

Technical Services Agreement

Agreement # 4912049674

This Base Agreement ("Base Agreement") between **International Business Machines Corporation** ("Buyer") and **Stanfield Systems Incorporated** ("Supplier") establishes the basis for a multinational procurement relationship under which Supplier will provide Buyer the Deliverables and Services described in SOWs and/or WAs issued under this Base Agreement. This Base Agreement is effective from **June 16, 2012** ("Effective Date") and will remain in effect until terminated.

1.0 Definitions

"Affiliates" means entities that control, are controlled by, or are under common control with, a party to this Agreement.

"Agreement" means this Base Agreement and any relevant Statements of Work ("SOW"), Work Authorizations ("WA"), and other attachments or appendices specifically referenced in this Agreement.

"Business Partner Agreement" means an agreement executed between Buyer and Supplier to promote, market, and support certain products and services.

"Customer" means Buyer's customer.

"Deliverables" means items that Supplier prepares for or provides to Buyer or Customer as described in a SOW and/or WA. Deliverables include Developed Works, Preexisting Materials, and Tools.

"Developed Works" means all work product (including software and its Externals) developed in the performance of this Agreement as described in a SOW and/or WA. Developed Works do not include Preexisting Materials, Tools, or items specifically excluded in a SOW and/or WA.

"Electronic Self-Help" means a process where Supplier electronically disables, removes, or otherwise prevents the use of its software product without the Buyer's or Buyer's Customer's cooperation or consent. Electronic Self-Help could be done through electronic or other means (for example: remotely through "back doors" or hidden entrances in the software or through hidden shut-down commands in the software that can be activated by phone or in other ways).

"Externals" means any pictorial, graphic, audiovisual works, reports or data generated by execution of code and any programming interfaces, languages or protocols implemented in the code to enable interaction with other computer programs or end users. Externals do not include the code that implements them.

"Inventions" means ideas, designs, concepts, techniques, inventions, discoveries or improvements, whether or not patentable, conceived or reduced to practice by Supplier Personnel in performance of this Agreement.

"Joint Inventions" means Inventions made by Supplier Personnel jointly with Buyer Personnel.

"Participation Agreement" or "PA" means an agreement signed by one or more Affiliates which incorporates by reference the terms and conditions in this Base Agreement, any relevant SOWs, and other attachments or appendices specifically referenced in the PA.

"Personal Data" means any information that may identify an individual.

"Personnel" means agents, employees or subcontractors engaged or appointed by Buyer, Customer or Supplier.

"Preexisting Materials" means items including their Externals, contained within a Deliverable, in which the copyrights are owned by a third party or that Supplier prepared or had prepared outside the scope of this Agreement. Preexisting Materials exclude Tools, but may include material that is created by the use of Tools.

"Prices" means the agreed upon payment and currency for Deliverables and Services, exclusive of Taxes but including all applicable fees and payments, as specified in the relevant SOW and/or WA.

"Services" means work that Supplier performs for Buyer or Customer as described in a SOW and/or WA.

"Statement of Work" or "SOW" means any document that:

1. identifies itself as a statement of work;

2. is signed by both parties;

3. incorporates by reference the terms and conditions of this Base Agreement; and

4. describes the Deliverables and Services, including any requirements, specifications or schedules.

"Taxes" means any and all applicable taxes, charges, fees, levies or other assessments imposed or collected by any governmental entity worldwide or any political subdivision thereof and however designated or levied on sales of Deliverables or Services, or sales, use, transfer, goods and services or value added tax or any other duties or fees related to any payment made by Buyer to Supplier for Deliverables and/or Services provided by Supplier to Buyer under or pursuant to this Agreement; exclusive, however, of any taxes imposed upon the net income or capital of Supplier, any taxes in lieu of such net income taxes and any other taxes which are to be borne by Supplier under law.

"Tools" means software that is not commercially available, and its Externals, required for the development, maintenance or implementation of a software Deliverable.

"Work Authorization" or "WA" means Buyer's authorization in either electronic or tangible form for Supplier to conduct transactions under this Agreement in accordance with the applicable SOW (i.e., a purchase order, bill of lading, or other Buyer designated document). A SOW is a WA only if designated as such in writing by Buyer.

Technical Services Agreement

Agreement # 4912049674

2.0 Statement of Work

Supplier will provide Deliverables and Services as specified in the relevant SOW and/or WA. Supplier will begin work only after receiving a WA from Buyer. Buyer may request changes to a SOW and/or WA and Supplier will submit to Buyer the impact of such changes. Changes accepted by Buyer will be specified in an amended SOW and/or WA or change order signed by both parties. Supplier agrees to accept all WA's that conform with the terms and conditions of this Agreement.

