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IDAHO PUBLIC
UTILITIES COMMISSION

Mark C. Moench
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February 13, 2012

VIA OVERNIGHT DELIVERY

Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702-5983

Attention: Jean D. Jewell
Commission Secretary

Re: PacifiCorp Notice of Affiliate Transaction
Case No. PAC-E-05-8

Dear Ms. Jewell:

This letter will serve as notice pursuant to Commitment I 17(2), incorporated in the Idaho Public Utilities Commission Order No. 29973 issued February 13, 2006, as supplemented by Order No. 29998 March 14, 2006, in the above-referenced proceeding, approving the acquisition of PacifiCorp by MidAmerican Energy Holdings Company ("MEHC"), of an affiliate interest transaction. Rocky Mountain Power hereby submits an original and seven copies each of an affiliate interest transaction with International Business Machines Corporation (IBM). The Company recently renewed a portion of a previously existing agreement with IBM to provide software support services for IBM software licenses purchased in 2008. A copy of the Quote and Purchase Order is included as Attachment A. The previously existing agreement titled Contract Between PacifiCorp and International Business Machine Corporation for Software Solution and Implementation Services is included as Attachment B.

PacifiCorp is a wholly-owned indirect subsidiary of MidAmerican Energy Holdings Company (MEHC). MEHC is a subsidiary of Berkshire Hathaway, Inc (Berkshire Hathaway). In mid-November 2011, Berkshire Hathaway publicly announced purchases of IBM common stock totaling greater than a five percent interest. Therefore, Berkshire Hathaway's ownership interest in IBM may create an affiliated interest in some PacifiCorp jurisdictions.

The Company has been reviewing its vendor records and determined that a business relationship with IBM began prior to the existence of the affiliate relationship. In 2008, the Company contracted with IBM for the provision of certain software and software support services. Opportunities for renewal of licensing and support services for individual software periodically arises. In December 2011, the Company determined that renewal of support for the Content Manager on Demand (CMOD) software was needed. CMOD is a software program that manages and stores data and allows that data to be retrieved and presented in desired formats.

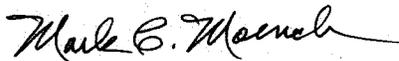
The Company uses CMOD in its Customer Service group to allow representatives to access historical customer information. The Company will pay IBM \$140,336.40 for services related to CMOD, such as updating and repairing, during the calendar year 2012.

The Company relies on software furnished by IBM to create and maintain critical business records. This software is proprietary to IBM; therefore, only IBM is able to provide service. Without CMOD, the Customer Service group would not be able to access customer records, which would impede the ability to assist customers. Installing a different records management system would require considerable time and expense. Accordingly, the transaction is consistent with the public interest.

Additionally, the Company will provide notice of any renewals of software licensing and support services from IBM as they may arise in the future.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mark C. Moench".

Mark C. Moench
Senior Vice President and General Counsel
Rocky Mountain Power

Enclosures

Customer information

Company name Pacificorp
Address 825 NE Multnomah St Ste 800
PORTLAND, Oregon 97232
United States

Agreement number 0000006355
Site number 7020497
IBM customer number 6054716
Offering type Passport Advantage
Customer set designation Energy & Utilities
Government for business No
partner incentives
Contract option STANDARD
Anniversary June

Customer Quote

SQO reference 0002468027
Relationship SVP level H
Total commit value
Currency US Dollar
Quote start date 08-Dec-2011
Quote expiration date 31-Dec-2011
Quote submitted on 08-Dec-2011

Any and all prices herein are suggested prices only and are subject to change at IBM's sole discretion. Products listed herein are subject to withdrawal or modification by IBM at any time at IBM's sole discretion.

