

IBM Statement of Work for Services Acquired from an IBM Business Partner for Support of the IBM Retail Environment for SUSE LINUX

These terms are in addition to those of the IBM Agreement for Services Acquired from an IBM Business Partner (or equivalent agreement in effect between us). You accept these terms by signing this Statement of Work or by using, or making any payment for, the Services described below.

We will provide support for the IBM Retail Environment for SUSE LINUX ("IRES") and SUSE LINUX Retail Solution ("SLRS") as described in the following to remotely assist you with their operation.

In conjunction with your acquisition of IRES, the Novell SLRS is ordered from Novell on your behalf and delivered and licensed directly to you by Novell (the "Linux Supplier"). IBM is neither a distributor nor licensor of this program. You receive no express or implied patents or other licenses from IBM with respect to third party software contained in Linux, SLRS, or other open source programs. IBM provides no warranty or indemnity for such programs, including SLRS, nor makes any representations or assurances with respect to the intellectual property or other rights of any party in such programs.

Each of us agrees that the complete agreement between us about this Service consists of 1) this Statement of Work, and 2) the IBM Agreement for Services Acquired from an IBM Business Partner (or any equivalent agreement in effect between us and identified below).

Agreed to: (Customer Company)

Agreed to: (IBM Company)

Company Name

By _____
Authorized signature

Name (type or print)

Date

International Business Machines Corporation

Company Name

By _____
Authorized signature

Name (type or print)

Date

Agreement number

Customer Company address:

IBM Company address:

1. Definitions

Authorized Callers means only those members of your central site location that you have designated to be responsible for the ongoing operational support of your system environment.

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).

2. Service Description

IBM Responsibilities

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

For IRES and SLRS

1. basic, short duration installation, usage, and configuration questions; and
2. questions regarding publications.

For IRES

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 SLRS, we will assist you to isolate the problem cause and provide you recovery information, if available, from Novell.

We will provide corrective service information and program fixes, if available and we are authorized to provide to you, for known defects. If a new (unknown) defect is identified, we will report it to Novell and notify you of our actions. At this point we will consider our support requirement fulfilled. Resolution of these problems is the responsibility of Novell.

We do not support any office applications nor any Windows emulators. IBM is not a Linux distributor and does not distribute maintenance/updates/refreshes. You must receive maintenance/updates/refreshes directly from Novell through the terms and conditions of their license.

IBM is not a distributor or licensor of such third party programs, including SLRS. . You receive no express or implied patents or other licenses from IBM with respect to third party software contained in Linux, SLRS, or other open source programs. IBM provides no warranty or indemnity for such programs, including SLRS, nor makes any representations or assurances with respect to the intellectual property or other rights of any party in such programs.

Support Not Covered by This Service

The extent of our support provided under this Service is described above. For further clarification below is a partial list of activities not covered by this Service:

1. direct support to store personnel;
2. support for programs past their end of service date;
3. general training and technical education in the use or operation of programs;
4. design and analysis support that IBM has determined to require a technical consulting engagement;
5. application development assistance; and
6. support for user modifications.

Response Criteria

We will use commercially reasonable efforts to respond, by telephone, to Service calls from you within two hours during Prime Shift. Our 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. During Off Shift we will use commercially reasonable efforts to respond to Service calls which you specify to be Customer Critical Problems within two hours and all other Service calls will wait until the next business day.

Electronic Support

You will also be able to electronically submit Service requests for IRES and SLRS, provided you meet the prerequisites we specify for electronic access. Your Authorized Callers will have access to the Retail Store Solutions technical Software Support Web site at <http://techsupport.services.ibm.com/retail/support>. We 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, we 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. pay any communications charges associated with accessing this Service unless we specify otherwise;
2. ensure you are properly licensed to IRES and SLRS for which you request assistance;
3. ensure that any access codes we provide 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 we may direct general technical information pertaining to IRES and SLRS. Your Primary Technical Contact and each caller must have sufficient technical knowledge of your IRES and SLRS environment to enable effective communication with our support center;
5. provide us with all relevant and available diagnostic information (including product or system information) pertaining to software problems you request assistance with;
6. provide us 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 we remotely access it with your permission;
7. use the information obtained under this Service only for the support of the information processing requirements within your Enterprise. You may not resell the Service or use it to provide support to third parties; and
8. provide us 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 the Service.

3. Charges and Payment

Your IBM Business Partner sets the charges and terms governing charges. Your IBM Business Partner may impose an additional charge for some actions, such as termination or changes to these services. Check with your IBM Business Partner to determine if you will incur any additional charges.

You will make payment directly to your IBM Business Partner.

You will be invoiced by your IBM Business Partner.

4. Renewal, Termination, and Withdrawal

Services must be renewed (upon mutual agreement) for same length contract periods at the terms and pricing that are then in effect.

You may terminate Service on one month's written notice to us and your IBM Business Partner after it has been covered under this Statement of Work for at least three months.

We may terminate or withdraw this Service on three months' written notice to you and notify your IBM Business Partner.

If we withdraw or either of us terminate a Service as provided in this Statement of Work, and it is a Service for which you have prepaid and we have not yet fully provided to you, check with your IBM Business Partner to determine if you are eligible for a prorated credit.