



ServiceSuite Order Supplement (via IBM Business Partner)

This ServiceSuite contract is made and effective 27/08/2019.

BETWEEN: VR695/DEFENCE BUSINESS
SERVICE REDACTED

AND: IBM United Kingdom Limited
REDACTED

(the "Client")

Client Number: 00319474

Contract Number:	RB8W37	Prepared Date:	23/08/2019
Contract Start Date:	27/08/2019	Initial Contract	
Agent Code:	60LLI	Term Commitment:	12 months with price protection
Client Reference:	contract for signature, GB201901170		

This Statement of Work is subject to the IBM Client Relationship Agreement for Services (Z126-6555-GB), "*the Agreement*", which is hereby incorporated. The IBM Client Relationship Agreement for Services defines important terms and conditions relating to our business transaction.

It is available at the URL below. If it is not accessible, please request a copy from your IBM Business Partner.

[REDACTED](#)

Nothing stated in this paragraph shall have the effect of excluding or limiting liability for fraud. Each of us agrees that the complete agreement between us regarding this transaction consists of the Agreement, this Order Supplement and the ServiceSuite Statement of Work for Services Acquired from an IBM Business Partner, and replaces any oral or written communications between us.

Data Processing Protection - IBM's Data Processing Addendum (DPA) at [REDACTED](#) and the DPA Exhibit at [REDACTED](#) and supplements the Agreement, if and to the extent the European General Data Protection Regulation (EU/2016/679) applies to Client Personal Data, as described in the DPA.

In the event of any conflict between the Agreement and the terms of the ServiceSuite Statement of Work for Services Acquired from an IBM Business Partner, the terms of the Statement of Work shall prevail to the extent of such conflict. In the event of any conflict between the ServiceSuite Statement of Work for Services Acquired from an IBM Business Partner and this ServiceSuite Order Supplement, the ServiceSuite Order Supplement shall prevail to the extent of such conflict.

ServiceSuite Order Supplement (via IBM Business Partner) (continued)

Signed for and on behalf of the Client REDACTED Authorised Signatory	Signed for and on behalf of IBM United Kingdom Limited REDACTED Authorised Signatory
Name (type or print)	Name (type or print)
Title	Title
Date	Date
Contact Email Address/Client Reference	

Statement of Work for Services Acquired from an IBM Business Partner

Statement of Work for Servicesuite

1. Definitions

Affiliate - any entity controlling, controlled by, or under common control with Client's Enterprise. The term "control" and its correlative meanings, "controlling," "controlled by" and "under common control with" means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty (50) percent of the aggregate of all voting equity interests in an entity.

Contract Period - the period for which this SOW is effective.

Contract Start Date - the date specified upon which this SOW becomes effective.

Eligible Machine - a hardware product subject to the Services of this SOW as specified in the Schedule or subsequently included under this SOW .

Eligible Product - means Eligible Machine or Eligible Program.

Eligible Program - a software product subject to the Services of this SOW as specified in the Schedule or subsequently included under this SOW .

Enterprise - any legal entity (such as a corporation) and the subsidiaries it owns by more than 50 percent. The term 'Enterprise' applies only to the portion of the Enterprise located in United Kingdom.

EOD Eligible Machine - the Eligible Machine for which IBM has withdrawn only engineering and development support.

EOS Eligible Machine - means a machine specified in the Schedule as HW Support Extension which is subject to the Hardware Support Extension Services.

IBM Tools - tools owned or licensed by IBM, that IBM may use in the performance of the Service.

Machine List - a list contained in the Schedule of this SOW that specifies the Eligible Machines subject to the Services under this SOW and their applicable Service Level Code.

On/Off Capacity on Demand (OoCoD) - temporary use of capacity on any entitled machine.

Primary Technical Contact - Client's representative to whom IBM may direct general technical information pertaining to the Services and who will have the authority to act on Client's behalf in all matters regarding this SOW. This contact must have sufficient technical knowledge of Client's Eligible Programs and Eligible Machines environment to enable effective communication with IBM's Support Center.

Renewal Period - the 12-month period following renewal of the contract if the automatic renewal option is selected.

Schedule - is the part of this transaction document that contains details of the Services, the Machine List, reference to other services and prices.

Service Level - Service levels specified in a transaction are response-time objectives only and are not guarantees. Some Service levels are not available in all worldwide locations. Response times are based on local standard business days and working hours.

The Service level measurement is aligned to start from call registration (the time Client creates the Service call and has been verified as entitled by IBM). The response time calculation is based upon the terms of the contract and the selected coverage.

Service Level Code (SLC) - defines the type of Service, hours of coverage and any Service level.

- **IBM On-site Repair (IOR)** - Service Delivery Method. If the machine cannot be fixed by IBM remote support, IBM will repair the failing machine at the Specified Location.
- **Next Business Day (NBD)** - is based on local standard business days and working hours. The IBM service representative's objective is to arrive at the Specified Location before the end of coverage of the following business day.

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- **Same Business Day (SBD)** - is based on local standard business days and working hours. The IBM service representative objective is to arrive at the specified location before the end of the coverage period of that business day.
 - **On-site Response Time/Target (ORT)** - the time or target period from service request being registered to the time service representative arrives at the Specified Location.
 - **Last Call Registration (LCR)** - For all Service Requests, the Last Call Registration (LCR) applies and indicates the latest time at which IBM can register a call in order to achieve the allocated Service Level Objective. This does not apply to a '24x7' coverage. For the avoidance of doubt the Last Call Registration for:
 - **SBD** (Same Business Day) is 12pm
 - **NBD** (Next Business Day) is 3pm

Prime Shift - the standard hours of coverage ("Business Day"), which are: 5 days, 8 hours a day from 09:00 to 17:00, Monday to Friday (excluding national holidays).

Full Shift - 24 hours a day, seven days a week (including national holidays).

Service Program - software or tools used for the provision of services.

Software Maintenance - remote support and the supply of updates for the Eligible Programs on IBM Systems.

Specified Location - an installation location specified in the Schedule. It may be Client's entire information processing environment, or a portion thereof, which may be resident at multiple sites or a single building.

Term Commitment or Initial Contract Term Commitment - the minimum period during which Eligible Machines or Services must remain subject to this SOW.

Vital Product Data - is a collection of configuration and informational data associated with a particular set of hardware or software.

2. Scope of Services

IBM will provide the Services as described in this SOW and, if applicable, its additional SOW(s) and/or Service Option Attachment (SOA), to support Client's hardware and software products (called "Eligible Machines", "Eligible Programs", and together "Eligible Products"). IBM's arrangements for Services described herein may include the use of subcontractors.

IBM will identify the Eligible Products, the Services that apply to them, and the Services transaction contract period in the Schedule(s) that reference this SOW, any additional SOW(s) and SOA(s). The Schedule will also identify the Specified Location(s) where IBM will provide the Services.

The specific terms regarding Eligible Machine Services and Eligible Program Services contained in this SOW apply only when Client has contracted for an associated Eligible Machine maintenance Service or Eligible Program support Service as specified in the Schedule.

Where Client has purchased enhanced engineer screening, the IBM personnel performing on-site diagnostic and remedial maintenance Services will have Security Check (SC) clearance.

Where the Service provides for the replacement of parts and replacement parts are fitted, the replacement parts shall become Client property and the parts removed shall become the property of IBM unless otherwise purchased by Client.

