example, assistance interpreting problem documentation such as traces and dumps for installation and code related problems); and
- (d) for known defects, available corrective service information and program fixes which you are entitled to receive under the terms of your IBM license.

The Service does not include assistance for 1) the design and development of applications, 2) your use of Programs in other than their specified operating environment or 3) failures caused by products for which IBM is not responsible under this SOW.

7.1 Definitions

Software Maintenance Eligible Program means a Program which is listed at the website www-1.ibm.com/services/sl/swm/ (the "Listed Programs") and is identified as installed on an Eligible Machine in the Schedule or is subsequently added in accordance with the section "Automatic Inventory Increases". Programs identified on the above web site as iSeries Programs are Eligible Programs for the Eligible Machines listed as subject to Software Maintenance for iSeries in the Schedule. Other Programs need to be identified by name on the Schedule to be Eligible Programs.

Your IBM marketing representative can also provide you with the Listed Programs.

7.2 IBM Responsibilities

IBM provides this assistance via telephone and, if available, electronic access, only to your information systems (IS) technical support personnel during Prime Shift.

IBM will use commercially reasonable efforts to respond, by telephone, to service calls from you within two hours during Prime Shift. IBM's initial response may result in resolution of your request or it will form the basis for determining what additional actions may be required to achieve technical resolution of your request. Outside Prime Shift IBM will respond to service calls which you specify to be Customer Critical Problems and will use commercially reasonable effort to provide such response within two hours.

7.3 Termination and Withdrawal

IBM may terminate or withdraw this Software Maintenance Service or withdraw a Program listed on our IBM web sites indicated in the section "Definitions", upon three months' written notice to you. In case you have prepaid for the Service or the Service for a withdrawn Program, IBM will provide a prorated credit.

IBM reserves the right to periodically change the Programs listed on the IBM web sites indicated in the section "Definitions", such additions and removals accordingly amend your Software Maintenance Eligible Programs and Eligible Machines.

8.0 Support Line

For SupportLine Eligible Programs, IBM will:

- (a) remotely assist you with their operation within your system environment (Software Support); and
- (b) provide you with updated versions of your SupportLine Eligible Programs (Software Subscription), if applicable to the SupportLine Eligible Program.

8.1 Definitions

SupportLine Eligible Programs means the Programs listed within the SupportLine support groups specified in the Schedule of this SOW. The detailed lists of Programs per support group (Supported Products List) are located at IBM's Internet address:

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<http://www.ibm.com/services/sl/products>

8.2 IBM Responsibilities

Software Support

IBM will provide you remote assistance (via telephone from IBM's Software Support Center) in response to your requests pertaining to the following:

For IBM and non-IBM SupportLine Eligible Programs:

- (a) basic, short duration installation, usage, and configuration questions; and
- (b) questions regarding their publications;

For IBM SupportLine Eligible Programs:

- (c) code-related problem questions;#
- (d) diagnostic information review to assist in isolation of a problem cause (for example, assistance interpreting traces and dumps for installation and code related problems); and
- (e) for known defects, available corrective service information and program fixes which you are entitled to receive under the terms of your IBM license.#

Note: For IBM S/390 and zSeries Supported Products, this remote assistance from IBM's Software Support Center shall not be charged for under this Service.

When you report a problem with a non-IBM Eligible Program, IBM will assist you to isolate the problem cause and provide you recovery information, if available, from the vendor. IBM will provide corrective service information and program fixes, if available and IBM is authorized to provide to you, for known defects. If a new (unknown) defect is identified, IBM will report it to the appropriate vendor and notify you of IBM's actions. At this point IBM support shall be fulfilled. Resolution of these problems is the responsibility of the vendor.

Software Subscription

On your request, IBM or the relevant vendor will provide you with upgrades to the latest version of your SupportLine Eligible Programs for which you are eligible to Software Subscription under this SOW, or if applicable, IBM will provide you the procedure for obtaining the upgrades, upon/after the signature of this SOW.

You are responsible for obtaining, when Software Subscription applies and as specified by IBM, the upgrades to your SupportLine Eligible Programs.

Products eligible to Software Subscription are specified in the following IBM web site:

<http://www.ibm.com/services/sl/subscription>

8.3 Response Criteria

IBM will use commercially reasonable efforts to respond, by telephone, to service calls from you within two hours during Prime Shift. IBM's initial response may result in resolution of your request or it will form the basis for determining what additional actions may be required to achieve technical resolution of your request. Outside Prime Shift IBM will use commercially reasonable efforts to respond to service calls which you specify to be Customer Critical Problems within two hours.

8.4 Termination and Withdrawal

IBM may terminate or withdraw this SupportLine Service on three months' written notice to you.

IBM reserves the right to withdraw any support group listed on our IBM web sites indicated in the section "Definitions", upon three months' written notice to you. In case you have prepaid services for that withdrawn support group, IBM will provide a prorated credit.