Quote details

Software

<u>Quantity</u>	<u>Part number</u>	<u>Part description</u>	<u>Total points</u>	<u>Total price</u>
415	D07B0LL	IBM Content Manager OnDemand Authorized User Value Unit License + SW Subscription & Support 12 Months	1,224.25	140,336.40
	Charge unit	User Value Unit		
	Item points	2.95		
	Item price	338.16		
	Coverage End date:	31-Dec-2012		

Total Software

1,224.25 140,336.40

PacifiCorp
Procurement
825 NE Multnomah Street, Suite 940
Portland, Oregon 97232

Purchase Order

Shipping Address
PacifiCorp Lloyd Center Tower 825 N.E. Multnomah PORTLAND OR 97232
Vendor Address
IBM CORPORATION 71 S WACKER DR CHICAGO IL 60606 USA Attention: Debbie Masaracchia Vendor Phone: (312) 529-3850 Vendor Fax:
Billing Address
PacifiCorp Accounts Payable Department P.O. Box 3040 Portland, OR 97208 - 3040

Information	
P.O. Number	3000083921
Date	12/27/2011
Vendor No.	136141
Payment Terms Description	NET 30
Buyer	Mark Speight
Phone	(503) 813-6422
Fax	(503) 813-6198
Delivery Date	12/30/2012
Inco Terms Description	N/A
Inco Terms (Part X)	N/A
Show the Purchase Order Number on all packages, invoices, bills of lading and correspondence. Send invoices to Accounts Payable Department. Notify buyer immediately: (1) if unable to ship or deliver on dates specified below or (2) when description is incorrect or superceded.	

Shipping Instructions:							
Currency: USD							
Valid From: 12/21/2011 To: 12/30/2012							
Item	Material/Description	Quantity	UM	Net Price	Per	UM	Net Amount
10	IBM; CMoD Maint - 12/30/12	1.00	SVC	140,336.40	1	SVC	140,336.40
Release Order Against Contract: 4600001934 ***** ***** BILLING ADDRESS - SEND INVOICES TO: PACIFICORP - ATTN: Tami Ho-Gland 825 NE Multnomah St., LCT 800; Portland, OR 97232 ***** ***** This Purchase order replaces previous PO #3000056249 Please use current PO on all invoices and correspondence. Agreement #000006355 SQO Reference 0002468027 Maintenance Period: 12/31/2012 Maintenance for: Content Manager On Demand (CMOD) *****							

PacifiCorp
Procurement
825 NE Multnomah Street, Suite 940
Portland, Oregon 97232

Purchase Order

3000083921 - 12/27/2011

Item	Material/Description	Quantity	UM	Net Price	Per	UM	Net Amount
Total Net Value							USD 140,336.40

Vendor shall furnish the Goods and Services specified above in accordance with this Purchase Order, including the provisions set forth on the face hereof and any other provisions attached to, incorporated into, or otherwise made a part of this Purchase Order.

This Purchase Order shall be governed by the terms and conditions of the Master Agreement executed by the parties to this Purchase Order and to which the items in this Purchase Order are identified.

Contract
Between
PacifiCorp
and
International Business Machines Corporation
for
Software Solution and Implementation Services

Agreement Number: 4600001934

Effective Date: Sept. 16, 2008

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EXHIBIT A - Statement of Work (including: Appendix A - "PacifiCorp Metrics", Appendix B - "Deliverable Material Guidelines", Appendix C - "Deliverable Material Acceptance Process, Appendix D - "Pricing Schedule", Appendix E - Project Change Procedures and Appendix F - "Escalation Procedures")
EXHIBIT B - Terms of Hardware Purchase
EXHIBIT C - Terms of Maintenance/Support
EXHIBIT D - Guidelines for PacifiCorp Contractor Expense Reports
EXHIBIT E - "Company's Criteria—NERC CIPS"

The parties to this Contract are PacifiCorp (hereinafter "Company") whose corporate address is 825 NE Multnomah St., Suite 940, Portland OR 97323 and IBM (hereinafter "Contractor") whose address is 15300 SW Knoll Parkway, Beaverton, OR 97006 (together "the Parties").

ARTICLE 1. DEFINITIONS

Defined Terms:

Acceptance Criteria. This term means the criteria for Final Acceptance specified in the Scope of Work.

