



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Purchase Order

PURCHASE ORDER NO.
 MA05SW19

PAGE
 1

BLANKET RELEASE
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CHANGE ORDER
 1

CORRECT PURCHASE ORDER NUMBER
 MUST APPEAR ON ALL PACKAGES,
 INVOICES, AND SHIPPING PAPERS.
 QUESTIONS CONCERNING THIS PUR-
 CHASE ORDER SHOULD BE DIRECTED
 TO THE BUYER AS NOTED BELOW.

SEE REVERSE SIDE FOR
 TERMS AND CONDITIONS

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

AGENCY COPY

*709002529 304-347-7300
 IBM CORPORATION
 145 SUMMERS STREET SUITE 200
 CHARLESTON WV 25301

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED		TERMS OF SALE		FEIN/SSN		FOND	
10/22/2008		NET 30		130871985			
SHIP VIA		F.O.B		FREIGHT TERMS		ACCOUNT NUMBER	
BEST WAY		DESTINATION		PREPAID		MUL-MUL	
LINE	QUANTITY	UQP	VENDOR ITEM NO	UNIT PRICE		AMOUNT	
	DELIVERY DATE	CAT NO	ITEM NUMBER				
CHANGE ORDER #01							
TO AMEND THE MASTER AGREEMENT PROVIDING NEGOTIATED TERMS AND CONDITIONS, DELETING "LIFE OF CONTRACT" AND "RENEWAL" CLAUSES OF ORIGINAL PURCHASE ORDER AND SUBSTITUTE THE FOLLOWING LANGUAGE: THIS AGREEMENT WILL REMAIN IN EFFECT UNTIL TERMINATED. THE PARTIES SIGNING THE COVER PAGE OF THE AGREEMENT MAY TERMINATE IT AT ANY TIME BY GIVING THE OTHER PARTY AT LEAST 30 CALENDAR DAYS PRIOR WRITTEN NOTICE AS PER THE ORIGINAL AGREEMENT.							
***** NO ADDITIONAL CHANGES *****							
				PREVIOUS PO TOTAL==>		OPEN END	
				PO NET CHANGE (+)==>			
						PURCHASING DIVISION CERTIFIED ENCUMBERED OCT 23 2008 <i>Beverly Toler</i>	
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input checked="" type="checkbox"/>						OPEN END	
						TOTAL	

APPROVED FOR
 ONE MONTH

APPROVED AS TO FORM BY
 ASSISTANT ATTORNEY GENERAL

BY JO ANN ADKINS 304-558-8802

PURCHASING DIVISION AUTHORIZED SIGNATURE

GENERAL TERMS & CONDITIONS PURCHASE ORDER/CONTRACT

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of this order.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all Federal, State and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; (b) be merchantable and fit for the purpose intended; and/or (c) be free from defect in material and workmanship.
8. **CANCELLATION:** The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in this Order.
10. **LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the *West Virginia Code*.
11. **TAXES:** The State of West Virginia is exempt from Federal and State taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this Contract may be deemed null and void, and terminated without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."



Master Services Attachment for ServiceElite

1. Scope of Services

IBM will provide you Services as described in this Attachment and, if applicable, its Statements of Work and Change Authorizations to support your hardware and software products (called "Eligible Machines," "Eligible Programs," and together "Eligible Products"). Services are available for Eligible Products normally used for business, professional, or trade purposes, rather than personal, family, or household purposes.

IBM will identify the Eligible Products, the Services that apply to them, and the Services transaction contract period in Schedules that reference this Attachment and any associated Statements of Work and Change Authorizations. Each Schedule will also identify the Specified Locations at which the Services will be provided. A Specified Location may be your entire information processing environment, or a portion thereof, which may be resident at multiple sites or a single building.

The specific terms regarding Eligible Machine Services and Eligible Program Services contained in this Attachment and its Statements of Work and Change Authorizations apply only when you have contracted for an associated Eligible Machine maintenance Service or Eligible Program support Service as specified in a Schedule.

2. Sales through IBM and IBM Business Partners

You may acquire Services through IBM or an IBM Business Partner, or their designee, authorized to resell IBM Services. IBM Business Partners establish the price and general business terms at which they market the IBM Services to you and they will communicate these directly to you for all transactions they initiate with you. However, IBM establishes the terms of each Service IBM provides and our general business responsibilities associated with these Services. Therefore, IBM will provide the Services as described in this Attachment and its associated Statements of Work and Change Authorizations (and their Schedules).

Whenever IBM is required to provide notification to you or you are required to provide notification to IBM, each of us also agrees to notify the applicable IBM Business Partner if one is engaged in the transaction.

In the event that you have contracted through an IBM Business Partner that is no longer able to offer IBM Services, for any reason, IBM will so notify you in writing. You may continue to receive the Services by instructing IBM (in writing) to transfer administration of the Services to either 1) another IBM Business Partner of your choice (who may require you to first execute one of their agreements) that is approved to offer you IBM Services, or 2) IBM under a standard direct marketing relationship that enables IBM to generate charges and invoicing.

IBM is not responsible for 1) any actions of IBM Business Partners or their designees, 2) any additional obligations they have to you, or 3) any products or services that they supply to you under their agreements.

3. IBM Responsibilities

When you contract for an applicable Service, IBM agrees to deliver the Service in accordance with the terms and responsibilities identified in the Service description set out in this Attachment or an associated Statement of Work or Change Authorization. For basic maintenance of IBM Machines, the Service description is set out in our Agreement (referenced in the signature block below).

4. Your Responsibilities

When you contract for an applicable Service, you agree:

1. to provide IBM with an inventory in which you identify all Eligible Products to be covered at each Specified Location and to notify IBM whenever you wish to move, add, or delete Eligible Products at an existing Specified Location or set up new Specified Locations;
2. to return to IBM all defective CRUs (from covered Eligible Machines) within 15 days of your receipt of the replacement CRU. A "CRU" is a Machine part which is designated as a Customer Replaceable Unit (e.g. keyboards, memory, or hard disk drives). IBM provides CRUs to you for replacement by you;
3. that when the Service includes IBM providing you with access to electronic diagnostic tools, information databases, or other Service delivery facilities, you will limit the use of these to only those who are authorized to use them under your control and only in support of Eligible Products and Services identified in Schedules;
4. to provide IBM with information it requests which is related to its provision of the Services to you and to notify IBM of any changes;
5. that you authorize International Business Machines Corporation and its subsidiaries (and their successors and assigns, contractors and IBM Business Partners) to store and use your business contact information wherever they do business, in connection with IBM products and services or in furtherance of IBM's business relationship with you;
6. to pay any communications charges associated with accessing these Services unless IBM specifies otherwise in writing; and
7. to use the information obtained under these Services only for the support of the information processing requirements within your Enterprise;
8. to securely erase from any Machine that you return to IBM for any reason all programs not provided by IBM with the Machine and data, including without limitation, the following: 1) information about identified or identifiable individuals or legal entities ("Personal Data") and 2) your confidential or proprietary information and other data. If removing or deleting Personal Data is not possible, you agree to transform such information (e.g., by making it anonymous or encrypting it) so that it no longer qualifies as Personal Data under applicable law. You also agree to remove all funds from Machines returned to IBM. IBM is not responsible for any funds, programs not provided by IBM with the Machine, or data contained in a Machine that you return to IBM. You acknowledge that, to perform its responsibilities under this Agreement, IBM may ship all or part of the Machine or its software to other IBM or third party locations around the world, and you authorize IBM to do so.

5. Automatic Inventory Increase for Machine and Software Maintenance Services

If specified as a selected option in the Schedule, IBM will automatically increase the inventory count and associated Services at Specified Locations per the terms set out below.

