

System z Remote Development Program

OVERVIEW

The System z Remote Development Program offering provides IBM PartnerWorld members access to IBM mainframe operating systems for the purpose of developing, testing, migrating, or porting their applications. The system environments are comprised of generally available and supported operating systems and software products running as virtual guests under IBM z/VM. Each virtual guest system is dedicated to the use of the participating partner which provides a high level of system control and configuration independence within their environment.

The System z Remote Development Program offering is structured for the partner to be largely self-reliant with minimal assistance needed from IBM. Participating partners should be familiar with the chosen operating system environment and are expected to provide skills in the following areas:

- System operations
- System administration (including security)
- Application debug
- Licensing and installation of software products not provided by IBM

IBM PartnerWorld membership is a requirement for participation in the System z Remote Development Program.

Some, but not all, of the available IBM software products are included in the enrollment package. Questions regarding the availability of IBM software products not listed in the enrollment packages can be sent to zRDP@us.ibm.com.

ENROLLMENT

There are two sets of enrollment forms used for the System z Remote Development Program based on location. One set of forms is for partners located in the US or Canada. The other set is for partners located in all other countries. Please refer to the program Registration Form included in the enrollment package for directions on how to submit your enrollment.

Complete the enrollment steps listed below for the offering which best suits your needs:

- Download or print the appropriate Enrollment Package
- Complete the Registration Form
- Sign the Vendor Access Agreement (US/Canada) OR the AECI Base Agreement (non-US/Canada) if your company is participating in the Remote Development Program for the first time.
- Sign the Vendor Access Agreement Exhibit (US/Canada) OR AECI Supplement (non-US/Canada)
- Complete the Program Addition Order Form (if required)
- Submit the applicable enrollment forms

PROGRAM FEES

Fees for the System z Remote Development Program are based on a minimum monthly fee and actual CPU usage as reported by z/VM. The CPU usage is measured in "work units". A work unit is the equivalent of one (1) real, non-dedicated hour of total processor time on an IBM 2003-225 processor as recorded in the VM accounting records.

The minimum monthly program fee (\$550 USD) includes initial system set-up, environmental support, up to 30 work units of CPU usage each calendar month, and 10 Gigabytes of 'user' disk (DASD) space. Work units used and user DASD required in excess of those amounts will incur additional monthly charges.

Charge for additional monthly work units used in excess of 30: \$22 USD per work unit
Charge for additional DASD required in excess of 10 Gigabyte: \$ 10 USD per 5 Gigabyte unit

The initial billing period for this program begins when the login information is provided to you and ends last day of the calendar month. Subsequent monthly billing periods will always end on the last day of each calendar month.

IMPLEMENTATION

The System z Remote Development Program is provided and supported by IBM through the IBM Innovation Center located in Dallas, TX.

Participating partners are provided with sufficient resources to perform development and remote functional testing of their software. Each partner is furnished with a remote virtual operating system environment running as a second level guest system under z/VM. This provides maximum flexibility for testing new code and allows complete user control of an entire virtual processor, including system and security administration, console operations, and all required system authorizations (system key, supervisor state, etc.).

The mainframe operating systems are made available, along with other software, on IBM mainframe processors which are accessible from the Internet any where in the world.

Users of the system assume the role of system and security administrator for the virtual guest system environment and are expected to have the necessary system skills. Those skills include subsystem administration, security administration, and console operations.

Partners are also provided with z/VM hypervisor user IDs to perform virtual guest system management activities such as IPL and shutdown. In order to connect to and logon the z/VM system, a TN3270 emulator that supports TLS encrypted sessions is required. The TN3270 emulator is not provided by IBM and must be obtained by the partner.

Each virtual guest system is assigned an unique IP address. The IP address assigned can be either "public" (one reached directly from the internet) or "private" (reachable only by connecting to a VPN network). Developers who choose to have the system connected to the VPN network are also provided with a VPN client and a VPN sign-on ID. The VPN connection encrypts session traffic between the user and the VPN gateway.

PROGRAM SUPPORT

Support for the program is provided through electronic means. The primary vehicle for support requests is the IBM PartnerWorld website which offers an easy to use application for submitting questions. Partners are encouraged to use this application so their question may be routed to the proper support team. Additional information is available on the program support website (<http://dtsc.dfw.ibm.com/contact.html>).