3. Contract Period

The Contract Period of this SOW has a minimum duration of one (1) year starting on the Contract Start Date. The duration of the Contract Period is defined in the Initial Contract Term Commitment.

To meet Client's business requirements, the Contract Start Date may reflect the addition of an initial adjustment period of less than one (1) year.

New Eligible Machines, Eligible Programs, Specified Locations, or Services added to this Agreement following the Contract Start Date will assume the same terms and conditions of this SOW.

The Contract Period automatically extends thereafter on a yearly basis upon expiry. Except for payment in advance, during the Renewal Period and each subsequent Renewal Period, Client's payment frequency will not change. In the case of payment in advance Client's payment frequency will be annually in advance. This Agreement will be continued thereafter for additional twelve-month periods unless terminated.

Either party can select not to extend by providing written notification to the other of their intent at least thirty (30) days prior to the end of the then current Contract Period. Client's IBM Business Partner will calculate the charges for any Renewal Period based on the then current published charges for the Services.

4. Hours of Coverage for Services

Hours of Coverage describe hours during which Maintenance or Warranty Service Upgrade support is provided according to the entitled SLC. Client may place service requests 24x7, by voice or electronically, however IBM will begin servicing the request during the applicable entitled coverage days and hours. Coverage is based on the time zone where the machine is located.

The hours of coverage for each Eligible Machine and Eligible Program are as specified in the Schedule. Unless otherwise determined, IBM provides the Services during Prime Shift. Client can change the hours of coverage of Client's Eligible Machine and Program, subject to additional charge.

5. Automatic Insertion for Machine Maintenance Services

If at any time either Client or IBM requests a review of the inventory count, each party will cooperate in updating the last formal inventory. This cooperation will be limited to the exchange and consolidations of the inventory files.

IBM machine upgrades including additional features and elements and model conversions on an Eligible Machine will be automatically added to the Schedule for the relevant machine.

6. Program License and Electronic Access

6.1 Service Program License

The following terms apply to each Service Program IBM provides with a Service that is not otherwise accompanied by a license agreement.

IBM grants Client a nonexclusive license to use the Service Program on the Eligible Machine designated by IBM to assist in problem determination or other system support in conjunction with the Services.

Client may not:

- a. modify the Service Program's machine readable instructions or data or merge them into another Program;
- b. reverse assemble, reverse compile, or otherwise translate the Service Program, unless expressly permitted by applicable law without the possibility of contractual waiver;
- c. sublicense, assign, or transfer the license for the Service Program; or
- d. distribute the Service Program to any third party.

IBM provides the Service Program without warranties of any kind.

If IBM does not supply a backup copy, Client may make one copy of the Service Program for backup purposes provided that Client reproduces the copyright notice and any other legend of ownership on the copy. The backup copy is subject to the same terms as the original.

Client's license terminates when:

1. the Service terminates, is withdrawn or expires and is not renewed;
2. the Service Program is no longer needed to perform the Service; or
3. the Eligible Machine that IBM designated for the Service Program is removed from productive use within Client's Enterprise.

IBM may terminate the license if Client does not fulfill Client's contractual obligations or at IBM's own discretion, e.g., if the program is no longer needed for the Services. Upon termination of the license, Client will be obliged to destroy the Service Program including all backup copies received or made by Client.

6.2 IBM Tools

IBM continuously develops and utilizes new IBM Tools and capabilities for the purpose of providing remote and on-site problem determination and resolution support to IBM Clients. Some IBM Tools (e.g., an application (App)), are used by on site technicians to capture images of the Eligible Machine and transmit the images to a remote IBM subject matter expert with a goal of faster and more cost effective repair and one-visit resolution of complex issues. Unless licensed in writing by IBM, Client has no right to access, retain, copy, or use the IBM Tools and no Client license or intellectual property right is granted or implied by the use of the IBM Tools used in connection with performance of the Services. IBM Tools are subject to the terms associated with them. IBM Tools are not warranted. If applicable, upon completion of the Service Client agrees to cease use of, uninstall and remove the IBM Tools from Client's Eligible Machines and facilities.

6.3 Electronic Access

The following terms apply whenever a Service under this SOW provides electronic access to IBM's databases containing IBM product support information.

IBM will:

- a. provide instructions for accessing the databases; and
- b. Provide user IDs to Client's designated Client Service Administrator (hereinafter referred to as "CSA").

Client agrees to:

- a. notify IBM of Client's designated authorized users of the databases. Client can designate only Client's employees as users;
- b. assign a user to be the CSA, who will be responsible for:
 1. following the CSA procedures IBM provides;
 2. registering Client's users for access to IBM product databases; and
 3. acting as the primary interface between Client's users and IBM;
- c. ensure Client's users utilize the information obtained from IBM databases only for the support of Client's information processing requirements. Client may not use any information obtained from IBM databases for product development purpose, neither for sales or marketing activity nor to provide support to third parties;
- d. provide the equipment (such as workstations, modems, and communication features) necessary to use IBM electronic access; and
 - a. be responsible for any unauthorized use of Client's user IDs; and
 - b. IBM providing access without warranties of any kind.

7. Charges and Payment

Client's IBM Business Partner sets the charges and terms governing payment of the charges for the Services described in this SOW and any additional SOW(s) and/or SOA(s). Client will make payment directly to Client's IBM Business Partner. If additional travel is required, Client will be responsible for all actual and reasonable travel and living expenses incurred by IBM's personnel. IBM will inform Client in advance when such expenses will occur. Client's Business Partner will invoice Client for such additional expenses on IBM's behalf.

Client's IBM Business Partner may impose an additional charge for some other actions, such as termination, withdrawal or changes to the Services. Client will check with Client's IBM Business Partner to determine if Client will incur any additional charges.

If Client's maintenance coverage (warranty or maintenance agreement) lapses for a machine/type model serial beyond the end of the expiring coverage period for ninety (90) days or more, and Client subsequently requests to restart Client's Service coverage, a Reestablishment fee will be applied. The fee is based on the number of days lapsed coverage, up to a maximum amount equal to the charge for one (1) year of hardware maintenance service fees. The hardware must meet manufacturer's published safety and serviceability specifications. IBM reserves the right to inspect the Eligible Machines within one (1) month from the start of Service.

Should a machine not meet the manufacturer's published safety and serviceability specifications, Client agrees to pay for any repairs deemed necessary by IBM prior to IBM accepting the applicable machine for ongoing Service coverage.

8. Termination or Withdrawals

IBM reserves the right to withdraw an Eligible Product when it becomes end of service. IBM will provide ninety (90) days written notice before the end of service effective date. Client's IBM Business Partner will calculate the Service charges incurred up to the date upon which the end of service is effective and invoice or credit the Client any resultant adjustment due.

8.1 Termination for Cause

Client, IBM or Client's IBM Business Partner may terminate this SOW on written notice to the other party if that party has failed to cure a material breach of its obligations in this SOW - including a failure by Client's IBM Business Partner to remit any monies due to IBM - after the non-breaching party has given written notice of such breach and reasonable time for its cure. If the breach is not remedied within such notice period and the other party cannot be expected to adhere to the SOW, the aggrieved party may terminate this SOW at any time by immediate written notice to the other party.

8.2 Withdrawals by Client of Eligible Machine(s) or Service(s)

Client may withdraw any individual Eligible Machine or Service by giving IBM via Client's IBM Business Partner ninety (90) calendar days prior written notice, after the Eligible Machine or Service has been under this SOW for at least one (1) year.