OPTION #1 - MACHINE MAINTENANCE SERVICES

IBM will automatically increase the inventory count and associated Machine maintenance Services whenever:

1. an Eligible IBM Machine is added to the inventory. If the Machine is under warranty when added, maintenance Services will commence at warranty exit. If the Machine is not under warranty when added, maintenance Services will commence at the later of a) the date of installation or b) the previous yearly anniversary of the start of the transaction contract period. IBM Machines specifically excluded from coverage at transaction contract period start will remain outside the scope of this Section unless you request IBM add them during the transaction contract period. However, all Eligible IBM Machines added to your inventory during the transaction contract period will be included in the inventory count and receive maintenance Services as set out in this Section.
2. an Eligible non-IBM Machine, of the same type as other non-IBM Machines already covered at that Specified Location, is added to the inventory. If the Machine is under warranty when added, maintenance Services will commence at warranty exit. If the Machine is not under warranty when added, maintenance Services will commence at the later of a) the date of installation or b) the previous yearly anniversary of the start of the transaction contract period.

The maintenance Services that apply for these Machines will be the same as that which you are receiving for all other Eligible Machines of the same type at the Specified Location.

Newly installed IBM Machines of the same type for which you have already selected Warranty Service Upgrade will be added at date of actual installation and will be covered at the same Warranty Service Upgrade support level.

If at any time either of us requests a review of the inventory count, each of us will provide reasonable cooperation to the other in updating the last formal inventory.

OPTION #2 - SOFTWARE SERVICES

IBM will automatically increase the inventory count and associated software Services whenever an Eligible Program licensed for use on an Eligible IBM Machine is added to the inventory. The software maintenance Services that apply for these programs will be the same as that which you are receiving for all other copies of the Program licensed for use on Eligible IBM Machines of the same type at the Specified Location.

These software Services will commence immediately upon addition of the Eligible program to the inventory except that for software maintenance Services, a) if the Program is covered under the Agreement for Acquisition of Software Maintenance when added to the inventory, then software maintenance Services via ServiceElite will commence at the expiration date of that support period, or b) if the Program is not covered under the Agreement for Acquisition of Software Maintenance when added to the inventory, then software maintenance Services via ServiceElite will commence immediately and After License Fees may apply.

If at any time either of us requests a review of the inventory count, each of us will provide reasonable cooperation to the other in updating the last formal inventory.

6. Charges and Payment

For sales through IBM, your charges are calculated taking into account your Service selections, price protection option, payment option, and for prepayments, length of the prepay period. You agree to pay by electronic funds transfer to an account provided by IBM or other means as agreed by both of us.

FOR EACH TRANSACTION PACKAGE YOU MAY SELECT ONE OF THE FOLLOWING 3 PRICE PROTECTION OPTIONS. YOUR SELECTION WILL BE SPECIFIED IN THE SCHEDULE ASSOCIATED WITH THAT TRANSACTION PACKAGE.

OPTION #1 - PRICE PROTECTION DURING EACH TRANSACTION CONTRACT YEAR ONLY

IBM may revise charges. However, any rate increase will not take effect until the next yearly anniversary of the start of the transaction contract period. At the start of each transaction contract year, you will be invoiced at the charge rates that are then in effect and that invoice will serve as your notice of charge rate changes.

All newly added Eligible Products and Services, as well as changes to existing Eligible Product configurations and Services, will assume the charge rate that applied for these at the previous yearly anniversary of the start of the transaction contract period. Eligible Products and Services that become generally available during the transaction contract period will be added at the charge rate that applied on their initial availability date.

OPTION #2 - PRICE PROTECTION FOR ENTIRE TRANSACTION CONTRACT PERIOD, INCLUDES PROTECTION FOR NEWLY ADDED MACHINE TYPES

For the entire transaction contract period, charges for included Eligible Product configurations and Services will not increase. All newly added Eligible Products and Services, as well as changes to existing Eligible Product configurations and Services, will assume the charge rate that applied for these at transaction contract period start. Eligible Products and Services that become generally available during the transaction contract period will be added at the charge rate that applied on their initial availability date. 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.

OPTION #3 - PRICE PROTECTION FOR TRANSACTION CONTRACT PERIOD PREPAY

Since you have selected to prepay for the entire transaction contract period, you will not be subject to increases in charges (during that period) for Included Eligible Product configurations and Services. All newly added Eligible Products and Services, as well as changes to existing Eligible Product configurations and Services, will assume the charge rate that applied for these at transaction contract period start with adjustment for the reduced prepay period. Eligible Products and Services that become generally available during the transaction contract period will be added subject to the charge rate that applied on their initial availability date with adjustment for the reduced prepay period. If you elect to have these charge terms apply for charges during any renewal transaction contract period (as recalculated at the start of each renewal period), you must provide IBM written notification (at least one month prior to the start of the renewal period) and prepayment for the entire renewal period. Otherwise, charges for the renewal period will revert to a quarterly billing cycle under the terms set out for Option #1 above.

FOR EACH TRANSACTION PACKAGE THE FOLLOWING CHARGE ADJUSTMENT TERMS APPLY.

Total Services charges may be adjusted whenever:

1. a review of the inventory count indicates a change from the last accounting; or
2. a Specified Location, Eligible Machine type, or Service is added, deleted, or changed.

For all Service charges based on usage, upon IBM's request you will immediately provide IBM with the actual meter reading recording the actual usage.

For sales through IBM Business Partners, your IBM Business Partner sets the charges and terms governing charges. Your IBM Business Partner may impose an additional charge for some actions, e.g., termination, or for IBM's provision of some additional services, e.g., Service upgrades. These actions or additional services are identified in this Attachment and its associated Statements of Work and Change Authorizations with an asterisk ("**"). Where you see an asterisk, check with your IBM Business Partner to determine if you will incur an additional charge or may be entitled to a credit or refund. You will make payment directly to your IBM Business Partner.

IBM may charge you directly for certain expenses IBM incurs in performance of a Service for you (e.g. actual travel and living expenses, out-of-pocket expenses). IBM will not incur these expenses without your prior approval.

7. Renewal and Termination

IBM will automatically renew Services unless you or your IBM Business Partner request otherwise. For each transaction the Schedule will specify the number of years (0 or greater) in the Renewal Contract Period. Whenever this number is greater than 0, IBM will renew the applicable Services at the end of the transaction contract period for the number of years specified. Thereafter, IBM will automatically renew the Services for same length periods unless you or your IBM Business Partner notify IBM in advance of your desire to change the length of the renewal. You, your IBM Business Partner, or IBM can select not to renew by providing written notification (at least one month prior to the end of the current transaction contract period) to the others of its decision not to renew. Nonrenewal notification sent to you by IBM or received by IBM from either you or your IBM Business Partner will result in IBM ceasing to provide you the applicable Services at the end of the current transaction contract period.

In case of renewals, charges are recalculated at the start of each renewal period. For sales through IBM, the new charges will be based on the length of the Renewal Contract Period and then current charges associated with your contracted a) Services, b) price protection option, and c) payment option.

You have committed to continue Services for the entire transaction contract period. However, you may terminate Services for an Eligible Product, on notice to IBM, if you permanently remove it from productive use within your Enterprise. You may also terminate Services immediately prior to the start of any fiscal year for which funds have not been appropriated. You agree to request such funds from the applicable legislative body.

Otherwise, if you choose to terminate Services and these are not being replaced by equivalent Services, you may do so by providing IBM one month's written notice, however the Services must have been under contract for at least one fiscal year upon termination.

Termination adjustment fees will not apply and you will receive a credit for any remaining prepaid period associated with Services you terminate in accordance with this provision.*

8. Governing Law

As pertains to your contracted Services, the laws of your State govern our Agreement, this Attachment, and associated Statements of Work and Change Authorizations.

9. Services

Warranty Service Upgrade

For certain Eligible Machines, you may select a Service upgrade from the standard type of warranty Service for the Machine. IBM provides Service for Machines as described in our Agreement but charges for the upgrade in type of Service during the warranty period.

Certain Machine types may require the installation and use of remote connectivity tools and equipment for direct problem reporting, remote problem determination and resolution.

You may not terminate the Service upgrade or transfer it to another Machine during the warranty period. When the warranty period ends, the Machine will become part of your standard inventory count and will convert to maintenance Service at the same type of Service you selected for warranty Service upgrade.

Maintenance of IBM Machines

IBM will provide Service for Machines, as described in our Agreement, for those Eligible IBM Machines specified in the Schedule.