IBM software product maintenance is provided by IBM either routinely or at the request of the ISV. Routine hardware and software maintenance for the systems is performed by IBM on an ongoing basis. As such, the ability to retain a system at a particular maintenance level may not be available. Requests for specific additional software maintenance are managed on a best effort basis.

Each Sunday, a maintenance-window is reserved between 9:00 AM and 3:00 PM US CT for hardware maintenance purposes. During this window, system access may not be available.

PROGRAM SECURITY

The protection of confidential and proprietary information is of the utmost importance to IBM and the Innovation Center, Dallas. The Remote Development Program is certified annually by IBM Corporate Headquarters as an Inter-Enterprise System (IES) environment, which provides extensive security for isolation of virtual guest systems.

SYSTEM ENVIRONMENT

The System z Remote Development Program virtual systems operate on IBM System z mainframe processors.

IBM 3592 mainframe tape drives are available for use by the with this offering. All tapes must be supplied by the user of the system, including 'scratch' tapes. The process for using and mounting tapes is described in the "User's Guide and Reference" located on the program support website (<http://dtsc.dfw.ibm.com/>).

If additional system resources or software products are required but not included on the Program Addition Order Form for the Remote Development Program, or if you have questions concerning the offering, please contact the Remote Development Program support team at etpadmin@us.ibm.com prior to returning the signed Remote Development Program agreement. A response will be returned as to whether the resource(s) can be made available.

Privacy Statement:

IBM is a global organization with business processes, management structures and technical systems that cross borders. As such, we may share information about you within IBM and transfer it to countries in the world where we do business in connection with your request to enroll or participate in an IBM Z program offering. The information supplied by you with a request to enroll or participate in an IBM Z program offering, will be used to provide information, support, deliverables, and for invoicing purposes as appropriate.

In some cases, IBM uses suppliers located in various countries to collect, use, analyze, and otherwise process information on its behalf. It is IBM's practice to require such suppliers to handle information in a manner consistent with IBM's policies.

We will use the information you provide to fulfill your request. To help us do this, we may share information with others, for instance, a third-party data processor, financial institutions, shipping companies, or postal or government authorities, such as Customs authorities, involved in fulfillment. In connection with a transaction, we may also contact you as part of our customer satisfaction surveys.

We will retain your registration information for as long as your account is active or as needed to provide you services. If you wish to request that we no longer use your registration information to provide you services contact us at ETPADMIN@US.IBM.COM. We will retain and use your registration information as necessary to comply with our legal obligations, resolve disputes, and enforce our agreements.

Registration Form

Remote Development Program for z/VM 6.4

To participate in the Remote Development Program for z/VM 6.4 complete this registration form and other applicable signed documents and return them to IBM in the manner described on page 2 of this form. Questions concerning the program enrollment may be emailed to **etpadmin@us.ibm.com**.

*Company: _____

*Billing Address: _____

*P.O.: If a Purchase Order will be used for payment of fees, please include a copy with your registration.

*Program Contact: _____

*Address: _____

*Phone: _____ - _____ *e-mail address: _____

Alternate Contact: _____

Address: _____

Phone: _____ - _____ e-mail address: _____

We regularly report to our sponsors within IBM the the benefits this program provides to the participants. To aid in our reporting we ask that you briefly describe how the system will be used (Ex. We are porting....). Please include product names when possible. Please DO NOT include any information that is considered confidential by your company.

Asterisks () indicate fields required to complete this transaction.*

(Continued on the next page)

Information For System Access and Configuration

Number of z/VM User ID's Required: _____
(Add 1 user ID to your total for operating system)

Preferred network connection type: Public Internet _____
VPN (Using VPN client) _____

Please return your Remote Development Program for z/VM 6.4 enrollment to one of the following :

Mail Address: Innovation Center, Dallas
Attn: ETP Administrator
Mail Room
1177 South Belt Line Rd.
Coppell, TX 75019
USA

E-mail: etpadmin@us.ibm.com
Fax: +1 (845) 491-5885

Privacy Notice

IBM is a global organization with business processes, management structures and technical systems that cross borders. As such, we may share information about you within IBM and transfer it to countries in the world where we do business in connection with your request to enroll or participate in an IBM Z program offering. The information supplied by you with a request to enroll or participate in an IBM Z program offering, will be used to provide information, support, deliverables, and for invoicing purposes as appropriate.

