



825 NE Multnomah, Suite 2000
Portland, Oregon 97232

October 8, 2013

***VIA ELECTRONIC FILING
AND OVERNIGHT DELIVERY***

Public Utility Commission of Oregon
3930 Fairview Industrial Dr. S.E.
Salem, OR 97302-1166

Attn: Filing Center

**RE: UI ___—Application for Approval of an Affiliated Interest Transaction with
International Business Machines Corporation**

PacifiCorp d/b/a Pacific Power submits for filing its Application Requesting Approval of an Affiliated Interest Transaction with International Business Machines Corporation. An original and three copies will be provided by overnight delivery.

PacifiCorp respectfully requests that all data requests regarding this matter be addressed to:

By E-mail (preferred): datarequest@pacificorp.com

By regular mail: Data Request Response Center
PacifiCorp
825 NE Multnomah, Suite 2000
Portland, OR 97232

Informal questions concerning this filing may be directed to Bryce Dalley, Director, Regulatory Affairs & Revenue Requirement, at (503) 813-6389.

Sincerely,

William R. Griffith /As

William R. Griffith
Vice President, Regulation

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI _____

In the Matter of the Application of
PACIFICORP d/b/a Pacific Power,
Requesting Approval of an Affiliated
Interest Transaction with International
Business Machines Corporation.

APPLICATION OF PACIFICORP

1 Pursuant to ORS 757.495(1) and in accordance with OAR 860-027-0040, PacifiCorp
2 d/b/a Pacific Power (PacifiCorp or Company) requests approval from the Public Utility
3 Commission of Oregon (Commission) for PacifiCorp’s participation in a contract between
4 International Business Machines Corporation (IBM) and MidAmerican Energy Holdings
5 Company (MEHC) for telecommunications expense management services. MEHC entered
6 into a master Transaction Document, including a Statement of Work (Agreement) with IBM,
7 on behalf of its platforms. MEHC platforms may execute an Affiliate Addendum to become
8 a party to the Agreement. The Company executed an Affiliate Addendum to be able to
9 participate in the Agreement. A copy of the Agreement is included as Attachment A. A
10 copy of PacifiCorp’s Affiliate Addendum is included as Attachment B.

11 **I. Background**

12 PacifiCorp is a wholly-owned indirect subsidiary of MEHC. MEHC is a subsidiary
13 of Berkshire Hathaway, Inc. (Berkshire Hathaway). Berkshire Hathaway holds IBM
14 common stock totaling greater than a five percent interest. “Affiliated interest,” as defined in
15 ORS 757.015(3), includes every corporation five percent or more of whose voting securities
16 are owned by any corporation or person owning five percent of the voting securities of a
17 public utility or in any successive chain of ownership of a public utility. Berkshire
18 Hathaway’s ownership interest in PacifiCorp and IBM qualifies as an affiliated interest.

1 In Order No. 12-227, Docket No. UI 321, and Order No. 12-228, Docket No. 322, the
2 Commission approved other contracts between PacifiCorp and IBM with the following
3 condition:

4 PacifiCorp shall notify the Commission in advance of any substantive changes
5 to...any other Company contract with IBM that would result in an aggregate annual
6 billing to the Company by IBM, across all contracts between IBM and PacifiCorp, of
7 an amount greater than 0.1 percent of PacifiCorp's Oregon annual revenues.

8 Under the Agreement, as more fully described below, PacifiCorp will not experience
9 such an increase in aggregate annual billing by IBM. Therefore, the advance notice
10 requirement is not triggered.

11 The Commission approved a previous contract between PacifiCorp and IBM for
12 telecommunications management services on March 26, 2013, in Order No. 13-100, Docket
13 No. UI 330.¹ The previous contract expired and a new Agreement with IBM has been
14 negotiated between IBM and MEHC to make the services received by PacifiCorp available to
15 all MEHC platforms. The Agreement contains updated terms and conditions, and a
16 comprehensive plan for rolling out telecommunications management services to those
17 MEHC platforms not yet receiving telecommunications management services.

18 With this Application, the Company requests Commission approval of the Agreement
19 and authorization to conduct business thereunder.

20 **II. Compliance with OAR 860-027-0040 Filing Requirements**

21 **A. Address**

22 The Company's name and address of its principal business office are:

23 PacifiCorp
24 825 NE Multnomah Street
25 Portland, OR 97232

¹ The original contract was between PacifiCorp and Rivermine Software, Inc., which was acquired by Emptoris. IBM acquired Emptoris in June 2012.

1 **B. Communications and Notices**

2 All notices and communications with respect to this Application should be addressed to:

3	PacifiCorp Oregon Dockets	Michelle R. Mishoe
4	825 NE Multnomah Street, Suite 2000	Senior Counsel
5	Portland, OR 97232	Pacific Power
6	<u>OregonDockets@pacificorp.com</u>	825 NE Multnomah Street, Suite 1800
7		Portland, OR 97232
8		Tel. (503) 813-5977
9		<u>michelle.mishoe@pacificorp.com</u>

10 In addition, PacifiCorp respectfully requests that all data requests regarding this
11 matter be addressed to:

12	By e-mail (preferred)	<u>datarequest@pacificorp.com</u>
13	By regular mail	Data Request Response Center
14		PacifiCorp
15		825 NE Multnomah Street, Suite 2000
16		Portland, OR 97232

17 Informal inquires may be directed to Bryce Dalley, Director of Regulatory Affairs
18 and Revenue Requirement at (503) 813-6389.

19 **C. Relationship Between PacifiCorp and Affiliated Interest**

20 PacifiCorp is a wholly-owned indirect subsidiary of MEHC. MEHC is a subsidiary of
21 Berkshire Hathaway. Berkshire Hathaway holds IBM common stock totaling greater than a
22 five percent interest. Therefore, IBM is an “affiliated interest” of the Company as set forth in
23 ORS 757.015(3).

24 **D. Voting Securities**

25 The Company and IBM do not own voting securities in each other.

26 **E. Common Officers and Directors**

27 The Company and IBM do not share any officers or directors.

1 **F. Pecuniary Interest**

2 No officer or director of either the Company or IBM is a party to or has a pecuniary
3 interest in the contemplated business transactions between the Company and IBM.

4 **G. Description of Goods and Services Provided; Cost(s) Incurred; Market
5 Value; Pricing Methods**

6 IBM offers comprehensive strategic supply, category spend, and contract
7 management services through IBM Emptoris Rivermine telecommunications expense
8 management. PacifiCorp has been using such telecommunications expense management
9 services for automated telecommunications invoice management, integrated
10 telecommunications inventory management, and integrated accounts payable functions from
11 IBM. A new Agreement with IBM was negotiated at arms' length to make the services
12 received by PacifiCorp available to all MEHC platforms. The Agreement contains updated
13 terms and conditions, and a comprehensive plan for rolling out telecommunications
14 management services to those MEHC platforms not yet receiving telecommunications
15 management services. PacifiCorp will continue to use the telecommunications services
16 under the Agreement.

17 **H. Estimate of Amount PacifiCorp will Pay Annually for Services**

18 PacifiCorp will pay approximately \$103,000 per year for these services under the
19 Agreement. Implementation charges may arise as more MEHC platforms are integrated into
20 these services, which may increase the annual spend by a modest amount.

21 **I. Reasons Relied Upon for Procuring the Proposed Services, and Benefits
22 to the Public**

23 The Company relies on the telecommunications expense management services
24 furnished by IBM to reduce its company-wide telecommunications expenses. Accordingly,
25 the transaction is consistent with the public interest.

1 **J. Description of the Procurement Process**

2 The Agreement was negotiated at arms' length between MEHC and IBM.

3 **K. Relationship of Cost of Provision of Services and Market Value**

4 The Company is receiving goods and services under the Agreement at competitive
5 pricing.

6 **L. Contracts Between Affiliated Interest and PacifiCorp**

7 A copy of the master Transaction Document, including a Statement of Work is
8 included with this Application as Attachment A. A copy of PacifiCorp's Affiliate Addendum
9 is included as Attachment B.

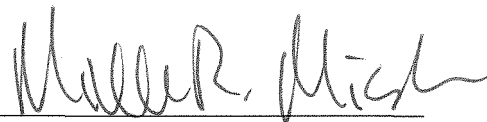
10 **M. Copy of Board Resolutions**

11 The transaction with IBM for telecommunication management services did not
12 require approval from the Company's Board of Directors.

13 WHEREFORE, for the reasons set forth above, PacifiCorp respectfully requests that
14 the Commission issue an order authorizing PacifiCorp to conduct business with International
15 Business Machines Corporation, pursuant to the provisions of ORS 757.495 and OAR 860-
16 027-0040.

DATED: October 8, 2013

Respectfully submitted,



Michelle R. Mishoe, #07242
Senior Counsel
Pacific Power

ATTACHMENT A

Master Transaction Document and Scope of Work

International Business Machines Corporation (“IBM”), MidAmerican Energy Holdings Company (“MEHC”) and its affiliates who elect to utilize this Transaction Document (as defined below) and agree to be bound by the terms and conditions, and applicable exhibits and appendices set forth herein by executing an Affiliate Addendum (as defined below) (each, a “Participating Affiliate” and each of MEHC and each Participating Affiliate as to its individual participation hereunder, “you” or “Customer”) enter into this IBM International Passport Advantage Agreement Transaction Document (this “Transaction Document”) as of July 2, 2013 (“Transaction Document Start Date”) to the IBM International Passport Advantage Agreement that is referenced below (“IPAA”). This Transaction Document will remain in effect through the third anniversary date of the first day of the Subscription Period (as defined in Section 2 below) (“Transaction Document End Date”). Affiliates have until one week after the Transaction Start Date to become a Participating Affiliate under this Transaction Document by signing the Affiliate Addendum. If all Participating Affiliates listed in Table 2 have not signed an Affiliate Addendum by one week after the Transaction Start Date, IBM reserves the right to modify the Subscription Fees set forth in Table 2 below by redistributing the amounts for the affiliates that have not signed an Affiliate Addendum between the Participating Affiliates on a percentage basis and all Participating Affiliates will be deemed to have accepted such revised pricing without further signatures or modification to this Transaction Document.

This Transaction Document allows Customer and the Participating Affiliates to receive from IBM the benefit of the IBM SaaS (as defined below) for the Subscription Entitlements listed in Section 2 below for the price set forth Section 3 “Subscription Fee” below. The IBM SaaS offerings that Customer is subscribing to are described in Section 2 below and in the Terms of Use as shown in Exhibit 2 (“ToU”) and IBM shall perform the obligations set forth therein. In addition, IBM and Customer shall comply with the terms and conditions set forth in Exhibit 3 (“Additional Terms”).

Notwithstanding anything to the contrary set forth herein, PacifiCorp shall continue to receive IBM SaaS services pursuant to the terms and conditions set forth in the existing Professional Services Contract between PacifiCorp and IBM (as successor to Rivermine Software, Inc.) until the Provision Date. On and after the Provision Date, PacifiCorp shall continue to receive IBM SaaS services pursuant to the terms and conditions set forth in this Transaction Document as a Participating Affiliate. As of such date, with respect to PacifiCorp’s participation, this Transaction Document shall supersede the Professional Services Contract in its entirety which shall be deemed terminated.

Any capitalized but undefined terms contained in this Transaction Document shall have the meaning set forth in the IPAA or the ToU.

The IPAA is the International Passport Advantage Agreement, Agreement Number 181157 (IBM Form Z125-5831-07 7/2011), incorporated by reference herein.

1. IBM SaaS

The “IBM SaaS” shall mean those IBM SaaS Products listed on Table 1 of this Transaction Document. You may deploy the IBM SaaS, as permitted, up to the maximum level of use authorizations (quantities) specified on Table 1.

For the purpose of this Transaction Document, MEHC and the Participating Affiliates listed on Table 2 during the term of the Transaction Document are each entitled to submit Purchase Orders or equivalent order letters or order forms to obtain IBM SaaS for the payments as shown on Table 2 of this Transaction Document for the corresponding quantity. MEHC and Participating Affiliates may transfer the Subscription Entitlements between one another or to other MEHC affiliates (provided such affiliates become Participating Affiliates by executing an Affiliate Addendum, provided that the total quantity of Subscription Entitlements used by MEHC and the

Participating Affiliates in the aggregate do not exceed the aggregate Subscription Entitlement quantities authorized pursuant to this Transaction Document and Table 1 (as it may be amended from time to time). Each MEHC affiliates participating under this Transaction Document shall execute and deliver to IBM a signed affiliate transaction document in the form of Exhibit 1 (“Affiliate Addendum”).

Notwithstanding anything to the contrary set forth in the IPAA, it is understood and agreed that MEHC and each Participating Affiliate is solely responsible and liable for its obligations related to the Subscription Entitlements allocated to it. Neither MEHC nor any other MEHC affiliate(s) shall have any obligation or liability, contractually or otherwise, for payment or other obligation incurred by or allocable to any other affiliated entity participating hereunder.

Upon execution and delivery by the parties of this Transaction Document and each Affiliate Addendum, IBM shall be deemed to have entered into separate contractual relationships with each of MEHC and each Participating Affiliate which shall be governed by the terms and conditions set forth herein.

2. Subscription Entitlements

Subscription Entitlements mean those Part Numbers listed on Table 1 below. You may access the Subscription Entitlements, made available to you pursuant to the IPAA and the applicable ToU(s) which govern the use of such IBM SaaS, up to the maximum level of use authorizations (quantities) specified herein (as such maximum level of use may be increased by subsequent orders placed by Customer).

IBM notifies you when access has been provided to you for the IBM SaaS listed on Table 1 subscribed to by you (“Provision Date”). The Subscription Period begins on the first day of the first full month following the Provision Date unless the Provision Date is the first day of the month. In that case the Subscription Period begins on the Provision Date. The Partial Month is the number of days in the period between the Provision Date and the start date of the first month of the Subscription Period during which you have access to the Subscription Entitlement. The Partial Month Subscription Charges listed on Table 3 of this Transaction Document are not included in the Option Charges. In no event shall a Customer’s Provision Date occur prior to completion of any applicable implementation services in accordance with the completion criteria set forth in a separate statement of work between the Customer and IBM.

Customer’s Subscription Period continues for thirty six (36) consecutive month periods (“Subscription Period End Date”) following the first day of the first full month following the Provision Date and is subject to renewal as provided herein. (The Subscription Period for all of the Participating Affiliates shall be co-terminous.)

Notwithstanding the terms of this Transaction Document or our prior practice, payment for the Partial Month Subscription and Overage (“Additional SaaS Fees”) on Table 3 are not contingent upon issuance of a purchase order. All approvals required to issue payment for Additional SaaS Fees Partial Month Subscription have been obtained by you. Payment in full for Additional SaaS Fees Partial Month Subscription is due upon receipt of invoice. The bill to and ship to addresses, along with specific ordering information and amounts due for Additional SaaS Fees Partial Month Subscription under this Transaction Document, are included herein or in other documents related hereto. Any order for Additional SaaS Fees Partial Month Subscription is firm and irrevocable upon the determination of such charges by IBM.

TABLE 1

Participating Affiliate	Part Number	Description	Quantity
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Participating Affiliate	Part Number	Description	Quantity
7013340 (MEC)	D0S2BLL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Paper Invoices Add-on document per Month	200
7013340 (MEC)	D0S2ELL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Million Spend Conversion Units per Annum	4
7517957 (NNG)	D0S2BLL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Paper Invoices Add-on document per Month	300
7517957 (NNG)	D0S2ELL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Million Spend Conversion Units per Annum	3
3233535 (MEHC)	D0S2BLL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Paper Invoices Add-on document per Month	100
3233535 (MEHC)	D0S2ELL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Million Spend Conversion Units per Annum	1
7020497 (Pac)	D0S2BLL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Paper Invoices Add-on document per Month	200
7020497 (Pac)	D0S2ELL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Million Spend Conversion Units per Annum	8
7404664 (Kern)	D0S2BLL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Paper Invoices Add-on document per Month	200
7404664 (Kern)	D0S2ELL	IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Million Spend Conversion Units per Annum	1

“Subscription” is the IBM SaaS provided for a Subscription Period exclusive of any daily fees, overages, set up , on demand or remotely delivered services.

“Subscription Period” is the length of time you will have access to the IBM SaaS Subscription, excluding the Initial Partial Month.

3. Subscription Fee

During the initial Subscription Period, the aggregated Subscription Fee for the Subscription Entitlements set forth in Section 1 above is \$704,052.00 as shown in Attachment 1 below and as further described on Table 2 below. The Subscription Fee includes support through the Subscription Period End Date for the Subscription Entitlements.