Maintenance of Non-IBM Machines

IBM will provide Service for Machines, as described in our Agreement, for those Eligible non-IBM Machines specified in the Schedule. Unless specified otherwise in the Schedule, Service is provided only for the manufacturer's base configuration for each covered Machine model. You are responsible for following the manufacturer's and IBM's provided guidelines pertaining to operator responsibilities, maintenance procedures, and supplies prior to placing a Service request.

Repair of non-IBM Machines is subject to the availability of repair parts and any technical support required of the original manufacturer. Repair parts will be functionally equivalent to those replaced. They may be new or used and may have been manufactured by other than the original manufacturer. You may request that IBM use repair parts manufactured by the original manufacturer when these are available, but there may be an additional charge for these parts.*

IBM's support does not cover:

1. Machine installation, engineering change activity, or preventive maintenance;
2. correction of date related errors. IBM will make the final determination of whether a date related error is the source of the problem;
3. service of microcode or firmware;
4. service of features, parts, or devices not supplied by either a) the Machine's original manufacturer or b) IBM during the performance of this Service;
5. service for accessories, supply items, and certain parts, such as batteries, frames, and covers;
6. service of a Machine damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by you;
7. service of a Machine with removed or altered Machine or parts identification labels;
8. failures caused by a product for which IBM is not responsible; or
9. service of Machine alterations.

Upon written notice, IBM may terminate coverage for an Eligible non-IBM Machine due to lack of available repair parts or lack of original manufacturer technical support.

Eligible non-IBM Machines must meet IBM's safety and serviceability requirements. IBM reserves the right to inspect a Machine within one month from the start of Service. If the Machine is not in an acceptable condition for Service, IBM will notify you and terminate coverage.

You agree to provide IBM one month's written notice prior to terminating coverage for a Machine being permanently removed from productive use within your Enterprise.

IBM Software Maintenance for OS/400, I5/OS and Selected Products

IBM will provide software maintenance support, as described below, for those Eligible Programs for which you are licensed and for which you order this Service.

General:

1. IBM makes available to you the most current commercially available version, release or update to all of the Programs for which you acquire support under this Service, should any be made available. Information on ordering versions, releases or updates can be found at <http://www.ibm.com/servers/eservers/ess>, and selecting the Entitled Software Update ("EUS") screen tab.
2. IBM provides you with assistance for your a) routine, short duration installation and usage (how-to) questions and b) code defect related questions.
3. IBM provides assistance via telephone and, if available, electronic access, only to your information systems (IS) technical support personnel during normal business hours (normal business hours are 8 a.m. to 5 p.m. in the local time zone where you receive this Service, Monday through Friday, excluding national holidays). This assistance is not available to your end users. IBM provides Severity 1 assistance 24 hours a day, every day of the year. Consult the IBM Software Support Guide, which may be found at <http://techsupport.services.ibm.com/guides/handbook.html> for details. A 24x7 (every day of the year) all severity option is available at extra charge.* During normal business hours, IBM's response time objective is two hours for voice and electronic problem submissions. For voice problem submissions during other than normal business hours, IBM's response time objective for critical problems (Severity 1) is two hours and if you select the 24x7 all severity option, four hours for non-critical problems. For electronic problem submissions during other than normal business hours, IBM's response time objective is within two hours of the start of normal business hours on the next business day. IBM's initial response (either voice or electronic) may result in resolution of your problem or it will form the basis for determining what additional actions may be required to achieve technical resolution of your problem. IBM is not responsible for delays in electronic response delivery caused by systems and network problems.
4. In some instances, IBM may request that you allow it to remotely access your system to assist you in isolating the software problem cause. You will remain responsible for adequately protecting your system and all data contained therein whenever we remotely access it with your permission.
5. This Service does not include assistance for a) the design and development of applications, b) your use of Programs in other than their specified operating environment, or c) failures caused by products for which IBM is not responsible under this Service; and
6. This Service is provided by United States personnel solely for servers that are located within the United States. For calls that originate from outside of the United States: 1) toll free telephone access is not available, 2) "8:00 a.m. to 5:00 p.m. in the local time zone" is defined as the time zone where your designated Point of Contact resides, Monday through Friday (excluding national holidays), 3) replies or other return communication to the caller will be via electronic means only, 4) software "traps" or other tools that may be necessary to diagnose problems will be sent only to the United States server location, and 5) the diagnosis and repair of data encryption will be discussed only with personnel at the United States server location.

Eligible Programs: Licensed programs for which this Service is available are listed at <http://www.ibm.com/services/si/swm/> or may be obtained from your IBM marketing representative. The listing of Eligible Programs contains the last date of service for each respective release of licensed programs. IBM will support only current releases. It is your responsibility to insure that, when calling in for service, your software is current.

Software Maintenance After License Fee: The Software Maintenance After License fee is a one time charge to resume Software Maintenance if you a) did not renew this Service prior to the end of the then current support period or b) terminated this Service. The new support period in such an instance begins on the date that IBM accepts your order.

IBM Software Maintenance for AIX Operating Systems

IBM will provide software maintenance support, as described below, for those Eligible Programs for which you are licensed and for which you order this Service.

General:

1. IBM makes available to you the most current commercially available version, release or update to all of the Programs for which you acquire support under this Service, should any be made available. Information on ordering versions, releases or updates can be found at <http://www.ibm.com/servers/eservers/ess>, and selecting the Entitled Software Update ("EUS") screen tab.
2. IBM provides you with assistance for your a) routine, short duration installation and usage (how-to) questions and b) code defect related questions.
3. IBM provides assistance via telephone and, if available, electronic access, only to your information systems (IS) technical support personnel during normal business hours (normal business hours are 8 a.m. to 5 p.m. in the local time zone where you receive this Service, Monday through Friday, excluding national holidays). This assistance is not available to your end users. IBM provides Severity 1 assistance 24 hours a day, every day of the year. Consult the IBM Software Support Guide, which may be found at <http://techsupport.services.ibm.com/guides/handbook.html> for details. A 24x7 (every day of the year) all severity option is available at extra charge.* During normal business hours, IBM's response time objective is two hours for voice and electronic problem submissions. For voice problem submissions during other than normal business hours, IBM's response time objective for critical problems (Severity 1) is two hours

and if you select the 24x7 all severity option, four hours for non-critical problems. For electronic problem submissions during other than normal business hours, IBM's response time objective is within two hours of the start of normal business hours on the next business day. IBM's initial response (either voice or electronic) may result in resolution of your problem or it will form the basis for determining what additional actions may be required to achieve technical resolution of your problem. IBM is not responsible for delays in electronic response delivery caused by systems and network problems.

4. In some instances, IBM may request that you allow it to remotely access your system to assist you in isolating the software problem cause. You will remain responsible for adequately protecting your system and all data contained therein whenever we remotely access it with your permission.
5. This Service does not include assistance for a) the design and development of applications, b) your use of Programs in other than their specified operating environment, or c) failures caused by products for which IBM is not responsible under this Service; and
6. This Service is provided by United States personnel solely for servers that are located within the United States. For calls that originate from outside of the United States: 1) toll free telephone access is not available, 2) "8:00 a.m. to 5:00 p.m. in the local time zone" is defined as the time zone where your designated Point of Contact resides, Monday through Friday (excluding national holidays), 3) replies or other return communication to the caller will be via electronic means only, 4) software "traps" or other tools that may be necessary to diagnose problems will be sent only to the United States server location, and 5) the diagnosis and repair of data encryption will be discussed only with personnel at the United States server location.

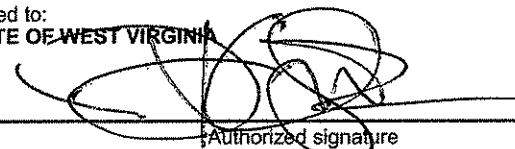
Eligible Programs: Licensed programs for which this Service is available are listed at <http://www.ibm.com/services/sl/swm/> or may be obtained from your IBM marketing representative. The listing of Eligible Programs contains the last date of service for each respective release of licensed programs. IBM will support only current releases. It is your responsibility to insure that, when calling in for service, your software is current.