In some cases, IBM uses suppliers located in various countries to collect, use, analyze, and otherwise process information on its behalf. It is IBM's practice to require such suppliers to handle information in a manner consistent with IBM's policies.

We will use the information you provide to fulfill your request. To help us do this, we may share information with others, for instance, a third-party data processor, financial institutions, shipping companies, or postal or government authorities, such as Customs authorities, involved in fulfillment. In connection with a transaction, we may also contact you as part of our customer satisfaction surveys.

We will retain your registration information for as long as your account is active or as needed to provide you services. If you wish to request that we no longer use your registration information to provide you services contact us at ETPADMIN@US.IBM.COM. We will retain and use your registration information as necessary to comply with our legal obligations, resolve disputes, and enforce our agreements.

Product Tape Administration - Remote Development Program for z/VM 6.4

During the test program it may be necessary for you to provide your tapes for access from your test environment. In order to facilitate tape management, please indicate via signature below if you do not require your product tapes to be returned to you.

By signature below, the undersigned authorizes the IBM Innovation Center, Dallas, to keep and degauss at termination of the Remote Development Program for z/VM 6.4 , the noted company's product tapes stored at IBM for test access by the noted company as part of the Remote Development Program for z/VM 6.4 .

Signature *(for tape degauss authorization only)*

Name *(Type or Print)*

Date

EARLY CUSTOMER SUPPORT PROGRAM FOR SOFTWARE VENDOR ACCESS TO IBM PRODUCTS

Remote Development Program for z/VM 6.4 (373A-06)

Customer Name

Address

Referenced Agreement No.

Supplement No.

The Customer and IBM agree that the following terms and conditions apply as a supplement to and amend the referenced IBM Agreement for Exchange of Confidential Information ("Agreement").

1.0 Scope

1.1 Under this Supplement, IBM shall provide Customer with access via the network to IBM z/VM 6.4 and accompanying software products ("Code"). "Code" may include certain materials (program code and/or selected documentation) provided to Customer in tangible form.

1.1A The Customer is not eligible to use the Code provided by this Supplement on an IBM system if the Customer executes anything other than Java-language based workloads on the System z Application Assist Processor (zAAP) installed on the IBM system. In addition, the Customer may not alter the Code in any manner to affect the functionality of the zAAP.

IBM WILL:

1.2 Provide Customer real, non-dedicated CPU time on an IBM processor for access to the Code for the payment

indicated below and, where IBM deems it appropriate, provide Customer with access to selected portions of the Code in tangible form for use solely in connection with this Supplement;

1.3 Provide Customer with setup instructions for the communication procedures; and

1.4 Provide a single IBM focal point for Customer problem resolution.

CUSTOMER WILL:

1.5 Provide the appropriate workstation hardware, software, modem, common telephone line and host connection charges.

1.6 Use the Code solely for the purposes of validating and migrating any Customer product(s) to the z/VM 6.4 code.

1.7 Not make available to third parties the Customer's z/VM 6.4 based products developed utilizing the Code until IBM makes the z/VM 6.4 Code generally available, except vendors and or customers which have been identified by IBM as participants in the IBM z/VM 6.4 Early Support Program;

1.8 Ensure that it does not download or in any way attempt to obtain local access to Code provided by IBM without IBM's prior written permission. Code made available to Customer in tangible form shall be used by Customer only at Customer's facility, will be used only for the purposes of this Supplement and shall be disclosed to and used only by those Customer employees with a need to know. In addition, the Customer shall not reverse assemble, reverse compile or copy the Code in whole or part.

1.9 Take appropriate action by instruction, agreement or otherwise to ensure, prior to their initial access to Code, that Customer employees abide by the terms of this Supplement.

1.10 Provide IBM with a single development focal point.

1.11 Maintain control of the IBM System on which the Customer product(s) and the Code are available for access. IBM will provide Customer with instructions for rendering the IBM System inactive when the IBM System is not in use. Customer will make the IBM System inactive when it is not in use.

2.0 PAYMENT

2.1 IBM will provide Customer with the following access and services for a charge of **\$550** per calendar month of participation in the Remote Development Program for z/VM 6.4.

1. 1 z/VM 6.4 virtual guest system running under IBM z/VM. The virtual guest system will be configured with 10GB of user disk and a minimum of 1GB of memory.