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IBM reserves the right to periodically change the products listed in the support groups on the IBM web sites indicated in the section "Definitions", such additions and removals accordingly amend your SupportLine Eligible Programs and Eligible Machines.

9.0 Enhanced Technical Support

Enhanced Technical Support Service ('ETS Service') complements and enhances IBM support offerings such as IBM SupportLine, IBM Software Maintenance and IBM Maintenance for IBM and non-IBM Machines.

9.1 Technical Requirements

ETS Service requires the ETS Eligible Programs to have in place SupportLine and/or IBM Software Maintenance either in this SOW or in a separate applicable agreement.

9.2 Definitions

ETS Eligible Programs and ETS Eligible Machines means respectively 1) Programs which are specified as ETS Eligible Programs in the Schedule of this SOW and 2) Machines that are specified as ETS Eligible Machines in the Schedule of this SOW. An ETS Eligible Program may be specified by Program (a SWMA Eligible Program) or by support group (a SupportLine Eligible Program).

Note 1: When the 'AIX and AIX/SP' or 'Windows' support group is specified in the Schedule, IBM will also provide this ETS Service on Programs of the 'Citrix for AIX' or 'Citrix for Windows' support groups respectively. This only applies if you have the Citrix support group selected in your SupportLine service either in this SOW or in a separate applicable agreement.

Note 2: When the 'Linux/PC' support group is specified in the Schedule, IBM will also provide this ETS Service on Programs of the 'SteelEye' support group.

Note 3: For ETS Eligible Programs licensed under the *IBM Passport Advantage* Agreement, IBM will provide this ETS Service on these ETS Eligible Programs subject to you having a valid IBM Passport Advantage Software Maintenance agreement and provided that these ETS Eligible Programs run with an operating system listed in the support group(s) selected in the Schedule. This ETS Service excludes Informix and Rational Programs.

9.3 Changes to Machines and Programs listed in the support groups

IBM reserves the right to periodically change the programs and machines listed in the support groups on the IBM web sites quoted in the SupportLine section "Definitions", such additions and removals accordingly amend your SupportLine Eligible Programs and Eligible Machines.

IBM reserves the right to withdraw any support group listed on our IBM web sites, upon three months' written notice to you. If you have prepaid for Services for a withdrawn support group, then IBM will provide a prorated credit.

9.4 IBM Responsibilities

IBM will provide the following activities during Prime Shift unless expressly stated otherwise:

1. Remote Account Advocate Team

For your ETS Eligible Machines and Programs, the remote Account Advocate Team will provide status reports on the Services and proactive advice on your technical IT environment based on information gathered from you via regular conference calls with your Primary Technical Contact.

During these calls, the remote Account Advocate Team will provide you with:

- (a) the status of your reported problems and related action plan or recommendations;

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- (b) assistance in the interpretation of data within IBM Performance Management services (see sub section below);
- (c) preventive maintenance reports on AIX and OS400 and related recommendations, if applicable (*);
- (d) recommendations on microcode and firmware updates for the ETS Eligible Machines (*) (see sub section below); and
- (e) recommendations on significant IT infrastructure changes that may affect your Specified Locations.

(*) this activity requires that you have installed the IBM Service Agent tools on your iSeries and pSeries ETS Eligible Machines.

The number of conference calls can vary depending on the number of ETS Eligible Programs and Machines, with a minimum of 4 per calendar year.

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 and will keep you informed on the progress of the problem resolution.

2. Enhanced Response Time.

For the ETS Eligible Programs, IBM will use commercially reasonable efforts to respond, by telephone, to calls relating to Customer Critical Problems within 30 minutes during Full Shift, and to respond within 2 hours for non Customer Critical Problems during Prime Shift.

For the ETS Eligible Machines, IBM will use commercially reasonable efforts during the hours of coverage specified in the Schedule to respond, by telephone, to calls relating to Customer Critical Problems within 30 minutes and to respond within 2 hours for non Customer Critical Problems.

IBM's initial response may result in technical resolution of your problem or it may form the basis for determining what additional actions are required.

3. Problem isolation at multiple IT environment level

IBM will assist you in isolating problems reported by you when the problem relates to multiple platforms and/or multiple IT environments at your Specified Locations.

4. On-site software support for Customer Critical Problems

If a Customer Critical Problem relating to an ETS Eligible Program cannot be remotely analysed nor resolved in an efficient way, then IBM will investigate the problem at the installation site of the ETS Eligible Machine on which the ETS Eligible Program is installed.

5. Remote assistance in installation of microcode and firmware updates

This activity applies to the zSeries, pSeries and iSeries ETS Eligible Machines listed in the Schedule.

IBM will assist you in installing microcode and firmware updates on your ETS Eligible Machines as agreed between your Primary Technical Contact and the IBM Remote Account Advocate Team.

