

Attachment for Purchase of IBM Appliances and Appliance Services

General Terms

The terms of this Attachment for Purchase of IBM Appliances and Appliance Services ("Attachment") are in addition to those of Customer's IBM Agreement, as applicable, and govern the purchase, warranty, maintenance and services for IBM Appliances obtained from IBM or an authorized reseller. Client accepts the terms of this Attachment without modification by signing below. Capitalized terms not defined in this Attachment are defined in the Supplement for Purchase of IBM Appliances and Appliance Services and the Agreement.

1. Appliance Acquisition

1.1. Appliance Services Renewal

Unless Client elects to discontinue S&S, annual S&S automatically renews at then-current charges until S&S for a version or release is withdrawn.

1.2. Appliance Services

In addition to Appliance Services outlined in the Clients Agreement IBM sells additional Appliance Services (including, without limitation, customized development and support, business consulting, and maintenance Services) as eligible products which are included in the Supplement and are for warranted Appliances only.

Unless otherwise provided in the Supplement, i) services for which Client prepays must be used within the applicable contract period, the contract period will begin on the Warranty Start Date and end within the set number of days described in the Eligible Product part description and ii) IBM does not give credits or refunds for any prepaid or other charges already due or paid. Further details on services can be reviewed in the Appliance Support Handbook at: <http://www.ibm.com/support/customercare/sas/f/applhandbook>.

Services for the Appliance associated with the Supplement may include but are not limited to; project management, scope analysis & objectives for application deployment, configuration and/or integration, Architecture, data model, scripts, workload configuration, capacity or health assessments. Other services include pre/post migration planning/execution, validation and analysis, technology and architecture enablement session, collection analysis of queries, statistics, data, usage and reporting recommendations for architecture, and provide IBM standard practices and lessons learned.

1.3. Reinstatement of Maintenance and Subscription & Support

To reinstate any expired Appliance Maintenance and Subscription and Support coverage, Client must acquire IBM Appliance Maintenance plus Subscription and Support Reinstatement. The Appliance must be inspected within 30 days by IBM at their discretion before completing the full reinstatement of the Appliance. If the Appliance is not in acceptable condition, Client may have IBM restore it for a charge or Client may withdraw the request. IBM, at its sole discretion, determines if restoration is possible. Restoration is provided as a billable Service.

1.4. Customer Request Arrival Date (CRAD)

The CRAD will be recognized on the Supplement, or noted on the site survey/technical & delivery assessment OR issuance of Purchase Order (PO) from the Client OR communicated to the Client. The CRAD indicated on the last officially communicated document received by IBM, will be the official CRAD however, once the PO or other similar written authorization (e.g., order form, order letter) against the Quote has been processed the Appliance will be shipped to arrive as soon as possible to the Clients designated ship to location based on commercially reasonable efforts by IBM.

1.5. Order Adjustment

If at the time IBM receives the order the Appliances are not available within the acceptable CRAD, IBM may offer to substitute the ordered Appliance with an Appliance that is compatible with the official published specifications of the originally ordered Appliance (Order Adjustment). IBM will notify Client and promptly provide Client with an updated Supplement and Quote (if applicable). Order Adjustments are at the sole discretion of IBM and replacement Appliance and Appliance Services (if purchased) will be provided at the prices listed on the original Appliance Quote.

1.6. Optional Services

Media Retention (formerly known as Hard Drive Retention) and business critical are available as options for an additional fee: Consult the IBM Appliance Support Handbook for further details on service instructions, <http://www.ibm.com/support/customer-care/sas/ff/applhandbook>

2. Appliance Component Terms

Machine Component Support Covered by Appliance Support

Machine Component Support covered by Appliance Support comprises Warranty Service during the warranty period and, at Client's option, Maintenance Services after the warranty period (collectively, Services).

Services

When Client returns a Machine Component to IBM, Client will remove all features not under IBM's Services, securely erase all data, and ensure that it is free of any legal restrictions that would prevent its return. Tools or facilities to which IBM provides access can be used only by Client's authorized users in support of Appliances under IBM's Services and in accordance with any license or other applicable terms.

Replacements

A replacement of a part or Machine Component provided as part of the Services may not be new, but will be in good working order and at least functionally equivalent to the item replaced.

Coverage

Services cover undamaged and properly maintained Machine Components used as authorized by IBM with unaltered identification labels. Services do not cover alterations, accessories, supply items, consumables (such as batteries and printer cartridges), structural parts (such as frames and covers), or failures caused by a product for which IBM is not responsible.