TABLE 2

Participating Affiliate	Address	Amount for 36 Month Subscription Period
7013340	MidAmerican Energy 4299 NW Urbandale Drive	\$152,318.12

	Urbandale, IA 50322	
7517957	Northern Natural Gas 1111 S. 103 rd Street . Omaha, NE 68124	\$170,938.59
3233535	MidAmerican Energy Holdings Company 4299 NW Urbandale Drive Urbandale, IA 50322	\$56,979.53
7020497	Pacificorp 825 NE Multnomah St. Ste. 800 Portland, OR 97232	\$229,036.24
7404664	Kern River Gas Transmission 2755 East Cottonwood Parkway Ste. 300 Salt Lake City, UT 84121	\$94,779.53

Customer's Subscription Fee shall be divided into 36 equal payments and invoiced to Customer monthly. Undisputed charges are due upon receipt of invoice and payable within thirty (30) days thereof. The parties shall act in good faith to promptly resolve any payment disputes in accordance with the dispute resolution provisions set forth herein.

The Subscription Fee is exclusive of any applicable duties, fees and taxes. You are responsible for any such duties, fees and taxes including, but not limited to, withholding taxes and, if as a result of your accessing or using a Subscription Entitlements across a border, any customs duty, tax, levy or fee (including withholding taxes for the import or export of any such Subscription Entitlements).

TABLE 3

Additional SaaS Fees				
PART NUMBER	DESCRIPTION	UNIT PRICE	TERM	BILLING FREQUENCY
D0S2CLL	IBM EMPTORIS RIVERMINE TELECOM EXPENSE MANAGEMENT ON CLOUD STANDARD EDITION PAPER INVOICES ADD-ON DOCUMENT OVERAGE	\$ 11.55 ADD-ON DOCUMENT MONTHLY	36 MONTHS	MONTHLY
D0S2DLL	IBM EMPTORIS RIVERMINE TELECOM EXPENSE MANAGEMENT ON CLOUD STANDARD EDITION MILLION SPEND CONVERSION UNITS OVERAGE	\$2,655.00 PER USE MONTHLY	36 MONTHS	MONTHLY
D0S2ALL	IBM EMPTORIS RIVERMINE TELECOM EXPENSE MANAGEMENT ON CLOUD STANDARD EDITION PAPER INVOICES ADD-ON DAILY FEE FOR PARTIAL MONTH	\$350.00 PER USE DAILY	36 MONTHS	MONTHLY
D0S2FLL	IBM EMPTORIS RIVERMINE TELECOM EXPENSE MANAGEMENT ON CLOUD STANDARD EDITION DAILY FEE	\$301.90 PER USE DAILY	36 MONTHS	MONTHLY

FOR PARTIAL MONTH

"Daily Fee" is the charge for the IBM SaaS Subscription for each day of the Initial Partial Month.

"Overage" is the use of the IBM SaaS Subscription in excess of the Quantity listed on Table 1 above.

If the Subscription Period of the IBM SaaS Subscription extends beyond the Transaction Document End Date, the terms and conditions of the Transaction Document which are applicable to the IBM SaaS Subscription Entitlements remain in effect until the Subscription Period End Date of the IBM SaaS and apply to respective successors and assignees.

This Transaction Document is confidential and each party agrees not to disclose the terms of this Transaction Document to any third party (excluding its respective Affiliates) without the other party's prior written consent, except as required by law.

Once signed, unless prohibited by local law or specified otherwise, any reproduction of this Transaction Document made by reliable means (for example, photocopy or facsimile) is considered an original.

By signing below, each of us agrees to the terms of this Transaction Document.

Agreed to:
MidAmerican Energy Holdings
Company

By:

Name: Maureen E. Sammon

Title: SVP & Chief Administrative Officer

Date:

4299 NW Urbandale Dr.
Urbandale, IA 50322

Customer Contact Name: [Insert Name]

Agreed to:
International Business Machines
Corporation

By:

Name: Harry K. Ching

(type or print)
Title: Business Unit Executive

Date: 7/2/2013

4000 Executive Pkwy
San Ramon, CA 94583
Marc A. Schwartz

After signing, please return this Transaction Document to the IBM address shown above.

Exhibit 1

Affiliate Addendum

Affiliate transaction document for IBM International Passport Advantage Transaction Document between MidAmerican Energy Holdings Company and IBM

Affiliate Name] ("Affiliate") acknowledges that all purchases by it will be governed under the terms of the IBM International Passport Advantage Agreement Transaction Document (MidAmerican Energy Holdings Company -SaaS IPAA TD-20130430), which was agreed to and signed by International Business Machines and MidAmerican Energy Holdings Company ("MEHC") July 2, 2013 ("Transaction Document"). Affiliate further acknowledges and agrees that it shall be bound by the terms of any amendments to the Transaction Document that may be made after the date hereof pursuant to any written agreement between IBM and Affiliate or between IBM and MEHC. Affiliate hereby waives notice of any such subsequent written agreement between IBM and MEHC.

Agreed to:
[Affiliate Name]

Agreed to:
International Business Machines Corporation

By: _____
(Authorized signature)

By: _____
(Authorized signature)

Title: _____

Title: _____

Name: _____
(print)

Name: _____
(print)

Date: _____

Date: _____

Your address:

Your IBM customer number:
Enterprise number: 5816142
IPAA Number: 181157
Passport Advantage Site number:
Ship to address: Same as above
Bill to address: 1177 S. Belt Line Road
Coppell, TX 75019

Exhibit 2

Terms of Use



IBM Terms of Use

IBM Emptoris Rivermine Telecom Expense Management on Cloud

The terms of this IBM Terms of Use are in addition to those of the IPAA. Carefully read this ToU before using the IBM SaaS and any associated Enabling Software.

Part 1 – General Terms

1. Purpose

This ToU is for the following IBM SaaS:

- IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition
- IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Paper Invoices Add-on

For the purpose of this ToU only, the term “IBM SaaS” refers to the specific IBM SaaS offering set forth in this Section 1.

Customer may use the IBM SaaS only during a valid Subscription Period.

2. Definitions

Capitalized terms not defined in this ToU are defined in the IPAA or the Transaction Document, as applicable. For purposes of these ToU, the term “Program” includes the term “program” each as may be used in the IPAA.

Enabling Software – any Program and associated materials provided to Customer by IBM or a third party as part of the IBM SaaS offering in order to facilitate access to and use of IBM SaaS.

Privacy Practice – the Privacy Practice, located on the Internet at <http://www.ibm.com/privacy>, and any subsequent modification.

3. General Charge Terms

3.1 Metrics

Million Spend Conversion Units (MSCUs) are a unit of measure by which the IBM SaaS can be obtained. A Spend Conversion Unit is a currency-independent measure of a Spend amount relevant to the licensing of the IBM SaaS. Currency-specific Spend amounts must be converted into MSCUs in accordance with the table located at http://www.ibm.com/software/licensing/conversion_unit_table. Sufficient entitlements must be obtained for the number of MSCUs required to cover the amount of Spend processed or managed by the IBM SaaS during the measurement period specified in Customer’s Proof of Entitlement (PoE) or Transaction Document.

For the purpose of Million Spend Conversion Unit entitlements of IBM Emptoris Telecom Expense Management SaaS, Spend is the total amount disbursed on communications vendors for landline, mobile and data services to be processed or managed by the IBM SaaS. This includes both electronic and paper invoices across all telecommunications carriers and geographies targeted for this service.

Document is a unit of measure by which the IBM SaaS can be obtained. A Document is defined as a finite volume of data that is enveloped within a document header and trailer record that marks its beginning and end or any , physical or electronic document type defined in the IBM SaaS, including but not limited to: invoices, sales orders, purchase orders, quotes, schedules, plans, returns, shipments, and receipts. Sufficient entitlements must be obtained to cover the total number of Documents processed by the IBM SaaS during the measurement period specified in Customer's Proof of Entitlement (PoE) or Transaction Document.

3.2 Charges & Billing

3.2.1 Billing Options

The amount payable for IBM SaaS is specified in a Transaction Document as follows:

The subscription fee is billable on an annual, quarterly, or monthly basis for the length of the term as specified in the Transaction Document. The amount payable per billing cycle will be based on the subscription fee plus any overage charges.

3.2.2 Partial Month Charges

The Partial Month charge is a pro-rated daily rate that will be charged to Customer. The Partial Month Charges are calculated based on the remaining days of the partial month starting on the date Customer is notified by IBM that their access to the IBM SaaS is available.

3.2.3 Overage Charges

The IBM SaaS will monitor the amount of Million Spend Conversion Units or Documents processed. If the amount of Million Spend Conversion Units and/or Documents specified in Customer's PoE or Transaction Document is exceeded, overage charges will apply at the rate specified in the Transaction Document.

3.2.4 On Demand

On-Demand options will be invoiced in the month the on-demand option is made available to the Customer and will be invoiced as set forth in the Transaction Document.

4. Account Creation and Access

When IBM SaaS Users register for an account ("Account"), IBM may provide the IBM SaaS User with an Account identification and password. Customer is responsible for ensuring that each IBM SaaS User manages and keeps their Account information current. At any time Customer may request that any Personal Data provided as part of registering for an Account or use of the IBM SaaS be corrected or removed from Account information and this information will be corrected or removed, but removal may prevent access to the IBM SaaS.

Customer is responsible for ensuring that each IBM SaaS User protects their Account identification and password and controls who may access an IBM SaaS User Account or use any IBM SaaS on Customer's behalf.

5. Suspension of IBM SaaS and Termination

5.1 Suspension

In the event of a breach of the Terms of Use, the IPAA, or the Acceptable Use Policy, misappropriation of IBM intellectual property or violation of applicable law by an IBM SaaS User, IBM reserves the right to suspend or revoke the offending IBM SaaS User's access to the IBM SaaS, and/or delete the offending IBM SaaS User's Content, at any time. IBM will notify Customer of any suspension or revocation action.

5.2 Termination

IBM may terminate Customer's access to IBM SaaS for cause if Customer does not comply with the terms of the IPAA, the Acceptable Use Policy or this ToU and such noncompliance is not remedied within a reasonable time after receiving written notice from IBM. Upon termination, Customer's access and other rights to the IBM SaaS will be cancelled and cease. In such event Customer and its IBM SaaS Users must cease any further use of the IBM SaaS and destroy any copies of the associated Enabling Software within Customer's possession or control.

6. Renewal of a Subscription Period

6.1 [INTENTIONALLY LEFT BLANK]

6.2 Customer Renewal Required

The IBM SaaS offering will not automatically renew at the end of the initial Subscription Period. In order to continue use of the IBM SaaS beyond the initial Subscription Period, Customer must obtain a new subscription for the IBM SaaS.

7. Emergency Maintenance & Scheduled Maintenance

IBM may perform regularly scheduled maintenance during maintenance windows which occur outside of normal business hours (i.e., Monday – Friday, 8 am to 5 pm Pacific time).

IBM SaaS will not be available during these times.

IBM shall provide the IBM SaaS and related services set forth herein in accordance with the service levels set forth in Appendix B to this ToU.

8. Updates; Applicable Terms and Authorization for Auto Updates

These Terms of Use apply to all enhancements, modifications, variations, revisions, updates, supplements, add-on components, and replacements for the IBM SaaS (collectively, "Updates") that IBM may provide or make available for the IBM SaaS, subject to any additional terms provided by IBM applicable to such Updates. Customer authorizes IBM to, and agrees that IBM may, in accordance with IBM's standard operating procedures, automatically transmit, access, install, and otherwise provide Updates to IBM SaaS without further notice or need for consent. IBM has no obligation to, and nothing in these Terms of Use may be construed to require IBM to, create, provide, or install Updates except to the extent necessary in order for the IBM SaaS to perform substantially in accordance with the applicable documentation and specifications.

9. Updates to Terms of Use

IBM reserves the right to prospectively modify these Terms of Use, to account for any Updates that IBM may provide or make available for the IBM SaaS during the Subscription Period and as otherwise required by applicable law, by providing at least thirty (30) days prior notice of such modified terms to Customer; provided that in no event shall any modifications for any Updates diminish Customer's rights or IBM's obligations hereunder without the written consent of MEHC or Customer, as applicable, except as otherwise required by applicable law.

10. Technical Support

Technical support is provided for the IBM SaaS offering during the Subscription Period. Such technical support is included with the IBM SaaS and is not available as a separate offering.

E-mail and telephone-based help desk support is available to Customer from 8am to 8pm Eastern Time, Monday to Friday. PacifiCorp agrees to send all non-urgent questions and issues to the e-mail help desk and all urgent questions to the telephone or e-mail-based help desk.

Technical Support information can be found and issues can be submitted by email at the following URL:

<https://support.rivermine.com/jira/secure/Dashboard.jspa>

IBM may change the URL upon notice to Customer.

E-mail and phone support access is also described at the technical support web site.

11. Data Privacy and Data Security

11.1 Customer's Obligations

In relation to all Personal Data provided by or through Customer to IBM, Customer will be responsible as the sole data controller for complying with all applicable data protection or similar laws such as, but not limited to, EU Directive 95/46/EC (and laws implementing that Directive) that regulate the processing of

Personal Data including special categories of data, as such terms are defined in that Directive (and laws implementing that Directive).

Customer agrees to obtain all legally required consents, authorizations and approvals and make all necessary disclosures before (i) including any Personal Data in Content and (ii) using the Enabling Software and IBM SaaS.

Customer confirms and acknowledges that it is solely responsible for any Personal Data that may be contained in Content, including any information which any IBM SaaS User shares with third parties on Customer's behalf. Customer is solely responsible for determining the purposes and means of processing any Personal Data by IBM under these Terms of Use, including that such processing according to Customer's instructions will not place IBM in breach of applicable data protection laws.

IBM SaaS is not intended for the storage or receipt of any Sensitive Personal Information or Protected Health Information (as defined below), in any form, and Customer will be responsible for reasonable costs and other amounts IBM may incur relating to any such information provided to IBM or the loss or disclosure of such information by IBM, including those arising out of any third party claims. "Sensitive Personal Information" is: 1) Personal Data, the loss of which would trigger a data breach notification requirement, and includes, but is not limited to financial information, country identification number (e.g. Social Insurance Number (SIN), Social Security Number (SSN)) or other governmentally issued identification number such as driver's license or passport number, bank account number, credit card or debit card number; and 2) Personal Data relating to racial or ethnic origin, sexual orientation, or political opinions or religious, ideological or philosophical beliefs or activities or trade union membership. "Protected Health information" is "individually identifiable health information" as defined under the Health Information Portability and Accountability Act of 1996 ("HIPAA"), as amended.

Customer agrees that when IBM reasonably determines it to be useful in its provision of IBM SaaS, IBM may transfer Content, including any Personal Data, across a country border to the entities and countries notified to Customer. Customer consents to IBM SaaS being provided by such entities in such countries, and is solely responsible for determining that any transfer of any Personal Data across a country border under the terms of the Terms of Use complies with applicable data protection laws. IBM shall reasonably cooperate with Customer, for Customer's own benefit or for the benefit of a Customer data controller, in its fulfillment of any legal requirement, including obtaining mandatory approvals.

If IBM makes a change to the way it processes or secures Personal Data as part of IBM SaaS and the change causes Customer to be noncompliant with data protection laws applicable to it, Customer may terminate the current Subscription Period for the affected IBM SaaS, by providing written notice to IBM within thirty (30) days of IBM's notification of the change to Customer. Any such termination will not obligate IBM to issue a refund or credit to Customer.

11.2 IBM's Obligations

IBM will only process Personal Data in a manner that is reasonably necessary to provide IBM SaaS, and only for that purpose.

IBM will only process Personal Data in delivering IBM SaaS as described by IBM, and Customer agrees that the description provided by IBM is consistent with Customer's processing instructions.

Upon Customer's written request, following termination or expiry of either this ToU or the IPAA, IBM will destroy or return to Customer all Content that Customer identifies as Personal Data.

If Customer or a Customer data controller is required by applicable data protection laws to provide information about or access to Personal Data to any individual or to a relevant authority, IBM will reasonably cooperate with Customer in providing such information or access.

11.3 Protection of Content

Notwithstanding anything to the contrary in the IPAA or the Transaction Document.

- a. IBM will not intentionally disclose or use Customer's Content except to operate and perform the IBM SaaS as contemplated in this ToU, subject to IBM's compliance with applicable laws.
- b. IBM will only process Customer Content on systems used to host and operate the IBM SaaS, on which IBM has implemented the security practices and procedures referenced below.

11.4 Security Practices

IBM implements and maintains practices and procedures, which may be revised periodically, regarding the systems used to host and operate the IBM SaaS. These practices and procedures are designed to

reduce the vulnerability of our systems to accidental loss, unlawful intrusions, unauthorized access, disclosure or alteration, or wrongful conduct that may interfere with, misappropriate, or otherwise damage the Content or Customer's use of the IBM SaaS. A description of the practices and procedures applicable to the IBM SaaS, including applicable technical and operational measures, is available to Customer upon request ("Security Practices"). Customer is responsible for determining whether these practices and procedures are appropriate to meet Customer's requirements. Except as specifically provided in the Security Practices for the IBM SaaS or otherwise in the Transaction Document, IBM makes no representations or warranties regarding any security functions. In the event of a conflict between the description in the Security Practices and the Transaction Document, the terms of the Transaction Document will control.