3.0 Pricing

Supplier will provide Deliverables and Services to Buyer for the Prices. The Prices for Deliverables and Services specified in a SOW and/or WA and accepted by Buyer plus the payment of applicable Taxes will be the only amount due to Supplier from Buyer. The relevant SOW or WA shall contain Prices for each country receiving Deliverables and Services under this Agreement. Supplier is not entitled to payment under this Agreement for activities also covered by a Business Partner Agreement with Buyer.

4.0 Taxes

Supplier's invoices shall state all applicable Taxes, if any, by tax jurisdiction and with a proper breakdown between taxable and non-taxable Deliverables and Services. Supplier assumes responsibility to timely remit all Tax payments to the appropriate governmental authority in each respective jurisdiction. Supplier and Buyer agree to cooperate to minimize, wherever possible and appropriate, any applicable Taxes and provide reasonable notice and cooperation in connection with any audit. Supplier shall also bear sole responsibility for all taxes, assessments, or other levies on its own income, leased or purchased property, equipment or software. If Buyer provides a direct pay certificate, certification of an exemption from Tax or reduced rate of Tax imposed by an applicable taxing authority, then Supplier agrees not to invoice or pay any such Tax unless and until the applicable taxing authority assesses such Tax, at which time Supplier shall invoice and Buyer agrees to pay any such Tax that is legally owed.

Buyer shall withhold taxes as required under applicable law on payments made to Supplier hereunder and shall be required to remit to Supplier only the net proceeds thereof. Buyer agrees to remit in a timely manner all taxes withheld to the appropriate government authority in each respective jurisdiction. Upon Buyer request, Supplier will deliver the appropriate documentation as required by the corresponding jurisdictional tax laws, within 15 business days from such request.

Supplier will reimburse Buyer for any claims by any jurisdiction relating to Taxes paid by Buyer to Supplier; and for any penalties, fines, additions to Tax or interest thereon imposed as a result of Supplier's failure to timely remit the Tax payment to the appropriate governmental authority in each respective jurisdiction. Supplier shall also reimburse Buyer for any claims made by a taxing jurisdiction for penalties, fines, additions to Tax and the amount of interest thereon imposed with respect to Supplier's failure to invoice Buyer for the correct amount of Tax.

5.0 Payments and Acceptance

Terms for payment will be specified in the relevant SOW and/or WA. Payment of invoices will not be deemed acceptance of Deliverables or Services, but rather such Deliverables or Services will be subject to inspection, test, acceptance or rejection in accordance with the acceptance or completion criteria as specified in the relevant SOW and/or WA. Buyer or Customer may, at its option, either reject Deliverables or Services that do not comply with the acceptance or completion criteria for a refund, or require Supplier, upon Buyer's written instruction, to repair or replace such Deliverables or re-perform such Service, without charge and in a timely manner.

Unless otherwise provided by local law without the possibility of contractual waiver or limitation, Supplier will submit invoices, corrected invoices, or other such claims for reimbursement, to Buyer within (1) year from the date of acceptance of Deliverables or the satisfactory completion of Services. Exceptions must be specifically authorized by Buyer.

6.0 Electronic Commerce

To the extent permitted by local law, the parties will conduct transactions using an electronic commerce approach under which the parties will electronically transmit and receive legally binding purchase and sale obligations ("Documents"), including electronic credit entries transmitted by Buyer to the Supplier account specified in the relevant SOW and/or WA. The parties will enter into a separate agreement governing the transmission of such electronic transactions and associated responsibilities of the parties.

7.0 Warranties

Technical Services Agreement

Agreement # 4912049674

7.1 Ongoing Warranties

Supplier makes the following ongoing representations and warranties:

1. it has the right to enter into this Agreement and its performance of this Agreement will comply, at its own expense, with the terms of any contract, obligation, including any between Supplier and its end-users; or any law, regulation or ordinance to which it is or becomes subject ;
2. it is incorporated or organized as a partnership;
3. no claim, lien, or action exists or is threatened against Supplier that would interfere with Buyer's rights under this Agreement;
4. it has disclosed to Buyer in writing the existence of any third party code, including without limitation open source code, that is included in or is provided in connection with the Deliverables and that Supplier and the Deliverables are in compliance with all licensing agreements applicable to such third party code;
5. Deliverables and Services do not infringe any privacy, publicity, reputation or intellectual property right of a third party;
6. all authors have agreed not to assert their moral rights (personal rights associated with authorship of a work under applicable law) in the Deliverables, to the extent permitted by law;
7. Deliverables are safe for use consistent with and will comply with the warranties, specifications and requirements in this Agreement;
8. Deliverables do not contain harmful code;
9. Services will be performed using reasonable care and skill and in accordance with the relevant SOW and/or WA;
10. it will not engage in Electronic Self-Help;
11. Deliverables and Services which interact in any capacity with monetary data are euro ready such that when used in accordance with their associated documentation they are capable of correctly processing monetary data in the euro denomination and respecting the euro currency formatting conventions (including the euro sign);
12. it is knowledgeable with, and is and will remain in full compliance with all applicable export and import laws, regulations, orders, and policies (including, but not limited to, securing all necessary clearance requirements, export and import licenses and exemptions from, and making all proper filings with appropriate governmental bodies and/or disclosures relating to the release or transfer of technology and software to non U.S. nationals in the U.S., or outside the U.S., release or transfer of technology and software having U.S. content or derived from U.S.-origin software or technology); it is knowledgeable with applicable supply chain security recommendations issued by applicable governments and industry standards organizations and will make best efforts to comply with such recommendations;
13. upon Buyer request, it will promptly provide all information necessary to export and import Deliverables under this Agreement, including, as applicable, the Export Control Classification Numbers (ECCN) and subheadings or munitions list category number, and will notify Buyer in writing of any changes to the information provided by Supplier to export and import Deliverables under this Agreement;
14. unless authorized by applicable government license or regulation, including but not limited to any U.S. authorization, Supplier will not directly or indirectly export or re-export, at any time, any technical information, technology, software, or other commodity furnished or developed under this, or any other, agreement between the parties, or any other product that is developed or produced from or using Buyer's technical information, technology, software, or other commodity provided under this Agreement to any prohibited country (including release of such technical information, technology, software, or other commodity to nationals, wherever they may be located, of any prohibited country) as specified in applicable export, embargo, and sanctions regulations;
15. it will not use, disclose, or transfer across borders any Personal Data that is processed for Buyer, except to the extent necessary to perform under this Agreement; and
16. it will comply with all applicable data privacy laws and regulations, will implement and maintain appropriate technical and organizational measures and other protections for the Personal Data, (including, without limitation, not loading any Personal Data provided to Supplier on (a) any laptop computers or (b) any portable storage media that can be removed from Supplier's premises unless, in each case,(i) such data has been encrypted and (ii) such data is loaded onto portable storage media solely for the purpose of moving such data to off-site storage). Further, it will report to Buyer any breaches of security of Personal Data immediately after discovery thereof if the Personal Data was, or could be, accessed, used or acquired by an unauthorized person or compromised in any way and will cooperate fully with Buyer in investigating any such breaches or compromises, will cooperate fully with Buyer's requests for access to, correction of, and destruction of Personal Data in Supplier's possession, and will comply with all instructions or other requirements provided or issued by Buyer from time to time relating to Personal Data.

THE WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THOSE WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR

Technical Services Agreement

Agreement # 4912049674

FITNESS FOR A PARTICULAR PURPOSE.

7.2 *Warranty Redemption*

Subject to the Section titled Supplier Liability for Third Party Claims, if Deliverables or Services do not comply with the warranties in this Agreement, Supplier will repair or replace Deliverables or re-perform Services, without charge and in a timely manner. If Supplier fails to do so, Buyer or Customer may repair or replace Deliverables or re-perform Services and Supplier will reimburse Buyer for actual and reasonable expenses.

8.0 *Delivery*

Deliverables and Services will be delivered as specified in the relevant SOW and/or WA. If Supplier cannot comply with a delivery commitment, Supplier will promptly notify Buyer of a revised delivery date and Buyer may:

1. cancel without charge Deliverables or Services not yet delivered; and
2. exercise all other remedies provided at law, in equity and in this Agreement.

9.0 *Intellectual Property*

9.1 *Works Made for Hire*

All Developed Works belong exclusively to Buyer (or Customer if specified in the relevant SOW and/or WA) and are works made for hire. If any Developed Works are not considered works made for hire owned by operation of law, Supplier assigns the ownership of copyrights in such works to Buyer or Customer.

9.2 *Preexisting Materials*

Supplier will not include any Preexisting Materials in any Deliverable unless they are listed in the relevant SOW and/or WA. If Supplier includes any Preexisting Materials in a Deliverable whether or not listed in the relevant SOW and/or WA, Supplier grants or will obtain for Buyer and Customer the following rights: a nonexclusive, worldwide, perpetual, irrevocable, paid-up, license to prepare and have prepared derivative works of such Preexisting Materials and to use, have used, execute, reproduce, transmit, display, perform, transfer, distribute, and sublicense such Preexisting Materials or their derivative works, and to grant others the rights granted in this Subsection.

9.3 *Tools*

Supplier will not include Tools in Deliverables unless they are listed in the relevant SOW and/or WA. If Supplier includes any Tools in a Deliverable whether or not listed in the relevant SOW and/or WA, Supplier grants or will obtain for Buyer and Customer the following rights: a nonexclusive, worldwide, perpetual, irrevocable, paid-up, license to prepare and have prepared derivative works of such Tools, and to use, have used, execute, reproduce, transmit, display and perform such Tools or their derivative works and to grant others the rights granted in this Subsection.