Software Maintenance After License Fee: The Software Maintenance After License fee is a one time charge to resume Software Maintenance if you a) did not renew this Service prior to the end of the then current support period or b) terminated this Service. The new support period in such an instance begins on the date that IBM accepts your order.

This 1) Attachment, 2) its applicable Transaction Documents (e.g., Statements of Work, Schedules, and Change Authorizations), and 3) the IBM Customer Agreement (or an equivalent agreement in effect between us) identified below comprise the complete agreement regarding the Services described in this Attachment and its applicable Transaction Documents and replace any prior oral or written communications between Customer and IBM. In entering into this Attachment, neither party is relying on any representation that is not specified in the Attachment or the documents specified in the preceding sentence, including without limitation any representations concerning: 1) estimated completion dates, hours, or fees to provide any Service; 2) the experiences or recommendations of other parties; or 3) results or savings Customer may achieve. Each party accepts the terms of this Attachment by signing this Attachment by hand or, where recognized by law, electronically.


As used in this Attachment, "you" and "your" refer to the transaction contracting entity that is part of the Enterprise identified below.

Agreed to:
STATE OF WEST VIRGINIA

By 
Authorized signature

Name (type or print): **James A. Kirby, III**
Date: **9/22/08**
Enterprise number: **09042006**
Enterprise address:
1900 KANAWHA BLVD
BLDG 6
CHARLESTON WV 25305-0001

Agreed to:
International Business Machines Corporation

By 
Authorized signature

Name (type or print): **Cheryl S. Laufer**
Date: **09/17/08**
Attachment number: **MAJ3MBW**
Agreement number: **JM71665**
IBM address:
IBM CORPORATION
PO BOX 12195 BLDG 203
3039 CORNWALLIS ROAD
RTP, NC 27709

IBM Change Authorization for ServiceElite

Each of us agrees to modify the referenced Master Services Attachment for ServiceElite and/or Statement of Work for ServiceElite as follows:

ADDENDUM to
Master Services Attachment for ServiceElite
Z125-7227-07 02/2008 (MK076) – Attachment Number: **MAJ3MBW**

International Business Machines Corporation and the State of West Virginia entered into the Master IBM Customer Agreement Number JM71665 dated May 28, 1993, and approved by the West Virginia Attorney General on June 29, 1993 ("Agreement"), as amended by the Addendum to the IBM Customer Agreement between IBM and the State of West Virginia, also dated May 28, 1993, and approved by the West Virginia Attorney General on June 29, 1993 ("First Amendment"), and further amended by the Second Amendment to the Agreement ("Second Amendment") dated May 9, 2008, and approved by the West Virginia Attorney General on May 22, 2008. This Master Services Attachment for ServiceElite is an attachment to the "Agreement" as amended. This Master Services Attachment for ServiceElite and all Statements of Work and Schedules associated with this Attachment are amended as follows:

1. Payment. Any references to prepayment are deleted. Payment will be in arrears.
2. Renewal. Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
3. Right to Terminate. Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.

For avoidance of doubt the following changes are being made:

1. Deletion of Option #3 in **Section 6. Charges and Payment**, which states:

Option #3 – PRICE PROTECTION FOR TRANSACTION CONTRACT PERIOD PREPAY

Since you have selected to prepay for the entire transaction contract period, you will not be subject to increases in charges (during that period) for included Eligible Product configurations and Services. All newly added Eligible Products and Services, as well as changes to existing Eligible Product configurations and Services, will assume the charge rate that applied for these at transaction contract period start with adjustment for the reduced prepay period. Eligible Products and Services that become generally available during the transaction contract period will be added subject to the charge rate that applied on their initial availability date with the adjustment for the reduced prepay period. If you elect to have these charge terms apply for charges during any renewal transaction contract period (as recalculated at the start of each renewal period), you must provide IBM written notification (at least one month prior to the start of the renewal period) and prepayment for the entire renewal period. Otherwise, charges for the renewal period will revert to a quarterly billing cycle under the terms set out for Option #1 above.

2. Modification of the first paragraph of **Section 7. Renewal and Termination**, to read as follows:

IBM will not automatically renew Services. For each transaction the Schedule will specify the number of years as zero (0) in the Renewal Contract Period.

3. Deletion of the following statement in **Section 7. Renewal and Termination**:

Otherwise, if you choose to terminate Services and these are not being replaced by equivalent Services, you may do so by providing IBM one month's written notice, however the Services must have been under contract for at least one fiscal year upon termination.

4. Addition of the following statement in **Section 7. Renewal and Termination**:

Either party may terminate Services on thirty (30) days written notice to the other party.

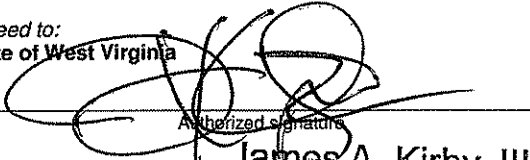
This 1) Change Authorization, 2) the referenced Attachment and/or Statement of Work (as applicable) and any prior Change Authorizations that have not been replaced by this one, 3) the referenced Schedules and 4) the IBM Customer Agreement (or an equivalent agreement in effect between us) are the complete agreement regarding the Services described in this Change Authorization and replaces any prior oral or written communications between Customer and IBM. In entering into this Change Authorization, neither party is relying on any representation that is not specified in this Change Authorization or the documents referenced in the preceding sentence, including without limitation any representations concerning: 1) estimated completion dates, hours, or fees to provide any Service; 2) the experiences or recommendations of other parties; or 3) results or savings Customer may achieve. Each party accepts, on behalf of its Enterprise, the terms of this Change Authorization by signing this Change Authorization by hand or, where recognized by law, electronically.

As used in this Change Authorization, "you" and "your" refer to the Enterprise/Customer Company identified below.

Agreed to:

State of West Virginia

By



Authorized signature

Name (type or print):

James A. Kirby, III

Date:

9/21/08

General Counsel

Department of Administration

Enterprise number: 09642000

Enterprise address:

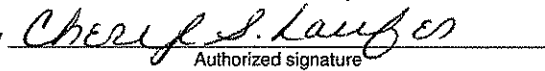
1600 KANAWA BLVD
CHARLESTON WV 25305-0001

Enterprise telephone number:

Agreed to:

International Business Machines Corporation

By



Authorized signature

Name (type or print):

Cheryl S. Laufer

Date:

09/17/08

Reference Agreement number: JM71665

Reference Attachment number: MAJ3MBW

Reference Statement of Work number: AJ3MBW

Change Authorization number: 001

IBM address:

IBM CORPORATION
7100 HIGHLAND PARKWAY
SMYRNA GA 30082



Statement of Work for ServiceElite

Both of us agree to add the following Services as part of our ServiceElite contract.

zSeries Software Services

Resolve provides electronic Services to assist you in identifying and resolving problems with the operation of your Eligible zSeries Machines and eligible Programs installed on them. We provide you:

1. tracking of Authorized Program Analysis Reports (called "APARs") and Program Temporary Fixes (called "PTFs");
2. the ability to electronically report code-related problems to the IBM support center and receive an electronic response;
3. access to Product cross-reference information;
4. access to information on the maintenance of Products and diagnostic information on non-IBM problems;
5. access to eligible Program technical information databases, including a question and answer library;
6. the ability to order PTF's electronically and request electronic or physical delivery;
7. information regarding the installation of new releases of products or installation of PTFs; and
8. the ability to report a suspected hardware problem to IBM electronically.

SoftwareXcel basic edition for zSeries provides the following for the zSeries platform:

1. remote assistance with questions regarding the operation of supported Programs within specific product groups running under designated operating systems.

Definitions

The following definitions apply for this assistance:

Off Shift means all hours outside of Prime Shift.

Prime Shift means 8 a.m. to 5 p.m. in the local time zone where you receive the assistance, Monday through Friday (excluding national holidays).

Supported Products means those products contained within designated product groups that run under identified operating systems for the zSeries hardware platforms. Supported Products are identified in the Supported Products List located at IBM's Internet address <http://www.ibm.com/services/sl/products>, or as otherwise provided by IBM. The Supported Products List will identify the products, product groups, and operating system groups for the zSeries hardware platforms that are eligible for this assistance. The Supported Products List will change periodically to reflect Supported Product additions (for example, adding new products) or deletions (for example, deleting products at their end of currency date). IBM may withdraw support for products on the Supported Products List at any time without written notice to you.