Applicable Laws. The term means and includes:

(a) any statute, law, rule, regulation, code, ordinance, judgment, decree, writ or order, of any Governmental Authority applicable to Contractor generally as a provider of information technology Products and Services, including any statute, law, rule, regulation, code, ordinance, judgment, decree, writ or order which imposes obligations on Contractor concerning:

(i) Company, Contractor, the Work Site or the performance of any portion of the Work, or the Work taken as a whole, or the operation of the Project; or

(ii) safety and the prevention of injury to Persons and damage to property on, about or adjacent to the Work Site or any other location where any other portion of the Work shall be performed; or

(iii) protection of human health or the environment, and control of emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals or industrial, toxic or hazardous substances or wastes into the environment, including ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, Hazardous Materials or other industrial, toxic materials or wastes;

as now or will at any time hereafter be in effect.

Business Day(s). This means a day, other than a Saturday or Sunday or holiday, on which banks are generally open for business in Portland, Oregon.

CIPS Covered Assets. This means any of the Company's critical infrastructure information or critical facilities.

Company's Criteria. This means applicable requirements of the USA Patriot Act of 2001 used by the Company as the baseline for determining whether an individual is a restricted person consistent with the Company's Personnel Risk Assessment Program, as adopted by Company, in the manner set forth on Exhibit F, "Company's Criteria."

Contract. This term means this agreement between Company and Contractor for Software Solution and Implementation Services, and other services as identified herein, dated _____, 2008, and shall include the terms set forth herein, all Exhibits (including each applicable Scope of Work ("SOW")), Attachments, Appendices and other documents (together the "Contract Documents") intended to be a part of the Contract and by this reference are incorporated therein.

Contract Price. This term means the fixed amount for performing the Work that is payable to Contractor as set forth in an applicable SOW, which may be modified from time to time in accordance with the terms of the Contract.

Defect. Unless otherwise specifically defined elsewhere herein, the term "Defect" includes any defects, material code errors, designs, engineering, materials, workmanship, equipment, tools, supplies or installation or other Work, which (a) do not conform to the requirements of the Contract or (b) are of defective or inferior workmanship or materials.

Designated Machine. This term refers either to: i) the machine on which Company will use a Software Program for processing and which Contractor requires Company to identify to Contractor by type/model and serial number, or ii) any machine on which Company uses the Software Program if Contractor does not require Company to provide this identification

Deliverables. This means all items to be supplied by the Contractor under the Contract including, but not limited to, the design criteria, system descriptions, required manuals, drawings and specifications, design calculations, quality assurance reports, and all other material documents relating to the Work to be delivered to Company for review and comment in accordance with the requirements of the Contract.

Effective Date. This means the date that this Contract is executed by the Parties.

Final Acceptance. This event occurs at the time of the successful completion of all the Work required under an applicable SOW, when the Company confirms in writing, consistent with Article 10, the Work satisfies the Acceptance Criteria more fully described in the relevant SOW.

Final Acceptance Guaranteed Date. This term shall have the meaning set forth in the applicable SOW or other Contract Document.

Governmental Authorities. This term means all United States and other national, federal, state, provincial, and local governments and all agencies, authorities, departments, instrumentalities, courts, or other subdivisions of each having a regulatory interest in or jurisdiction over the Work Site, the Work, the Work or the Parties to this Contract.

Industry Standards shall mean those standards of design, engineering, installation, workmanship, equipment, and components specified in an applicable SOW, provided, however, if the relevant standard is not so specified or is ambiguous therein, then "Industry Standards" or "Industry Grade" shall mean those standards of design, engineering, workmanship, care and diligence normally practiced in the United States by nationally recognized Information Technology Service Providers performing services of a similar nature and in accordance with Applicable Laws established for such work. For purposes of this definition: (a) the specifications in the Scope of Work must comply with Industry Standards as of the Effective Date; (b) the Deliverables must comply with Industry Standards at the time that they are submitted to Company; and (c) the Work performed must comply with the Industry Standards at the time that it is performed.