For the criteria set forth below, Client may withdraw any individual Eligible Machine or Service by giving IBM via Client's IBM Business Partner ninety (30) calendar days prior written notice, after the Eligible Machine or Service has been under this SOW for at least one (1) year.

- a. at the time of withdrawal of an Eligible Machine, Client replaces the Eligible Machine by an equivalent machine, which is certified by IBM to be eligible for the same Service; or
- b. Client ends the use of the Eligible Machine within Client's Enterprise for which the Service is rendered within this SOW. Client must be able to demonstrate end of use to IBM, if requested.

A transfer of an Eligible Machine or Service to an Affiliate is not considered a withdrawal. The transfer of use of an Eligible Machine for education purposes, for backup solutions or within Client's test environment does not constitute end of use.

8.3 Termination for Convenience

Either party may terminate for convenience the entire SOW at any time during the Initial Contract Term Commitment but no earlier than twelve (12) contract months from the Contract Start Date by giving IBM via Client's IBM Business Partner ninety (90) calendar days prior written notice stating election to terminate the SOW for convenience at the effective date of such termination. If the termination is due to one of the events described in section "Withdrawals by Client of Eligible Machine(s) or Service(s)" for all the machines or Services of this SOW, Client will notify IBM via Client's IBM Business Partner with thirty (30) calendar days written notice. The termination will become effective on the first day of the calendar month following the completion of the notice period.

8.4 Termination Charges

In the event of any termination or withdrawal, Client is required to promptly pay all outstanding charges due to Client's IBM Business Partner; Client's IBM Business Partner may impose an additional termination charge.

9. Maintenance of IBM Machines

IBM will provide the Maintenance of IBM Machines Service for the IBM Eligible Machines specified in the Machine List in the Schedule. Maintenance Service commences only after the warranty has expired. This Service consists of:

- a. verification of entitlement for Service;
- b. remote Client assistance in determining whether system problems are machine or program related (problem determination);
- c. on-site and remote diagnostic and remedial maintenance Service in accordance with the Service Level Code specified for the Eligible Machine in the Machine List in order to keep the IBM Eligible Machines in, or restore them to, conformance with their officially published specifications;
- d. if available for Client's IBM Eligible Machines, installation of Service Programs to endeavor to:
 1. detect and analyze permanent errors;
 2. correlate temporary errors; and

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3. identify and report media problems
 - e. the Services of support specialists from IBM manufacturing, engineering, and development locations as deemed necessary by IBM;
 - f. the planning, scheduling and installation of any engineering changes or field change orders required to improve the serviceability, performance and/or safety of the IBM Eligible Machines;
 - g. assisting Client in establishing and implementing electronic support facilities such as IBM Electronic access; and
 - h. activation - for use by IBM personnel - of electronic facilities to remotely diagnose, applying fixes and update Client's IBM Eligible Machines.

The Maintenance Service does not include additional travel/waiting time incurred in the repair of any machine which is located in a place where IBM regularly has no trained personnel. For such locations, specified by IBM, Client will be charged for additional travel/waiting time at IBM's then applicable hourly services rate, together with any travel expenses incurred but with no additional charge for replacement parts. For the avoidance of doubt this shall mean the Scottish Isles, the Isle of Man, the Isles of Scilly, the Channel Islands, Gibraltar and the Isle of Wight.

When an Eligible Machine with available repair parts and skilled resources becomes end of service as announced by IBM, the Eligible Machine will cease to be subject to the maintenance service as described in this SOW as "Maintenance of IBM Machines" and instead will automatically transfer to become subject to the service as described in this SOW as "Hardware Support Extension" unless advised otherwise by IBM.

For some Eligible Machines IBM will withdraw only engineering and development support (EOD) and continue to provide limited support for known defects (change of support level) as described in this SOW as "Change of support level after end of development (EOD)" unless advised otherwise by IBM.

9.1 Warranty Service Upgrade

For certain IBM Eligible Machines Client may select a Service upgrade from the standard warranty Service to a higher level of Service. Client may not terminate the Warranty Service Upgrade or transfer it to another IBM Eligible Machine during the warranty period. IBM provides Warranty Service Upgrade for IBM Eligible Machines as specified in the Schedule. When the warranty period ends, the IBM Eligible Machine will be covered by Maintenance of IBM Machines Service at the same level of Service Client selected for Warranty Service Upgrade.

Certain IBM Eligible Machine types with a same day on-site response time objective may require the installation and use of remote connectivity tools and equipment for direct problem reporting, remote problem determination and resolution.

9.2 Change of support level after end of development (EOD)

After IBM has announced end of development for specified EOD Eligible Machines, affected machines will be covered under the new support level on the effective date in the notice, unless Client notifies IBM in writing of Client's intent to terminate coverage before the effective date.

Unless otherwise specified in the change of support level notice, IBM will continue to:

- a. provide remote technical support for problem determination (PD) and problem source identification (PSI); and, where able, remote problem resolution;
- b. provide on-site technical resources, if necessary, for hardware defect resolution (for example, but not limited to, the exchange of field replaceable units (FRUs));
- c. determine an applicable resolution which may include existing patches or workarounds for Client installation; and
- d. provide assistance with code related questions for pre-existing Machine Code (also referred to as microcode or firmware) fixes only.

Beginning on the effective date in the notice, EOD Eligible Machines will continue to stay under the same hardware maintenance Service Levels. The limitation is that IBM's responsibilities will no longer include any:

- a. preventive service;
- b. support for newly reported defects or previously reported or known defects for which no updates, patches, or fixes were created;
- c. engineering change management;

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- d. recovery of the machines from multiple disk failures, logical volume recovery, product quality improvements, root cause analysis, problem recreates, comparable issues; or
 - e. development of any new machine code updates, patches or fixes (including those designed to address security). IBM publishes its responses to security vulnerabilities at its Product Security Incident Response blog found here: [REDACTED](#)

9.3 Hardware Support Extension

After IBM has announced end of service for specified Eligible Machines (EOS Eligible Machines), IBM will provide limited support, to include remote assistance, from IBM's support center or via electronic access, and on-site assistance, in response to Client requests for hardware support on the EOS Eligible Machines that have reached end of service (Hardware Support Extension).

The terms specified in this section are only applicable to this specific Hardware Support Extension Service and will terminate when this service terminates. Client will receive Hardware Support Extension for the EOS Eligible Machines. Any newly acquired EOS Eligible Machines may be added upon Client's request, and once accepted by IBM will be reflected via a Schedule and may result in changes to the charge for this Service.

IBM neither warrants i) uninterrupted or error-free operation of this IBM Service or EOS Eligible Machines covered hereunder; nor ii) that IBM will correct all defects or prevent third party disruptions or unauthorized third party access to the EOS Eligible Machines. On-site repair is subject to the availability of repair parts and skilled resources and does not include repairs that require software, engineering, or development support. The covered EOS Eligible Machines, Contract Period (the Hardware Support Extension Effective Date to the Hardware Support Extension End Date), locations, options selected, and charges, all as applicable, are specified in the applicable Schedule.