Our Responsibilities

IBM will provide you remote assistance (via an electronic search and questioning capability) for the following requests related to Supported Products:

- a. basic, short duration installation, usage, and configuration questions;
- b. code-related problem questions;***
- c. questions regarding IBM Supported Product publications;
- 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 Program Services terms of our Agreement.***

*** Note: This assistance is also available via telephone from our support center. Such telephone assistance is included in your Program license charge.

IBM will provide you with unique user IDs authorized for this Service.

Response Criteria

IBM will use commercially reasonable efforts to provide a response to each of your requests for other than code-related problems, within two hours of electronic receipt during Prime Shift and if received during Off-Shift, within two hours of the start of Prime Shift on the next business day. IBM is not responsible for delays in response delivery caused by systems and network problems.

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.

Your Added Responsibilities

You agree to:

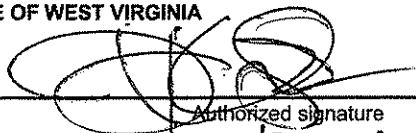
- a. ensure you are properly licensed to all Programs for which you request assistance;
 - b. retrieve and review a current Supported Products List on a regular basis to verify whether there have been any additions or deletions of products within your product groups;
 - c. meet the prerequisites we specify for electronic access to IBMLink;
 - d. ensure that only the end user authorized for a particular user ID uses the user ID; and
 - e. provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to problems you request assistance with.
2. Resolve which provides electronic Services to assist you in identifying and resolving problems with the operation of your Eligible zSeries Machines and eligible Programs installed on them. IBM provides you –
 - a. tracking of Authorized Program Analysis Reports (called "APARs") and Program Temporary Fixes (called "PTFs"),
 - b. the ability to electronically report code-related problems to the IBM support center and receive an electronic response,
 - c. access to Product cross-reference information,
 - d. access to information on the maintenance of Products and diagnostic information on non-IBM problems,
 - e. access to eligible Program technical information databases, including a question and answer library,
 - f. the ability to order PTF's electronically and request electronic or physical delivery,
 - g. information regarding the installation of new releases of Products or installation of PTFs, and
 - h. the ability to report a suspected hardware problem to IBM electronically.

This 1) Statement of Work, 2) its applicable Transaction Documents (e.g., Attachments, Schedules, and Change Authorizations), and 3) the IBM Customer Agreement (or an equivalent agreement in effect between us) comprise the complete agreement regarding the Services described in this Statement of Work and its applicable Transaction Documents and replace any prior oral or written communications between Customer and IBM. In entering into this Statement of Work, neither party is relying on any representation that is not specified in the Statement of Work or the documents specified in the preceding sentence, including without limitation any representations concerning: 1) estimated completion dates, hours, or fees to provide any Service; 2) the experiences or recommendations of other parties; or 3) results or savings Customer may achieve. Each party accepts the terms of this Statement of Work by signing this Statement of Work by hand or, where recognized by law, electronically.

As used in this Statement of Work, "you" and "your" refer to the Enterprise identified below.

Agreed to:
STATE OF WEST VIRGINIA

By



Authorized signature

Name (type or print):

James A. Kirby, III

Date:

9/22/08

General Counsel

Enterprise Number: 09642000

Department of Administration

Enterprise address:

1900 KANAWHA BLVD
BLDG 6
CHARLESTON WV 25305-0001

Enterprise telephone number:

Enterprise billing Address:

STATE OF WEST VIRGINIA
IS&C FINANCE DIV
PO BOX 50121
2019 WASHINGTON ST E
CHARLESTON WV 25305-0100

Agreed to:
International Business Machines Corporation

By



Authorized signature

Name (type or print):

Cheryl S. Laufer

Date:

09/17/08

Reference Attachment number: MAJ3MBW

Statement of Work number: AJ3MBW

IBM Address:

IBM CORPORATION
PO BOX 12195 BLDG 203
3039 CORNWALLIS ROAD
RTP, NC 27709



Schedule for ServiceElite

This Schedule contains a listing of the Eligible Machines at the Specified Locations identified below for which IBM will provide the identified Services as described in the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations. The complete agreement between us about these Services consists of 1) this Schedule 2) the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations, and 3) the IBM Customer Agreement (or any equivalent agreement in effect between us).

Name and Address of Customer:

STATE OF WEST VIRGINIA
1900 KANAWHA BLVD
BLDG 6
CHARLESTON WV 25305-0001

Customer Billing Address:

STATE OF WEST VIRGINIA
IS&C FINANCE DIV
PO BOX 50121
2019 WASHINGTON ST E
CHARLESTON WV 25305-0100

Master Services Attachment Number: MAJ3MBW
Statement of Work Number: AJ3MBW
Change Authorization Number:
Customer Number: 09642007

Schedule Number: AJ3MBW
Revised Schedule:
Schedule Effective Date: 08/28/2008
Proposal Reference Date: 07/01/2008

Transaction Contract Period:
Start Date: 07/01/2008
End Date: 06/30/2013
Renewal Contract Period:
0 Year(s)

* Charge Period Charges / Payment Plan (Inclusive of MES):
WSU One Time Charges: 0.00
SWMA ALF One Time Charges: 0.00
MMS for CISCO HW One Time Charges: 0.00
MMS for CISCO SW One Time Charges: 0.00
MMS for Nortel One Time Charges: 0.00
One Time Charges: 0.00

* Maintenance Charges:
Service Charges:
TOTAL CHARGE PERIOD CHARGES: 246,580.60
Monthly

Charge Period:
Start Date: 237,763.00
End Date: 8,817.60
07/01/2008
06/30/2009

Accumulated Adjustment Invoicing option: N

Automatic Inventory Increase Option Applies: N
Machine Maintenance Services Option #1: N
Software Services Option #2: N
Pricing Method: N
Price Protection Option: Opt#1 Annual Price Protection
Line Item

Type of Discount(s) Applied: Term Incentive

* Charges are based on the current inventory and services identified in this Schedule. Actual charges may vary with any additions, deletions, or changes to the inventory or services. Any applicable taxes are not included in the charge amounts herein but will be added to your invoice.

For a Machine subject to usage charges, in addition to the Service charge identified herein, you will be separately billed for usage in accordance with applicable usage rates and billing cycles.

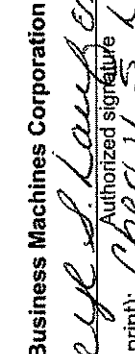
The Parties need not to sign this Schedule, unless either of us requests it.

Agreed to:

STATE OF WEST VIRGINIA
By: 
Name (type or print): James A. Kirby, III
Date: 9/21/08

James A. Kirby, III
General Counsel
Department of Administration

Agreed to:

International Business Machines Corporation
By: 
Name (type or print): Cheryl S. Laufer
Date: 09/17/08



Schedule for ServiceElite

Enterprise Total for Charge Period by Customer Number Inclusive of MES:

Customer No	Customer Name	Customer Location	Charges
09642007	STATE OF WEST VIRGINIA	1900 KANAWHA BLVD, BLDG 6, CHARLESTON WV 25305-0001	246,580.60
Total			246,580.60