12. Compliance with Applicable Export Law

Each party agrees to comply with all applicable import and export laws and regulations, including those of the United States regarding embargo and sanctions regulations and prohibitions on export by certain end users or for any prohibited end uses (including nuclear, space or missile, and chemical and biological weapons). Customer represents that Content will not, in whole or part, be controlled under the U.S. International Traffic in Arms Regulation (ITAR). Customer acknowledges that IBM may use global resources (non-permanent residents used locally and personnel in locations worldwide) to remotely support the delivery of IBM SaaS. Customer represents that no Content accessible to IBM for the IBM SaaS will require an export license or is restricted from export to any IBM global resource or personnel under applicable export control laws.

13. Indemnity

Customer agrees to indemnify, defend and hold IBM harmless against any third party claim arising out of or relating to: 1) violation of the Acceptable Use policy by Customer or any IBM SaaS User; or 2) Content created within IBM SaaS or provided, uploaded, or transferred to IBM SaaS by Customer or any IBM SaaS User.

14. Copyright Infringement

It is IBM's policy to respect the intellectual property rights of others. To report the infringement of copyrighted material, please visit the Digital Millennium Copyright Act Notices Page at <http://www.ibm.com/legal/us/en/dmca.html>.

15. Warranty and Exclusions

15.1 Limited Warranty

IBM warrants that IBM SaaS will conform to its specifications, as contained in Appendix A to this Terms of Use. Customer agrees that such specifications may be supplied only in the English language, unless otherwise required by local law without the possibility of contractual waiver or limitation.

If the IBM SaaS does not function as warranted, and IBM is unable to make it do so, IBM will give Customer a prorated refund of amounts prepaid by Customer, and Customer's right to use the IBM SaaS will terminate. This limited warranty remains in effect during the Subscription Period for the IBM SaaS offering.

Items Not Covered by Warranty

IBM does not warrant uninterrupted, secure, or error-free operation of IBM SaaS or that IBM will be able to prevent third party disruptions of IBM SaaS or that IBM will correct all defects.

Except to the extent any results are the responsibility of IBM as provided in Appendix A, Customer is responsible for the results obtained from the use of the IBM SaaS.

16. IBM SaaS Offering Unique Terms

The following are the unique terms associated with the identified IBM SaaS. The unique terms include a brief summary of the IBM SaaS, IBM responsibilities and Customer responsibilities that are unique to the offering.

16.1 IBM SaaS General Details

- IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition

16.1.1 Invoice Acquisition and Loading

IBM is responsible for the acquisition and monitoring of Customer invoices and will work directly with service providers to ensure timely delivery and receipt.

IBM Responsibilities:

- Receive manual and electronic invoices directly from vendor and load into IBM SaaS, as documented on the BAN list, including definition of invoice interval (default is monthly)
 - Electronic invoices will be loaded with circuit and sub-line item detail when the telecom carrier provides such detail within their bill format. Electronic invoices will be loaded within 5 business days of receipt from the carrier.
 - Manual invoices will be loaded as a minimum at the circuit line item level. This is necessary for circuit level allocations. Majority of the smaller carriers have a 20 day or less due date term. Thus, IBM will load manual invoices within three (3) business days of receipt
- Identify bill format discrepancies for joint research with Customer and service providers
 - IBM is responsible for the reconfiguration of feeds caused by changes made by the telecom carrier supplying the electronic feed provided from the carrier is a standard and supported electronic format.
- Provide monthly invoice load status reports, including loaded and missing invoices
- Contact service providers regarding missing invoices and escalate to Customer where necessary
- Perform quarterly BAN analysis to assess opportunity for conversion and/or consolidation (where applicable)
 - IBM is responsible for ordering future electronic feeds from telecom carriers as new electronic formats become available. IBM will notify Customer of the invoice format change. If IBM has issues with the telecom carriers regarding a change to the billing format, IBM will notify Customer of the issue. Customer will contact the telecom carrier and notify them to work with IBM on electronic file format/feed changes.
- Reconciliation of any disconnect/termination/suspension notices against existing invoices loaded into the IBM SaaS; Customer will be notified and forwarded a copy of the notice the same day it is received by IBM.

Customer Responsibilities:

- Provide IBM with valid Letter of Authorization (LOA) to authorize IBM personnel as authorized points of contact
- Ensure IBM has access to all invoices (electronic and manual)
- Support research and escalation efforts for bill format discrepancies identified by IBM
- Escalate and follow-up with service provider, as requested by IBM, after multiple unsuccessful attempts to obtain missing invoices is reported
- Issue requests to close accounts in a timely manner after vendor notifications to ensure unnecessary efforts are not applied tracking inactive accounts
- Maintain BAN invoice interval for input into the IBM missing invoice management process (default is Monthly)
- Resolve vendor disconnect notices upon notification by IBM

Invoice definitions are as follows:

- a. Manual Invoice - Any vendor invoice that is not in a machine-readable format and cannot be processed in its native form using an IBM invoice reader. Manual formats include paper invoices, Image Files (PDF, TIF, JPG), Text or MS Word. The invoice transport method is immaterial - physical mail, email, portal or FTP
- b. Electronic Invoice - Any vendor invoice that is in a machine-readable format and can be processed in its native form using an existing IBM invoice reader. Electronic invoices that cannot be processed through an existing IBM Invoice Reader are considered Manual until an agreement is reached on the development of a new Invoice Reader. Electronic formats include EDI, XML, MDB, MS Excel or CSV.

16.1.2 Electronic invoice loading options

IBM maintains a library of standard electronic invoice readers. These standard electronic invoice readers will be used to load electronic invoices. Customer agrees to use the IBM preferred invoice formats for loading invoices into the IBM SaaS.

16.2 Paper Invoices Add-on

- IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition Paper Invoices Add-on

Manual/Paper invoices are loaded at the circuit line item level. IBM will use the standard MSXLS invoice reader to load manual invoices. Each manual invoice will be scanned, uploaded into the application and attached to the invoice load. If Customer requests manual invoice processing at the circuit/inventory level, all manual invoices must be processed at the inventory level. Customer may not select specific invoices for inventory level and elect to have other invoices processed at the account summary level. Loading manual invoices at the sub-line item detail (sub-inventory) is not available.

Customer will use IBM standard charge categorization for Manual Invoices (e.g., where taxes go, where other charges and credits go, where monthly charges go). Customers requiring non-standard charge categorization will require a written change order to cover additional charges and related work. Customer may receive paper copies of invoices that are also processed electronically ("Duplicate Paper Copies"). If Customer sends Duplicate Paper copies to IBM to be processed, IBM will notify Customer to correct the issue.

16.3 IBM Emptoris Rivermine Telecom Expense Management on Cloud Standard Edition

16.3.1 Invoice Workflow and Approval

IBM SaaS offers an invoice approval workflow that follows a conditional path to route invoices for approval prior to submission to the financial system for payment.

IBM Responsibilities:

- Ensure invoice is assigned to Customer staff outlined in Customer defined workflow
- Research and resolve "Total mismatch on invoice" exceptions, if needed, prior to issuing approval for effected invoice
- Create and flag new BANs in the IBM SaaS for client research
- Identify and flag missing Circuits in the IBM SaaS for client research

Customer Responsibilities:

- Analyze, review and approve invoices
- Initiate necessary utilities to re-match, re-analyze and/or re-allocate invoices after inventory and allocations changes have occurred
- Maintain account integrity in IBM SaaS, including but not limited to making updates to the account structures, modifying vendor remit addresses or account billing addresses, assigning account level financial coding, etc.
- Utilize internal business practices to manage invoice disputes (i.e. contact the vendor as needed, resolve and follow up to ensure a credit is received)
- Utilize IBM SaaS to create inventory, and associated required attributes (i.e. cost allocations, custom attributes or related services)
- Complete financial information (GL/AP coding) within 48 hours of IBM request for Customer assistance in completing the cost allocation/invoice payment process.
- Generate supplemental reports for research and validation efforts (i.e. accrual reports)

16.5 IBM SaaS User Profile

In connection with Customer's use of the IBM SaaS, Customer acknowledges and agrees that: (i) IBM SaaS User names, titles, company names and photographs may be posted by an IBM SaaS User as part of a profile ("Profile") and that the Profile can be viewed by other IBM SaaS Users, and (ii) at any time Customer may request that an IBM SaaS User Profile be corrected or removed from the IBM SaaS and such Profile will be corrected or removed, but removal may prevent access to the IBM SaaS.

16.6 Third party Site and Services

If Customer or an IBM SaaS User transmits Content to a third party website or other service that is linked to or made accessible by the IBM SaaS, Customer and the IBM User provide IBM with the consent to enable any such transmission of Content, but such interaction is solely between Customer and the third party website or service. IBM makes no warranties or representations about such third party sites or services, and shall have no liability for such third party sites or services.

17. General

If any provision of these Terms of Use is held to be invalid or unenforceable, the remaining provisions of these Terms of Use remain in full force and effect. Failure by either party to insist on strict performance or to exercise a right when entitled does not prevent either party from doing so at a later time, either in relation to that default or any subsequent one. Any terms of these Terms of Use that by their nature extend beyond termination of these Terms of Use or the applicable Subscription Period remain in effect until fulfilled, and apply to respective successors and assignees.

Part 2 – Country-unique Terms

The following terms replace or modify the referenced terms in Part 1. All terms in Part 1 that are not changed by these amendments remain unmodified and in effect. This Part 2 is comprised of amendments to this Terms of Use and is organized as follows:

- Asia Pacific country amendments; and
- Europe, Middle East, and Africa country amendments.

ASIA PACIFIC COUNTRY AMENDMENTS

AUSTRALIA

15.1. Limited Warranty

The following is added to the end of Section 15.1:

The warranties specified this Section are in addition to any rights Customer may have under the Competition and Consumer Act 2010 or other legislation and are only limited to the extent permitted by the applicable legislation.

JAPAN

15.1. Limited Warranty

The following is deleted from the first paragraph of Section 15.1:

Customer agrees that such specifications may be supplied only in the English language, unless otherwise required by local law without the possibility of contractual waiver or limitation.

NEW ZEALAND

15.1. Limited Warranty

The following is added to this Section 15.1:

The warranties specified in this Section are in addition to any rights Customer may have under the Consumer Guarantees Act 1993 or other legislation which cannot be excluded or limited. The Consumer Guarantees Act 1993 will not apply in respect of any goods which IBM provides, if Customer requires the goods for the purposes of a business as defined in that Act.

EUROPE, MIDDLE EAST, AFRICA (EMEA) COUNTRY AMENDMENTS

EUROPEAN UNION MEMBER STATES

The following is added to Section 15: Warranty and Exclusions:

In the European Union ("EU"), consumers have legal rights under applicable national legislation governing the sale of consumer goods. Such rights are not affected by the provisions set out in this Section 15: Warranty and Exclusions.

AUSTRIA

15. Warranty and Exclusions

If you paid a charge for the IBM SaaS then the Section 15 Warranty and Exclusions is replaced in its entirety by the following:

15. Warranties and Exclusions

IBM provides the IBM SaaS in conformity with its descriptions as contained in the IBM SaaS announcement and maintains it in this condition for the term of the IBM SaaS. IBM, its Affiliates and suppliers disclaim all further warranties ("*Ausschluß der Gewährleistung*").

Warranties, if any, for Enabling Software supplied as part of this IBM SaaS may be found in their license agreements.

GERMANY

15. Warranty and Exclusions

If you paid a charge for the IBM SaaS then the Section 15 Warranty and Exclusions is replaced in its entirety by the following:

15. Warranties and Exclusions

IBM provides the IBM SaaS in conformity with its descriptions as contained in the IBM SaaS announcement and maintains it in this condition for the term of the IBM SaaS. IBM, its Affiliates and suppliers disclaim all further warranties ("*Ausschluß der Gewährleistung*").

Warranties, if any, for Enabling Software supplied as part of this IBM SaaS may be found in their license agreements.

IRELAND

15. Warranty and Exclusions

The following paragraph is added:

Except as expressly provided in these terms and conditions, or Section 12 of the Sale of Goods Act 1893 as amended by the Sale of Goods and Supply of Services Act, 1980 (the "1980 Act"), all conditions or warranties (express or implied, statutory or otherwise) are hereby excluded including, without limitation, any warranties implied by the Sale of Goods Act 1893 as amended by the 1980 Act (including, for the avoidance of doubt, Section 39 of the 1980 Act).

IRELAND AND UNITED KINGDOM

18. Entire Agreement

The following sentence is added at the beginning of this Section 18:

Nothing in the following paragraphs shall have the effect of excluding or limiting liability for fraud.

Appendix A

IBM SaaS is responsible for the acquisition and monitoring of Customer invoices and will work directly with service providers to ensure timely delivery and receipt. IBM SaaS will utilize standard IBM SaaS invoice readers to load manual and electronic invoices into the IBM SaaS. Only invoices that can be accessed and downloaded in IBM's preferred format will be considered in scope. Customer must assist with establishing proper access and authorization on accounts to ensure quality and timeliness of service. IBM SaaS and Customer will mutually agree on a list of Billing Account Numbers (BANS) to be loaded and tracked in the IBM SaaS.

The IBM SaaS offers an invoice approval workflow that follows a conditional path to route invoices for approval prior to submission to the financial system for payment. The invoice approval workflow is embedded as part of the IBM SaaS and defines the status of an invoice from invoice load to payment. Each invoice will follow two independent workflows, a standard IBM SaaS internal workflow and a Customer-defined workflow configured during implementation as described in the separate statement of work between the parties. The IBM SaaS internal workflow governs invoice entry through the completion of invoice validation/review. The second workflow directs the invoice to the appropriate customer staff for approval which may be hierarchical in nature and/or driven by a variety of logical business conditions. Invoice, circuit and allocations exceptions will be identified and flagged in the IBM SaaS. Critical exceptions must be cleared before an Invoice can be approved by IBM and/or Customer.

IBM will load electronic invoices with circuit and sub-line item detail when the telecom carrier provides such detail within the telecom carrier's bill format. Any bill format discrepancies will be researched and resolved by IBM and the telecom carrier.

IBM is responsible for ordering future electronic feeds from telecom carriers as new electronic formats become available. IBM will notify Customer of the invoice format change.

IBM is responsible for the reconfiguration of feeds caused by changes made by the telecom carrier supplying the feed provided that the new electronic feed from the carrier is a standard electronic format and one that is supported by the IBM SaaS.

IBM will load manual invoices for Customer into the Rivermine system at the line item level. IBM will load manual invoices into Rivermine within three (3) business days of receipt.

Appendix B

Service Level Agreements for IBM Emptoris

IBM provides this Service Level Agreement (“SLA”) to MEHC subject to the following terms. MEHC understands that this SLA does not constitute a warranty to MEHC.

1. Definitions

- a. “Authorized Contact” means the individual MEHC has specified to IBM who is authorized to submit Claims under this SLA.
- b. “Availability Credit” means the remedy IBM will provide for a validated Claim. The Availability Credit will be applied in the form of a credit or discount against a future invoice of subscription charges for the Service.
- c. “Claim” means a claim submitted by MEHC’s Authorized Contact to IBM pursuant to this SLA that a Service Level has not been met during a Contracted Month.
- d. “Contracted Month” means each full month during the term of the Service measured from 12:00 a.m. Eastern US time on the first day of the month through 11:59 p.m. Eastern US time on the last day of the month.
- e. “Downtime” means a period of time during which production system processing for the Service has stopped and all of MEHC’s users are unable to use all aspects of the Service for which MEHC has appropriate permissions. Downtime does not include the period of time when the Service is not available as a result of:
 - Planned System Downtime.
 - Force Majeure.
 - Problems with MEHC or third party applications, equipment or data.
 - MEHC or third party acts or omissions (including anyone gaining access to the Service by means of MEHC’s passwords or equipment).
 - Failure to adhere to required system configurations and supported platforms for accessing the Service.
 - IBM’s compliance with any designs, specifications, or instructions provided by MEHC or a third party on MEHC’s behalf.
- f. “Event” means a circumstance or set of circumstances taken together, resulting in a failure to meet a Service Level.
- g. “Force Majeure” means acts of God, terrorism, labor action, fire, flood, earthquake, riot, war, governmental acts, orders or restrictions, viruses, denial of service attacks and other malicious conduct, utility and network connectivity failures, or any other cause of Service unavailability that was outside IBM’s reasonable control.
- h. “Planned System Downtime” means a scheduled outage of the Service for the purpose of service maintenance.

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- i. "Service" means the IBM Emptoris service(s) to which this SLA applies, associated with the SLA part numbers included in the Transaction Document. This SLA applies to each Service individually and not in combination.
- j. "Service Level" means the standard set forth below by which IBM measures the level of service it provides in this SLA.