9.4 *Invention Rights*

Supplier will promptly provide to Buyer and Customer a complete written disclosure for each Invention which identifies the features or concepts which Supplier believes to be new or different. Supplier assigns all of its right, title and interest in Inventions (including any patent applications filed on or patents issued claiming Inventions) to Buyer.

9.5 *Joint Invention Rights*

Supplier assigns all of its right, title and interest in Joint Inventions (including any patent applications filed on or patents issued claiming Joint Inventions) to Buyer.

9.6 *Perfection of Copyrights*

Upon request, Supplier will provide to Buyer a "Certificate of Originality" or equivalent documentation to verify authorship of Developed Works. Supplier will confirm assignment of copyright for Developed Works using the "Confirmation of Assignment of Copyright" form and will assist Buyer in perfecting such copyrights.

9.7 *Perfection of Invention Rights*

Supplier will identify all countries in which it will seek patent protection for each Invention. Supplier authorizes Buyer to act as its agent in obtaining patent protection for the Inventions in countries where Supplier does not seek patent protection. Supplier will, at Buyer's expense, assist in the filing of patent applications on Inventions and have required documents signed.

9.8 *Trademarks*

This Agreement does not grant either party the right to use the other party's or their Affiliates trademarks, trade names or

Technical Services Agreement

Agreement # 4912049674

service marks.

9.9 Patents

For the purpose of supporting the Customer as specified in the relevant SOW and/or WA, Supplier grants to Buyer a nonexclusive, worldwide, perpetual, irrevocable, and paid-up license under any patents and patent applications licensable by Supplier to make, have made, use, have used, import, export, sell, and otherwise transfer the Deliverables and use the Services to the extent authorized in this Base Agreement and any relevant Statements of Work and Work Authorizations.

10.0 Supplier Liability for Third Party Claims

10.1 General Indemnification

Supplier will defend, hold harmless and indemnify, including legal fees, Buyer and Buyer Personnel, Buyer's landlord (if there is one), and Customer and Customer Personnel against third party claims that arise or are alleged to have arisen as a result of negligent or intentional acts or omissions of Supplier or Supplier Personnel or breach by Supplier of any term of this Agreement.

10.2 Intellectual Property Indemnification

Supplier will defend, or at Buyer's option cooperate in the defense of, hold harmless and indemnify, including legal fees, Buyer and Buyer Personnel and Customer and Customer Personnel from third party claims that Supplier's Deliverables or Services infringe the intellectual property rights of a third party. In addition, if such a claim is or is likely to be made, Supplier will, at its own expense, exercise the first of the following remedies that is practicable:

1. obtain for Buyer and Customer the right to continue to use, sell and license the Deliverables and Services consistent with this Agreement;
2. modify Deliverables and Services so they are non-infringing and in compliance with this Agreement;
3. replace the Deliverables and Services, or other affected Deliverables or Services, with non-infringing ones that comply with this Agreement; or
4. at Buyer's request, accept the cancellation of infringing Deliverables and Services without Buyer having any cancellation liability and the return of the infringing Deliverables at Supplier's expense and refund any amount paid.

Buyer will give Supplier prompt notice of third party claims against Buyer, and cooperate in the investigation, settlement and defense of such claims.

10.3 Exceptions to Indemnification

Supplier will have no obligation to indemnify Buyer or Buyer Personnel or Customer or Customer Personnel for claims that Supplier's Deliverables or Services infringe the intellectual property rights of a third party to the extent such claims arise as a result of:

1. Buyer's or Customer's combination of Deliverables or Services with other products or services not reasonably foreseeable by Supplier and such infringement or claim would have been avoided in the absence of such combination;
2. Supplier's implementation of a Buyer originated design and such infringement or claim would have been avoided in the absence of such implementation; or
3. Buyer's or Customer's modification of the Deliverables and such infringement or claim would have been avoided in the absence of such modification.

11.0 Limitation of Liability between Supplier and Buyer

In no event will either party be liable to the other for any lost revenues, lost profits, incidental, indirect, consequential, special or punitive damages. This mutual Limitation of Liability does not limit the obligations and liability of Supplier provided in the Section titled Supplier Liability for Third Party Claims.

Supplier acknowledges and agrees that all WA's or PA's issued by Buyer's Affiliate(s) are independent agreements between Supplier or Supplier Affiliate and the Buyer Affiliate. Buyer shall not be liable to Supplier or Supplier Affiliate(s) for any actions or inactions of any Buyer Affiliate(s) under a WA or PA, nor shall any actions or inactions by Buyer's Affiliate(s) constitute a breach of the Agreement between Buyer and Supplier.