Note: One Time Charges are not included in the Total



Schedule for ServiceElite

Maintenance Machine List

Eligible Machine Description-----

Mfg	Type	Mod/Part	Add/Run	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc	Maint Svc	Charges	Charge Start	Charge Stop
Specified Location: 09642007 City, State: CHARLESTON WV 25305-0001												
IBM	2086	A04		0000BE1FE		IBM ESERVER Z890	1	B	1	143,083.92	H	
		6270				CAPACITY SETTING 270	1					
		6516				INTEGRATED FACILITY FOR LINUX	1					
IBM	2105	800		000026967		ENTERPRISE STORAGE SERVER	1	B	1	37,288.89	H	
		2124				72.8GB DISK 8-PACK, 10K RP	2					
		2125				DISK EIGHT-PACK - 145.6 GB	2				01/05/2009	
		2125				DISK EIGHT-PACK - 145.6 GB	4					
		3024				2GB FIBRE CHAN/FICON LONG	6					
		4014				16 GB CACHE	1					
		8005				PAV - UP TO 6 TB	1					01/04/2009
		8007				PAV - UP TO 10 TB	1				01/05/2009	
		8305				FLASHCOPY - UP TO 6 TB	1					01/04/2009
		8307				FLASHCOPY - UP TO 10 TB	1				01/05/2009	
IBM	3174	01R		0000A9687		ESTABLISHMENT CONTROLLER	1	B	1	192.94	H	
IBM	3174	01L		0000B1134		ESTABLISHMENT CONTROLLER	1	B	1	268.67	H	
		3103				TERM MULTIPLEXOR ADAPTER	4					
IBM	3174	01R		0000D6422		ESTABLISHMENT CONTROLLER	1	B	1	192.94	H	
IBM	3590	B1A		000010127		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000010164		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000010285		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000010477		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000011272		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000011273		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000011288		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000012761		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000035930		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000037257		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000037787		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	B1A		000037814		HIGH PERFORMANCE TAPE SUBSYST	1	B	1	3,602.76	H	
IBM	3590	A50		000041614		MAGSTAR CONTROLLER	1	B	1	2,098.92	H	

See Legend for Details



Schedule for ServiceElite

Maintenance Machine List

-----Eligible Machine Description-----

Mfg	Type	Model Part	Avail Rem	Order/Serial Number	Related Order/Serial Number	Product Description	Qty	Type of Svc	Maint Svc	Charges	Charges Start	Charges Stop
		3311				FIRST ESCON/SCSI ADAPTERS	1					
IBM	3590	A50		000041654		MAGSTAR CONTROLLER	1	B	1	2,098.92	H	
		3311				FIRST ESCON/SCSI ADAPTERS	1					
IBM	3590	A50		000043310		MAGSTAR CONTROLLER	1	B	1	2,098.92	H	
		3311				FIRST ESCON/SCSI ADAPTERS	1					
IBM	3590	C12		000070065		'LIC' MAGSTAR TAPE SUBSY FRAME	1	B	1	2,401.92	H	
IBM	3590	C12		000070182		'LIC' MAGSTAR TAPE SUBSY FRAME	1	B	1	2,401.92	H	
IBM	3590	C14		000070444		SILO COMPATIBLE FRAME	1	B	1	2,401.92	H	
Subtotal Without MES										237,763.00		
Subtotal With MES										237,763.00		
Total Charge Period Charges for Maintenance Machine List Without MES										\$237,763.00		
Total Charge Period Charges for Maintenance Machine List With MES										\$237,763.00		

See Legend for Details



Schedule for ServiceElite

Services List

Customer Technical Contact Name (if applicable):
 Customer Primary Technical Contact name :
 Customer Primary Technical Contact phone number :

-----Eligible Machine Description-----

Type	Model	Serial/Order Number	Support Service	Product Group / Service Option	Qty	Charges	Services Start	Charges Start	Charges Stop
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Specified Location: 09642007

City, State: CHARLESTON WV 25305-0001

RESOLVE FOR zSERIES

1,785.12

SOFTWAREXCEL BASIC EDITION

7,032.48

2086 A04 0000BE1FE

1

Subtotal

8,817.60

Total Charge Period Charges for Services List

\$ 8,817.60

Note: One Time Charges are not included in these totals.
 See Legend for Details



Schedule for ServiceElite

Legends:

¹ Charge adjustments related to inventory and service changes will be accumulated and invoiced with your next standard invoicing cycle (may be sooner for annual or semiannual payment plans)

²TYPE OF SERVICE

- A) On-Site Repair/Exchange Services. Monday through Friday (excluding holidays), 8am to 5pm, next business day
- B) On-Site Repair/Exchange Services. 7 days a week, 24hrs/day.
- C) On-Site Repair/Exchange Services. Monday through Friday (excluding holidays), 8am to 5pm, 4 hour response objective
This type of repair service includes a response objective and is not a guarantee.
- D) On-Site Repair/Exchange Services. 7 days a week, 24hrs/day, 2 hour response objective.
This type of repair service includes a response objective and is not a guarantee.
- X) EasyServe (remotely delivered services)

³MAINTENANCE SERVICES

- 1) Maintenance of IBM Machines
- 2) Maintenance of non-IBM Machines
- 3) Warranty Service Upgrade
- 4) Maintenance of Cisco Products
- 5) Maintenance of IBM Machines - Enhanced Service Response
- 6) Service for Machines Withdrawn from IBM Maintenance
- 7) Non-IBM Service for Machines Withdrawn from IBM Maintenance
- 8) Maintenance of IBM Machines (Labor Only)
- 9) Non-IBM Memory Exchange
- 10) Enhanced Parts Inventory
- 11) Spare Machine
- 12) Key Operator Support
- 13) Maintenance of non-IBM Machines during the Manufacturer's Warranty Period
- 16) IBM Maintenance Services - First Line Maintenance for Wincor Nixdorf ATMs
- 17) IBM Maintenance Services - Applications Maintenance Services for Wincor Nixdorf ATMs
- 18) Post Installation Coverage (PIC) Service Upgrade, for selected Non-IBM Machines

⁴Charges shown are for the Charge Period

- A (C) indicates a Machine that will have Usage Charges billed separately
- An (E) indicates a Machine that has been announced as withdrawn from generally available Maintenance Service
- An (F) indicates an Assumptive Product included in the total Charge Period Price that has a manually inserted serial number and configuration provided by the customer
- An (H) identifies a Machine on an existing ServiceElite/ServiceSuite/ ServiceElect CHIS contract with duplicate Maintenance Services Coverage
- A (K) indicates Assumptive Products included in the total Charge Period Price that are based on the customer provided configuration
- An (N) indicates that the product is a non-GSA Schedule item
- An (O) indicates a One Time Charge
- A (P) indicates averaged billing or annual prepayment
- An (R) indicates the usage charge rate (Feet, Hours, or Impressions) for a machine under a usage plan
- A (U) indicates Usage Charges which are measured in either Feet, Hours, or Impressions
- A (W) indicates a Machine under Warranty
- An (X) indicates On-order Products which are shown for planning purposes only
- A (Y) indicates On-order MES products which are shown for planning purposes only. These charges are included in the related machine.

⁵ Charges Start/Stop dates shown are those that differ from the Contract Period Start/End Dates



Statement of Work for ServiceElite

Both of us agree to add the following Services as part of our ServiceElite contract.

Support Line

IBM will provide you remote assistance with the operation of supported products and system environments. In addition, you may order certain optional features which are enhancements to this Service. These terms also apply for each of these optional features unless IBM specifies otherwise.

Definitions

Customer Critical Problem means a problem for which you have no known work around resulting in a critical disruption in your business operations.

Full Shift means 24 hours a day, seven days a week, including national holidays.

Off Shift means all hours outside of Prime Shift.

Prime Shift means 8 a.m. to 5 p.m. in the local time zone where you receive the Service, Monday through Friday (excluding national holidays).

Supported Products means those products and system environments identified in the Supported Products List for your support groups located at IBM's Internet address <http://www.ibm.com/services/sl/products> or as otherwise provided by IBM. The Supported Products List will change periodically to reflect Supported Product additions (for example, adding new products) or deletions (for example, deleting products at their end of currency date).

IBM Responsibilities

IBM will provide you remote assistance (via telephone from IBM's support center or via an electronic search and questioning capability) in response to your requests pertaining to the following:

- For all Supported Products in your covered support groups --
1. basic, short duration installation, usage, and configuration questions; and
 2. questions regarding IBM Supported Product publications.

For all IBM software Supported Products in your covered support groups --

1. code-related problem questions;
2. 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
3. for known defects, available corrective service information and program fixes which you are entitled to receive under the terms of the IBM license.