IBM will:

- a. provide remote technical support to undertake problem determination (PD), problem source identification (PSI) and, where able, remote problem resolution;
- b. provide on-site technical resources, if necessary, for hardware defect resolution (for example, but not limited to, the exchange of field replaceable units (FRUs), provided that the parts are generally commercially available);
- c. determine if an applicable resolution exists, which may include patches or workarounds; and
- d. provide assistance with code related questions for pre-existing Machine Code (also referred to as microcode or firmware) fixes only.

For the avoidance of doubt, IBM's responsibilities under Hardware Support Extension do not include any:

- a. preventive service;
- b. support for newly reported defects or previously reported or known defects for which no updates, patches, or fixes were created;
- c. engineering change management;
- d. recovery of the machines from multiple disk failures, logical volume recovery, product quality improvements, root cause analysis, problem recreates, comparable issues; or
- e. development of any new Machine Code updates, patches or fixes (including those designed to address security). IBM publishes its responses to security vulnerabilities at its Product Security Incident Response blog found here: [REDACTED](#)

The hours of coverage for each EOS Eligible Machine are as specified in the Schedule. Unless otherwise determined, IBM provides the Hardware Support Extension during Prime Shift.

Either party may withdraw any individual EOS Eligible Machine or terminate the Hardware Support Extension Service on ninety (90) days written notice to the other party effective at the end of a calendar month.

IBM may withdraw any individual EOS Eligible Machine or terminate the Hardware Support Extension Service on thirty (30) days written notice, effective at the end of a calendar month, in the event that IBM determines that any required parts are no longer commercially available.

The Client may withdraw any individual EOS Eligible Machine or terminate the Hardware Support Extension Service on thirty (30) days written notice, effective at the end of a calendar month, if the Client permanently removes the EOS Eligible Machine from productive use within the Client's Enterprise.

Client termination or withdrawal notice to be provided to IBM via Client's IBM Business Partner.

Hardware Support Extension does not automatically renew.

10. Maintenance of Multi-Vendor Machines

IBM will provide Multi-Vendor Services ("MVS") to assist Client in coordinating and managing Service activities for the non-IBM Eligible Machines listed as such in the Machine List in the Schedule of this SOW.

Client must provide detailed machine configurations to IBM as soon as it is practicable, Client acknowledges that spare parts required for IBM to provide MVS may not be available for up to thirty (30) days following receipt of the detailed machine configurations.

Client must promptly inform IBM for any change applied to the machine configuration during Maintenance Contract Terms. MVS may not be available for up to thirty (30) days following receipt of the detailed machine configurations changes.

Prior to providing MVS, a non-IBM machine must be in good working order to qualify for the Service. IBM may perform an inspection before accepting a non-IBM machine for MVS. If it is not in an acceptable condition, Client will have to restore it to a satisfactory working order, which IBM may perform, for a charge. Client will check with Client's IBM Business Partner to determine if Client will incur any additional charges.

IBM will provide remedial or preventive maintenance Service for non-IBM Eligible Machines to maintain their functional operation in accordance with specifications known to IBM.

IBM will not accept for exchange repair Service (if applicable) non-IBM Eligible Machines which are defaced, modified, or damaged beyond repair.

Notwithstanding other terms of this SOW:

- a. Charges are based on MVS Inventory. IBM will adjust the charges when the inventory changes, otherwise there will be no adjustment on the charges;
- b. IBM may remove a non-IBM machine from Multi-Vendor Services upon 30 days written notice to Client where necessary spare parts and vendor's/manufacturer's support documentation is no longer commercially available; and
- c. Client commits to continue MVS for the specified transaction contract period. Neither party may terminate MVS during the first twelve (12) months. Thereafter, Client may terminate upon the anniversary start date if Client has provided three (3) months written notice to IBM via Client's IBM Business Partner.

10.1 Exclusions

This Service does not cover:

- a. non-IBM Eligible Machine installation and engineering change activity unless otherwise specified;
- b. correction of date related errors. IBM will make the final determination of whether a date related error is the source of the problem;
- c. provision or service of microcode or firmware or programs, with the exception of eligible IOS® where applicable;
- d. service of features, parts, or devices not supplied by either:
 1. the non-IBM Eligible Machine's original manufacturer or IBM; or
 2. IBM during the performance of this Service.
- e. service for accessories, supply items, and certain parts, such as batteries, frames, and covers;
- f. service of a non-IBM Eligible Machine damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by Client;
- g. service of a non-IBM Eligible Machine with removed or altered machine or parts identification labels;
- h. failures caused by a product for which IBM is not the Service provider;
- i. failures caused by non-IBM Eligible Machine alterations;
- j. any non-IBM Eligible Machines that do not meet the manufacturers published safety and serviceability specifications; and
- k. additional travel/waiting time incurred in the repair of any machine which is located in a place where IBM regularly has no trained personnel. For such locations, specified by IBM, Client will be charged for additional travel/waiting time at IBM's then applicable hourly services rate, together with any travel expenses incurred but with no additional charge for replacement parts. For the avoidance of doubt this shall mean the Scottish Isles, the Isle of Man, the Isles of Scilly, the Channel Islands, Gibraltar and the Isle of Wight.

11. Other Services

IBM will perform "Other Services" as listed in the Schedule of this SOW under the terms of their applicable separate SOW(s), SOA(s) and any documents referenced in the Schedule. Client will check with Client's IBM Business Partner to determine if Client will incur any additional charges.

12. Client Responsibilities

Client agrees to:

- a. designate Client's Primary Technical Contact within three (3) business days from Client's signature of this SOW;
- b. provide Client's IBM Business Partner with an inventory in which Client identifies all Eligible Machines to be covered at each Specified Location. Client also agrees to identify all Eligible Machines for which IBM is to provide warranty Service;
- c. notify Client's IBM Business Partner whenever Client wishes to add Eligible Machine types to an existing Specified Location or set up new Specified Locations; Client's IBM Business Partner will inform Client of the relative additional charge;
- d. notify Client's IBM Business Partner of any changes at Client's Specified Locations to Client's program and machine inventory and processing capacity, which is within the scope of this SOW, within thirty (30) calendar days after the change occurs. Such changes may cause Client's IBM Business Partner to adjust Client's charges for the Service;
- e. contact IBM to raise a service request in the event that a system error occurs for an Eligible Product. Service requests may be reported through the contact details specified on the following web address: REDACTED
- f. use remote support technologies, where available, for direct problem reporting and remote problem determination in order to expedite service response and resolution of issues;
- g. ensure that any access codes IBM provides to Client are used only by Client's authorized personnel;
- h. provide IBM with information that IBM requests related to IBM's provision of the Services to Client, and notify IBM and Client's IBM Business Partner of any changes;
- i. use any electronic diagnostic and Service delivery facilities IBM provides to Client only in support of Eligible Machines and Eligible Programs identified in the Schedule;
- j. give IBM authorization to remotely access Client's Eligible Machines and Eligible Programs in order to enable IBM's performance of the Services;
- k. provide IBM with appropriate remote access to Client's Eligible Machines and Eligible Programs via modem, the Internet or other IBM approved connectivity mode for the provision of remote Services such as problem diagnosis and correction. Client is responsible for supplying the modem and telephone lines required at Client's facility and for providing IBM with access to Client's Eligible Machines and Eligible Programs. Failure to deliver remote access to Client's Eligible Machines and Eligible Programs may delay the problem resolution time;
- l. be responsible for adequately protecting Client's Eligible Machines, Eligible Programs and all other programs and data contained therein whenever IBM accesses them;
- m. be responsible for the security of Client's information and for maintaining procedures for the reconstruction of lost or altered files, data and programs;
- n. pay any communications charges associated with Client's accessing of the Services unless IBM specifies otherwise;
- o. ensure Client is properly licensed for all Eligible Programs for which Client requests Services;
- p. review on a regular basis the IBM websites to verify whether there have been any additions or deletions or changes to the Programs and Machines eligible to the Services under this SOW;
- q. ensure that Systems covered are at the most recent cumulative fix level;
- r. provide IBM with all relevant and available diagnostic information (including product or system information) pertaining to problems with Eligible Machines and Programs for which Client requests assistance;
- s. install on Client's Eligible Machine(s) the appropriate Programs IBM will specify to Client that may be required for the use of remote electronic tools;
- t. be responsible for the installation of microcode, firmware and fixes which IBM recommends to Client;
- u. use the information obtained under this Service only for the support of the information processing requirements within Client's Enterprise;
- v. acknowledge that some devices (e.g. fusion I/O devices and solid-state devices), have read/write or wear limitations as documented in the hardware product specifications and/or limitations. When these devices have reached the wear limitations, they are not covered under Maintenance Services under which IBM agrees to