6. Remote assistance with fix application

IBM will remotely access your ETS Eligible Machines in order to help you in the installation of generally available fixes for ETS Eligible Programs for your reported problems.

7. IBM Performance Management service

This activity applies to the iSeries and pSeries ETS Eligible Machines which are listed in the Schedule. It requires that you have installed 1) the IBM Service Agent tool, and 2) the PM/iSeries or PM/AIX IBM Programs on the ETS Eligible Machines.

IBM will:

- (a) assist you in installing and activating IBM Service Agent tools and PM/iSeries or PM/AIX as applicable;
- (b) collect performance data related to the ETS Eligible Machines; and

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(c) assist you in defining necessary actions to correct identified performance problems.

8. Toleration & Coexistence Maintenance Research service

This activity applies to and z/OS operating system and subsystem ETS Eligible Programs if the applicable support group is specified in the Schedule.

On your request and for the IBM product that you specify, IBM will deliver generally available fixes, which are stated as prerequisite for the installation or upgrade of the specified product on your ETS Eligible Machines.

9. Customised Preventive Maintenance service for and z/OS

This activity applies to only one image (that you specify to IBM in writing) of an z/OS operating system or subsystem ETS Eligible Program if the related support group is specified in the Schedule.

IBM will provide you with the following on a monthly basis:

- (a) reports documenting (i) the analysis of problems occurring on a worldwide basis in the z/OS area when they may impact your ETS Eligible Programs, and (ii) recommendations regarding updates of your ETS Eligible Programs to potentially avoid critical problems; and
- (b) generally available machine fixes relating to ETS Eligible Programs of the z/OS support group when they are detected as not being installed on the ETS Eligible Machine on which the ETS Eligible Programs are installed.

10. CustomPac Service

This activity applies to the z/OS and VM/VSE support groups if listed for your ETS Eligible Program in the Schedule.

Under CustomPac service, IBM will create and provide the requested CustomPac ('CPAC'). CPAC is a customized package of program components to facilitate program installation, program upgrade and application of fixes. The CPACs are designed on the basis of your request and for the version/release level of the ETS Eligible Programs currently available in the IBM packaging process.

You are responsible for the CPACs that you request us to deliver to you. The CustomPac service does not include the installation of the CPAC.

The available CPACs are:

- (a) ProductPac - a CPAC for adding or upgrading your ETS Eligible Programs.
- (b) RefreshPac - a CPAC for upgrading the program temporary fixes applying to your ETS Eligible Program .
- (c) Selective Follow-on Service (SFS) - a CPAC that provides the latest generally available corrections of known problems relating to a ProductPac or a RefreshPac that IBM has previously sent to you.

This activity applies to the z/OS and VM/VSE support groups if listed for your ETS Eligible Programs in the Schedule.

Under CustomPac service, IBM will create and provide the requested CustomPac ('CPAC'). CPAC is a customized package of program components to facilitate program installation, program upgrade and application of fixes.

The CPACs are designed on the basis of your request and of the version/release level of the ETS Eligible Programs currently available in the IBM packaging process.

You are responsible for the CPACs that you request us to deliver to you. The CustomPac service does not include the installation of the CPAC.

The available CPACs are:

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- a) SystemPac: a CPAC for installing or replacing a z/OS operating system. In addition, non-IBM ETS Eligible Programs (e.g. Independent Software Vendor (ISV) products) currently available in the IBM packaging process may be included on your request.
- b) Sub-System SystemPac: a SystemPac for one or more subsystems of your z/OS operating system.
- c) FunctionPac: a CPAC for creating or replacing one or more functions of your z/OS operating system.
- d) ProductPac: a CPAC for adding or upgrading ETS Eligible Programs.
- e) RefreshPac: a CPAC for upgrading the program temporary fixes applying to your ETS Eligible Programs.
- f) Selective Follow-on Service (SFS) - a CPAC that provides the latest generally available corrections of known problems relating to a ProductPac or a RefreshPac that IBM has previously sent to you.

11. Problem simulation & analysis at IBM site

This activity applies to AIX, OS/400, VM and z/OS ETS Eligible Programs if the related support group(s) is specified in the Schedule.

When you report a problem relating to AIX, OS/400, VM and z/OS which cannot be simulated on your site, then IBM will endeavour to reproduce and analyse in so far as this is possible, in an IBM site, taking into account your system(s) configuration.

12. 'Starter Pack' in emergency situations

When an ETS Eligible Program operating system and its backup copy can not be loaded, IBM will provide you with a starter operating system program. This starter program will be the currently available 'vanilla' version or release of the related operating system program, and will be subject to the same IBM licensing terms as those applying to the original version. You are deemed to have accepted such licensing terms by installing the starter program.

10.0 Other Services

IBM will perform "Other Services" as listed in the Schedule of this SOW under the terms of their applicable Statements of Work and/or Service Option Attachments. The charges for Other Services are included in the charges specified in the Schedule of this SOW.

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