2. At least 1 z/VM User ID from which to perform virtual guest system management related activities.

3. One virtual guest system logon user ID with full administration and security authority for the operating system.
4. Usage of up to 30 work units per month, where a work unit is the equivalent of one (1) real non-dedicated hour of total processor time on an IBM 2003-225 processor as recorded in the VM accounting records. Each additional work unit used in excess of 30 each month will be charged at the rate of \$22 USD per work unit up to a maximum work unit usage charge of \$12,000 in a single billing period.
5. Technical and operational support for the Code as determined by IBM

The above charges apply for the term of this Supplement unless IBM sends Customer written notice of a price change. IBM will send such written notice at least thirty (30) days in advance of the date that the price change becomes effective and the notice will include the effective date of the price change. After the price change Customer is obligated to pay the new price beginning on the effective date of the price change.

The initial billing period for the z/VM 6.4 begins when the login information is provided to Customer and ends on the last day of the calendar month. Subsequent monthly billing periods will always end on the last day of the calendar month.

2.2 Credit requests for billable work units as a result of Customer failure to render the IBM System inactive when it is not in use must be made to IBM by Customer in writing. IBM will in its sole discretion grant or decline credits for billable work units for time periods during which the IBM System is or was active but not used by Customer. After the first work unit credit request, each subsequent credit for billable work units requested by Customer and granted by IBM will be limited to no more than ten percent(10%) of the total monthly amount owed to IBM by Customer.

3.0 NON-DISCLOSURE

3.1 Customer agrees not to disclose to third parties the terms and conditions or the existence of this Supplement and the services provided to Customer under this Supplement except as required by law, provided Customer first allows IBM to review the proposed disclosure as it relates to IBM.

4.0 LIMITED WARRANTY

4.1 Some of the Code may be a pre-general availability version of IBM programs and documentation and may be changed by IBM prior to general availability and may not now be at the level of performance or capability of other generally available IBM products. IBM does not warrant that operability of Customer's product(s) with the Code can or will be maintained with the generally available versions of the Code. The Customer accepts all risks that the IBM Code is not available on a timely basis and is not successful commercially.

ALL MATERIALS AND INFORMATION PROVIDED PURSUANT TO THIS SUPPLEMENT ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

4.2 Excluded Components: Notwithstanding the terms and conditions of the IBM Agreement for Exchange of Confidential Information and its associated Supplements or any other Agreement you may have with IBM or any of its related or affiliated companies (collectively "IBM") or with any other third parties that provide IBM products ("Third Parties"), the following terms and conditions apply to all "Excluded Components" identified in this Supplement: (a) all Excluded Components are provided on an "AS IS" basis; (b) IBM AND THIRD PARTIES DISCLAIM ANY AND ALL EXPRESS AND IMPLIED WARRANTIES AND CONDITIONS INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF NON-INFRINGEMENT OR INTERFERENCE AND THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; (c) IBM and Third Parties will not be liable to you or indemnify you for any direct, indirect, incidental, special exemplary, punitive or consequential damages with respect to Excluded Components.

4.3 Excluded Components include: (a) all third party components, including third party components included or embedded in the Code and components referenced in any LICENSE.TXT file included with the Code or a fixpack or update to the Code.

4.4 Usage Restriction:

z/VM version 6 release 4 operates on the IBM zEnterprise 196 (z196), IBM zEnterprise 114 (z114), IBM System z10 Enterprise Class (z10 EC), and IBM System z10 Business Class (z10 BC). The Code requires hardware that implements the IBM 64-bit z/Architecture in order to execute properly and therefore Licensee is not authorized to install or use this Code on any machine that does not properly implement 64-bit z/Architecture. For information about specific z/VM machine requirements and programming requirements, see the z/VM: General Information manual, GC24-6193.

z/VM may run on IFL processors only if, on the IFL processors, z/VM is being used exclusively to run (1) Linux or OpenSolaris workloads and, (2) if required, z/VM applications in support of those Linux or OpenSolaris workloads.

4.5 Separately Licensed Code:

Each of the components listed below is considered "Separately Licensed Code". IBM Separately Licensed Code is licensed to Licensee under the terms of the applicable third party license agreement(s) set forth in the NON_IBM_LICENSE file(s) that accompanies the Code. Notwithstanding any of the terms in the Agreement, or any other agreement Licensee may have with IBM, the terms of such third party license agreement(s) governs Licensee's

use of all Separately Licensed Code unless otherwise noted below.