provide support, maintenance, or replacement of defective, failed or any other parts, unless such terms specifically identify the device by description and/or part number and describes the terms of support or maintenance coverage applicable to it;

- w. be responsible for the content of any data file, database, the selection and implementation of controls on its access and use, backup and recovery and the security of the stored data. This security will also include any procedures necessary to safeguard the integrity and security of software and data used in the performance of the Service from access by unauthorized personnel; and
- x. be responsible for the identification and interpretation of any applicable laws, regulations, and statutes that affect Client's business and technical environment, as well as to ensure that Client's environment meets the requirements of those applicable laws, regulations and statutes.

13. Change of location

If, during the term of the SOW, an Eligible Machine is moved to a different installation site by non-IBM personnel (change of location), IBM will have the right, afterwards and before continuing to provide Services, to review the maintainability of the machine. This review is subject to a Service Charge. Client will check with Client's IBM Business Partner to determine if Client will incur any additional charges.

If, during this review, IBM identifies any failure caused by a change of location, this failure will not be covered by this SOW. IBM may offer to troubleshoot the machine, or to suspend the Service for the machine until Client has solved the failure itself. In the latter case, IBM reserves the right to repeat the review mentioned above, also subject to a Service charge; as well as in both above cases, Client will check with Client's IBM Business Partner to determine if Client will incur any additional charges. The final decision on the origin of the failures (caused by a change of location or not) will be made by IBM only.

14. On/Off Capacity on Demand (OoCoD)

The temporary use of capacity, whether acquired or not, and ordered through the On/Off Capacity on Demand process on any entitled machine may lead to additional Maintenance fees. Client will check with Client's IBM Business Partner to determine if Client will incur any additional charges.

The configuration, time of activation, and time of deactivation for OoCoD is recorded on the entitled machine, and reported to IBM by a Vital Product Data file that Client transmits to IBM.

Service Option Attachment for IBM Software Maintenance

15. IBM Software Maintenance

15.1 Scope of Service

Under this Service Option Attachment (SOA) for IBM Software Maintenance Service IBM will provide remote support and the supply of updates for the Eligible programs of IBM System p, System i, Power System Platforms, WebSphere DataPower and as well as Storage Systems.

IBM provides the Service for the Program within its support timeframe as specified in the SoftwareSupport Lifecycle policy REDACTED for the Program.

The Service does not include assistance for:

- a. the design and development of applications;
- b. the Client's use of Programs in other than their specified operating environment; or
- c. failure caused by products for which IBM is not responsible under this SOA.

15.2 Additional Definitions

Client Critical Problem – a problem resulting in a critical disruption of the Client's business operations for which Client has no known temporary solution.

Licensed Unit - means a unit for which an Eligible Program has been licensed for IBM Software Maintenance. Licensed Units are for instance machines, cores (also called "Processors"), installed total number of an Eligible Program (per install), the attached and managed chassis ("Managed Chassis"), appliances, storage devices/encllosures or respective memory size (by Terabytes).

Software Maintenance Eligible Program - means a program specified in the Schedule as subject to IBM Software Maintenance which is licensed by the Client, listed on the Internet at the website REDACTED and installed on an Eligible Machine.

The IBM i programs (previously also known as iSeries, i5/OS or OS/400 programs) listed on the above mentioned website are eligible for IBM Software Maintenance Services for iSeries and i5/OS Eligible Machines if the IBM Software Maintenance Service is specified in the Schedule. All other programs listed on the above mentioned website must be specified by name in the Schedule and designated as Software Maintenance Eligible Programs.

The list of programs available on the above mentioned website will also be provided to the Client by IBM upon request. The Client's IBM marketing representative can also provide the Client with the listed programs.

15.3 Technical requirements

The following terms apply to IBM Software Maintenance:

- a. the IBM Software Maintenance Service for AIX-based license programs will be subject to the requirement that an IBM Software Maintenance service agreement for AIX has been validly concluded and will be maintained during the entire term of the relevant agreement;
 - b. the IBM Software Maintenance Service for IBM i-based license programs (previously also known as i5/OS and OS/400) will be subject to the requirement that an IBM Software Maintenance service agreement for iSeries and i5/OS has been concluded and will be maintained during the entire term of the relevant agreement.
 - c. All Licensed units must be covered by the IBM Software Maintenance service for an Eligible Program.
- An equivalent IBM Linux support service is strongly recommended for all Linux-based license programs.

15.4 IBM Responsibilities

For the Software Maintenance Eligible Programs specified in the Schedule, and for which the Client is licensed, IBM will provide during the Contract Period the following:

-
- a. make available to Client the most current commercially available version, release, or update to all of the Software Maintenance Eligible Programs. For Eligible Programs under this SOA, Client may obtain upgrades to any more recent commercially available version, release or update. Client's right to upgrade to a new version, release or update under this SOA may only be exercised during the Software Maintenance Period and expires at the end of the Period if Software Maintenance is not renewed.
 - b. remote assistance in response to the Client's requests pertaining to:
 - 1. basic, short duration installation, usage, and configuration questions;
 - 2. questions regarding Program publications;
 - 3. code-related problem questions;
 - c. diagnostic information review to assist in isolation of a problem cause (for example, assistance interpreting problem documentation such as traces and dumps for installation and code related problems);
 - d. for known defects, available corrective service information and program fixes (PTFs) for which the Client is entitled to receive under the terms of the Client's IBM license.
 - e. provide remote assistance via telephone and, if available, electronic access, only to the Client's information systems (IS) technical support personnel during Prime Shift.
 - f. use commercially reasonable efforts to respond, by telephone, to service calls from the Client within two (2) hours during Prime Shift. IBM's initial response may result in resolution of the Client's request or it will form the basis for determining what additional actions may be required to achieve technical resolution of the Client's request.
 - g. respond outside Prime Shift, to service calls which the Client specifies to be Client Critical Problems and will use commercially reasonable efforts to provide such response within two (2) hours.