2. Availability Credits

- a. In order to be eligible to submit a Claim MEHC must have logged a support ticket for each Event with the IBM customer support help desk for the applicable Service, in accordance with IBM procedure for reporting Severity 1 support issues. MEHC must provide all necessary detailed information about the Event and reasonably assist IBM with the diagnosis and resolution of the Event to the extent required for Severity 1 support tickets. Such ticket must be logged within twenty-four (24) hours of MEHC first becoming aware that the Event has impacted MEHC's use of the Service.
- b. MEHC's Authorized Contact must submit MEHC's Claim for an Availability Credit no later than three (3) business days after the end of the Contracted Month that is the subject of the Claim.
- c. MEHC's Authorized Contact must provide to IBM all reasonable details regarding the Claim, including but not limited to, detailed descriptions of all relevant Events and the Service Level claimed not to have been met.
- d. Availability Credits will be based on the duration of the Downtime measured from the time MEHC reports that MEHC was first impacted by the Downtime. For each valid Claim, IBM will apply the highest applicable Availability Credit based on the achieved Service Level during each Contracted Month, as shown in the table below. IBM will not be liable for multiple Availability Credits for the same Event in the same Contracted Month.
- e. For Bundled Services (individual Services packaged and sold together for a single combined price), the Availability Credit will be calculated based on the single combined monthly price for the Bundled Service, and not the monthly subscription fee for each individual Service. MEHC may only submit Claims relating to one individual Service in a bundle in any Contracted Month, and IBM will not be liable for Availability Credits with respect to more than one Service in a bundle in any Contracted Month.
- f. The total Availability Credits awarded with respect to any Contracted Month shall not, under any circumstance, exceed 10 percent (10%) of one twelfth (1/12th) of the annual charge paid by MEHC to IBM for the Service.
- g. IBM will use its reasonable judgment to validate Claims based on information available in IBM's records, which will prevail in the event of a conflict with data in your records.
- h. THE AVAILABILITY CREDITS PROVIDED TO YOU IN ACCORDANCE WITH THIS SLA ARE MEHC'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM. IF MEHC HAS MULTIPLE SLAs FOR SERVICES, THEN MEHC IS ONLY

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ENTITLED TO RECEIVE CREDITS UP TO A CUMULATIVE MAXIMUM IN ANY MONTH ACROSS ALL SLAs FOR THESE SERVICES OF 10%. IF PAID ANNUALLY MEHC IS ENTITLED TO ONE TWELTH (1/12th) OF THE ANNUAL EQUIVALENT CHARGE PAID BY MEHC TO IBM FOR THE SERVICES.

3. Service Levels – Availability of Service during a Contracted Month

Availability during a Contracted Month	Availability Credit (% of Monthly Subscription Fee for Contracted Month that is the subject of a Claim)
<99.0%	2%
<97.0%	5%
<95.0%	10%

Availability is calculated as: (a) the total number of minutes in a Contracted Month (minus the minutes of Planned System Downtime), minus (b) the total number of minutes of non-scheduled Downtime in a Contracted Month, divided by (c) the total number of minutes in a Contracted Month (minus the minutes of Planned System Downtime), with the resulting fraction expressed as a percentage.

Example: 500 minutes total non-scheduled Downtime during Contracted Month

43,200 total minutes in a 30 day Contracted Month	
- 200 minutes of Planned System Downtime	
- 500 minutes Downtime	
= 42,500 minutes	= 2% Availability Credit for 98.8% Achieved Service Level
<hr/>	
43,200 total minutes (-200 minutes of Planned System Downtime) in a 30 day Contracted Month	
=43,000 minutes	

4. Exclusions.

This SLA is made available only to MEHC (including any Participating Affiliates). This SLA does not apply to the following:

- Beta and trial Services.

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- Claims made by MEHC's users, guests, or participants of the Service (other than Participating Affiliates).

If MEHC has breached any material obligations under the Terms of Use, Acceptable Use Policy or the Transaction Document, including without limitation, breach of any payment obligations, this SLA will not apply.

Exhibit 3

Additional Terms and Conditions

1) **MODIFICATIONS.** With respect to this Transaction Document only and notwithstanding anything to the contrary set forth in the IPAA or the ToU, except as set forth in the first paragraph of the Transaction Document, no modification, alteration or change to the terms of the IPAA, ToU or this Transaction Document shall be valid and enforceable against a party unless agreed in a writing executed by the authorized representatives of IBM and MEHC (or in the case of a modification impacting a particular Participating Affiliate only, a writing executed by the authorized representatives of IBM and such Participating Affiliate).

2) **EXCEPTIONS TO LIMITATIONS OF LIABILITY IN IPAA.** The limitations of liability set forth in the IPAA shall not apply to the following:

- a) payments made under IBM's intellectual property indemnity in section 1.12 (Intellectual Property Protection) of the IPAA;
- b) damages for bodily injury (including death), and damage to real property and tangible personal property for which IBM is legally liable; and
- c) damages for the unauthorized disclosure, misuse, or misappropriation of confidential information by IBM in violation of its confidentiality obligations under this Transaction Document.

3) **PUBLICITY.** Neither party shall advertise or publish the fact that Customer has contracted to purchase work from IBM.

4) **DATA SECURITY.** Notwithstanding anything to the contrary set forth in the IPAA or the ToU, IBM agrees that it shall comply with the requirements with respect to security of Customer data as set forth in Attachment 1 to this Exhibit 3.

5) **TERMINATION.** Customer may terminate this Transaction Document without cause by giving IBM not less than 90 days written notice. Upon such termination, Customer agrees to pay IBM for all charges for Services IBM provides and any products and Materials IBM delivers through the effective date of termination and reimbursable expenses IBM incurs through the effective date of termination. In addition, Customer will pay IBM termination charges according to the following Termination Fee Schedule:

Termination Fee Schedule

If Transaction Document is terminated in Year One: \$39,114.00

If Transaction Document is terminated in Year Two: \$19,557

If Transaction Document is terminated after Year Two: No termination charges.

The Termination Fees will be allocated among the Participating Affiliates in such proportions as are set forth in Exhibit A to this Transaction Document.

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Should IBM: (a) become insolvent; (b) file a petition under any chapter of the bankruptcy laws or is the subject of an involuntary petition; (c) make a general assignment for the benefit of its creditors; or (d) have a receiver appointed; or (e) fail to provide the IBM SaaS in accordance with this Transaction Document, including the ToU, Customer may terminate the Transaction Document following thirty (30) days written notice to IBM and IBM's failure to promptly cure any default identified by Customer within such thirty (30) day period. Customer will have the right, in addition to terminating the Transaction Document, to all and other rights or remedies available at law, under contract and in equity. In the case of termination or expiration of this Transaction Document, provisions that by their nature are intended to survive such termination or expiration shall remain in full force and effect until fulfilled.

6) **COMPLIANCE WITH LAWS.** IBM will comply with all applicable laws and regulations and all applicable executive, judicial and administrative orders that apply to IBM as an information technology services provider or regulates IBM business. Without limiting the generality of the foregoing, IBM will, to the extent applicable to IBM as described in the foregoing sentence, comply with the Foreign Corrupt Practices Act, Executive Order No. 11246, as amended, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1972, as amended, the Veterans' Employment Opportunities Act of 1998, as amended; Executive Order No. 12432, as amended, if applicable, and 29 C.F.R. 471, Appendix A to Subpart A, if applicable.

7) **CONFIDENTIAL INFORMATION.**

Definition of Confidential Information. As used in this Transaction Document, the term "Confidential Information" means any nonpublic material or information of the other party, including but not limited to a party's research, development, products, product plans, services, lists, markets, software, developments, inventions, processes, formulas, technologies, designs, drawings, marketing, finances, or other business information or trade, secrets that the disclosing party has designated as confidential, or that the receiving party knows or reasonably should have known was confidential at the time of disclosure. Without limiting the foregoing, the software and any databases (including any data models, structures, non-Customer specific data and aggregated statistical data contained therein) of IBM shall constitute Confidential Information of IBM, and Customer data (including without limitation all Customer carrier related data, hosted passwords and user identities) shall constitute the Confidential Information of Customer. Notwithstanding the foregoing, IBM's obligations with respect to IBM's use, protection, and security of Content are not governed by this Section 7 (Confidential Information), but are as set forth in the TOU and Attachment 1 to Exhibit 3 of this Transaction Document.

Nonuse and Nondisclosure. The Parties acknowledge that during the performance of this Transaction Document, each party will have access to certain of the other party's Confidential Information or Confidential Information of third parties that the disclosing party is required to maintain as confidential. Each party agrees that it will not, directly or indirectly, disclose the Confidential Information of the other party under any circumstances or by any means to any third person without the prior written consent of the other party. Each party further agrees that it will restrict access to the Confidential Information of the other party to those of its personnel, agents, and/or consultants, if any, who have a need to have access to the Confidential Information to perform the work or other obligations of such party called for by this Transaction

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Document or, in the case of Customer, to use and enjoy the Services as contemplated by this Transaction Document, and who have been advised of and have agreed in writing to treat such information in accordance with the terms of this Section 7 (CONFIDENTIALITY) of this Transaction Document. In addition, each party agrees that, subject to any rights or licenses expressly granted in this Transaction Document, such party will: (i) not reproduce the Confidential Information and will hold in confidence and protect the Confidential Information from dissemination to, and use by, any third party; (ii) not create any derivative work from Confidential Information of the other party; and (iii) return or destroy all Confidential Information of the other party in its possession upon termination or expiration of this Transaction Document.

Exceptions. Notwithstanding the foregoing, the provisions of this Section 7 (CONFIDENTIALITY) shall not apply to Confidential Information that: (a) is generally known to the public at the time disclosed; (b) is or becomes generally known to the public through no fault of the recipient party; (c) is rightfully communicated to the recipient party by persons not bound by confidentiality obligations with respect thereto; (d) is already in the recipient party's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (e) is independently developed by the recipient party without access to or use of the Confidential Information of the other party; or (f) is approved for release or disclosure by the disclosing party in advance without restriction. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law or regulation, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other party and will provide assistance to the disclosing party to obtain a protective order; or (ii) to establish a party's rights under this Transaction Document, including to make such court filings as it may be required to do.

Further, IBM acknowledges that Customer, to the extent it is a regulated utility, or any of its duly authorized representatives, may from time to time discuss and disclose certain matters, including IBM's pricing and terms for the Services, with state public service commissions or other regulatory authorities whose involvement or approval results from Customer's status as a regulated utility; provided that such disclosures are required by applicable law or governmental order or are reasonably necessary to obtain an approval, permit or order from a regulatory authority and, to the extent permitted by applicable law, Customer provides reasonable written notice to IBM to permit IBM to obtain a protective order. Customer shall undertake, in making any such disclosures, to convey to such person the importance of maintaining confidentiality with respect to the information provided or the matters that are discussed. IBM hereby consents to such discussions regarding and disclosures of such information in connection with such regulatory proceedings that are held as a result of Customer's status as a regulatory utility, subject to compliance with the obligations in this paragraph.

Protection. Confidential Information of the other party will be made available by a party to its employees only on a "need to know" basis and only after notifying such employees of the confidential nature of the Confidential Information and after having obligated them to the nonuse and nondisclosure obligations of this Section 7 (CONFIDENTIALITY) of this Transaction Document (or to nonuse and nondisclosure obligations at least as protective of the Confidential Information as those in this Section 7 (CONFIDENTIALITY) of this Transaction Document). Each party agrees to take all reasonable precautions to protect the confidentiality of Confidential Information of the other party as required by this Section 7 (CONFIDENTIALITY) and, upon written request by the other party, to destroy or return to that

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party any of that party's Confidential Information in its possession, including any such Confidential Information contained in any other documents.

Neither this Section 7 (CONFIDENTIALITY) nor any disclosure of Confidential Information made under it grants the receiving party any right or license under any trademark, copyright or patent now or subsequently owned or controlled by the disclosing party. Subject to each party's obligations of confidentiality under this Section 7 (CONFIDENTIALITY), the receipt of Confidential Information under this Transaction Document will not in any way limit the receiving party from: (1) developing, manufacturing, marketing or providing to others products or services which may be competitive with products or services of the disclosing party; (2) developing, manufacturing, marketing or providing products or services to others who compete with the disclosing party; (3) assigning its employees in any way it may choose; or (4) entering into any business relationship with any other party.

Ownership of Customer Data. Customer retains all right, title and interest in and to all of Customer's Confidential Information including Customer data, subject only to the limited right granted to IBM under this Transaction Document to use such Confidential Information as necessary to provide the Services. IBM retains all right, title and interest in and to all of IBM's Confidential Information.

8) **NOTICES.** Any notice by either party to the other shall be delivered to the office of the designated representative of the other party, or, if deposited in the mail properly stamped with the required postage and addressed to the office of such representative. The parties' designated representatives and addresses for purposes of notice shall be as set forth in the Transaction Document. Either party may change the name or address of the designated recipient of notices by delivery of a notice of such change as provided for in this Section. Notwithstanding the foregoing, with regard to the day to day communications related to IBM's performance of Services (for which notice is not expressly required hereunder), the parties may communicate by email and other electronic means.

**Attachment 1
to
Exhibit 3**

**ADDITIONAL TERMS AND CONDITIONS REGARDING
DATA SECURITY**

1. Any information and data provided by Customer to IBM (electronically or otherwise) and used by IBM in the performance of its obligations under this Transaction Document (“Data”) shall remain at all times the property of Customer. It shall be identified, clearly marked and recorded as such by IBM on all media and in all documentation. IBM shall not use Data, and shall not permit any subcontractor to use Data, for any purpose other than the purpose of performing the services set forth in this Transaction Document.
2. During the term of the Transaction Document, IBM shall provide Customer with notice regarding the physical location of all Data. Such notice shall be provided at least forty-eight hours in advance.
3. IBM shall implement measures designed to protect Data from any unauthorized access, corruption, loss, damage, or destruction in accordance with this Attachment 1 to Exhibit 3. IBM shall require its subcontractors to implement substantially similar measures to secure and protect their respective systems and facilities in accordance with this Attachment 1 to Exhibit 3. Such measures shall include appropriate physical, electronic and managerial procedures to safeguard and secure the Data both in transit and at rest in accordance with this Attachment 1 to Exhibit 3.
4. IBM shall make Data available to Customer’s authorized users at all times as set forth in the Transaction Document. Upon written request, IBM shall provide Customer with all applicable keys with respect to encrypted Data for which IBM has responsibility for encryption under this Transaction Document.
5. IBM shall report to Customer, within forty-eight hours of discovery, any and all instances, including potential instances where there is reasonable evidence of suspicious activity of unauthorized access, corruption or loss, damage or destruction to the Data occurring on any system maintained by IBM or any subcontractor of IBM (of any tier). In each such case, IBM shall investigate such instance and provide Customer with the results of such investigation along with a remediation plan for Customer’s approval promptly after such investigation. Upon such approval, IBM shall implement such plan in accordance with a schedule that is agreed upon between the Customer and the IBM. Such implementation shall be at IBM’s sole cost and expense to the extent such instance resulted from IBM’s failure to comply with its obligations regarding the security of Data. IBM shall provide updates on the investigation and remediation at a frequency agreed upon after the initial notification until the remediation plan has been fully implemented.

IBM International Passport Advantage Agreement – Transaction Document

6. IBM agrees to comply (and require its subcontractors, with respect to laws that regulate such subcontractor's business in the performance of their obligations related to this Transaction Document, to comply) with applicable laws and regulations with respect to the protection and security of the Data (as such laws and regulations are amended from time to time) that are applicable to IBM as an information technology services provider in the performance of Services under this Transaction Document and at all times during the term of this Transaction Document, the data center(s) used by IBM (or its subcontractors) to provide the Services under this Transaction Document shall be SSAE 16 Type II certified. At Customer's written request, IBM shall provide Customer with evidence of such certification.
7. IBM agrees to provide Customer with such information and access to IBM's premises (upon giving reasonable notice) as Customer may reasonably require to validate that IBM is complying with the obligations referred to in this Attachment 1 to Exhibit 3. Such information and access shall be during normal business hours, conducted in a manner that minimizes disruption to IBM's business, may not occur more than once per year, and Customer agrees to comply with IBM's security and confidentiality requirements and shall not be entitled to any cost information or information related to other IBM customers.
8. In the event of termination of this Transaction Document IBM shall, when directed to do so by Customer, (i) erase and instruct all its subcontractors to erase all Data from the IBM's systems and magnetic data; and /or (ii) transfer all Data from IBM's systems, and cause its subcontractors to transfer all Data from their respective systems, to storage media designated by Customer or otherwise directly to Customer's systems, as determined by Customer.
9. The provisions set forth above apply to all IBM subcontractors as indicated, to the extent and during such periods as they are in possession of any Data.
10. IBM will follow Customer's reasonable requirements for all remote access to Customer resources provided to IBM in writing. IBM will maintain accurate records of employees or subcontractors who will have remote access to Customer resources and the country of origin of individual remote access. Upon reasonable cause, Customer reserves the right to deny any individual remote access to Customer's resources. So long as IBM makes diligent efforts to promptly replace any individual so removed, IBM shall not be liable for any service level agreements that are not met as a direct result of such removal.