Notwithstanding any of the terms in the third party license agreement, the Agreement, or any other agreement Licensee may have with IBM:

(a) IBM provides this Separately Licensed Code to Licensee WITHOUT WARRANTIES OF ANY KIND;

(b) IBM DISCLAIMS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES AND CONDITIONS INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF TITLE, NON-INFRINGEMENT OR INTERFERENCE AND THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SEPARATELY LICENSED CODE;

(c) IBM is not liable to Licensee, and will not defend, indemnify, or hold Licensee harmless for any claims arising from or related to the Separately Licensed Code; and

(d) IBM is not liable for any direct, indirect, incidental, special, exemplary, punitive or consequential damages including, but not limited to, lost data, lost savings, and lost profits, with respect to the Separately Licensed Code.

The following are Separately Licensed Code:

libsysfs 2.1.0

5.0 TERM AND TERMINATION

"Once signed by both parties, this Supplement shall remain in effect until terminated. This Supplement will terminate on the earlier of: (i) March 31, 2019 (ii) Termination of this Supplement by either party with thirty (30) days prior written notice to the other party; or (iii) Termination of the Agreement."

Either party may terminate this Supplement prior to the expiration at any time with 30 days prior written notice. IBM may immediately terminate this Supplement and/or deny Customer access to the Code if IBM believes, in its sole discretion, Customer is violating the terms of this Supplement.

Notices pertaining to this Supplement may be delivered to either party using postal service, fax, or e-mail.

IBM in its sole discretion may extend the Termination Date of this Agreement by providing Customer written notice.

6.0 LIMITATION OF LIABILITY

Circumstances may arise where, because of a default or other liability, a party to this Agreement is entitled to recover damages from the other. Regardless of the basis on which the party seeking to recover damages is entitled to claim damages from the other (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), the entire liability of the party against whom damages is sought for all claims in the aggregate arising

under this Agreement will not exceed the amount of any actual direct damages up to \$100,000.

This limit also applies to any of either party's subcontractors and, in the case of IBM, its program developers. It is the maximum for which a party and its subcontractors and, in the case of IBM, its program developers are collectively responsible. Damages for bodily injury (including death) and damage to real property and tangible personal property for which a party is legally liable are not subject to a cap on the amount of damages.

Except as expressly required by law without the possibility of contractual waiver, under no circumstances is either party, its subcontractors, or, in the case of IBM, its program developers liable for any of the following even if informed of their possibility:

1. loss of, or damage to, data;
2. special, incidental, exemplary, or indirect damages or for any economic consequential damages; or
3. lost profits, business, revenue, goodwill, or anticipated savings.

The foregoing limitations and disclaimers of liability shall not apply to the liability of either party for damages associated with i) breaches of confidentiality or, ii) infringement or violation of the intellectual property rights of the other party or its licensors with respect to licenses granted under this Agreement.

7.0 GENERAL

7.1 This Supplement does not modify any other existing Supplement(s) between IBM and the Customer. In the event that any of the provisions of this Supplement is in conflict with any other existing Supplement(s), the terms of this Supplement shall prevail with respect to the subject matter of this Agreement.

7.2 The parties agree to comply and to reasonably assist the other in complying with applicable government export and import laws and regulations. Further, each party agrees that unless authorized by applicable government license or regulation, including but not limited to U.S. authorization, both parties will not directly or indirectly export or reexport, at any time, any technology, software and/or commodities furnished or developed under this or any other, Agreement between the parties, or its direct product, to any prohibited country (including release of technology, software and/or commodities to nationals, wherever they may be located, of any prohibited country) as specified in applicable export, embargo, and sanctions regulations. You also agree to comply with U.S. prohibitions on delivery of technology, software and/or commodities and providing services to certain end users and for certain end uses including, but not limited to, the following end uses/end users: nuclear facilities, space or missile, and weapons systems (including chemical and biological).

Further, you understand and acknowledge that IBM may use its global resources, including but not limited to the use of non-U.S. nationals and/or hosting of data in non-U.S. countries for delivery of Services under this agreement.