Client cannot sell, terminate or transfer the Services to another Machine.

Section 3 Appliance terms only applicable for Clients with missing Appliance or Appliance services terms or prior versions of Passport Advantage Z125-5831-07 7/2011 or Passport Advantage Express Z125-6835-06 7/2011

3. Appliances

An Appliance is an Eligible Product (EP) which is any combination of Program Components, Machine Components (MCs) and any applicable Machine Code Components offered together as a single offering and designed for a particular function. Unless otherwise provided, terms that apply to a Program apply to the Program Component of an Appliance. Client shall not use an Appliance component independently of the Appliance of which it is a part. Client may not transfer its license to use the Program Component(s) to another Enterprise.

Each IBM Appliance is manufactured from parts that may be new or used. In some cases, an IBM Appliance may not be new and may have been previously installed.

For each Appliance, IBM bears the risk of loss or damage up to the time it is delivered to the IBM-designated carrier for shipment to Client or Client's designated location. Thereafter, Client assumes the risk. Each Appliance will be covered by insurance, arranged and paid for by IBM for Client, covering the period until it is delivered to Client or Client's designated location. For any loss or damage, Client must i) report the loss or damage in writing to IBM within 10 business days of delivery and ii) follow the claim procedure.

3.1 Machine Component

A hardware device, features, conversions, Upgrades, elements, or accessories, or any combination of them. The term "Machine Component" includes an IBM Machine Component and any non-IBM Machine Component (including other equipment) that IBM may provide to Client.

When Client acquires an Appliance directly from IBM, IBM transfers title to a MC to Client or, if applicable, Client's lessor, upon payment of all the amounts due except in the United States where title transfers upon shipment. For an upgrade acquired for an Appliance, IBM reserves transfer of title until IBM receives payment of all the amounts due and receives all removed parts, which then become IBM's property.

For Appliances Installed By IBM (IBI), the warranty period is a fixed period commencing on its Date of Installation (also called Warranty Start Date) or within 45,60 or 75 days whichever occurs first after IBM ships the Appliance from the Clients local IBM or IBM Certified ship facility, and depending on local country importing rules and regulations. Date of Installation for Appliances that are Client Set Up (CSU) units, is the date on which the Appliance is shipped from the Clients local IBM or IBM Certified ship facility.

If Client elects to install the Appliance itself or have a third party install the IBM Appliance, IBM may inspect the Appliance at Client's expense before providing warranty service. If the Appliance is not in an acceptable condition for warranty service, as solely determined by IBM, Client may request that IBM restore it to an acceptable condition for warranty service or Client may withdraw its request for warranty service. IBM will determine if restoration is possible. Restoration is provided as a billable service.

Parts removed or exchanged for upgrade, warranty service, or maintenance are IBM property and must be returned to IBM promptly. A replacement assumes the warranty or maintenance status of the replaced part. An Appliance may include parts that are not new and in some instances Appliances may have been previously installed. Regardless, IBM's warranty terms apply. Client will promptly install or allow IBM to install mandatory engineering changes. Client may only acquire Appliances for use within Client's Enterprise in the country where acquired and not for resale, lease, or transfer.

3.2 Machine Code Component

A Machine Code Component is computer instructions, fixes, replacements and related materials, such as data and passwords relied on, provided, used with or generated by MC, that permit the operation of the machine's processors, storage or other functionality as stated in its Specifications.

Client acceptance of the Supplement includes acceptance of IBM's Machine Code license agreements provided with the Machine Code Component. A Machine Code Component is licensed only for use to enable a Machine Component to function under its Specifications and only for the capacity and capability for which Client has acquired IBM's written authorization. The Machine Code Component is copyrighted and licensed (not sold).

3.3 IBM Appliance Services

IBM provides IBM Appliance Services for Appliances consisting of Machine maintenance and IBM Software and Support as a single offering.

The initial Service Period for an IBM Appliance Service is the warranty period specified in a TD. Thereafter, automatic renewal terms apply. All renewals will be fulfilled with post-warranty Appliance Services offered at the same level of service, if available, that Client was entitled to during the warranty period.

For Appliance configurations that require multiple Appliances operating with a single appliance console, Client must acquire and maintain the same Appliance Services for all such Appliances.

When Client returns an Appliance to IBM, Client will remove all features not under IBM's Services, securely erase or anonymize all data, and ensure that it is free of any legal restrictions that would prevent its return. Tools or facilities to which IBM provides access can be used only by Client's authorized users to support Appliances under IBM's Services and under any license or other applicable terms.