12.0 Supplier and Supplier Personnel

Supplier is an independent contractor and this Agreement does not create an agency, partnership, or joint venture relationship between Buyer and Supplier or Supplier Personnel. Buyer assumes no liability or responsibility for Supplier Personnel. Supplier will:

1. ensure it and Supplier Personnel are in compliance with all laws, regulations, ordinances, and licensing requirements;

Technical Services Agreement

Agreement # 4912049674

2. be responsible for the supervision, control, compensation, withholdings, health and safety of Supplier Personnel;
3. inform Buyer if a former employee of Buyer will be assigned work under this Agreement, such assignment subject to Buyer approval;
4. upon request, provide Buyer, for export evaluation purposes, to the extent permitted by law, the country of citizenship and permanent residence and immigration status of those persons. Buyer retains the right to refuse to accept persons made available by Supplier for export control reasons;
5. not discriminate against any employees, applicants for employment, or any entity engaged in its procurement practices because of race, color, religion, sex, age, national origin, or any other legally protected status;
6. (a) be solely responsible for, and fully and properly complete and submit to the relevant government immigration authority, all required immigration forms and documents for all Supplier Personnel performing Services hereunder, maintain such forms and documents as required by law and, subject to applicable laws (in particular laws regarding data privacy), make such forms and documents available to Buyer upon request, and
(b) ensure that Supplier Personnel who do not meet all immigration requirements do not perform Services under this Agreement;
7. not assign to work under this Agreement any Supplier Personnel that are subject to any restrictive covenants that could limit such Supplier Personnel from performing Services for Buyer or Customer;
8. before assignment of Supplier Personnel to perform Services for which Buyer has provided specific education requirements and to the extent permitted by law, Supplier shall review proof of education supplied by Supplier Personnel to confirm the Buyer's specific education requirements are satisfied, shall retain such proof of education and, subject to applicable law, shall make such proof of education available to Buyer upon request;
9. remove from any assignment under this Agreement, at Buyer's request in its sole discretion, any Supplier Personnel;
10. comply, at its own expense, with all laws (including Executive Orders), regulations and ordinances relating to verification of employment eligibility for Personnel to which it is or becomes subject to, such as participation in the United States Department of Homeland Security's E-Verify program ("E-Verify") in the United States or similar state or other government sponsored programs, and verify employment eligibility of all Supplier Personnel performing Services for, or providing Deliverables to, Buyer and/or its Customers through such programs, as applicable; and
11. upon Buyer's request, provide documentation to verify compliance with this Section titled "Supplier and Supplier Personnel".

12.1 General Business Activity Restrictions

- (a) Supplier will ensure that Supplier Personnel assigned to work on Buyer's or Customer's premises will not:
1. conduct any non-Buyer related business activities (such as interviews, hirings, dismissals or personal solicitations) on Buyer's or Customer's premises;
 2. conduct Supplier's Personnel training on Buyer's or Customer's premises, except for on-the-job training;
 3. attempt to participate in Buyer or Customer benefit plans or activities;
 4. send or receive non-Buyer related mail through Buyer's or Customer's mail systems; and
 5. sell, advertise or market any products or distribute printed, written or graphic materials on Buyer's or Customer's premises without Buyer's written permission.

- (b) Supplier will, for Supplier Personnel assigned to work on Buyer's or Customer's premises:

1. obtain for each person a valid identification badge from Buyer and return identification badges upon completion or termination of Supplier Personnel assignments;
2. ensure that each person with regular access to Buyer's and Customer's premises complies with all parking restrictions and with vehicle registration requirements if any; and
3. ensure that each person remains in authorized areas only (limited to the work locations, cafeterias, rest rooms, and, in the event of a medical emergency, Buyer's or Customer's medical facilities).

12.2 Buyer's Safety and Security Guidelines

Supplier will ensure that Supplier Personnel assigned to work on Buyer's or Customer's premises:

1. do not bring weapons of any kind onto Buyer's or Customer's premises;
2. do not manufacture, sell, distribute, possess, use or be under the influence of controlled substances (for nonmedical reasons) or alcoholic beverages while on Buyer's or Customer's premises;
3. do not have in their possession hazardous materials of any kind on Buyer's or Customer's premises without Buyer's authorization.

Supplier will promptly notify Buyer of any accident or security incidents (such as those involving loss or misuse of, or damage to, Buyer's Assets (as defined below), physical altercations, assaults or harassment) and provide Buyer with a copy of any

Technical Services Agreement

Agreement # 4912049674

accident or incident report involving the above.

12.3 Asset Control

For purposes of this Subsection, the term “Buyer Assets” means information, information assets, information systems, supplies or other property, including property owned by third parties (such as Buyer Customers) that is accessed by Buyer Personnel or provided to Supplier Personnel by (or on behalf of) Buyer. Supplier Personnel will:

1. not remove Buyer Assets from Buyer's or Customer's premises without Buyer's authorization;
2. use Buyer Assets only for purposes of this Agreement and reimburse Buyer for any unauthorized use;
3. only connect with, interact with or use programs, tools or routines that Buyer agrees are needed to provide Services;
4. not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers;
5. not copy, disclose or leave such assets unsecured or unattended, in the event the Buyer Assets are confidential; and
6. immediately notify Buyer of any security incidents involving Buyer Assets and provide Buyer with a copy of any accident or incident report involving the above.