You warrant that none of your product(s) (including data) exported to, or otherwise accessible by, IBM under this Agreement is controlled as a defense article under the U.S. International Traffic in Arms Regulation (ITAR) or under any other country's laws or regulations. You further warrant that none of your product(s) (including data) exported to or otherwise accessible by IBM under this Agreement requires an export license.

This section will survive after termination or expiration of this Agreement and will remain in effect until fulfilled.

7.3 IBM will not access or copy Customer's products except for weekly backup. If you do not want to participate in the weekly backup cycle, please notify us and we will remove your company from the weekly backup cycle.

7.4 You and IBM acknowledge and agree that, by entering into this Agreement and participating in the Remote Development Program for z/VM 6.4, you are not disclosing any of your confidential information or trade secrets to IBM or any third party, and that IBM has not accepted and is not accepting any of your confidential information or trade secrets.

7.5 Customer agrees not to place or allow any content within the engagement that require or impose any legal or regulatory compliance by IBM.

7.6 This Supplement shall be construed, and the legal relations between us shall be determined in accordance with the laws of the State of New York, U.S.A..

THE CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS READ THE REFERENCED AGREEMENT TOGETHER WITH THIS SUPPLEMENT AND AGREES TO BE BOUND BY THEIR TERMS AND CONDITIONS.

FURTHER, THE CUSTOMER ACKNOWLEDGES THAT THE AGREEMENT AND THIS SUPPLEMENT, TOGETHER WITH ANY OTHER AGREEMENTS SPECIFICALLY REFERENCED HEREIN, ARE THE COMPLETE AND EXCLUSIVE STATEMENT OF AGREEMENT BETWEEN THE PARTIES WHICH SUPERSEDES ALL PROPOSALS OR PRIOR AGREEMENTS, ORAL OR WRITTEN, BETWEEN THE PARTIES RELATING TO THE SUBJECT MATTER OF THE AGREEMENT AND THIS SUPPLEMENT.

If the foregoing is in accordance with your understanding of the Agreement between us, please indicate your acceptance thereof by signing and returning this Supplement to IBM. After IBM has signed the Supplement, one copy will be returned to you. The signed Supplement may be delivered to IBM or the Customer using e-mail, fax, or postal service. IBM can be contacted at:

IBM Corporation
Manager, Dallas ISV z Center
Mail Room
1177 South Belt Line Rd.
Coppell, TX 75019
USA

Fax: +1 (845) 491-5885
E-mail: etpadmin@us.ibm.com

IN WITNESS WHEREOF, the parties have caused this Supplement to be executed below by their duly authorized representatives as of the last date set forth below. Once signed, any reproduction of this Supplement or Exhibit, made by a reliable means (for example, digital image, photocopy or facsimile), is considered an original.

ACCEPTED AND AGREED TO:

ACCEPTED AND AGREED TO:

Customer: _____

International Business Machines Corporation

Signature

Signature

Name (type or print)

Name (type or print)

Title

Title

Date

Date

IBM Agreement for Exchange of Confidential Information

Our mutual objective under this Agreement is to provide protection for confidential information (Information) while maintaining our ability to conduct our respective business activities. Each of us agrees that the following terms apply when one of us (Discloser) discloses Information to the other (Recipient).

1. Disclosure

Information will be disclosed either:

1. in writing;
2. by delivery of items;
3. by initiation of access to Information, such as may be in a data base; or
4. by oral or visual presentation.

Information should be marked with a restrictive legend of the Discloser. If Information is not marked with such legend or is disclosed orally, the Information will be identified as confidential at the time of disclosure.

2. Obligations

The Recipient agrees to:

1. use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and
2. use the Discloser's Information for the purpose for which it was disclosed or otherwise for the benefit of the Discloser.

The Recipient may disclose Information to:

1. its employees who have a need to know, and employees of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know. Control means to own or control, directly or indirectly, over 50% of voting shares;
2. any other party with the Discloser's prior written consent.

Before disclosure to any of the above parties, the Recipient will have a written agreement with the party sufficient to require that party to treat Information in accordance with this Agreement.

The Recipient may disclose Information to the extent required by law. However, the Recipient will give the Discloser prompt notice to allow the Discloser a reasonable opportunity to obtain a protective order.

3. Confidentiality Period

Information disclosed under this Agreement will be subject to this Agreement for two years following the initial date of disclosure.

