Enhanced Technical Support (ETS)

This Service Option Attachment (SOA) specifies an optional Service selected by the Client on the Schedule of a related IBM ServiceSuite Statement of Work (SOW). This SOA is subject to the terms of the ServiceSuite SOW and the agreements referenced above.

1. Scope of Services

IBM will provide the Client the activities (hereinafter globally referred to as “the Services”), as specified in this SOA or in any associated SOA(s) attached to the ServiceSuite 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 the 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 Client's ETS Eligible Machines or ETS Eligible Programs.

Client Critical Problem - problem with an ETS Eligible Program or ETS Eligible Machine, for which Client has no known work around, resulting in a critical disruption in Client’s business operations.

ETS Eligible Programs and Machines - 1) Programs listed within the ETS Support Groups that are specified in the Schedule of the SOW and 2) Machines that are specified as ETS Eligible Machines in the Schedule of the SOW and/or listed in the ETS Support Groups that are specified in the Schedule of the 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 - Client’s service request qualified by IBM as eligible for this SOA.

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

Response Time - the elapsed time between Client’s service requests being registered in IBM’s Call Management System and a qualified representative contacting Client 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 Machines and Programs listed in the ETS Support Groups. This will accordingly result in additions and removals of Client’s ETS Eligible Machines and/or ETS Eligible Programs.

IBM reserves the right to withdraw any ETS Support Group upon a three (3) months’ written notice to the Client. If Client has prepaid for Services for a withdrawn ETS Support Group, then IBM will provide a prorated credit.

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 (RAA) Team will:
1) conduct an initial call with Client’s 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 Client’s Specified Location;
   c) understand the current support structure within Client’s organization;
   d) understand critical system(s), application(s), key dates and times in Client’s 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 Client’s ETS Eligible Machines and the applicable diagnostic tools; and
3) schedule regular calls with Client’s Primary Technical Contact to review Client’s account status. The frequency of the conference calls is provided in the SOA attached to the SOW when the related ETS Support Group is specified in the Schedule of the SOW.

During these conference calls, the RAA Team will provide an ETS Review Report which will include all the applicable reports and information, as described in this SOA and in any associated SOAs attached to the SOW.

In case of a Client Critical Problem caused by an ETS Eligible Program or ETS Eligible Machine, the RAA 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 Client’s 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 Client Critical Problem within thirty (30) minutes during Full Shift, and within two (2) hours for non Client Critical Problem during Prime Shift.

For the ETS Eligible Machines, IBM will commit to respond, by telephone, to calls relating to Client Critical Problem within thirty (30) minutes during the hours of hardware maintenance coverage specified in the Schedule or in any applicable Base Support Contracts, and within two (2) hours for non Client Critical Problem during Prime Shift.

All Client 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 not to have been reported if this information is not provided.

IBM’s initial response may result in technical resolution of Client’s 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 the Client via regular conference calls with Client’s Primary Technical Contact.

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

4.4 Problem isolation at multiple IT environment level

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

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

Coordination activity with the Service Provider and problem resolution remains Client’s sole responsibility in relation with Client’s Service Provider. Client remains responsible for implementing the recommendations provided by Client’s 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 Client Critical Problems**

IBM will provide On-site Software Support for Client Critical Problem as follows: if IBM has detected a Client 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 and during Prime Shift unless expressly stated otherwise.

5. **Client’s Additional Responsibilities**

Client agrees to:

1. maintain, for the duration of this SOA, the applicable Base Support Contracts (including coverage hours) for all products to be covered by the Services. In particular, Client agrees to refer to the associated SOA(s) applicable for the specific Base Support Contracts. If Client terminates any of these Base Support Contracts (or change the coverage hours), Client must immediately notify the Remote Account Advocate Team who will help to determine the appropriate changes to Client’s coverage under the Services covered by this SOA;

2. designate and communicate to the Remote Account Advocate Team within three (3) business days from the start date of this SOA 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) will have the authority to act on Client’s behalf in matters regarding the Services covered by this SOA;

3. ensure that Client 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;

4. submit the Client 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;

5. review, on a regular basis, the Eligible Programs/Products listings at http://www.ibm.com/services/sl/products/ 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 Client is receiving under these Services. Questions regarding such changes should be directed to the Remote Account Advocate Team;

6. install any tools and perform the actions that the Remote Account Advocate Team recommends to Client’s organization and that both parties mutually agree are necessary for the efficient implementation of these 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;

7. be responsible for the installation of the fixes and updates which IBM recommends to Client;

8. inform the Remote Account Advocate Team of any change or upgrade which may impact the ETS Eligible Products (for example, machine model change, or program upgrade);

9. have an electronic connection capable of sending the data report to IBM and permit it to do so in order to allow the effective use of the service tools referred to above. Otherwise, IBM will be released from its obligation to deliver remote Services;

10. ensure Client is properly licensed for all Eligible Programs for which Client requests the Services; and,
11. pay reasonable expenses, including travel, meal and accommodation expenses, incurred by IBM Personnel in performing the technical activities as specified in this SOA or in any associated SOAs attached to the SOW at Client’s Specified Location. Client recognizes that travel to the vicinity of the Specified Location and hotel accommodation expenses prior to and after the on-site activities is reasonable.

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 Client is 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 Client claims the credit. The service charge for the ETS Support Group is available upon Client’s request from IBM or from Client’s IBM Business Partner.

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

6.2 **Reports**

Upon Client’s request, IBM will provide a report in relation to the incident for which Client 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:

1. failure due to problems with Client’s provided content or programming errors including, but not limited to, content installation and integration;
2. failure due to system administration, commands, file transfers performed by Client’s representatives;
3. failure due to work performed at Client’s request or due to other activities the Client manages;
4. lack of availability or untimely response, from Client’s Primary Technical Contact or by a delegated person with equivalent technical knowledge, to IBM’s respond by telephone; and
5. 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**

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

If Client had purchased the Services from an IBM Business Partner, this SOA does not give Client any entitlement to claim against Client’s IBM Business Partner.

6.5 **Settlement of Credits**

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

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

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

Client is entitled to receive a service credit only if Client had paid for the Services.