

Introduction to Contracts for System z Software

IPLA and S&S Business Rule Contract Citations

IBM's business model for **IPLA One Time Charge** System z software can be found in the **IBM International Program License Agreement (Z125-3301)** that covers all the general terms concerning use and licensing of those products, which are often referred to as "**OTC**" or "**IPLA**".

It is this agreement which specifies (among other things) the following rules for IPLA software:

- **Customers may transfer all of their entitlement for a program, but not just a portion of it.**
(1. Entitlement: Program Transfer) You may transfer a Program and all of Your license rights and obligations to another party if that party agrees to the terms of this Agreement. . . . After the transfer you may not use the Program.
- **Once a customer trades in their old version to obtain a new version they are no longer entitled to run the old version.**
(1. Entitlement: License) If you acquire the Program as a program upgrade, after You install the upgrade you may not use the Program from which You upgraded or transfer it to another party.
 - **However, customer has a 6 month grace period when upgrading from one program version to the next one where they will be allowed to run both programs.**
(Announcement Letter 204-184, ZA04-0227, A04-1077, AA04-3059) If you purchase Subscription & Support for a particular zSeries IPLA program, you are entitled to no-charge version upgrades for that program. If you have Subscription & Support, you may run multiple versions of the zSeries IPLA program during six-month grace period. The grace period begins when the new zSeries IPLA program is installed in the enterprise. Afterwards, it is expected that you will be migrated to the latest version. If you do not complete your migration within the grace period, IBM reserves the right to recalculate your required license capacity for the zSeries IPLA program by combining the MSUs of the old version and the new version.

IBM's business model for **Subscription and Support** can be found in the **IBM agreement for Acquisition of Software Maintenance (Z125-6011)** that governs the acquisition of Software Maintenance, which may be also referred to as "**S&S**".

It is this agreement which specifies (among other things) the following rules for IPLA software (where SWM stands for Software Maintenance):

- **If you want S&S at all, then you must pay for S&S at the same level of entitlement as you have purchased (OTC). (It does not matter how much product is deployed, S&S entitlement must match the purchased OTC entitlement.)**
(4.1) Your Responsibilities: You agree that when you acquire SWM for a Program: you will acquire SWM at the same authorized level of use as the Program for which you are acquiring it, as well as all copies of the Program at the same location. This includes Programs you have already acquired and those you may acquire subsequently.
- **No refunds on terminated S&S licenses**
(1.1.b) Support Period: One year. When you order S&S with a Program, the initial Support Period begins on the date that IBM makes the Program available to you. If you terminate S&S, IBM does not issue credit for the unused portion of a Support Period.
- **Renewal: Unless you request termination of S&S in writing prior to the end of a Support Period, IBM will automatically renew expiring S&S under the Agreement terms and charges in effect on that date.**
(1.1.c) Subsequent Support Periods begin on the day following the end of the preceding Support Period.

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- **If you don't buy S&S at the time of purchase, or if you buy it and then cancel it later, if you subsequently do want to have S&S you have to pay what you would have paid during the time you didn't have it**

(1.1.f) Resumption Fee: Equal to the total of all Support Charges that you would have paid during the lapsed interval (i) had you not declined S&S at the time you acquired the license for a Program and you now wish to acquire S&S or (ii) if you wish to resume S&S that you had previously terminated. A Support Period in such an instance begins on the date that IBM accepts your order.

- **If you require additional entitlement due to machine upgrade or increased use, the additional S&S charges will be pro-rated for the remainder of the yearly support period**

(1.1.g) Support Upgrade: If you upgrade S&S due to an increase in the level of use of a license, any increase to the Support Charge will be pro-rated to the next anniversary.

- **Increases in the price of S&S value units will be reflected at the next anniversary (and also, if applicable, at the next purchase of additional entitlement)**

(1.1.h) Changes to Support Charge: IBM may increase the Support Charge at any time. An increase applies to charges due on or after the effective date IBM specifies. You receive the benefit of a decrease in the Support Charge for amounts which become due on or after the effective date of the decrease.

- **The first year of S&S is charged at the same time as the program is licensed (subject to pro-rating if a different anniversary date is chosen)**

(1.1.b) Support Period: One year. When you order S&S with a Program, the initial Support Period begins on the date that IBM makes the Program available to you.

(2.1) Charges for SWM during each Support Period, called the Support Charge, are invoiced in advance.

- **S&S can be transferred within an enterprise but not between enterprises**

(3) Software Maintenance Transferability: You may transfer SWM only to a location that is within your Enterprise and within the United States. An "Enterprise" in this Agreement is any legal entity (such as a corporation) and the subsidiaries it owns by more than 50 percent.