Statement of Work JNEN-92YUD5
for
IBM Emptoris Rivermine Telecom Expense Management (TEM) Platform Services
Implementation

Prepared for

MidAmerican Energy Holdings Company

The information in this Statement of Work may not be disclosed outside of MidAmerican Energy Holdings Company and may not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the Statement of Work, provided that, if a contract is awarded to IBM as a result of or in connection with the submission of this Statement of Work, MidAmerican Energy Holdings Company will have the right to duplicate, use or disclose the information to the extent provided by the contract. This restriction does not limit the right of MidAmerican Energy Holdings Company to use information contained in this Statement of Work if it is obtained from another source without restriction. IBM retains ownership of this Statement of Work.

1. Overview and Approach

International Business Machines Corporation (“IBM”), MidAmerican Energy Holdings Company (“MEHC”) and its affiliates who elect to utilize this Statement of Work (“SOW”) and agree to be bound by the terms and conditions, and applicable exhibits and appendices set forth herein by executing an Affiliate Addendum (as defined below) (each, a “Participating Affiliate” and each of MEHC and each Participating Affiliate as to its individual participation hereunder, “you” or “Customer”) enter into this SOW as of July 2, 2013.

Each MEHC affiliate participating under this SOW shall execute and deliver to IBM a signed affiliate transaction document in the form of Appendix D (“Affiliate Addendum”).

Notwithstanding anything to the contrary set forth herein or in any other agreement between IBM and MEHC, it is understood and agreed that MEHC and each Participating Affiliate is solely responsible and liable for its obligations related to the Services (as defined below) allocated to it. Neither MEHC nor any other MEHC affiliate(s) shall have any obligation or liability, contractually or otherwise, for payment or other obligation incurred by or allocable to any other affiliated entity participating hereunder. In addition, the obligations of IBM to MEHC and each Participating Affiliate hereunder are several and not joint.

Upon execution and delivery by the parties of this SOW and each Affiliate Addendum, IBM shall be deemed to have entered into separate contractual relationships with each of MEHC and each Participating Affiliate, which shall each be governed by the terms and conditions set forth herein.

2. IBM Statement of Work

This section describes the work to be provided by IBM (the “Services”) to Customer under the terms and conditions of this SOW. In addition, your responsibilities are listed.

Changes to this SOW will be processed in accordance with the procedure described in Appendix A-1: Project Change Control Procedure. The investigation and the implementation of changes may result in modifications to the Estimated Schedule, Services Fees, and other terms of this SOW.

The following are incorporated in and made part of this SOW:

- Appendix A: Project Procedures;
- Appendix B: Materials;
- Appendix C: Sample Project Change Request form.

2.1 Project Scope

Under this project, IBM will

- Set Up Modules
- Update/Add New Invoice and Order Approval Workflows
- Implement Electronic Invoice Readers
- Facilitate Invoice Manual to Electronic Invoice Conversion
- Develop External System Interfaces
- Compile and Load Inventory Allocations (Inventory Build)

- Load Allocations on inventory items for the affiliates
- Web-Based Training

IBM's fixed fees and estimated schedule for performance of Services are listed in the "IBM Responsibilities" section below. Deviations that arise during the project will be managed through the procedure described in Appendix A-1: Project Change Control Procedure, and may result in adjustments to the project scope, estimated schedule, Services fees and other terms. These adjustments may include charges on a time-and-materials or fixed-fee basis using IBM's standard rates in effect from time to time for any resulting additional work or waiting time as mutually agreed in writing by IBM and MEHC or between IBM and the applicable Participating Affiliate, as applicable.

2.2 Facilities and Hours of Coverage

IBM will:

- IBM will perform the work remotely, except for any project-related activity which IBM determines would be best performed at your facility in order to complete its responsibilities under this SOW. Such activity is included in the Services Fees, as indicated above, unless performed as part of a change in scope that follows the Project Change Control Procedure.
- provide the Services under this SOW during normal business hours, 8:30 AM to 5:15 PM, local time, Monday through Friday, except holidays. If necessary, and subject to IBM's compliance with Customer's on-site access requirements for unescorted personnel (including personnel risk assessment requirements), you will provide after-hours access to your facilities to IBM personnel. Subject to the foregoing requirements with respect to any after-hours access, out-of-town personnel may work hours other than those defined as normal business hours to accommodate their travel schedules.

2.3 IBM Responsibilities

Under this SOW, IBM will undertake the following activities:

Activity 1 - Project Management

IBM will provide project management for the IBM responsibilities in this SOW. The purpose of this activity is to provide technical direction and control of IBM project personnel and to provide a framework for project planning, communications, reporting, procedural and contractual activity. This activity is composed of the following tasks:

Planning

IBM will:

- review the SOW and the contractual responsibilities of both parties with your Project Manager;
- maintain project communications through your Project Manager;
- coordinate the establishment of the project environment;
- establish documentation and procedural standards for deliverable Materials;

- e. assist your Project Manager to prepare and maintain the project plan for the performance of this SOW which will include the activities, tasks, assignments, milestones and estimates; and
- f. review with you the hardware required for the performance of this SOW.

Project Tracking and Reporting

IBM will:

- a. review project tasks, schedules, and resources and make changes or additions, as appropriate. Measure and evaluate progress against the project plan with your Project Manager;
- b. review the IBM standard invoice format and billing procedure to be used on the project, with your Project Manager;
- c. work with your Project Manager to address and resolve deviations from the project plan;
- d. conduct regularly scheduled project status meetings;
- e. report time spent on the project to your Project Manager;
- f. administer the Project Change Control Procedure with your Project Manager; and
- g. coordinate and manage the technical activities of IBM project personnel.

Completion Criteria:

This is an ongoing activity which will be considered complete at the end of the Services.

Deliverable Materials:

- Project Plan

Activity 2 - Module Set Up

a. Inventory Manager

The Inventory Manager Module acts as the central repository of telecommunication inventory (circuits and equipment) for Customer. The module is designed to work closely with other IBM modules like Service Order Manager to ensure all completed order activity is reflected in an up-to-date circuit inventory. In addition, the Inventory Engine interfaces with Finance Manager to support invoice processing, allocation, and audit/reconciliation activity. IBM will setup this module per the scope outlined below:

Location Form

The location form represents an on-line template used to capture, track and manage physical locations where telecom circuit, services and equipment reside. Relationships between locations and inventory elements can be built for increased network visibility by each physical site. IBM will utilize in-place template.

Note: The location template is already setup. The other affiliates will use the same location template as PacifiCorp. Affiliates can distinguish their sites by the field company name, which is already in the location template.

• Site Name	• Address Line 1	• Onsite Name
• Site Status	• Address Line 2	• Onsite Phone
• Site Type	• City	• Main Number
• Business Hours	• State/Province	
• Site ID	• Postal Code	
	• Country	

Circuit Inventory Form

Circuit forms represent on-line templates used to capture and validate specific information required to successfully process and manage telecom orders as well as maintain circuit inventory. Each circuit form contains data elements specific for that circuit type in order to provision and manage them effectively. IBM will utilize in-place template.

Note: The location template is already setup. The other affiliates will use the same forms as PacifiCorp. If additional fields need to be added to the current forms, the MEC system admin will add the fields (attributes).

Wireline

• ATM PVC	• DS3 (T3)	• MPLS Port
• ATM Port	• DSL	• OC192
• Analog Trunk	• Ethernet	• OC48
• Channelized DS1 (T1)	• Four Wire Loop Leg	• OC12
• Channelized DS3 (T3)	• Four Wire Analog	• OC3
• Channelized OC12	• Frame ATM PVC	• Other
• Channelized OC3	• Frame Relay PVC	• Pay Phone
• Co-Location Services	• Frame Relay Port	• POTS
• Conference Call	• GigE	• Remote Call Forwarding
• Cross Connect (Logical/Physical)	• Internet Connection	• SIP
	• ISDN BRI	• Toll Free
	• ISDN PRI	• Voice Circuit
	• Long Distance	• Voice Mail

- DDS
- DID DOD Block
- DID DOD Station
- DS0
- DS1 (T1)
- MPLS
- VSAT
- Wavelength (DWDM)

Equipment Form

Equipment forms represent on-line templates used to capture and validate specific information required to successfully process and manage equipment inventory as well as build relationships to circuit inventory. Each equipment form contains data elements specific for that equipment type.

IBM will setup one base inventory template for **Servers only**. The template for Routers and PBX forms were setup for PacifiCorp and will be used by the other affiliates.

Wireline

- Router
- PBX
- Servers

b. Service Order Manager

The Service Order Manager module supports the business process of ordering telecom services from order creation to fulfillment. IBM will setup this module per the scope outlined below:

Order E-mail Form

Order e-mail forms are templates used to generate e-mails to service providers containing the order information captured during the order process. These forms are for order placement only and are not applicable to the internal emails that can be generated for internal order status updates. IBM will utilize in-place form.

Note: There is already a generic order email form in place and PacifiCorp has Email forms by circuit type.

This base form is not circuit type or service provider specific; however, the forms contain all essential information a service provider will require to provision the order successfully.

Order Milestone Forms

Order milestone forms define the order steps and expected duration that an order must progress through from order creation to order completion. Each step may require

Customer to enter additional information received from the service provider in order to complete the order and update inventory (e.g. order number, FOC Date, Circuit ID). Certain milestones will trigger email status updates to a distribution list defined on the Service Order Detail form (Confirmation Email). These standard milestone forms are generic by order action and are not service provider specific. IBM will utilize in-place milestones.

Note: MidAmerican Energy, MidAmerican Holdings Company, Northern Natural Gas, and Kern River will use the same forms and templates already setup for PacifiCorp.

Wireline Order Approval

The wireline order approval workflow defines a conditional path to route orders for authorization prior to submission to the vendor for fulfillment. The order approval workflow is engaged between the standard Order Created and Service Ordered milestones.

IBM will configure the wireline order approval workflow to support the following Customer requirements: Up to 3 levels of approval for each affiliate.

c. Finance Manager

Finance Manager is the central engine for processing invoices from invoice receipt through invoice payment. Overall, it supports invoice entry, invoice approval, auditing, chargeback/allocation, and bill payment processes.

Invoice Templates/Readers

Invoice Readers are used to load and parse electronic bills received from service providers into IBM/Rivermine invoice templates for on-screen presentment and auditing charges. Rivermine will update Financial Manager with pre-configured settings including vendor specific invoice templates derived from our best practices during the Project. Out-of-the-box invoice readers will be implemented to import vendor invoices received in an electronic format. Paper invoices that cannot be converted to an electronic bill format can be manually entered into Rivermine using a MSXLS pre-configured generic template.

PacifiCorp has some customization when invoices are loaded electronically by IBM/Rivermine. Customization was necessary for invoice line items to match to circuits successfully. This includes matching invoices to billing circuit ID's if circuit ID's do not match an invoice, and long distance accounts matching to the local carrier's circuit/lines in the inventory. The additional affiliates will use the same customization for their accounts.

Unsupported invoice readers can be developed and installed by IBM/Rivermine using the included Project Change Request Procedure (see Appendix A).

Invoice Approval Workflow

The invoice approval workflow defines a conditional path to route invoices for approval prior to submission to the financial system for payment. The invoice approval workflow is embedded as part of the entire IBM invoice lifecycle which defines the status of an invoice from entry to payment.

IBM will modify the existing invoice approval workflow for up to four levels of Customer approvals for each affiliate. The approvals will be based on dollar value, with the first level (all invoices) going to the affiliate analyst. Note: PacifiCorp currently has 4 approval levels, 1st analyst (all invoices), then the rest are based on dollar value, 2nd Manager up to \$50K, 3rd Director up to \$250K and VP over \$250K. Approval logic will drive invoice workflow by each invoice's account subtype and total to pay amount. Customer has the option to define one alternate approver at each approval level for each affiliate. Customer is responsible for communicating these specific requirements during the Design phase.

Cost Allocation Forms & Algorithms

Cost Allocation functionality enables a customer to distribute invoice charges back to specific General Ledger (GL) strings based on Customer defined accounting rules. Through translation of these defined business rules, IBM can systematically allocate invoices efficiently and effectively with minimal to no manual intervention.

MidAmerican Energy will use the same base settings, approval hierarchies, and templates as PacifiCorp. IBM will configure cost allocation logic to support account and/or circuit-level allocations. The allocation methodology is the same as PacifiCorp. IBM will work with Customer to define and configure the required GL segments for each Participating Affiliate on the appropriate cost allocation forms (account and/or circuit entities). Customer is responsible for communicating these specific requirements during the Design phase. Additionally, Customer will be responsible for providing the accounting strings and percentages, where applicable, in an agreed upon format during the inventory build process. IBM will upload the agreed upon data for calculating the allocations on each invoice received.

IBM will perform cleanup of existing allocations and configure new cost allocation strings to generate allocations according to the options and rule set selected by Customer. Customer has the option to allocate invoice charges to the:

- a. Account: The entire amount of the invoice will be charged to the associated GL string stored on the invoice's account. If no accounting string is present on the account, invoice cannot be approved for payment.
- b. Circuit: Each inventory line item will be matched to circuit inventory to identify which GL string should be used for that specific line item charge. If no match is found in inventory, Customer has the option to (1) spread the line item amount equally or proportionally across all matched line items or (2) roll up unallocated amounts to an account level accounting string. Invoice summary charges can be spread equally or proportionally across all GL strings billing for that particular invoice.
- c. Employee: IBM will configure the HR interface to populate the full GL string for an employee. Customer will provide all required GL segments within the HR file OR provide a lookup table for any segments that cannot be provided at the employee level (e.g.: GL segment 1 = xyz where circuit type is cellphone). IBM will then propagate 100% cost allocation for the employee's assigned GL string to all circuits/services owned by that employee.

Initial Electronic Invoice Load/Testing: IBM will load invoices with circuit and sub-line item detail when the telecom carrier provides such detail within their bill format. Any bill format discrepancies will be researched and resolved by IBM and the telecom carrier.

IBM is responsible for ordering future electronic feeds from telecom carriers as new electronic formats become available. IBM will notify MidAmerican Energy Holdings Company of the invoice format change. If IBM has issues with the telecom carriers to change the billing format, IBM will contact MidAmerican Energy Holdings Company of the issue. MidAmerican Energy Holdings Company will contact the telecom carrier and notify them to work with IBM on electronic file format/feed changes.

IBM is responsible for the reconfiguration of feeds caused by changes made by the telecom carrier supplying the feed provided that the new electronic feed from the carrier is a standard and supported electronic format.

IBM will load manual invoices for MidAmerican Energy Holdings Company into the Rivermine system at a minimum at the line item level. This is necessary for circuit level allocations. Majority of the smaller carriers have a twenty (20) day or less due date term. Thus, IBM will load manual invoices into Rivermine within three (3) business days of receipt.

d. Reporting (Clarity)

Clarity is the default reporting module that leverages data gathered through TEM automation to enable Customers to make better and faster decisions about their voice, data, and wireless networks. It provides a range of capabilities from high-level dashboards to deep, drill-down analysis to scheduling automatic distribution of reports.

Customer will utilize the same reports as PacifiCorp. IBM will update the custom Accrual Report to incorporate the new allocation GL segments. The rest of the reports (standard & custom) are already configured for PacifiCorp and will be used by the other affiliates. The availability of any standard report is dependent on data accuracy and

completeness stored in Customer's inventory and/or provided on a service provider's bill. Customer has the ability to create ad-hoc reports to meet their specific reporting needs.

e. Application User & Application Roles

Application Users

IBM requires a list of users to be populated in the system in order for the users to be authenticated via the IBM login screen. Note: Users are required to have a 12 character minimum password. For security reasons, the affiliates will provide IBM their IP's for accessing IBM/Rivermine. All other IP's won't allow a user to get to the production site. If Customer is planning to utilize Single Sign-on (SSO) functionality, this list of users is still required during implementation so core IBM users can gain access to the environment prior to the activation of SSO. All users must be associated to at least 1 or more roles in order for them to access features and functionality of the application.

IBM will provide the standard user template to Customer to populate. Customer will update user template with all user account information for each user expected to access the environment. Information required includes a username, first name, last name, email address, phone number, and the list of base roles/privileges for the user.

Single Sign-on (SSO)

Single Sign-on (SSO) enables a customer to authenticate into the Platform Services without the need to manually sign into the environment. IBM supports Base64 encoded SAML versions 1.0, 1.1 and 2.0 (recommended).