15.5 Additional Client responsibilities

The Client shall:

- a. regularly check the current list of Eligible Programs on the website specified in the section "Definitions" of this SOA to determine whether or not program versions/releases have been added and/or deleted; and
- b. provide to IBM the name of a Primary Technical Contact person for technical issues relating to the Client, to whom general technical information for the Eligible Machines and Programs can be sent. The Primary Technical Contact and all callers must have sufficient technical knowledge of the Eligible Machines and Software Maintenance Eligible Programs of the Client to ensure effective communication with the IBM Support Center.

15.6 Additional Charges

A one-time charge - After License Charge ("ALC",) will apply:

- a. if there is a resumption of the Software Maintenance after a temporary interruption of the service (no continuous extension of the software maintenance upon expiry of the last support period) or;
- b. when Client acquires the Software Maintenance for a new license as part of the purchase of a second-hand machine, unless Client acquires Software Maintenance within 30 days of Client's acquisition of the license.

Client's Business Partner will invoice Client for such additional charges on IBM's behalf.

15.7 Termination and Withdrawal

IBM may terminate or withdraw this IBM Software Maintenance Service or withdraw a Program listed on our IBM websites indicated in the section "Definitions", upon three months' written notice to the Client. In case the Client has prepaid for the IBM Software Maintenance Service for a withdrawn Program, IBM will provide a prorated credit.

IBM reserves the right to periodically change the Programs listed on the IBM websites indicated in the section "Definitions", such additions and removals accordingly amend the Client's Software Maintenance Eligible Programs and Eligible Machines. This will result in corresponding changes to the inventory of the Client's programs eligible for software maintenance.

15.8 Incorporated Terms

This IBM Software Maintenance Service SOA is subject to the terms of the SOW and the International Agreement for the Acquisition of Software Maintenance (IAASM) available at:

<http://www-03.ibm.com/software/sla/sladb.nsf/sla/iaasm>

Eligible Programs to which this SOA applies are licensed under the International Program License Agreement ("IPLA") unless otherwise specified by IBM. A copy of the IPLA is provided with each Program in the Eligible Program's directory or in a library identified as "License", as a booklet, or on a CD. Sections of the IPLA entitled "Licensee Data and Databases", "Limitation of Liability", "Compliance Verification", "General" and "Geographic Scope and Governing Law" including any associated Country Unique Terms applicable to those sections are also part of the Agreement.

The following modifications apply:

- a. if the IPLA version provided with the IBM Eligible Program is not version 13 or higher (the version number is indicated by the last two digits in the form number – for example, the "13" in Z125-3301-13), then version 13 applies. Client may obtain a copy of version 13 from IBM or its resellers and on the Internet at www.ibm.com/software/sla; and
- b. changes in the terms:
 1. the terms "Program" and "Program license(s)" are replaced by the term "Software Maintenance".
 2. The term "Licensee" is replaced by the term "Client".
 3. The phrase "the laws of the country in which Client acquired the Program license" in the Governing Law subsection is replaced by "the laws of the country in which Software Maintenance is acquired".
 4. The statement, "All of our rights, duties, and obligations are subject to the courts of the country in which Client acquired the Program license" in the Jurisdiction subsection is replaced by the statement, "All rights, duties, and obligations of each of the parties are valid only in the country in which Software Maintenance is acquired or, if IBM agrees, the country where Software Maintenance is used".

Capitalized terms used but not defined in this SOA have the meaning given to them in the IPLA.

Service Option Attachment for Proactive System Check for Storage

16. Proactive System Check for Storage

16.1 Scope of Service

The purpose of this service option is the execution of a proactive system check for storage systems REDACTED with remote analysis of support data & or error logs. If this check cannot be executed remotely, an IBM specialist will give on-site support under the conditions described in this service option attachment.

In a dynamic infrastructure, IBM recommends to perform a proactive system check at least twice a year in order to pre-emptively identify source of problems and avoid outages.

16.2 IBM responsibilities (SAN volume controller and SAN switch director)

IBM names a service specialist as a contact person for the Client, this specialist is responsible for the delivery of the service and will:

- Communicate with the delegates of the Client;
- Give guidance to the Client to send the support data to the secured IBM Enhanced Customer Data Repository (ECuRep REDACTED if needed);
- Gather the support data if they are not sent;
- Execute an extended health check to validate the internal functions;
- Create a status report with a list of actions that IBM recommends based on the results of the checks.

In addition to the above for REDACTED systems:

- Execute a communication check to validate the quality of the connections with the environment during a six-hour time window;

For REDACTED only:

- Dial into the REDACTED after initialization and authorization of the Client;
- Give guidance to the Client to send the product engineering packages defined by IBM REDACTED
- Gather the product engineering packages if they are not send automatically;
- Execute an extended health and communication check to validate the internal functions and the quality of the connection between the REDACTED and the SAN (Storage Area Network) or the mainframe.
- Write a status report with a list of actions that IBM recommends based on the results of the tests.
- Execute a "Call Home" test, (the "Call Home" function warns IBM via modem or Internet about a possible issue) if the machine is connected to IBM.

16.3 Client responsibilities

The Client will follow IBM's instructions in order to send the support data to the secured IBM Enhanced Customer Data Repository (ECuRep REDACTED). The Client can also enable the access to the SAN volume and SAN switch status, REDACTED disk systems for the IBM service specialist in order to gather the support data on-site. In this case IBM will charge one hour travel costs and one hour on-site support in addition to the proactive system check fees.

For SAN volume controllers:

- IBM will charge in addition to the above, one hour on-site support per storage engine.

For REDACTED:

-
- If the REDACTED is not connected to IBM, the Client enables the access to the REDACTED for the IBM service specialist. In such case IBM will charge one hour travel costs and one hour on-site support in addition to the proactive system check fees.
 - If the machine is connected to IBM via modem only, the Client allows the dial-in and follows IBM's instructions in order to send the error logs on a storage medium.
 - If the machine is connected to IBM via modem and a fast internet connection, the Client allows the dial-in and the forwarding of the error logs.

16.4 The deliverable materials for the proactive system check are:

- a status report of the health check.
- a support plan with a list of the IBM recommendations for the REDACTED, SAN volume and SAN switch status.
- IBM will provide a consulting call to the Client for each incident in order to explain the results.

In addition to the above for REDACTED:

IBM will also provide a status report of the communication check or for REDACTED (the result of the "Call home" test).

Service Option Attachment for Warranty and Maintenance Service Upgrade Committed Service Levels

17. Committed Maintenance Service Level (CMSL)

17.1 Scope of Service

IBM offers CMSL as described below, for two categories of Service:

- a. Warranty Service Upgrade with Committed Maintenance Service Levels (WSUC).
- b. Maintenance Service Upgrade with Committed Maintenance Service Levels (MSUC)

17.2 Description of Committed Maintenance Service Levels

Available CMSLs, measured within the contractually agreed Coverage Hours, are:

- a. **Fix Time:** IBM commits to perform Eligible Service within the selected Fix Time. The Fix Time, as measured by IBM, is the period of time between Client's service request being registered as an eligible call in IBM's Call Management System and the Eligible Machine being restored to its Specifications.
- b. **On-site Response Time:** IBM commits to arrive at the location of the Eligible Machine within the selected On-site Response Time. The On-site Response Time, as measured by IBM, is the period of time between Client's service request being registered as an eligible call in IBM's Call Management System and the service representative arriving at Client's Eligible Machine location.
- c. **Contact Time:** IBM commits to contact Client for an initial problem determination within the selected Contact Time. The Contact Time, as measured by IBM, is the period of time between Client's service request being registered in IBM's Call Management System and a qualified representative contacting Client as a first step of problem determination.

