



IBM Customer Agreement

Attachment for Support and Maintenance of IBM Security Products

The terms of this Attachment for Support and Maintenance of IBM Security Products ("Attachment") are in addition to those of the IBM Customer Agreement ("ICA") (or any equivalent agreement in effect between us). IBM provides support and maintenance ("Support and Maintenance"), previously known as Support and Maintenance – Standard, with each IBM Security Product during the period for which applicable charges have been paid.

If there is a conflict between the terms of this Attachment and those of the ICA, those of this Attachment prevail.

Customer accepts the terms of this Attachment by signing the Sales Order Acknowledgement Form which is attached to a Sales Quotation, or by making any payment for Support and Maintenance for such IBM Security Products subject to this Attachment.

1. Definitions

Appliance – an IBM Security Product consisting of one or more IBM Security Program(s) preinstalled on a single hardware device ("Machine"). IBM licenses the preinstalled IBM Program under a separate IBM license agreement (i.e., the IBM International Program License Agreement available at <http://www-03.ibm.com/software/sla/sladb.nsf>).

IBM Security Product(s) – IBM Security Program(s) or an IBM Appliance supported and maintained under this Attachment.

IBM Security Program(s) – For purposes of this Attachment, IBM Security software that is listed in the Sales Quotation.

2. Support and Maintenance

Support and Maintenance is a single offering and not available as separate components. Support and Maintenance begins on the date that IBM accepts your order unless IBM specifies otherwise, and ends on the same day of the corresponding month in the following year. While IBM Support and Maintenance is in effect for an IBM Security Product(s), IBM will:

- a. Maintenance
 - (1) provide repair or exchange service for the Machine;
 - (2) make available to Customer the most current commercially available version, release, or update of an IBM Security Program; and
 - (3) make software security content updates available to Customer,
- b. Support
 - (1) provide assistance to Customer for 1) routine, short duration installation and usage (how-to) questions, 2) hardware error diagnostics, applicable only to an Appliance, 3) code-related questions, and 4) access to the IBM online knowledgebase;
 - (2) if appropriate, instruct Customer to restore the Appliance hard drive image to its factory default settings by using the recovery CD included with the original Appliance shipment. Support for a particular version or release of a Program is available only until IBM withdraws support for that Program's version or release. When support is withdrawn, Customer must upgrade to a supported version or release of the Program in order to continue to receive Support and Maintenance. The "IBM Software Support Lifecycle" policy is available at <http://www-01.ibm.com/software/support/lifecycle/>.
 - (3) provide assistance via telephone and, if available, electronic access, only to Customer's information systems ("IS") technical support personnel during the normal business hours (published prime shift hours) of your IBM support center (this assistance is not available to Customer's end users). IBM provides Severity 1 assistance 24 hours a day, every day of the year. Consult the IBM Software Support Handbook for details at ibm.com/software/support.

Support and Maintenance does not include assistance for 1) the design and development of applications, 2) Customer's use of the Appliances in other than their specified operating environment, or 3) failures caused by products for which IBM is not responsible under this Attachment.

IBM provides Support and Maintenance at the Select and Premium levels under a separate IBM Statement of Work.

It is Customer's responsibility to renew Support and Maintenance prior to the end of each Support and Maintenance coverage period. If Customer does not renew Support and Maintenance by the expiration date of the coverage period but subsequently wishes to acquire Support and Maintenance coverage, a reinstatement fee will apply.

3. Warranty for Support and Maintenance

IBM warrants that Support and Maintenance will be provided using reasonable care and skill and according to its description in the IBM Software Support Handbook located at <http://www14.software.ibm.com/webapp/set2/sas/f/handbook/home.html>. Customer agrees to provide timely written notice of any failure to comply with this warranty so that IBM can take corrective action.

The warranty does not cover failure or damage resulting from misuse, accident, modification, unsuitable physical or operating environment, operation in other than the specified operating environment, or failure caused by a product for which IBM is not responsible. The warranty is voided by removal or alteration of identification labels on the Machine or its parts.