IBM will setup the environment to redirect the end-user to a Customer specified URL upon logout. Customer is responsible for providing URL for redirection.

Customer has to provide a public key (SSO Certificate) which IBM will install or Customer can embed the key as part of the SAML response. The NameID within the assertion must be an exact match (case sensitive) to the username stored on the user's IBM profile. Customer has to configure a link on their originating portal that will take the user to Platform Services. (Note: If the IBM Portal is in scope, a separate URL has to be configured).

Application Roles

IBM has a list of predefined application roles which grant a user access to specific modules as well as privileges to take actions against particular entities within the Platform Services.

Note: These roles are already setup for use. The standard application roles are listed below.

- | | | |
|--|--|---|
| <ul style="list-style-type: none">• IBM Administrator• Customer Administrator• Billing Analyst• Clarity User• Contract Analyst• Contract Manager• Credit Card Processor• Default• Finance Manager• Inventory Engineer | <ul style="list-style-type: none">• Managed Service Support• Order Requestor• Project Admin• Provisioning Manager• Provisioner• Read-Only TEM User• Self Service• Service Provider• Service Provider Manager | <ul style="list-style-type: none">• Service Requester• System Administrator• Telco Interface Administrator• Telecom Manager• User Administrator• Wireless Store User |
|--|--|---|

Customer will associate a minimum of one role per user during the application user creation process.

Completion Criteria:

This activity will be considered complete when all work has been completed, moved into Customer's TEM production Platform and complies with the descriptions functional

requirements and specifications above. Within ten (10) business days from receipt, Customer may reject acceptance of above functionalities by giving IBM written notice that states in reasonable detail its requested revisions. IBM will make revisions and/or re-perform any work necessary to make the functionalities conform to the requirements set forth in this SOW.

Deliverable Materials:

- Updated Configuration Design Document
- User Manuals for Purchased Modules

Activity 3: External System Interfaces

IBM will develop external system interfaces with Customer’s systems to transmit information detail to and from the configured environment. The definition of the file layout, transmission method and transmission frequency will be defined during the Design phase.

IBM will setup the following interfaces:

Combined AP/GL	IBM/ Customers' Financial System	Batch	Update the existing interface for new divisions. This will be two separate feeds/interfaces. One to PacifiCorp SAP (already setup) and one to MidAmerican Energy Oracle.
Payment Reconciliation	Customers' Financial System / IBM	Batch	Transmits payment detail from Financial Institution to IBM's Financial Management (e.g. payment number, payment date, payment amount). Customer must conform to standard IBM Inbound AP file layout. This will be two separate feeds/interfaces. One from PacifiCorp SAP (already setup) and one from MidAmerican Energy Oracle.
HR	Customer's HR System/ IBM	Batch	Customer must conform to standard IBM Inbound AP file layout. Transmits employee detail from Customer's HR System to IBM (e.g. employee number, employee name, employee status, GL information, etc.

Completion Criteria:

This activity will be considered complete when all work has been completed, moved into Customer's TEM production Platform and complies with the descriptions functional requirements and specifications above. Within ten (10) business days from receipt, Customer may reject acceptance of above functionalities by giving IBM written notice that states in reasonable detail its requested revisions. IBM will make revisions and/or re-perform any work necessary to make the functionalities conform to the requirements set forth in this SOW.

Deliverable Materials:

- Updated Configuration Design Document

Activity 4 - Inventory Build

IBM will, with assistance from Customer, compile and load circuit inventory into the Platform Services.

Wireline Inventory Build

1) Customer has the option to utilize their existing inventory data sources to enhance the inventory generated by IBM. For each circuit record, Customer can populate additional data attributes on the XLS template (i.e. Location, service type, GL coding) as required.

- a. Customer will populate general ledger/cost center information if circuit level allocations are a requirement.
- b. Customer cannot change the format of the XLS file
- c. Customer cannot change any pre-populated data provided on the template

by IBM

2) IBM will reload the revised XLS templates provided by Customer.

Completion Criteria:

This activity will be considered complete when all work has been completed, moved into Customer's TEM production Platform and complies with the descriptions functional requirements and specifications above. Within ten (10) business days from receipt, Customer may reject acceptance of above functionalities by giving IBM written notice that states in reasonable detail its requested revisions. As mutually agreed upon by the parties, IBM will make revisions and/or re-perform any work necessary to make the functionalities conform to the requirements set forth in this SOW.

Deliverable Materials:

- Updated Configuration Design Document

Activity 5 – Web Based Training

IBM will provide access to six (6) standard web-based training sessions during the Project.

Each session is approximately 90 minutes in length and includes the following content:

- General Environment Overview and Navigation Basics
- Order and Inventory Management Basics
- Invoice Management Basics
- Advanced Financial Management (Audits, Disputes, Contracts)
- Reporting Basics
- Wireless Portal Order Management & Reporting

Completion Criteria:

This activity will be considered complete at the end of the Services.

Deliverable Materials:

- User Manuals

2.4 Your Responsibilities

The completion of the proposed scope of work depends on the full commitment and participation of your management and personnel. The responsibilities listed in this section are in addition to those responsibilities specified elsewhere in this SOW, and are to be provided at no charge to IBM. Delays in performance of these responsibilities that have a material impact on IBM's ability to perform Services may result in additional cost and/or delay of the completion of the project, and will be handled in accordance with Appendix A-1: Project Change Control Procedure.

2.4.1 Your Project Manager

Prior to the start of this project, you will designate a person called your Project Manager who will be the focal point for IBM communications relative to this project and will have the authority to act on behalf of you in all matters regarding this project.

Your Project Manager's responsibilities include the following:

- a. manage your personnel and responsibilities for this project;
- b. serve as the interface between IBM and all your departments participating in the project;
- c. administer the Project Change Control Procedure with the IBM Project Manager;
- d. participate in project status meetings;
- e. obtain and provide information, data, and decisions within three working days of IBM's request unless you and IBM agree in writing to a different response time;
- f. resolve deviations from the estimated schedule, which may be caused by you;
- g. help resolve project issues and escalate issues within your organization, as necessary;
- h. review with the IBM Project Manager any of your invoice or billing requirements. Such requirements that deviate from IBM's standard invoice format or billing procedures may have an effect on price, and will be managed through the Project Change Control Procedure in Appendix A-1; and
- i. create, with IBM's assistance, the project plan for the performance of this SOW which will include the activities, tasks, assignments, milestones and estimates.

2.4.2 Your Other Responsibilities

You will:

- j. if making available any facilities, software, hardware or other resources, obtain any licenses or approvals related to these resources that may be necessary for IBM and its subcontractors to perform the Services. IBM will be relieved of its obligations that are adversely affected by your failure to promptly obtain such licenses or approvals. You agree to reimburse IBM for any reasonable costs and other amounts, including costs of litigation and settlements, that IBM may incur from your failure to obtain these licenses or approvals;
- k. be responsible for the identification of, interpretation of, and compliance with, any applicable laws, regulations, and statutes that affect your existing systems, applications, programs, or data to which IBM will have access during the Services, including applicable data privacy, export, import laws and regulations, and product safety and regulatory compliance for non-IBM products including those recommended by IBM. You are solely responsible for obtaining advice of competent legal counsel as to the identification and interpretation of any relevant laws, rules and regulations that may affect your business and any actions you may need to take to comply with such laws. IBM makes no representations or warranties with respect to product safety or regulatory compliance of non-IBM products;

2.5 Deliverable Materials

IBM will provide you with the tangible items listed in Appendix B, if any, which will be provided as Type II Materials.

2.6 Completion Criteria

IBM will have fulfilled its obligations under this SOW when one of the following first occurs:

- a. IBM accomplishes the activities set forth in the "IBM Responsibilities" section and delivers to you the Materials listed, if any; or
- b. You or IBM terminates the project in accordance with the provisions of this SOW.

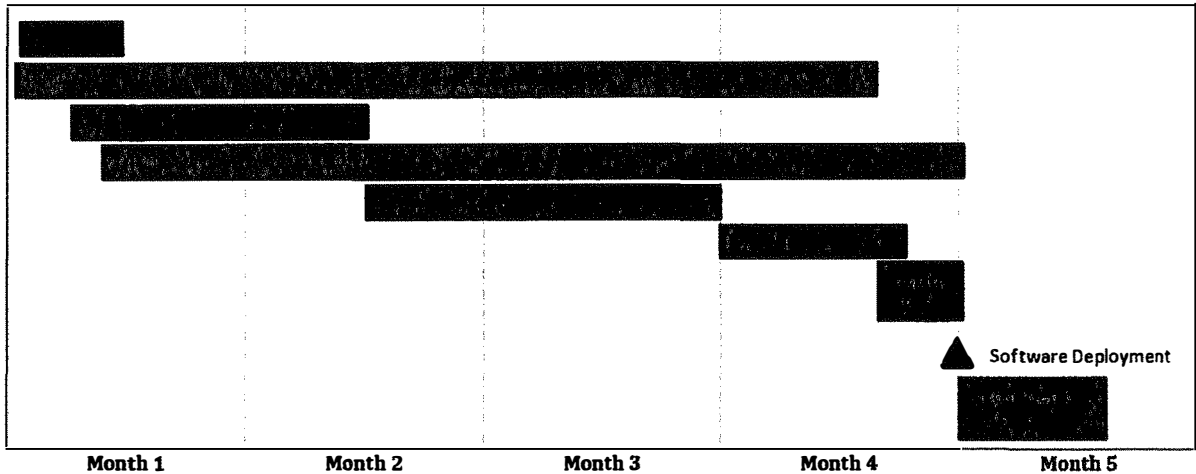
2.7 Schedule

Subject to schedule extensions resulting from the Project Change Control Procedure, the Services will be provided after mutual execution of this SOW and, subject to extension for delays to the extent arising from circumstances that are beyond IBM's reasonable control, not IBM's responsibility under this SOW, or otherwise not caused by IBM (e.g., delays to the extent attributable to MEHC or a Participating Affiliate or a carrier), shall be completed by the date that occurs 120 calendar days following the execution of this SOW by both IBM and MEHC and the execution of an Affiliate Addendum by each of the Participating Affiliates ("End Date"), or on another date as is mutually agreed in writing between IBM and MEHC or as determined pursuant to the project change request procedure.

Project Schedule

IBM suggests deploying core TEM software functionality in one phase estimated to take approximately 4 months as outlined in the GANTT chart below. Schedule is dependent on Customer's ability to complete the following in a timely manner: (1)

Provide interface requirements, (2) Compile inventory into Rivermine templates and upload data, and (3) Execute user acceptance test activities.



2.8 Services Fees

The Services will be conducted on a fixed price basis. The fixed price fees for performing the Services defined in the SOW will be \$30,837.25 to be invoiced to the Participating Affiliates as provided in the table below ("Services Fees"). This fixed price is inclusive of any travel and living expenses and other reasonable expenses incurred in connection with the Services. All charges are exclusive of any applicable taxes.

Participating Affiliate	Address	Amount
7013340	MidAmerican Energy 4299 NW Urbandale Drive Urbandale, IA 50322	\$15,360.40
7517957	Northern Natural Gas 1111 S. 103 rd Street . Omaha, NE 68124	\$10,541.72
3233535	MidAmerican Energy Holdings CompanyCustomer 4299 NW Urbandale Drive Urbandale, IA 50322	\$1,392.32
7404664	Kern River Gas Transmission 2755 East Cottonwood Parkway Ste. 300 Salt Lake City, UT 84121	\$3,542.81

IBM will invoice Customer the foregoing amounts, plus applicable taxes, on or after the first date on which all of the Participating Affiliates successfully "go-live." Pricing terms with respect to any additional fees resulting from the project change control procedure shall be documented in a project change request signed by IBM and MEHC.

Payment of undisputed amounts is due upon receipt of invoice, payable within 30 days. Payment may be made electronically to an account specified by IBM or by other means agreed to by the parties. In the event of late payment, IBM reserves the right to suspend the provision of Services and to charge interest on amounts overdue.

If any authority imposes a duty, tax, levy, or fee, excluding those based on IBM's net income, on the Services, then Customer agrees to pay that amount as specified in an invoice, unless Customer supplies exemption documentation. Additional taxes and tax-related charges may apply if IBM personnel are required to perform Services outside their normal tax jurisdiction. As practical, IBM will work to mitigate such additional tax and tax-related charges and will inform Customer in advance if these additional charges apply and are payable by Customer.

2.9 Additional Terms and Conditions

"Enterprise" means any legal entity (such as a corporation) and the subsidiaries it owns by more than 50 percent. Unless otherwise agreed in writing, the term "Enterprise" applies only to the portion of the Enterprise located in the United States.

2.9.1 Materials

"Materials" are literary works or other works of authorship (such as software programs and code, documentation, reports, and similar works) that IBM may deliver to Customer as part of a Service. The term "Materials" does not include licensed programs and other items available under their own license terms or agreements. IBM will identify Materials that IBM will provide to Customer and such Materials will be identified in this SOW as "Type I Materials," "Type II Materials," or otherwise as both parties agree. If not specified, Materials will be considered Type II Materials.

2.9.2 Rights in Materials

Customer will own the copyright in Materials created as part of the Services that are identified as "Type I Materials," and they will each constitute a "work made for hire" to the extent permissible under U.S. copyright law. If any such Type I Materials are not works made for hire under applicable law, IBM assigns the ownership of copyrights in such Materials to Customer.

Customer grants IBM an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works based on, Type I Materials; provided that IBM will remove any and all of Customer's confidential, proprietary or other identifying information linking such Materials to Customer prior to any external use of such Materials.

IBM or its suppliers will own the copyright in Materials created as part of the Services that are identified as "Type II Materials." IBM grants Customer an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute (within Customer's Enterprise only), copies of Type II Materials.

IBM or its suppliers retains ownership of the copyright in any of IBM's or its suppliers' works that pre-exist or were developed outside of this SOW and any modifications or enhancements of such works that may be made under this SOW. To the extent such works are embedded in any Materials, such works are licensed in accordance with their separate license provided to Customer, if any, or otherwise as Type II Materials.

Notwithstanding anything else to the contrary, but without waiver of a party's patent rights, each party is free to use in its business activities the ideas, concepts, and know-

how that are developed or provided by either party (orally or in writing) in the performance of the Services.

Each party grants only the licenses and rights specified in this SOW. No other licenses or rights (including licenses or rights under patents) are granted either directly, by implication, or otherwise.

Each party agrees to reproduce the copyright notice and any other legend of ownership on any copies made under the licenses granted in this section.

2.9.3 Warranty

IBM warrants that it will perform the Services in a professional and workmanlike manner and in accordance with the current description (including any completion criteria) contained in this SOW. In the event of IBM's failure to perform the Services in accordance with the foregoing warranty, IBM shall re-perform the Services in conformance with the terms of this SOW.

THIS WARRANTY IS CUSTOMER'S EXCLUSIVE WARRANTY AND REPLACES ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OF NON-INFRINGEMENT.

IBM does not warrant uninterrupted or error-free operation of any Material or Service or that IBM will correct all defects. Notwithstanding, the foregoing disclaimer does not negate IBM's express warranty obligations under this SOW. Unless otherwise specified in this SOW, (i) Services do not include provision of any update, revisions or error correction for Materials, and (ii) IBM provides Materials, non-IBM products and non-IBM services WITHOUT WARRANTIES OF ANY KIND. However, non-IBM manufacturers, developers, suppliers, or publishers may provide their own warranties to Customer. Notwithstanding the foregoing, to the extent IBM subcontracts any of the Services hereunder, clause (ii) does not relieve IBM of primary responsibility for the Services or negate IBM's express warranty obligations under this SOW.

3. Intellectual Property Protection

3.1 Third Party Claims

If a third party asserts a claim against Customer that a Material that IBM provides to Customer under this SOW infringes that party's patent or copyright, IBM will defend Customer against that claim at IBM's expense and pay all costs, damages, and attorney's fees that a court finally awards against Customer or that are included in a settlement approved by IBM, provided that Customer:

- a. promptly notifies IBM in writing of the claim;
- b. allows IBM to control, and cooperates with IBM in, the defense and any related settlement negotiations; and
- c. is and remains in compliance with the Material's applicable license terms and Customer's obligations under section 2.9.2 (Rights in Materials) above.

3.2 Remedies

If such a claim is made or appears likely to be made, Customer agrees to permit IBM, in IBM's discretion, to enable Customer to continue to use the Material, or to modify it, or replace it with one that is at least functionally equivalent. If none of these alternatives is commercially reasonably available, then on IBM's written request, Customer agrees to

promptly return the Material to IBM and discontinue use. IBM will then give Customer a credit equal to the amount Customer paid IBM for the creation of the Material.