The selected CMSL for an Eligible Machine is specified in the Schedule of the SOW. The CMSL prevails over the warranty or maintenance option in effect under the SOW.

Qualified Call – Client's service request qualified by IBM as eligible for this SOA.

17.3 Term and Termination

This SOA term begins on the start date in the Schedule of the SOW and is coterminous with the SOW, unless earlier terminated under the terms of the SOW.

17.4 Claims for Non Compliance with the Committed Maintenance Service Level; Credits

For an entitled Machine Type/Model/Serial eligible for CMSL, if IBM fails to meet the CMSL for Client's service request, the Client is entitled to claim a Service credit. For applicable Eligible Machine Type Model / Serial, the Service credit is equivalent to 5% of the net annual maintenance charge for that specific Eligible Machine Type Model/Serial.

If a single event causes an outage resulting in multiple failures, Client will be eligible to receive the Service credit for only one of the failing Eligible Machines. In this case, Client will only receive the Service credit of the greatest amount and not an aggregate credit for all failing Eligible Machines.

Client is entitled to no more than two Service credits per Eligible Machine per contracted year (i.e., the maximum total credit which can be claimed by Client per Eligible Machine per contracted year is 10% of the net annual maintenance charge for the Eligible Machine Type Model/Serial). Client is entitled to receive a service credit only if Client has paid for CMSL.

For CMSL acquired from an IBM Business Partner, Client will claim applicable credits from the IBM Business Partner that sold CMSL to Client.

In order to receive a service credit, Client must notify its seller no later than 30 days after the date IBM failed to meet the CMSL for a Qualified Call. After the 30 days have passed, the eligibility to claim the credit is forfeited. After investigation of Client's claim, IBM will notify Client or Client's IBM Business Partner, as applicable, of any service credit due to Client. Such service credits are useable to offset any amounts due to IBM but not for amounts due to any IBM Business Partner. Any credits owed upon the termination of CMSL will be settled within one month following the termination.

17.5 Exclusions

Service credits do not apply during the initial one month period after the Start Date for the Eligible Machine, or for one month after the date of installation of a system upgrade, (collectively, the Transition Period).

Client may not claim Service credits:

- a. for any delay due to causes outside IBM's control;
- b. for failures caused by an external source (product or software);
- c. for failures due to non-incident problems (not limited to failure due to system administration, commands, file transfers performed by Client's representatives);
- d. for any delay due to Client's actions, including, but not limited to:
 1. Client-deferred Services, scheduled maintenance, incomplete information, delays in providing security clearance to the IBM representative arriving on site, work performed at Client's request, or due to other activities Client directs;
 2. delay due to down level microcode or firmware, where microcode and firmware levels are Client's responsibility;
 3. delays because Client elected not to use IBM Service Agent or electronic services, where available at no cost and designed to minimize system downtime;
 4. lack of availability of Machines, or lack of timely response time by Client for incidents that require Client participation for source identification or resolution;
 5. delay in the performance of Client's responsibilities under the SOW or Client's breach of Client's obligations under the SOW or Agreement; or
 6. to periods of non-availability due to other parties, including Client or IBM Business Partner.
 7. Delays caused by Client are deducted from the measurement of Fix Time.

17.6 Exclusivity of Remedies

Client and IBM agree that service credits are liquidated damages that constitute Client's sole and exclusive remedy for missed CMSL. If Client purchased CMSL from an IBM Business Partner, this SOA does not give Client any entitlement to make claims against Client's Business Partner for missed CMSL.

17.7 Changes

Changes (e.g., due to a system upgrade or a system conversion installed on an Eligible Machine, or a higher Service level) may increase the charges, effective the day the system upgrade, system conversion, or level is effective. If Client acquired CMSL from an IBM Business Partner, the Business Partner determines and invoices the increased charge, if any.

Service Option Attachment for Global Microcode Support

18. Global Microcode Support

18.1 Scope of Service

The IBM Microcode Support services (“Services”) will consist of supporting Microcode as defined below, for those Eligible IBM Machines specified in the Schedule by providing Analysis services only or Analysis and Update services as further described below. The type and frequency of the Services are defined in the related Schedule for each contract year. Any Analysis and/or Update services exceeding the agreed scope of this SOA will be invoiced separately to you by IBM or your IBM Business Partner.

As a prerequisite for the provision of the Services, covered by this SOA each of the Eligible IBM Machines, as defined below, for which Microcode Support will be provided must be (i) fully operable upon the commencement of the Services, (ii) on a supported Microcode and software level and (iii) covered by an IBM hardware maintenance agreement and/or must be under warranty during the entire SOA term. Systems running REDACTED must also be covered by an IBM software maintenance agreement. In addition, REDACTED IBM Machines must have IBM Service Agent enabled. The Services as described within this SOA when delivered on IBM System Storage products will require that the Storage Area Network (SAN) Service Agent has been installed and enabled on the SAN SA Server for the entire SOA term.

It is agreed between you and IBM that the Services cannot be provided for Eligible IBM Machines for which IBM no longer offers hardware maintenance. IBM may at any time modify the current list of supported Machines for which Microcode Support is available in order to include additional machines or to remove machines that have been withdrawn from support, reached end of useful life, or are considered to be “steady state”. Upon request, IBM will provide you with the current list of supported Machines for which Microcode Support is available.

18.2 Facilities and Hours of Coverage

1. The on-site Services will be performed at your Specified Locations as defined and listed in the Schedule.
2. IBM will provide Services under this SOA consistent with your service level for the applicable Eligible IBM Machine as specified in the Schedule. In some cases, you may be required to provide access to your Specified Locations outside normal business hours, as mutually agreed between you and IBM.

18.3 Definitions

Cumulative System i PTF Packages - the program fixes for a specific release of the REDACTED operating system and the related licensed programs.

Eligible IBM Machine - the Machine for which Microcode Support is provided within the scope of this SOW.

Group HIPER PTFs - the High Impact Pervasive PTFs that help to reduce or eliminate errors that may have a heavy impact on the system's functionality.

Microcode - the supported microcode, firmware and Basic Input Output System (BIOS levels (not including any beta versions) for which you have a license for the Eligible IBM Machines and their internal disks and adapters.

SAN SA Server - Clients system connected to the SAN and dedicated to run the SAN Service Agent programs.

SAN Service Agent - IBM software tool that resides on a Clients system to monitor, capture, and periodically transmit to IBM inventory and configuration information of the eligible storage products.

Specified Locations - the locations of an Eligible IBM Machine covered by the Services as identified by the installation address on the Schedule.

Storage Area Network (SAN) - ensemble of communication paths, machines and programs that enable the inter-connectivity between data storage devices and associated data servers.

System i PTF (Program Temporary Fix) - the preliminary program fixes within the System i environment. Several System i PTFs may be combined in groups or packages. The installation of these packages helps enable the reduction of system failures and/or the addition of functionalities.

Technical Relationship Manager - means IBM's contact person who coordinates with you for actions which are necessary for the provision of the Services and who, within IBM, coordinates the implementation of the Services for you.