Buyer may periodically audit use of Buyers Assets and Supplier's data residing on Buyer Assets.

12.4 Supervision of Supplier's Personnel

(a) Supplier will:

1. provide consistent and effective supervision of its Personnel provided under this Agreement, at no additional cost to Buyer;
2. conduct orientation sessions with its Personnel before placement on an assignment with Buyer and identify and provide contact information (which shall be updated by Supplier as necessary) for all supervisor(s) for its Personnel;
3. instruct its Personnel that employment related issues should be brought forward to Supplier (and not Buyer). Where such issues relate to actions which are alleged to have been taken by Buyer or Buyer Personnel, Supplier will notify Buyer immediately in order that appropriate investigative action be taken.

(b) Supplier's supervisor(s) shall:

1. exercise full supervisory authority over all day-to-day employment relationship decisions relating to Supplier's Personnel, including those decisions relating to: wages, hours, terms and conditions of employment, hiring, discipline, performance evaluations, termination, counseling and scheduling; and
2. know each work location's planned holiday (and other closing) schedules and the impacts all such schedules have on Supplier Personnel.

(c) Notwithstanding any other language or agreement to the contrary, Supplier agrees that Buyer has no responsibility to approve, and that Buyer will not approve, timesheets for any Supplier Personnel. If Buyer should review, sign and/or submit timesheets for Supplier Personnel, whether manually or electronically, as part of Buyer's billing verification processes, the parties acknowledge and agree that such review, signature and/or submission shall in no way constitute concurrence or approval of such timesheets, nor create any other commitment or obligation on the part of Buyer to Supplier or Supplier Personnel.

12.5 Criminal Background Checks

(a) To the extent permitted by local law, Supplier will:

1. obtain from all Supplier Personnel photographic proof of identity from an official government source (including but not limited to documentation such as a valid driver's license or government issued passport) and retain copies thereof;
2. to the extent permitted by local law, ensure that, prior to Supplier Personnel being assigned to perform Services under this Agreement, Supplier Personnel will participate in a criminal background check covering the jurisdictions (including but not limited to all counties or states (whichever is more comprehensive), countries (including a federal check in the United States) and provinces) in which the person was employed or resided for the past seven years (or longer as required by applicable law);
3. not assign Supplier Personnel whose background checks show any of the following:

- (a) felony or misdemeanor convictions involving dishonesty (e.g. bribery, fraud, embezzlement, theft, violations of securities laws), violence (including but not limited to sexual or child abuse crimes), or computer related crimes and/or convictions that are employment-related;
- (b) the existence of restrictions (such as court orders) that would prevent, or impose limitations on, a person's ability to provide the Services contemplated by this Agreement; or
- (c) that a person presents a higher than normal security risk to Buyer or Customer.

Upon Buyer request and subject to applicable law, Supplier will provide documentation to Buyer to verify its compliance with this Subsection.

Technical Services Agreement

Agreement # 4912049674

(b) Once a criminal background check is conducted for a particular individual, such background check may be used by Supplier to satisfy the requirements of this Section titled "Criminal Background Checks" for three (3) years from the date of the background check. To the extent permitted by local law, Supplier shall conduct new background checks on individuals assigned to perform Services under this Agreement every three (3) years.

(c) Nothing in this Subsection titled "Criminal Background Checks" limits Buyer's ability to remove Supplier Personnel from an assignment at Buyer's discretion.

13.0 Insurance

Supplier will maintain at its expense:

1. commercial general or public liability insurance including products liability and completed operations with a minimum limit per occurrence or accident of 5,000,000 USD (or local currency equivalent);
2. workers' compensation and employer's liability insurance as required by local law, such policies waiving any subrogation rights against Buyer; and
3. automobile liability insurance as required by local statute but not less than 5,000,000 USD (or local currency equivalent) if a vehicle will be used in the performance of this Agreement.

Insurance required under clauses (1) and (3) above must:

- (a) name Buyer as an additional insured with respect to Buyer's insurable interest;
- (b) be primary or non-contributory regarding insured damages or expenses; and
- (c) be purchased either: (i) from insurers domiciled in the US with an AM Best Rating of A- or better and a financial class rating of 7 or better or (ii) from non US carriers with a Standard & Poor's rating of BBB or greater and \$50M in policy holder's surplus.

Upon Buyer's request, Supplier will provide to Buyer certificate(s) of insurance to verify compliance with the terms and conditions above.

14.0 Termination

14.1 Termination of this Base Agreement

Either party may terminate this Base Agreement, without any cancellation charge, for a material breach of this Agreement by the other party or if the other party becomes insolvent or files or has filed against it a petition in bankruptcy ("Cause"), to the extent permitted by law. Such termination will be effective at the end of a thirty (30) day written notice period if the Cause remains uncured. Either party may terminate this Base Agreement without Cause when there are no outstanding SOWs or WAs.