4. Exceptions to Obligations

The Recipient may disclose, publish, disseminate, and use Information that is:

1. already in its possession without obligation of confidentiality;
2. developed independently;
3. obtained from a source other than the Discloser without obligation of confidentiality;
4. publicly available when received, or subsequently becomes publicly available through no fault of the Recipient; or
5. disclosed by the Discloser to another without obligation of confidentiality.

The Recipient may use in its business activities the ideas, concepts and know-how contained in the Discloser's Information which are retained in the memories of Recipient's employees who have had access to the Information under this Agreement.

5. Disclaimers

THE DISCLOSER PROVIDES INFORMATION WITHOUT WARRANTIES OF ANY KIND.

The Discloser will not be liable for any damages arising out of the use of Information disclosed under this Agreement.

Neither this Agreement nor any disclosure of Information made under it grants the Recipient any right or license under any trademark, copyright or patent now or subsequently owned or controlled by the Discloser.

6. General

This Agreement does not require either of us to disclose or to receive Information.

Neither of us may assign, or otherwise transfer, its rights or delegate its duties or obligations under this Agreement without prior written consent. Any attempt to do so is void.

The receipt of Information under this Agreement will not in any way limit the Recipient from:

1. providing to others products or services which may be competitive with products or services of the Discloser;
2. providing products or services to others who compete with the Discloser; or
3. assigning its employees in any way it may choose.

The Recipient will 1) comply with all applicable export and import laws and regulations, including associated embargo and sanction regulations, and 2) unless authorized by applicable governmental license or regulation, not directly or indirectly export or re-export any technical information or software subject to this Agreement (including direct products of such technical information or software) to any prohibited destination or country (including release to nationals, wherever they may be located, of any prohibited country) as specified in such applicable export regulations. This paragraph will survive the termination or expiration of this Agreement and the confidentiality period above and will remain in effect until fulfilled.

Only a written agreement signed by both of us can modify this Agreement.

Either of us may terminate this Agreement by providing one month's written notice to the other. Any terms of this Agreement which by their nature extend beyond its termination remain in effect until fulfilled, and apply to respective successors and assignees.

Both of us consent to the application of the laws of the State of New York to govern, interpret, and enforce all of your and our rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

This Agreement is the complete and exclusive agreement regarding our disclosures of Information, and replaces any prior oral or written communications between us regarding these disclosures. By signing below for our respective enterprises, each of us agrees to the terms of this Agreement. Once signed, any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original.

Agreed to:

Agreed to:

International Business Machines Corporation

By _____
Authorized signature

By _____
Authorized signature

Name (type or print):

Name (type or print):

Date:

Date:

Identification number:

Agreement number:

Address:

IBM address:

After signing, please return a copy of this Agreement to the "IBM address" shown above.

IBM Innovation Center, Dallas Program Addition Order Form

This form, when signed by both parties and on file at the IBM Innovation Center, Dallas, authorizes the IBM Innovation Center, Dallas, to bill you for the DASD and/or other services indicated below at the charges shown. Each product listed below includes sufficient additional DASD for nominal operation of the product. To order one or more of these additional products and/or DASD, complete the attached form, sign and return to IBM using postal service facimile, or e-mail as shown below.

IBM Corporation
 Attn: ETP Administrator / Mail Room
 1177 South Belt Line Rd.
 Coppell, TX 75019

Fax (845) 491-5885
 E-mail: etpadmin@us.ibm.com

Place an "X" to the left of each desired product and (or) indicate the number of 5 gigabyte units of additional DASD required, then place the total dollar amount for each item in the right hand column. The amounts listed are in U.S. dollars and are subject to change without prior written notice. The amounts apply for the term of the program agreement under which the addition is requested and are monthly charges.

Indicate your virtual guest system ID here: _____

<u>PRODUCT</u>	<u>AMOUNT</u>	<u>TOTAL AMOUNT</u>
_____ No. of Additional 5 gigabyte DASD units	\$ 10/month/unit	_____
_____ One Additional General Purpose CP (Use of this engine may increase your monthly fees)	\$ N/C	_____

Company:

International Business
Machines Corporation

ACCEPTED AND AGREED TO:

ACCEPTED AND AGREED TO:

By: _____
Signature

By: _____
Signature

Name (Type or Print)

Name (Type or Print)

Title

Title

Date

Date