EXCEPT AS EXPRESSLY REQUIRED BY LAW WITHOUT THE POSSIBILITY OF CONTRACTUAL WAIVER OR LIMITATION, THESE WARRANTIES ARE CUSTOMER'S EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTY OF TITLE OR NON-INFRINGEMENT.

IBM does not warrant uninterrupted or error-free provision of Support and Maintenance or that IBM will correct all defects.

4. Security Content

Security content updates are periodically provided to Customer and may include security algorithms, checks, decodes and IBM related analysis of such information. IBM makes security content updates available to Customer for the most current version of a Program. Security content updates for preceding versions may be made available to Customer according to the then current IBM Software Support Lifecycle policy.

5. Machine Exchange Service Procedures

To enable IBM to proceed with shipment of the replacement Machine, Customer must provide the following information: 1) Machine serial number, 2) Customer name and ship-to address, and 3) name, phone number, and email address of the contact person at Customer's location. Upon receipt of this information, IBM will issue a return merchandise authorization ("RMA") number to Customer's contact, and a replacement Machine will be shipped to the specified Customer location. Replacement units may be new or refurbished Machines which meet or exceed the specifications of the defective Machine. IBM will use commercially reasonable efforts to ensure that delivery of a replacement Machine occurs within a reasonable time period. Customer must pack the failing Machine into the shipping container that contained the replacement Machine and return the failing Machine to IBM. Transportation charges, both ways, are paid by IBM. Customer may be charged for the replacement Machine if IBM does not receive the failing Machine within 15 days of your receipt of the replacement Machine. Customer is responsible for its installation and verification of operation.

6. Support and Maintenance Transferability

Customer may not transfer Support and Maintenance to a third party or an entity within Customer's Enterprise that is located outside the country in which Support and Maintenance is acquired.

7. Changes to Attachment Terms

IBM may change the terms of this Attachment from time to time as IBM updates its support offerings. The current version of the Attachment can be found at

http://www-935.ibm.com/services/us/iss/html/contracts_landing.html .

8. Sales through IBM Business Partners

IBM has signed agreements with certain organizations (called "IBM Business Partners") to promote and market Support and Maintenance offerings. When Customer orders Support and Maintenance marketed

to Customer by IBM Business Partners, IBM will provide Support and Maintenance to Customer under the terms of this Attachment. IBM is not responsible for 1) the actions of IBM Business Partners, 2) any additional obligations they have to Customer or 3) any products or services that they supply to Customer under their agreements. In the event that Customer's IBM Business Partner is no longer able to market Support and Maintenance, for any reason, Customer may continue to receive Support and Maintenance under the terms of this Attachment by instructing IBM to transfer administration of Support and Maintenance to either 1) another IBM Business Partner of Customer's choice (who may require Customer to first execute one of their agreements) who is approved to market Support and Maintenance to Customer, or 2) IBM.

9. Additional Terms

- a. To assist Customer in isolating the cause of a problem, IBM may ask Customer to 1) allow IBM to remotely access Customer's system, or 2) send Customer information or system data to IBM. IBM uses information about errors and problems only to improve its products and services and assist with its provision of Support and Maintenance. IBM may use IBM Enterprise entities and subcontractors in other countries for these purposes, and Customer authorizes IBM to do so.

Customer remains responsible for (i) any data and the content of any database Customer makes available to IBM, (ii) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data (including any personally-identifiable data), and (iii) backup and recovery of the database and any stored data. Customer will not send or provide to IBM access to personal information and will be responsible for any reasonable costs and other amounts that IBM may incur relating to any such information mistakenly provided to IBM or to the loss or disclosure of such information by IBM, including those arising out of any third party claims.

- b. All information exchanged is nonconfidential. If either of us requires the exchange of confidential information, it will be made under a signed confidentiality agreement.
- c. Each may communicate with the other by electronic means and such communication is acceptable as a signed writing to the extent permissible under applicable law. An identification code (called a "user ID") contained in an electronic document is sufficient to verify the sender's identity and the document's authenticity.