14.2 Termination of a SOW or WA

Buyer may, upon written notice to Supplier, terminate a SOW or WA:

1. with Cause effective immediately; or
2. without Cause effective immediately or as otherwise specified in such notice.

Upon termination, in accordance with Buyer's written direction, Supplier will immediately:

1. cease work;
2. prepare and submit to Buyer an itemization of all completed and partially completed Deliverables and Services;
3. deliver to Buyer Deliverables satisfactorily completed up to the date of termination at the agreed upon Prices in the relevant SOW and/or WA; and
4. deliver upon request any work in process.

In the event Buyer terminates without Cause, Buyer will compensate Supplier for the actual and reasonable expenses incurred by Supplier for work in process up to and including the date of termination, provided such expenses do not exceed the Prices.

15.0 General

15.1 Amendments

This Agreement may only be amended by a writing specifically referencing this Agreement which has been signed by authorized representatives of the parties.

15.2 Assignment

Neither party will assign their rights or delegate or subcontract their duties under this Agreement to third parties or Affiliates without the prior written consent of the other party, such consent not to be withheld unreasonably, except that either party may

Technical Services Agreement

Agreement # 4912049674

assign this Agreement in conjunction with the sale of a substantial part of its business utilizing this Agreement or any intellectual property assigned or licensed under this Agreement. Any unauthorized assignment of this Agreement is void.

15.3 Choice of Law; Waiver of Jury Trial; Limitation of Action

This Agreement and the performance of transactions under this Agreement will be governed by the laws of the country where the Buyer entering into the Agreement is located, except:

- 1 . in Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Romania, Russia, Serbia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan, this Agreement will be governed by the laws of Austria, ;
2. in Australia, this Agreement will be governed by the laws of the State or Territory in which the transaction occurs;
3. in Canada, this Agreement will be governed by the laws of the Province of Ontario ;
4. in Estonia, Latvia, and Lithuania, this Agreement will be governed by the laws of Finland;
5. in the People's Republic of China, Puerto Rico and in the United States (including if any part of the transaction occurs within the United States) this Agreement and any dispute or controversy arising from or relating to this Agreement will be governed by the laws of the State of New York applicable to contracts executed in and performed entirely within that State;
6. in the United Kingdom, this Agreement will be governed by the laws of England.

The United Nations Convention on Contracts for the International Sale of Goods does not apply. The parties expressly waive any right to a jury trial regarding disputes related to this Agreement. Any legal or other action related to a breach of this Agreement must be commenced no later than two (2) years from the date on which the cause of action arose, unless otherwise provided by local law without the possibility of contractual waiver or limitation.

15.4 Communications

All communications between the parties regarding this Agreement will be conducted through the parties' representatives as specified in the relevant SOW and/or WA. All notices required in writing under this Agreement will be made to the appropriate contact(s) listed in the relevant SOW and/or WA and will be effective upon actual receipt. Notices may be transmitted electronically, by registered or certified mail, or courier. All notices, with the exception of legal notices, may also be provided by facsimile.

15.5 Counterparts

This Agreement may be signed in one or more counterparts, each of which will be deemed to be an original and all of which when taken together will constitute the same Agreement. Any copy of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original.

15.6 Ethical Dealings

Supplier will be familiar and will strictly comply with all laws and regulations on bribery, corruption, and prohibited business practices. Supplier and its Affiliates have not and will not, for the purpose of influencing or inducing anyone to influence decisions in favor of Buyer or any of its Affiliates, offer, promise or make or agree to make, directly or indirectly, (a) any political contributions of any kind or any payment to or for the benefit of any public official, whether elected or appointed, (b) any payments for gifts, meals, travel or other value for a government employee or his/her family members or (c) any payments or gifts (of money or anything of value) to anyone. Buyer shall not reimburse Supplier for any such political contributions, payments or gifts.

15.7 Exchange of Information

All information exchanged is non confidential unless it will be made under a separate signed confidentiality agreement between the parties. The parties will not publicize the terms of this Agreement, or the relationship, in any advertising, marketing or promotional materials without prior written consent of the other party except as may be required by law, provided the party publicizing gives the other party reasonable prior notice to allow the other party a reasonable opportunity to obtain a protective order. Supplier will use information regarding this Agreement only in the performance of this Agreement. Any contacts with government employees by Supplier on Buyer's behalf may only be for the purpose of providing Services under this Agreement. For any Personal Data relating to Supplier Personnel that Supplier provides to Buyer, Supplier has obtained the agreement of the Supplier Personnel to release the information to Buyer and to allow Buyer to use, disclose and transmit such information in connection with this Agreement.

15.8 Freedom of Action

This Agreement is nonexclusive and either party may design, develop, manufacture, acquire or market competitive products or

Technical Services Agreement

Agreement # 4912049674

services. Buyer will independently establish prices for resale of Deliverables or Services and is not obligated to announce or market any Deliverables or Services and does not guarantee the success of its marketing efforts, if any.