Machine Code. This term means microcode, basic input/output system code (called "BIOS"), utility programs, device drivers, diagnostics, and any other code (all subject to any exclusions in the license provided with it) delivered with an IBM Machine for the purpose of enabling the Machine's function as stated in its Specifications. The term "Machine Code" includes LIC.

Materials. This term means literary works or other works of authorship (such as software programs and code, documentation, reports, and similar works) created, owned and/or supplied by Contractor as part of a Service. The term "Materials" does not include Software Programs, Machine Code, or other items available under their own license terms or agreements.

Material Adverse Change ("MAC"). This means, with respect to the Contractor, if the Contractor, has experienced a materially adverse change in its ability to fulfill its performance and other obligations under the Contract, including any event or circumstance that would give Company the right to terminate for cause pursuant to ARTICLE 32, TERMINATION FOR CAUSE.

Notice. This term means a written communication between the Parties required or permitted by this Contract and conforming to the requirements of ARTICLE 12, DESIGNATED REPRESENTATIVE AND NOTICES.

Persons. This means any individual, corporation, company, voluntary association, partnership, incorporated organization, trust, limited liability company, or any other entity or organization, including any Governmental Authority.

Program Services. This term means the defect support that Contractor provides for IBM licensed Software Programs. The type of support (e.g., Central Service, Local Service, etc.) and the duration of Program Services are specified in the programming announcement and contained in the associated Licensed Program Specifications or License Information.

Project. This means the complete project to be designed, procured, installed, configured, interfaced, tested and/or commissioned, together with all specified equipment and subsystems, all specified supporting improvements and connections, as described in the Contract Documents and any relevant SOW.

Project Schedule. This term refers to the project schedule provided for in each relevant SOW.

Scope of Work ("SOW"). This document sets out the specific details of the transactions for each Project. Each SOW shall include its exhibits, appendices, addenda, change authorizations, supplements (excluding purchase orders) and like procurement documents. If there is a conflict of terms among the documents, the terms and conditions of the SOW prevail over the other Contract Documents.

Sensitive Personnel. This term means all Personnel with authorized cyber or authorized unescorted physical access to Company's CIPS Covered Assets.

Service(s). This term means any labor, skill or advice provided to Company pursuant to the Contract and the Contract Documents.

Software Program. This term means the original and all whole or partial copies or machine-readable instructions and data, components, audio-visual content (such as images, text, recordings, or pictures); and related licensed materials. The term "Software Program" includes any Contractor Program, or Non-Contractor Program that Contractor may provide to Company, as well as the computer software code specified in the SOW which is developed by Contractor according to mutually agreed to specifications for delivery to the Contractor under the SOW. The term does not include Machine Code or Materials.

Specified Operating Environment – This means the machines and programs with which a Software Program is designed to operate, as described in its Licensed Program Specifications.

Subcontractor. This means any individual, firm, partnership, corporation or contractor, at any tier, having an agreement with Contractor to perform a portion of Contractor's obligations under the Contract.

Term. This means the period of time from the Effective Date until and through three years.

Work. This term means all obligations, duties, requirements and responsibilities required for the successful completion of the Contract by Contractor, including the furnishing of products(s) and/or service(s) (supervision, labor, materials, equipments and other supplies, etc.) which are described in an applicable SOW.

Work Site. This means the location or locations where the Work is to be performed.

Workers' Compensation Laws. These are the statutory requirements (and associated case law) of the state and/or federal regulations (e.g., FELA, USL&H, Jones Act) where the Work is to be performed.

ARTICLE 2. DESCRIPTION OF WORK

Contractor shall perform the Work as specifically described in the Contract Documents for a particular Project.

ARTICLE 3. PERIOD OF PERFORMANCE

The Parties agree that time is of the essence. Contractor shall commence performance on the date specified in the relevant SOW and shall complete the Work no later than the end date specified therein.