When you report a problem with covered non-IBM software Supported Products, IBM will provide a primary point of contact for all support requests. IBM will assist you by providing level 1 and level 2 support, which includes assistance for installation usage and configuration questions and provide general guidance on product documentation. IBM will also assist with isolating the problem cause and provide you recovery information, if available, from the vendor. For known defects, IBM will provide corrective service information and program fixes, if available and IBM is authorized to provide to you. If a new (unknown) defect is identified, IBM will report it to the appropriate vendor and notify you of our actions. At this point IBM will consider its support requirement fulfilled since resolution of these defects is the responsibility of the vendor.

For the Linux support groups, IBM may make available new fixes to the Red Hat and SUSE Enterprise releases of the Linux operating system open source components for IBM supported Linux distributions. IBM may make available emergency source code fixes as new defects are reported. IBM is not a Linux distributor and does not distribute patches, maintenance updates or refreshes. You must receive maintenance updates and refreshes directly from the Linux distributor under the terms of their license. IBM will make these new source code fixes available to the Linux distributor and the open source maintainer for inclusion and distribution as errata updates and patches. IBM will support and maintain these new source code fixes until such time that the Linux distributor or open source maintainer incorporates them or develops an alternate fix and distributes as errata update or patch. At such point IBM will consider its support requirement fulfilled.

Response Criteria

If not initially answered by a Service technician, IBM will use commercially reasonable efforts to respond, by telephone, to Support Line 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. If you select Full Shift coverage during Off Shift IBM will use commercially reasonable efforts to respond to Support Line Service calls which you specify to be Customer Critical Problems within two hours and all other Support Line Service calls within four hours.

Electronic Support

You will also be able to electronically submit Support Line Service requests for Supported Products, provided you have Internet access. IBM will use commercially reasonable efforts to respond to each electronic Service request from you within two hours of receipt during Prime Shift. For electronic Service requests received during Off Shift, IBM will use commercially reasonable efforts to respond within two hours of the start of Prime Shift on the next business day. IBM is not responsible for delays in response delivery caused by systems and network problems.

Your Responsibilities

You agree to:

1. ensure you are properly licensed to all software and have a current subscription (where required) for the Supported Products for which you request assistance;
2. retrieve and review a current Supported Products List on a regular basis to verify whether there have been any additions or deletions within your covered support groups;
3. ensure that any access codes IBM provides to you are used only by your authorized personnel;
4. designate a technically qualified representative (called "Primary Technical Contact") who will be your focal point to whom IBM may direct general technical information pertaining to your Supported Products. Your Primary Technical Contact and each caller must have sufficient technical knowledge of your Supported Product environment to enable effective communication with IBM's support center;
5. provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to software problems you request assistance with;
6. if necessary, provide IBM with appropriate remote access to your system to assist you in isolating the software problem cause. You will remain responsible for adequately protecting your system and all data contained therein whenever IBM remotely accesses it with your permission; and

7. provide IBM with written notice of changes to your machine inventory within one month after the change occurs. Such changes may cause a revision to your charges for this Service. (Note: This responsibility does not apply for Enterprise Support.)

Enterprise Support (This section applies only for sales through IBM.)

If you select Enterprise Support you will receive Support Line Service coverage, as described above, for all Supported Products that are part of your business systems environment. You agree to provide IBM an initial inventory of your Supported Products, including the machines on which they are installed, and inform IBM of inventory changes (additions/removals) prior to each yearly anniversary of the start of the transaction contract period. Your machine and Supported Product install base at the start of each contract year will be used to determine charges for that year.

Linux Product Subscription Option

For Supported Products in the Linux support group, you may also order this subscription option as an added Support Line Service feature. Under this feature, IBM will assist you in the ordering and receipt of eligible Linux subscription products. You will identify a subscription coordinator who will be the focal point for all your Linux supplier-licensed subscription product orders and deliveries under this Support Line Service feature.

The Linux supplier-licensed software is directly distributed and licensed to you by the Linux supplier under the terms and conditions of the supplier's end user license agreement ("EULA"). While IBM may have placed the order with supplier for the supplier-licensed software on your behalf, as a convenience for you, you acknowledge and understand that IBM is neither a party to the EULA nor a distributor, licensor, or reseller of the Linux supplier-licensed software. While the Linux supplier may provide you with certain warranties, representations, or indemnities under the EULA, IBM is not providing, whether express or implied, any warranty, representation, indemnity, or other license with respect to the Linux supplier-licensed software and is merely providing Services under this agreement on your behalf at your request. Without limiting the generality of the foregoing, IBM is providing no indemnity for any claim or alleged claim that all or any portion of the Linux supplier-licensed software may infringe a third party's intellectual property right.

Termination

You may terminate Support Line Service for any support group or any optional feature on one month's written notice to IBM after it has been contracted for at least one year. However, you may not terminate Support Line if you have elected to continue feature support.

IBM may withdraw Service for a support group on the Supported Products List on three months' written notice to you. Other changes to the Supported Products List (for example, addition of new products or deletion of products at their end of currency date) will be posted to the Supported Products List at <http://www.ibm.com/services/sl/products> as they occur.

If IBM withdraws or either of us terminate a Support Line Service or optional feature as provided herein, and it is a Service or feature for which you have prepaid and IBM has not yet fully provided to you, upon your request you will be provided a prorated credit.* This will apply if IBM withdraws support for an entire support group but not if IBM simply withdraws support for individual products. For the Linux Product Subscription Option, termination by you is not subject to prorated refund or credit for the prepaid charges.

This 1) Statement of Work, 2) its applicable Transaction Documents (e.g., Attachments, Schedules, and Change Authorizations), and 3) the IBM Customer Agreement (or an equivalent agreement in effect between us) comprise the complete agreement regarding the Services described in this Statement of Work and its applicable Transaction Documents and replace any prior oral or written communications between Customer and IBM. In entering into this Statement of Work, neither party is relying on any representation that is not specified in the Statement of Work or the documents specified in the preceding sentence, including without limitation any representations concerning: 1) estimated completion dates, hours, or fees to provide any Service; 2) the experiences or recommendations of other parties; or 3) results or savings Customer may achieve. Each party accepts the terms of this Statement of Work by signing this Statement of Work by hand or, where recognized by law, electronically.

As used in this Statement of Work, "you" and "your" refer to the Enterprise identified below.

Agreed to:

STATE OF WEST VIRGINIA

By



Authorized signature

James A. Kirby, III
General Counsel

Name (type or print):

Date: 9/22/08 Department of Administration

Enterprise Number: 09642000

Enterprise address:

DEPT OF ADMINISTRATION
1900 KANAWHA BLVD
BLDG 6 RM B110
CHARLESTON WV 25305-0009

Enterprise telephone number:

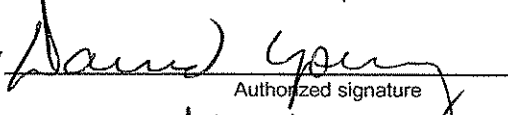
Enterprise billing Address:

STATE OF WEST VIRGINIA
ACCOUNTING SECTION
PO BOX 50121
2019 WASHINGTON ST E
CHARLESTON WV 25305-0100

Agreed to:

International Business Machines Corporation

By



Authorized signature

Name (type or print):

Date: 4/24/08

Reference Attachment number: MAG1J83

Statement of Work number: A14GCG

IBM Address:

IBM CORPORATION
1177 BELT LINE ROAD
COPPELL, TX 75019



Schedule for ServiceElite

This Schedule contains a listing of the Eligible Machines at the Specified Locations identified below for which IBM will provide the identified Services as described in the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations. The complete agreement between us about these Services consists of 1) this Schedule 2) the referenced Master Services Attachment and any referenced Statements of Work and Change Authorizations, and 3) the IBM Customer Agreement (or any equivalent agreement in effect between us).