18.4 Microcode Support - Analysis

IBM will provide the following Analysis Services to you the number of times set forth in the Schedule during the term of this SOA:

1. IBM will verify whether the recorded Microcode levels of the inventoried Eligible IBM Machines for Microcode Support services are up-to-date, taking into account any dependencies on the operating system and driver levels. Any dependencies between connected Eligible IBM Machines will also be verified for Machines that have been included in the inventory for the Microcode Support services. With respect to dependencies in relation to non-IBM products, the Services will be limited to informing you about the possibility of interoperability problems relating to the Microcode to be used. Verification of the dependencies within a SAN will be completed only if the Services have been purchased for the connected SAN components;
2. IBM will provide you with a support plan specifying detailed information about whether the Microcode levels for the respective Eligible IBM Machines are up-to-date, including recommendations for an upgrade, and the recommended upgrade levels, if necessary. In case the Microcode upgrade recommendations require upgrades of device drivers, the resulting recommendations of device driver updates will also be given to you by IBM. You remain responsible for decisions regarding the use of updates or their application.

18.5 Microcode Support - Update Services

IBM will provide the following Update Services to you the number of times set forth in the Schedule and during the term of this SOA:

If specified in the Schedule, in addition to the Services specified in the scope of the "Microcode Support - Analysis" section above, IBM will implement updates of the Microcode levels on the Eligible IBM Machines selected for Update Services in the Schedule at the Specified Locations. You will inform IBM which updates indicated in the support plan are to be implemented by IBM. You remain responsible for implementing the updates for the device drivers and the operating system.

The REDACTED of the service processor that contains the REDACTED will be performed by IBM on the Eligible IBM Machines by means of an eligible Hardware Management Console (HMC) or REDACTED. Additionally the Group REDACTED for updating the different hardware components of any relevant REDACTION will also be installed.

You remain responsible for implementing the installation of REDACTED.

By providing an update of the MREDACTED level on an Eligible IBM Machine, IBM does not provide any further warranty concerning the REDACTED, its REDACTED or its performance.

18.6 Services Coordination

18.6.1 IBM Responsibilities

IBM will:

1. designate a Technical Relationship Manager who will work with you to establish an inventory of the REDACTED levels installed on the Eligible IBM Machines. The initial inventory will be performed on-site at your Specified Location(s) as indicated in the Schedule. At your request, the Technical Relationship Manager will assess whether the data necessary to perform the inventory may instead be provided by you in accordance with instructions provided by IBM;
2. Install the REDACTED on your designated SAN Server.

The IBM Technical Relationship Manager will document the following information about the IBM Eligible Machines, in cooperation with you:

1. Operating system levels;
2. REDACTED and driver levels; and
3. REDACTED provided that these Services have been agreed upon for the connected Eligible IBM Machines.

18.6.2 Your Responsibilities

You agree to:

1. name a technical contact to IBM who will be available as your Point of Contact with respect to the coordination of the necessary actions within the scope of Microcode Support services. This Point of Contact will coordinate the time schedule for pending actions with the Technical Relationship Manager and will ensure your observance of the agreed schedule;
2. provide the IBM Technical Relationship Manager with all necessary information requested about the system configuration and provide an outline of its SAN topology upon request;
3. ensure that IBM will have access to the Eligible IBM Machines for querying the required system data, or, if deemed possible by the IBM Technical Relationship Manager, ensure that you provide the IBM Technical Relationship Manager with the required system data identified by IBM. You hereby approve the use of programs enabling IBM to query the REDACTED levels or the required data and acknowledge that you remain solely responsible for security of the network. You are responsible for any data and the content of any database you make available to IBM in connection with the Services covered by this SOA, the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data, and backup and recovery of the database and any stored data;
4. notify the IBM Technical Relationship Manager of changes to the Eligible IBM Machines in a reasonable timeframe, and of updates to the Microcode, drivers or operating system, that are not documented in the support plan. IBM will update the support plan accordingly. If the Update Service has been selected for Eligible IBM Machines at a Specified Location, you agree to provide IBM with the necessary access to enable IBM to perform updates simultaneously on several Eligible IBM Machines at one location, in order to reduce waiting times;
5. if the Update Services have been selected for Eligible IBM Machines at a Specified Location, provide IBM with direct access to the related Eligible IBM Machines and make the preparations agreed to with the IBM Technical Relationship Manager, such as shutting down the related Eligible IBM Machines and issuing the necessary authorisations. IBM will install the specific updates you have requested. You remain responsible for the results of the updates you selected;
6. observe and abide by the accepted license terms for the REDACTED;
7. pay all the communication charges incurred at your Specified Location(s) in connection with use of the Services, unless agreed otherwise;
8. obtain recommendations and updates for Microcode of non-IBM products directly from the respective manufacturers;
9. perform backup and verification of all data stored on the Eligible IBM Machines prior to starting the implementation of any updates;
10. be responsible for scheduling updates to minimise interruptions to system performance;
11. set up the SAN SA Server with the required minimum configuration as defined by IBM for the duration of this SOA;
12. be responsible to maintain the ID and password table of the applicable eligible storage products on the SAN Service Agent tables;
13. remove, per IBM's instructions, the SAN Service Agent software code from the SAN Server when this SOA is terminated for any reason;
14. maintain a current complete backup of your system in your environment at all times. IBM shall bear no responsibility whatsoever for any loss of data as a result of IBM's performance of Services described within the scope of this SOAW;
15. identify the system on which the SAN Service Agent will be installed; and
16. acknowledge that IBM will be using a software tool called SAN Service Agent, to perform the Services contained in this SOA. IBM retains the right to replace/upgrade or introduce additional tooling and processes to help provide the Services during the term of the SOA. Upon completion of these Services, all copies of the IBM SAN Service Agent software will be removed from your facilities at the end of this SOA. You shall have no

right to make use of the SAN Service Agent. No right is granted to you to make any copies of the SAN Service Agent in any form. You shall not reverse assemble or reverse compile the SAN Service Agent in whole or in part. No license to you under any trademark, patent, copyright and mask work protection right or any other intellectual property right is either granted or implied by the use of the SAN Service Agent at your facilities.

18.7 Contract Period

This SOA shall be valid for the contract period term identified in the Schedule.

Service Option Attachment for Media Retention

19. Media Retention

19.1 Scope of Service

Under this SOA, IBM will provide Media Retention, as described herein.

Media Retention allows Client to retain defective storage flash memory cards, solid state drives, and hard disk drives (hereinafter referred to as "Media") replaced in the course of IBM Services. If the reported problem requires the replacement of such Media, a replacement will be supplied by IBM and the removed defective Media will be provided to Client under the terms of this SOA.

IBM is not responsible for the loss or disclosure of, or damage to, any data that may be contained on a removed defective Media.

The Eligible Machines covered under this SOA must also be covered by IBM warranty, IBM maintenance Service, or equivalent IBM Service.

19.2 Client Responsibilities

Client agrees to:

- a. identify a Client representative to receive the retained defective Media from IBM at the time of replacement. If a Client representative is not available to receive Media at the time of replacement, IBM will retain the replaced Media as IBM property;
- b. refrain from placing the defective Media into productive use;
- c. dispose of all retained Media in compliance with applicable environmental laws and regulations; and
- d. agree not to transfer faulty Media between non-Eligible and Eligible machines.

Machine List

REDACTED

Machine List

REDACTED

REDACTED

REDACTED

REDACTED

Machine List

REDACTED

REDACTED

Maintenance Enhancement Services

Proactive System Check (PSC)

REDACTED

REDACTED

Client Reference

REDACTED