15.9 Force Majeure

Neither party will be in default or liable for any delay or failure to comply with this Agreement due to any act beyond the control of the affected party, excluding labor disputes, provided such party immediately notifies the other.

15.10 Obligations of Affiliates

Affiliates will acknowledge acceptance of the terms of this Agreement through the signing of a PA before conducting any transaction under this Agreement.

15.11 Prior Communications and Order of Precedence

This Agreement replaces any prior oral or written agreements or other communication between the parties with respect to the subject matter of this Agreement, excluding any confidential disclosure agreements. In the event of any conflict in these documents, the order of precedence will be:

1. the quantity, payment and delivery terms of the relevant WA;
2. the relevant SOW;
3. this Base Agreement; and
4. the remaining terms of the relevant WA.

15.12 Record Keeping and Audit Rights

Supplier will maintain (and provide to Buyer upon request) relevant business and accounting records to support invoices under this Agreement and proof of required permits and professional licenses, for a period of time as required by local law, but not for less than three (3) years following completion or termination of the relevant SOW and/or WA. All accounting records will be maintained in accordance with generally accepted accounting principles.

15.13 Severability

If any term in this Agreement is found by competent judicial authority to be unenforceable in any respect, the validity of the remainder of this Agreement will be unaffected, provided that such unenforceability does not materially affect the parties' rights under this Agreement.

15.14 Supplier Conduct Principles

Supplier will comply with the Supplier Conduct Principles Letter Agreement ("SCPLA") and the terms and conditions of the SCPLA applies to this Agreement.

15.15 Survival

The provisions set forth in the following Sections and Subsections of this Base Agreement will survive after termination or expiration of this Agreement and will remain in effect until fulfilled: "Taxes", "Ongoing Warranties", "Intellectual Property", "Supplier Liability for Third Party Claims", "Limitation of Liability between Supplier and Buyer", "Record Keeping and Audit Rights", "Choice of Law; Waiver of Jury Trial; Limitation of Action", "Exchange of Information", and "Prior Communications and Order of Precedence".

15.16 Waiver

An effective waiver under this Agreement must be in writing signed by the party waiving its right. A waiver by either party of any instance of the other party's noncompliance with any obligation or responsibility under this Agreement will not be deemed a waiver of subsequent instances.

16.0 Criminal Background Checks

(a) To the extent permitted by local law, Supplier will:

1. obtain from all Supplier Personnel photographic proof of identity from an official government source (including but not limited to documentation such as a valid driver's license or government issued passport) and retain copies thereof;
2. to the extent permitted by local law, ensure that, prior to Supplier Personnel being assigned to perform Services under this Agreement on Buyer's or Customer's premises, Supplier Personnel will participate in a criminal background check covering the jurisdictions (including but not limited to all counties or states (whichever is more comprehensive), countries (this would include a federal check in the United States) and provinces) in which the person was employed or resided for the past seven years (or longer as required by applicable law);

Technical Services Agreement

Agreement # 4912049674

3. not assign Supplier Personnel whose background checks show any of the following:
- (a) felony or misdemeanor convictions involving dishonesty (e.g. bribery, fraud, embezzlement, theft, violations of securities laws), violence (including but not limited to sexual or child abuse crimes), or computer related crimes and/or convictions that are employment-related;
 - (b) the existence of restrictions (such as court orders) that would prevent, or impose limitations on, a person's ability to provide the Services contemplated by this Agreement; or
 - (c) that a person presents a higher than normal security risk to Buyer or Customer.

Upon Buyer request and subject to applicable law, Supplier will provide documentation to Buyer to verify its compliance with this Subsection.

(b) Once a criminal background check is conducted for a particular individual, such background check may be used by Supplier to satisfy the requirements of this Section titled "Criminal Background Checks" for three (3) years from the date of the background check. To the extent permitted by local law, Supplier shall conduct new background checks on individuals assigned to perform Services under this Agreement every three (3) years.

(c) Nothing in this Subsection titled "Criminal Background Checks" limits Buyer's ability to remove Supplier Personnel from an assignment at Buyer's discretion.

ACCEPTED AND AGREED TO:
International Business Machines Corporation
By:

Buyer Signature _____ Date _____
Sharon Ford
Printed Name
Contract Administrator – US Technical Services
Procurement

Title & Organization

Buyer Address:
International Business Machines Corporation
Global Technical Services Council
3039 Cornwallis Road
Raleigh, NC 27709-2195
United States

ACCEPTED AND AGREED TO:
Stanfield Systems Incorporated
By:

Supplier Signature _____ Date _____
David J Doherty
Printed Name
CEO

Title & Organization

Supplier Address:
718 Sutter Street
Suite 108
Folsom, CA 95630
United States