3.3 Claims for Which IBM is Not Responsible

IBM has no obligation regarding any claim based on any of the following:

- d. anything provided by Customer or a third party on Customer's behalf that is incorporated into a Material or IBM's compliance with any designs, specifications, or instructions provided by Customer or a third party on Customer's behalf;
- e. a Material's use other than in accordance with its applicable licenses and restrictions;
- f. any modification of a Material made by Customer or by a third party on Customer's behalf or the combination, operation, or use of a Material with any product, hardware device, program, data, apparatus, method, or process; or
- g. the distribution, operation or use of the Material outside Customer's Enterprise.

This Intellectual Property Protection section states IBM's entire obligation and Customer's exclusive remedy regarding any third party intellectual property claims.

4. Limitation of Liability

4.1 Items for Which IBM May be Liable

Circumstances may arise where, because of a default on IBM's part or other liability, Customer is entitled to recover damages from IBM. Regardless of the basis on which Customer is entitled to claim damages from IBM (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), IBM's entire liability for all claims in the aggregate arising from or related to each Service or otherwise arising under this SOW will not exceed the amount of any actual direct damages up to the greater of \$100,000 or the charges for the Service that is the subject of the claim.

This limit also applies to any of IBM's subcontractors and its program developers. It is the maximum for which IBM and its subcontractors are collectively responsible. The following amounts are not subject to a cap on the amount of damages (including the limitations on liability set forth in this Section 4):

- a. payments referred to in Section 3 (Intellectual Property Protection) above and in Section 11 (Indemnification) below;
- b. damages for bodily injury (including death), and damage to real property and tangible personal property for which IBM is legally liable; and
- c. damages for the unauthorized disclosure, misuse, or misappropriation of confidential information by IBM in violation of its confidentiality obligations under this SOW.

4.2 Items for Which IBM is Not Liable

Subject to the exceptions set forth above, except as expressly required by law without the possibility of contractual waiver, under no circumstances is IBM, its program developers or its subcontractors liable for any of the following even if informed of their possibility:

- d. loss of, or damage to, data;
- e. special, incidental, exemplary, or indirect damages or for any economic consequential damages; or
- f. lost profits, business, revenue, goodwill, or anticipated savings.

5. Personnel and Processes

5.1 Assignment of Personnel

Each party will assign personnel that are qualified to perform the tasks required of such party under this SOW and will be responsible for the supervision, direction, and control of its personnel. Subject to the foregoing, each party may determine the assignment of its personnel and its contractors. The parties agree that personnel of one party assigned in connection with this SOW will not be considered employees, agents or representatives of the other party. Each party is solely responsible for the compensation and benefits provided to its employees, and for its compliance with all laws and regulations governing the employment of its respective employees, including laws governing wages and benefits, discrimination and harassment, employment contracts (whether express or implied, or written or oral), labor practices, workers' compensation, disability, and unemployment insurance.

5.2 Subcontractors

IBM may engage subcontractors to provide or assist in providing the Services, in which case IBM remains responsible for the fulfillment of its obligations under this SOW and for the performance of the Services.

6. Resources and Databases

6.1 Customer Provided Resources

As reasonably required by IBM to fulfill its obligations under this SOW, Customer agrees to:

- a. provide IBM with sufficient and safe access to Customer's facilities, systems, information, personnel and resources; and
- b. prior to Customer making facilities, software, hardware, networks or other similar resources available to IBM, obtain any licenses or approvals for IBM or its subcontractors to use, access, and modify such resources.

IBM is not responsible for any delay in performing or failure to perform Services caused by Customer's failure to i) timely provide such access, ii) promptly obtain such licenses or approvals, or iii) perform Customer's other responsibilities under this SOW.

6.2 Data and Databases

Except as otherwise agreed to in this SOW, Customer is responsible for (i) any data and the content of any database Customer makes available to IBM in connection with this SOW (ii) the selection and implementation of procedures and controls regarding access, security, encryption, use and transmission of data, and (iii) backup and recovery of the database and any stored data.

6.3 IBM Business Partners

IBM has signed agreements with certain organizations (called "IBM Business Partners") to promote, market, and support certain products and services. Customer may order IBM Services that are promoted or marketed to Customer by IBM Business Partners or other suppliers, however, such Business Partners and suppliers remain independent and separate from IBM. IBM is not responsible for the actions or statements of IBM Business Partners or other suppliers, and, any obligations either has to Customer, or any products or services they supply to Customer under their agreements.

6.4 Notices and Communications

Any notice by either party to the other shall be delivered to the office of the designated representative of the other party, or, if deposited in the mail properly stamped with the required postage and addressed to the office of such representative. The parties' designated representatives and addresses for purposes of notice shall be as set forth in this SOW or as otherwise designated by a party in writing. Either party may change the name or address of the designated recipient of notices by delivery of a notice of such change as provided for in this Section. Notwithstanding the foregoing, with regard to the to the day to day communications related to IBM's performance of Services (for which notice is not expressly required hereunder), the parties may communicate by email and other electronic means.

6.5 Assignment and Resale

Neither party may assign this SOW, in whole or in part, without the prior written consent of the other. Any attempt to assign without consent is void. The assignment of this SOW, in whole or in part, within the Enterprise of which either party is a part or to a successor organization by merger or acquisition does not require the consent of the other. IBM is also permitted to assign its rights to payments without obtaining Customer's consent. It is not considered an assignment for IBM to divest a portion of its business in a manner that similarly affects all of its customers.

Customer agrees not to resell any Service without IBM's prior written consent and any attempt to do so is void.

6.6 Compliance with Laws

IBM will comply with all applicable laws and regulations and all applicable executive, judicial and administrative orders that apply to IBM as an information technology services provider or regulates IBM's business. Without limiting the generality of the foregoing, IBM will, to the extent applicable to IBM as described in the foregoing sentence, comply with the Foreign Corrupt Practices Act, Executive Order No. 11246, as amended, with Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Readjustment Assistance Act of 1972, as amended, and the Veterans' Employment Opportunities Act of 1998, as amended, with Executive Order No. 12432, as amended, and with 29 C.F.R. 471, Appendix A to Subpart A.

Unless otherwise expressly agreed in this SOW, IBM is not performing Customer's regulatory or management obligations and is not responsible for determining the requirements of laws applicable to Customer's business, including those relating to Services that Customer acquires under this SOW, or that IBM's provision of or Customer's receipt of particular Services under this SOW meets the requirements of such laws. Notwithstanding anything in this SOW to the contrary, neither party is obligated to take any action that would violate law applicable to that party.

Each party will comply with applicable import and export control laws and regulations, including those of the United States that prohibit or limit export for certain uses or to certain end users.

6.7 Dispute Resolution

Each party will allow the other a reasonable opportunity to comply before it claims that the other has not met its obligations under this SOW. The parties will attempt in good faith to resolve all disputes, disagreements or claims relating to this SOW and shall follow the procedures set forth in Appendix A.

6.8 Force Majeure Events

Neither party is responsible for failure to fulfill any non-monetary obligations due to events beyond its control ("Force Majeure Events"). Delays in delivery or in meeting completion dates due to Force Majeure Events will automatically result in extension of completion dates for a reasonable period of time to account for the delay that is attributable to such Force Majeure Events.

7. Other Principles of Our Relationship

Neither party grants the other the right to use its (or any of its Enterprise's) trademarks, trade names, or other designations in any promotion, publication, or Web site without prior written consent.

This SOW and any Services Transaction under it do not create an agency, joint venture, or partnership between Customer and IBM. Each party is free to enter into similar agreements with others to develop, acquire or provide competitive services and deliverables.

Customer authorizes International Business Machines Corporation and its subsidiaries (and their successors and assigns, contractors and IBM Business Partners) to store and use Customer's business contact information wherever they do business, solely in connection with IBM products and services or in furtherance of IBM's business relationship with Customer.

No right or cause of action for any third party is created by this SOW, nor is IBM responsible for any third party claims against Customer except as described in the Intellectual Property Protection section above or as permitted by the Limitation of Liability section above for bodily injury (including death) or damage to real or tangible personal property for which IBM is legally liable to that third party.

Where approval, acceptance, consent or similar action by either party is required under this SOW, such action will not be unreasonably delayed or withheld.

8. Governing Law

The rights, duties, and obligations of each party are valid only in the United States of America except that all licenses are valid as specifically granted.

Both parties agree to the application of the laws of the State of New York to govern, interpret, and enforce all of Customer's and IBM's respective rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this SOW, without regard to conflict of law principles. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS SOW. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED.

Nothing in this SOW affects any statutory rights of consumers that cannot be waived or limited by contract.

If any provision of this SOW is held to be invalid or unenforceable, but would be valid and enforceable if appropriately modified, then such provision will apply with the modification necessary to make it valid and enforceable consistent with its objective. In any case, the remaining provisions of this SOW remain in full force and effect.

9. Modifications

No modification, alteration or change to the terms of this SOW shall be valid and enforceable against a party unless agreed in a writing executed by the authorized representatives of IBM and MEHC (or in the case of a modification impacting a particular Participating Affiliate only, a writing executed by the authorized representatives of IBM and such Participating Affiliate).

10. Insurance

IBM shall, prior to commencing work, have secured and continuously carry with insurers having an A.M. Best Insurance Reports rating of A-:VII or better, except with respect to IBM's Global Property Insurance (IBM uses a Captive Insurance Company, which is not rated, however, the insurance companies that reinsure IBM's Captive Insurance Company have an AM Best Rating of A- or better and Solvency of VII), the following minimum coverages and limits as set forth below: (i) Workers' Compensation – statutory limits; (ii) Employers' Liability – IBM shall maintain employers' liability insurance with a minimum single limit of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 disease policy limit; (iii) Commercial General Liability – IBM shall maintain commercial general liability insurance, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate for bodily injury and property damage and shall include the following coverages: (a) Premises and operations coverage; (b) contractual liability; (c) Product liability; and (d) property damage liability; (iv) Business Automobile Liability – IBM shall maintain business automobile liability insurance, with a minimum single limit of \$1,000,000 each accident for bodily injury and property damage, with respect to IBM's vehicles whether owned or non-owned; (v) Excess Liability – IBM shall maintain excess liability insurance with a minimum limit of \$1,000,000 each occurrence/aggregate on a following form basis to be excess of the insurance coverage and limits required in employers' liability insurance, commercial general liability insurance and business automobile liability insurance above; and (vi) Professional Errors and Omissions (E&O) – IBM shall maintain professional errors and omissions insurance covering damages arising out of negligent acts, errors, or omissions committed by IBM in the performance of this SOW, with a liability limit of not less than \$1,000,000 each claim. The Commercial General Liability and Automobile Liability policies required herein shall include provisions or endorsements naming Customer, its majority owned or management controlled parent, affiliates, subsidiary companies, or joint-ventures as additional insureds. To the extent of IBM's negligent acts or omissions and only with respect to liability arising out of this SOW, the commercial general liability and business automobile liability policies required by this SOW shall be primary insurance with respect to the interests of Customer and not contributory and IBM waives its right to subrogation under such policies and the insurer will have no right of recovery or subrogation against Customer, its majority owned or management controlled parent, affiliates, subsidiary companies, or co-venturers under such policies. IBM will continue its insurance coverages for the term of this SOW as long as such coverage remains commercially available in the market place. Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. A certificate of insurance shall be furnished to Customer confirming the issuance of such insurance prior to commencement of work.

11. Indemnification

IBM specifically and expressly agrees to indemnify, defend, and hold harmless Customer and its officers, directors, and employees (hereinafter collectively

"Indemnitees") against and from any and all claims, demands, suits, losses, costs and damages of every kind and description, including attorneys' fees and/or litigation expenses, in each case, that are finally awarded by a court or included in a settlement approved by IBM, and are brought or made against any of the Indemnitees to the proportionate extent resulting from or arising out of the negligent acts or omissions or willful misconduct of IBM or its employees (collectively, "Representatives") with respect to (i) loss of or damage to any real or tangible personal property of Customer, (ii) bodily injury to or death of any person(s), (iii) workers' compensation, unemployment compensation, or similar such laws or obligations applicable to employees of IBM; and (iv) IBM's subcontractors of any tier claiming rights under this SOW; provided that the Indemnitees promptly notify IBM in writing of the claim; and allow IBM to control, and cooperate with IBM in, the defense and any related settlement negotiations. IBM's indemnity obligations owing to Indemnitees under this Section are not limited or increased by any applicable insurance coverage identified in Section 10 of this SOW.

12. Site Regulations; Personnel Risk Assessments

IBM shall make itself aware of and adhere to all on-site Customer work site regulations made available to IBM with respect to any IBM employees performing Services at a Customer work site. In the event the scope of work is altered to include the performance of Services at Customer's work site, IBM shall comply with Customer's background check requirements, drug testing requirements or other access requirements that are applicable to such on-site IBM personnel; provided that IBM's reasonable costs shall be reimbursed by Customer. Upon Customer's request, IBM promptly shall provide certifications of authorized representatives of IBM, certifying as to IBM's compliance with such requirements with respect to any such personnel assigned to perform on-site work, in such form as may be reasonably requested by Customer.

13. Publicity

Neither party shall advertise or publish the fact that Customer has contracted to purchase work from IBM.

14. Data Security

IBM agrees that it shall comply with the requirements with respect to security of Customer data as set forth in Appendix E.

15. Audit

IBM shall keep accurate and complete accounting records related to the Services Fees, charges, and expenses under this SOW in accordance with generally accepted accounting principles. Customer, or its audit representatives, shall have the right upon prior reasonable notice to examine, audit, and copy the records, vouchers, and other financial documents required to validate the Services Fees, charges or expenses under this SOW. Such documents shall be available for examination, audit and reproduction for three (3) years after completion or termination of this SOW. Such examination or audit may not occur more than once per year and Customer and its audit representatives agree to comply with IBM's security and confidentiality requirements and shall not be entitled to any cost information or information related to other IBM customers.

16. Termination

Customer may terminate this SOW by giving IBM not less than 30 days written notice. Should IBM: (a) become insolvent; (b) file a petition under any chapter of the bankruptcy laws or is the subject of an involuntary petition; (c) make a general assignment for the

benefit of its creditors; or (d) have a receiver appointed, Customer may terminate this SOW following thirty (30) days written notice to IBM and IBM's failure to promptly cure any such default. Customer will have the right, in addition to terminating this SOW, to all and other rights or remedies available at law, under contract and in equity.

Either party may terminate this SOW if the other party materially breaches this SOW and fails to cure such breach within thirty (30) days after receiving written notice of such breach from the non-breaching party.

Upon termination of this SOW, Customer agrees to pay IBM for all charges for Services IBM provides that conform to the requirements of this SOW and any products and Materials conforming to the requirements of this SOW that IBM delivers through the effective date of termination and reimbursable expenses IBM incurs through the effective date of termination.

In the case of termination or expiration of this SOW, provisions that by their nature are intended to survive such termination or expiration shall remain in full force and effect until fulfilled.

17. Confidential Information

Definition of Confidential Information. As used in this SOW, the term "Confidential Information" means any nonpublic material or information of the other party, including but not limited to a party's research, development, products, product plans, services, lists, markets, software, developments, inventions, processes, formulas, technologies, designs, drawings, marketing, finances, or other business information or trade, secrets that the disclosing party has designated as confidential, or that the receiving party knows or reasonably should have known was confidential at the time of disclosure. Without limiting the foregoing, the software and any databases (including any data models, structures, non-Customer specific data and aggregated statistical data contained therein) of IBM shall constitute Confidential Information of IBM, and Customer data (including without limitation all Customer carrier related data, hosted passwords and user identities) shall constitute the Confidential Information of Customer.

Nonuse and Nondisclosure. The Parties acknowledge that during the performance of this SOW, each party will have access to certain of the other party's Confidential Information or Confidential Information of third parties that the disclosing party is required to maintain as confidential. Each party agrees that it will not, directly or indirectly, disclose the Confidential Information of the other party under any circumstances or by any means to any third person without the prior written consent of the other party. Each party further agrees that it will restrict access to the Confidential Information of the other party to those of its personnel, agents, and/or consultants, if any, who have a need to have access to the Confidential Information to perform the work or other obligations of such party called for by this SOW or, in the case of Customer, to use and enjoy the Services as contemplated by this SOW, and who have been advised of and have agreed in writing to treat such information in accordance with the terms of this Section 17 (CONFIDENTIALITY) of this SOW. In addition, each party agrees that, subject to any rights or licenses expressly granted in this SOW, such party will: (i) not reproduce the Confidential Information and will hold in confidence and protect the Confidential Information from dissemination to, and use by, any third party; (ii) not create any derivative work from Confidential Information of the other party; and (iii) return or

destroy all Confidential Information of the other party in its possession upon termination or expiration of this SOW.