Name and Address of Customer:

STATE OF WEST VIRGINIA
DEPT OF ADMINISTRATION
1900 KANAWHA BLVD
BLDG 6 RM B110
CHARLESTON WV 25305-0009

Master Services Attachment Number: MAG1J83
Statement of Work Number: A14GCG
Change Authorization Number: 07829496
Customer Number:

Customer Billing Address:

STATE OF WEST VIRGINIA
ACCOUNTING SECTION
PO BOX 50121
2019 WASHINGTON ST E
CHARLESTON WV 25305-0100

Schedule Number: A14GCG
Revised Schedule: No
Schedule Effective Date: 04/15/2008
Proposal Reference Date: 04/15/2008

Transaction Contract Period:
Start Date: 05/01/2008
End Date: 04/30/2009
Renewal Contract Period: 1 Year(s)

Charge Period Charges / Payment Plan (Inclusive of MES):

WSU One Time Charges: 0.00
SWMA ALF One Time Charges: 0.00
MMS for CISCO HW One Time Charges: 0.00
MMS for CISCO SW One Time Charges: 0.00
MMS for Nortel One Time Charges: 0.00
One Time Charges: 0.00

Charge Period:
Start Date: 0.00
End Date: 8,910.00

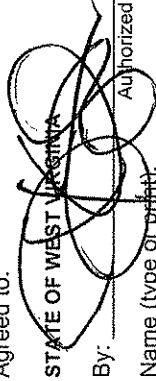
TOTAL CHARGE PERIOD CHARGES: 8,910.00
Annually
Accumulated Adjustment Invoicing option: N

Automatic Inventory Increase Option Applies: N
Machine Maintenance Services Option #1: N
Software Services Option #2: N
Price Protection Option: Opt#1 Annual Price Protection
Pricing Method: Line Item

Charges are based on the current inventory and services identified in this Schedule. Actual charges may vary with any additions, deletions, or changes to the inventory or services. Any applicable taxes are not included in the charge amounts herein but will be added to your invoice.
For a Machine subject to usage charges, in addition to the Service charge identified herein, you will be separately billed for usage in accordance with applicable usage rates and billing cycles.

The Parties need not to sign this Schedule, unless either of us requests it.

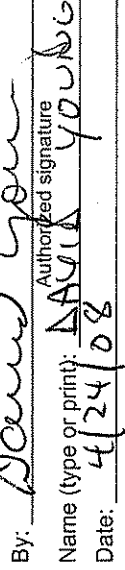
Agreed to:

STATE OF WEST VIRGINIA
By: 
Name (type or print): James A. Kirby, III
Authorized signature

Date: 9/27/08

Agreed to:

International Business Machines Corporation

By: 
Name (type or print): David Gouyon
Authorized signature
Date: 4/24/08



Schedule for ServiceElite

Enterprise Total for Charge Period by Customer Number Inclusive of MES:

Customer No.	Customer Name	Customer Location	Charges ¹
07829496	STATE OF WEST VIRGINIA	1900 KANAWHA BLVD, BLDG 6 RM B110, CHARLESTON WV 25305-0009	8,910.00
Total			8,910.00

Note: One Time Charges are not included in the Total



Schedule for ServiceElite

Services List

Customer Technical Contact Name (if applicable):
 Customer Primary Technical Contact name :
 Customer Primary Technical Contact phone number :

-----Eligible Machine Description-----

Type	Model	Serial/Order Number	Support Service	Product Group/Service Option	Qty	Charges ⁴	Services Start	Charges Start ⁵	Charges Stop
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Specified Location: 07829496

City, State: CHARLESTON WV 25305-0009

SL LINUX SYSTEM z

8,910.00

LINUX IFL
FULL SHIFT

8,910.00
\$ 8,910.00

Subtotal

Total Charge Period Charges for Services List

Note: One Time Charges are not included in these totals.
See Legend for Details



Schedule for ServiceElite

Legends:

¹ Charge adjustments related to inventory and service changes will be accumulated and invoiced with your next standard invoicing cycle (may be sooner for annual or semiannual payment plans)

²TYPE OF SERVICE

- A) On-Site Repair/Exchange Services, Monday through Friday (excluding holidays), 8am to 5pm, next business day
- B) On-Site Repair/Exchange Services, 7 days a week, 24hrs/day.
- C) On-Site Repair/Exchange Services, Monday through Friday (excluding holidays), 8am to 5pm, 4 hour response objective
- D) On-Site Repair/Exchange Services, 7 days a week, 24hrs/day, 2 hour response objective.
- X) EasyServe (remotely delivered services)

³MAINTENANCE SERVICES

- 1) Maintenance of IBM Machines
- 2) Maintenance of non-IBM Machines
- 3) Warranty Service Upgrade
- 4) Maintenance of Cisco Products
- 5) Maintenance of IBM Machines - Enhanced Service Response
- 6) Service for Machines Withdrawn from IBM Maintenance
- 7) Non-IBM Service for Machines Withdrawn from IBM Maintenance
- 8) Maintenance of IBM Machines (Labor Only)
- 9) Non-IBM Memory Exchange
- 10) Enhanced Parts Inventory
- 11) Spare Machine
- 12) Key Operator Support
- 13) Maintenance of non-IBM Machines during the Manufacturer's Warranty Period
- 16) IBM Maintenance Services - First Line Maintenance for Wincor Nixdorf ATMs
- 17) IBM Maintenance Services - Applications Maintenance Services for Wincor Nixdorf ATMs
- 18) Post Installation Coverage (PIC) Service Upgrade, for selected Non-IBM Machines

⁴Charges shown are for the Charge Period

- A (C) indicates a Machine that will have Usage Charges billed separately
- An (E) indicates a Machine that has been announced as withdrawn from generally available Maintenance Service
- An (F) indicates an Assumptive Product included in the total Charge Period Price that has a manually inserted serial number and configuration provided by the customer
- An (H) identifies a Machine on an existing ServiceElite/ServiceSuite/ServiceElect CHIS contract with duplicate Maintenance Services Coverage
- A (K) indicates Assumptive Products included in the total Charge Period Price that are based on the customer provided configuration
- An (N) indicates that the product is a non-GSA Schedule item
- An (O) indicates a One Time Charge
- A (P) indicates averaged billing or annual prepayment
- An (R) indicates the usage charge rate (Feet, Hours, or impressions) for a machine under a usage plan
- A (U) indicates Usage Charges which are measured in either Feet, Hours, or Impressions
- A (W) indicates a Machine under Warranty
- An (X) indicates On-order Products which are shown for planning purposes only
- A (Y) indicates On-order MES products which are shown for planning purposes only. These charges are included in the related machine.

⁵ Charges Start/Stop dates shown are those that differ from the Contract Period Start/End Dates



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Purchase Order

PURCHASE ORDER NO.
 MA05SW19

PAGE

BLANKET RELEASE
 00

CORRECT PURCHASE ORDER NUMBER
 MUST APPEAR ON ALL PACKAGES,
 INVOICES, AND SHIPPING PAPERS.
 QUESTIONS CONCERNING THIS PUR-
 CHASE ORDER SHOULD BE DIRECTED
 TO THE BUYER AS NOTED BELOW.

CHANGE ORDER
 1

SEE REVERSE SIDE FOR
 TERMS AND CONDITIONS

INVOICE TO

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

VENDOR

*709002529 304-347-7300
 IBM CORPORATION
 145 SUMMERS STREET SUITE 200
 CHARLESTON WV 25301

SHIP TO

ALL STATE AGENCIES
 AND POLITICAL SUBDIVISIONS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED		TERMS OF SALE		FEIN/SSN		FUND	
10/22/2008		NET 30		130871985			
SHIP VIA		F.O.B.		FREIGHT TERMS		ACCOUNT NUMBER	
BEST WAY		DESTINATION		PREPAID		MUL-MUL	
LINE	QUANTITY	UOP	VENDOR ITEM NO	UNIT PRICE	AMOUNT		
	DELIVERY DATE	CAT NO	ITEM NUMBER				
RECEIPT TICKET FOR PURCHASE ORDER:				MA05SW19			
LINE	CATNO	ITEM NUMBER	DESCRIPTION	QTY	DATE		
0001		920-49	SYSTEMS/EXECUTIVE SOFTWARE FOR LARG	_____	_____		
SIGNATURE _____				DATE _____			
IF APPROVAL AS TO FORM IS REQUIRED BY ATTORNEY GENERAL, CHECK HERE <input type="checkbox"/>						TOTAL	

APPROVED AS TO FORM BY
 ASSISTANT ATTORNEY GENERAL

BY _____
 PURCHASING DIVISION AUTHORIZED SIGNATURE