Exceptions. Notwithstanding the foregoing, the provisions of this Section 17 (CONFIDENTIALITY) shall not apply to Confidential Information that: (a) is generally known to the public at the time disclosed; (b) is or becomes generally known to the public through no fault of the recipient party; (c) is rightfully communicated to the recipient party by persons not bound by confidentiality obligations with respect thereto; (d) is already in the recipient party's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (e) is independently developed by the recipient party without access to or use of the Confidential Information of the other party; or (f) is approved for release or disclosure by the disclosing party in advance without restriction. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law or regulation, provided that the party making the disclosure pursuant to the order shall first have given written notice to the other party and will provide assistance to the disclosing party to obtain a protective order; or (ii) to establish a party's rights under this SOW, including to make such court filings as it may be required to do.

Further, IBM acknowledges that Customer, to the extent it is a regulated utility, or any of its duly authorized representatives, may from time to time discuss and disclose certain matters, including IBM's pricing and terms for the Services, with state public service commissions or other regulatory authorities whose involvement or approval results from Customer's status as a regulated utility; provided that such disclosures are required by applicable law or governmental order or are reasonably necessary to obtain an approval, permit or order from a regulatory authority and, to the extent permitted by applicable law, Customer provides reasonable written notice to IBM to permit IBM to obtain a protective order. Customer shall undertake, in making any such disclosures, to convey to such person the importance of maintaining confidentiality with respect to the information provided or the matters that are discussed. IBM hereby consents to such discussions regarding and disclosures of such information in connection with such regulatory proceedings that are held as a result of Customer's status as a regulatory utility, subject to compliance with the obligations in this paragraph.

Protection. Confidential Information of the other party will be made available by a party to its employees only on a "need to know" basis and only after notifying such employees of the confidential nature of the Confidential Information and after having obligated them to the nonuse and nondisclosure obligations of this Section 17 (CONFIDENTIALITY) of this SOW (or to nonuse and nondisclosure obligations at least as protective of the Confidential Information as those in this Section 17 (CONFIDENTIALITY) of this SOW). Each party agrees to take all reasonable precautions to protect the confidentiality of Confidential Information of the other party as required by this Section 17 (CONFIDENTIALITY) and, upon written request by the other party, to destroy or return to that party any of that party's Confidential Information in its possession, including any such Confidential Information contained in any other documents.

Neither this Section 17 (CONFIDENTIALITY) nor any disclosure of Confidential Information made under it grants the receiving party any right or license under any trademark, copyright or patent now or subsequently owned or controlled by the

disclosing party. Subject to each party's obligations of confidentiality under this Section 17 (CONFIDENTIALITY), the receipt of Confidential Information under this SOW will not in any way limit the receiving party from: (1) developing, manufacturing, marketing or providing to others products or services which may be competitive with products or services of the disclosing party; (2) developing, manufacturing, marketing or providing products or services to others who compete with the disclosing party; (3) assigning its employees in any way it may choose; or (4) entering into any business relationship with any other party.

Ownership of Customer Data. Customer retains all right, title and interest in and to all of Customer's Confidential Information including Customer data, subject only to the limited right granted to IBM under this SOW to use such Confidential Information as necessary to provide the Services. IBM retains all right, title and interest in and to all of IBM's Confidential Information.

This SOW is the complete agreement between Customer and IBM regarding its subject matter, and replaces any prior oral or written communications between Customer and IBM. In entering into this SOW, neither party is relying upon any representation that is not specified in this SOW, including without limitation, any representations concerning i) estimated completion dates, hours, or charges to provide any Service; ii) the experiences or recommendations of other parties; or iii) results or savings Customer may achieve. Additional or different terms in any written communication from Customer (such as a purchase order) are void.

This SOW is confidential and each party agrees not to disclose the terms of this SOW to any third party (excluding its respective affiliates provided they are bound by nondisclosure requirements with respect thereto) without the other party's prior written consent, except as required by law.

Once signed, unless prohibited by local law or specified otherwise, any reproduction of this SOW made by reliable means (for example, photocopy or facsimile) is considered an original.

By signing below, each party agrees to the terms of this SOW.

Agreed to:

MidAmerican Energy Holdings Company

By

Authorized Signature

Title: SVP & Chief Administrative Officer

Name: Maureen E. Sammon

Date: 7/2/13

Enterprise number:

Enterprise address:

Agreed to:

International Business Machines Corporation

By

Authorized Signature

Title: Business Unit Executive

Name (type or print): Harry K. Ching

Date: 7/2/2013

Agreement number:

IBM address: 2300 Dulles Station Blvd
Herndon, VA 20171

Appendix A: Project Procedures

A - 1: Project Change Control Procedure

The following process will be followed if a change to this SOW is required:

- a. A Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change, the rationale for the change and the effect the change will have on the project.
- b. The designated Project Manager of the requesting party will review the proposed change and determine whether to submit the request to the other party.
- c. Both Project Managers will review the proposed change and agree to implement it, recommend it for further investigation, or reject it.
- d. Customer will not be charged for any such investigation, unless agreed to by Customer in writing. A PCR must be signed by authorized representatives from both parties to authorize investigation of the recommended changes. IBM will invoice you for any such charges per the terms of this SOW. The investigation will determine the effect that the implementation of the PCR will have on price, schedule and other terms and conditions of this SOW.
- e. A PCR must be accepted by authorized representatives from both parties to authorize implementation of any agreed changes to the SOW. Until a change is agreed to, both parties will continue to act in accordance with the latest agreed version of the SOW.
- f. A PCR that has been signed by authorized representatives from both parties constitutes a change authorization for purposes of this SOW.

A - 2: Deliverable Materials Acceptance Procedure

Except for Status Reports, Project Plans/Schedules, and Student Course Materials, deliverable Materials as defined herein will be reviewed and accepted in accordance with the following procedure:

- a. One electronic draft of the deliverable Material will be submitted to your Project Manager. It is your Project Manager's responsibility to make and distribute additional copies to any other reviewers.
- b. Within five business days of receipt, your Project Manager will either accept the deliverable Material or provide the IBM Project Manager a written list of requested revisions. If IBM receives no response from your Project Manager within five (5) business days, then the deliverable Material will be deemed accepted.
- c. The IBM Project Manager will consider your timely request for revisions, if any, within the context of IBM's obligations under this SOW.
- d. Those revisions agreed to by IBM will be made and the deliverable Material will be resubmitted to your Project Manager, at which time the deliverable Material will be deemed accepted.
- e. Those revisions not agreed to by IBM will be managed in accordance with Appendix A-1: Project Change Control Procedure.
- f. Any conflict arising from this deliverable Materials Acceptance Procedure will be addressed as specified in the Escalation Procedure set forth in Appendix A-3.

A - 3: Escalation Procedure

The following procedure will be followed to resolve a conflict arising during the performance of this SOW.

- a. When a conflict arises between you and IBM, the project team member(s) will first strive to work out the problem internally.
- b. Level 1: If the project team cannot resolve the conflict within two working days, your Project Manager and the IBM Project Manager will meet to resolve the issue.
- c. Level 2: If the conflict is not resolved within three working days after being escalated to Level 1, your Executive Sponsor will meet with the IBM Project Executive to resolve the issue.
- d. If the conflict is resolved by either Level 1 or Level 2 intervention, the resolution will be addressed in accordance with the Project Change Control Procedure set forth in Appendix A-1.
- e. If the conflict remains unresolved after Level 2 intervention, then the parties shall have the rights and remedies set forth in this SOW. During any conflict resolution, IBM agrees to continue to provide Services and Customer shall continue to perform its payment obligations hereunder; provided that in no event shall a party be precluded from exercising any of its rights and remedies hereunder following a material breach by a party of its obligations hereunder. The parties shall use good faith efforts to amicably resolve any disputes remaining upon completion of Services in accordance with the dispute resolution provisions set forth in this SOW.

Appendix B: Materials

B-1: Project Plan

Purpose: IBM and Customer will work jointly to develop a baseline project; IBM will deliver project plan containing the tasks, dates and resources assigned to the project

Content: Deliverables with associated due dates

Delivery:

IBM will deliver one (1) copy of this document in softcopy format.

B-2: Configuration Design Document

Purpose: A written document to specify the configuration of metadata, triggers and other items in the IBM application specific to the requirements. Includes Data Migration/Conversion Data Strategy, a written document describing the data migration and inventory management.

Content: Base and customer specific settings and logic.

Delivery:

IBM will deliver one (1) copy of this document in softcopy format.

B-3: User Manuals (per Modules purchase)

Purpose: Defines the product functionality

Content: IBM provides documentation for each module Customer has purchased as well as documentation for the System Administration capabilities

Delivery:

IBM will deliver one (1) copy of this document in softcopy format at project closure.

Appendix C: Sample Project Change Request

PROJECT CHANGE REQUEST (PCR)	
PCR Date:	Requested by: PCR Number:
<p>This PCR must be approved by both parties and signed below on or before the offer expiration date before the PCR can be implemented. This offer will expire on {insert mm/dd/yyyy}, unless extended by IBM in writing. All other terms in the referenced SOW not affected by this PCR remain in full force and effect.</p>	
<p>The parties agree that this PCR modifies the existing referenced SOW as follows: {insert language regarding the changes to the SOW here}</p>	
<p>{insert language regarding the impact of the changes here... sample text is below}</p> <p>If extending the date: The new End Date is:</p> <p>If adding hours: The additional estimated services hours for this PCR are {Number of hours}, at \${Hourly rate} per hour, for additional estimated professional services charges of \${Fee total}.</p> <p>If adding Fixed Fee Services: The additional fixed fee for performing the Services defined in this PCR is \${Fee total}.</p> <p>If adding T&L: The additional estimated travel and living expenses (including actual transportation and lodging, and per diem meal expenses) for this PCR are \${Expenses}.</p>	
PCR Approval	
<p>In entering into this PCR, you are not relying upon any representation made by or on behalf of IBM that is not specified in the SOW, including, without limitation, the actual or estimated completion date, number of hours to provide any of the Services, charges to be paid, or the results of any of the Services to be provided under the SOW. Each of us agrees that the complete agreement between us about these Services consists of 1) this Project Change Request, and 2) the referenced SOW including any previous mutually-approved PCRs..</p>	
Agreed to:	Agreed to:
Customer Name:	International Business Machines Corporation
By (Authorized Signature):	By (Authorized Signature):
Name (type or print):	Name (type or print):
Date:	Date:
PCR Estimated Start Date (remove if not applicable):	Statement of Work Name:
PCR Estimated End Date (remove if not applicable):	Statement of Work Number:
	IBM Fax Number:
	IBM Internet ID:

Appendix D: Affiliate Addendum

Affiliate transaction document for IBM Statement of Work between MidAmerican Energy Holdings Company and IBM

[Affiliate Name] ("Affiliate") acknowledges that all purchases by it will be governed under the terms of the IBM Statement of Work, which was agreed to and signed by International Business Machines Corporation and MidAmerican Energy Holdings Company ("MEHC") July 2, 2013 ("SOW"). Affiliate further acknowledges and agrees that it shall be bound by the terms of any amendments to the SOW that may be made after the date hereof pursuant to any written agreement between IBM and Affiliate or between IBM and MEHC. Affiliate hereby waives notice of any such subsequent written agreement between IBM and MEHC.

Agreed to:
[Affiliate Name]

Agreed to:
International Business Machines Corporation

By: _____
(Authorized signature)

By: _____
(Authorized signature)

Title: _____

Title: _____

Name: _____
(print)

Name: _____
(print)

Date: _____

Date: _____

Your address:

Appendix E: Additional Data Security Requirements

1. Any information and data provided by Customer to IBM (electronically or otherwise) and used by IBM in the performance of its obligations under this Transaction Document ("Data") shall remain at all times the property of Customer. It shall be identified, clearly marked and recorded as such by IBM on all media and in all documentation. IBM shall not use Data, and shall not permit any subcontractor to use Data, for any purpose other than the purpose of performing the services set forth in this Transaction Document.
2. During the term of the Transaction Document, IBM shall provide Customer with notice regarding the physical location of all Data. Such notice shall be provided at least forty-eight hours in advance.
3. IBM shall implement measures designed to protect Data from any unauthorized access, corruption, loss, damage, or destruction in accordance with this Attachment 1 to Exhibit 3. IBM shall require its subcontractors to implement substantially similar measures to secure and protect their respective systems and facilities in accordance with this Attachment 1 to Exhibit 3. Such measures shall include appropriate physical, electronic and managerial procedures to safeguard and secure the Data both in transit and at rest in accordance with this Attachment 1 to Exhibit 3.
4. IBM shall make Data available to Customer's authorized users at all times as set forth in the Transaction Document. Upon written request, IBM shall provide Customer with all applicable keys with respect to encrypted Data for which IBM has responsibility for encryption under this Transaction Document.
5. IBM shall report to Customer, within forty-eight hours of discovery, any and all instances, including potential instances where there is reasonable evidence of suspicious activity of unauthorized access, corruption or loss, damage or destruction to the Data occurring on any system maintained by IBM or any subcontractor of IBM (of any tier). In each such case, IBM shall investigate such instance and provide Customer with the results of such investigation along with a remediation plan for Customer's approval promptly after such investigation. Upon such approval, IBM shall implement such plan in accordance with a schedule that is agreed upon between the Customer and the IBM. Such implementation shall be at IBM's sole cost and expense to the extent such instance resulted from IBM's failure to comply with its obligations regarding the security of Data. IBM shall provide updates on the investigation and remediation at a frequency agreed upon after the initial notification until the remediation plan has been fully implemented.
6. IBM agrees to comply (and require its subcontractors, with respect to laws that regulate such subcontractor's business in the performance of their obligations related to this Transaction Document, to comply) with applicable laws and regulations with respect to the protection and security of the Data (as such laws and regulations are amended from time to time) that are applicable to IBM as an information technology services provider in the performance of Services under this Transaction Document and at all times during the term of this Transaction Document, the data center(s) used by IBM (or its subcontractors) to provide the Services under this Transaction

NOT DRAFT

Document shall be SSAE 16 Type II certified. At Customer's written request, IBM shall provide Customer with evidence of such certification.

7. IBM agrees to provide Customer with such information and access to IBM's premises (upon giving reasonable notice) as Customer may reasonably require to validate that IBM is complying with the obligations referred to in this Attachment 1 to Exhibit 3. Such information and access shall be during normal business hours, conducted in a manner that minimizes disruption to IBM's business, may not occur more than once per year, and Customer agrees to comply with IBM's security and confidentiality requirements and shall not be entitled to any cost information or information related to other IBM customers.
8. In the event of termination of this Transaction Document IBM shall, when directed to do so by Customer, (i) erase and instruct all its subcontractors to erase all Data from the IBM's systems and magnetic data; and /or (ii) transfer all Data from IBM's systems, and cause its subcontractors to transfer all Data from their respective systems, to storage media designated by Customer or otherwise directly to Customer's systems, as determined by Customer.
9. The provisions set forth above apply to all IBM subcontractors as indicated, to the extent and during such periods as they are in possession of any Data.
10. IBM will follow Customer's reasonable requirements for all remote access to Customer resources provided to IBM in writing. IBM will maintain accurate records of employees or subcontractors who will have remote access to Customer resources and the country of origin of individual remote access. Upon reasonable cause, Customer reserves the right to deny any individual remote access to Customer's resources. So long as IBM makes diligent efforts to promptly replace any individual so removed, IBM shall not be liable for any service level agreements that are not met as a direct result of such removal.

NOT DRAFT

ATTACHMENT B

PacifiCorp Addendum

Exhibit 1

Affiliate Addendum

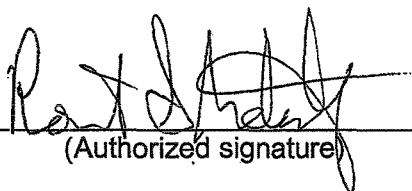
Affiliate transaction document for IBM International Passport Advantage Transaction Document between MidAmerican Energy Holdings Company and IBM

PacifiCorp ("Affiliate") acknowledges that all purchases by it will be governed under the terms of the IBM International Passport Advantage Agreement Transaction Document (MidAmerican Energy Holdings Company -SaaS IPAA TD-20130430), which was agreed to and signed by International Business Machines and MidAmerican Energy Holdings Company ("MEHC") July 2, 2013 ("Transaction Document"). Affiliate further acknowledges and agrees that it shall be bound by the terms of any amendments to the Transaction Document that may be made after the date hereof pursuant to any written agreement between IBM and Affiliate or between IBM and MEHC. Affiliate hereby waives notice of any such subsequent written agreement between IBM and MEHC.

Agreed to:
PacifiCorp

Agreed to:
International Business Machines Corporation

By:


(Authorized signature)

By:

(Authorized signature)

Title: Sr. Director, Technology Management

Title: _____

Name: Robert S. Metcalf

(print)

Name: _____

(print)

Date: July 3, 2013

Date: _____

Your address:

PacifiCorp
Lloyd Center Tower
825 NE Multnomah
Portland, OR 97232

Your IBM customer number:

Enterprise number: 5816142

IPAA Number: 181157

Passport Advantage Site number:

Ship to address: Same as above

Bill to address: 1177 S. Belt Line Road
Coppell, TX 75019