Company shall have the right to suspend the Work as set forth in the relevant SOW. Upon such suspension, Company will pay Contractor solely for Work satisfactorily performed by Contractor as of the date of suspension, or as otherwise agreed by the parties in writing.

ARTICLE 4. PROJECT SCHEDULE; MILESTONES; CRITICAL PERFORMANCE MILESTONES

The Project Schedule contained in each SOW sets forth the major tasks that must be completed by the Contractor ("Milestones") and the anticipated completion dates for such tasks ("Milestone Completion Dates") including all design, development and other Milestones to be achieved. Such Project Schedule shall specify any tasks, obligations or responsibilities ("Company Obligations") which the Company must perform or fulfill in order for the Contractor to achieve the Milestone Completion Dates for each Milestone, and the date by which the Company is to fulfill each Company obligation (the "Company Obligation Completion Date"). Certain Milestones identified in each SOW are identified as "Critical Performance Milestones." While timely completion of each Milestone is important to the success of the Work, the occurrence of a Critical Performance Milestone by its respective Critical Performance Date is of critical important to the completion of the Work in a timely manner consistent with the Company's vital business interests. The Contractor shall

commit sufficient manpower and resources to permit the completion of each Critical Performance Milestone by the appropriate Milestone Completion Date.

It is understood by the Parties that the Milestone Completion Dates for interim Milestones (that is, milestones which are not defined as Critical Performance Milestones) are subject to adjustment by the Parties' project managers working together in the course of the Work, and that Critical Performance Milestone may only be modified by mutual agreement in writing by the Parties per ARTICLE 19, CHANGES.

ARTICLE 5. CONSIDERATION AND PAYMENT

Each SOW specifies the amount payable for Materials and Software Products and Services, based on one or more of the following types of charges: one-time, recurring, time and materials, and fixed price. Additional charges may apply (such as special handling or travel-related expenses). Contractor will inform Company in advance whenever additional charges apply. Recurring charges for a Software Program shall be calculated beginning on the program's Date of Installation. Charges for Services are billed as specified in each relevant SOW; such charges may be due in advance, periodically during the performance of the Service, or after the Service is accepted per the acceptance criteria contained in the SOW. Unless otherwise provided in this Contract: i) Services for which Customer prepays must be used within the applicable contract period outlined in the SOW; and ii) IBM does not give credits or refunds for any prepaid or other charges already due or paid. The Contract Price may only be modified by a Change In Work approved in accordance with ARTICLE 19, CHANGES.

When a SOW specifies a fixed price, that fixed price includes payment for (i) all costs of Software, equipment, materials, labor, transportation, engineering, design and other services specified therein (including any specified intellectual property rights licensed thereunder) provided by Contractor or such Subcontractors; (ii) any duties, levies, imposts, fees or charges of any kind (whether in the United States or elsewhere and including any of the foregoing related to the importation of any items into the United States or the exportation of any items from any foreign country) arising out of Contractor's or its Subcontractor's performance of the Work; and (iii) any duties, levies, imposts, fees, royalties or charges of any kind (whether in the United States or elsewhere and including any of the foregoing related to the importation of any items into the United States or the exportation of any items from any foreign country) imposed on Contractor or its Subcontractors with respect to any equipment, materials, labor, or services provided under the Contract.

When a SOW specifies a percentage of "retainage", the percentage of each payment to be retained by the Company until Final Acceptance shall be designated in the Statement of Work.

If any governmental authority imposes upon any transaction under this Contract a duty, tax, levy, or fee, excluding those based on IBM's net income, then Company agrees to pay that amount as specified in an invoice, unless Company supplies exemption documentation. Company is responsible for any payment of personal property taxes for each product from the date IBM delivers it to Company. Additional taxes and tax related charges may apply if IBM personnel are required to perform Services outside their normal tax jurisdiction. As practical, IBM will work to mitigate such additional tax and tax-related charges and will inform Company in advance if these additional charges apply and are payable by Company.

Contractor shall submit an invoice based on the payment terms described in each relevant SOW. Charges will include applicable taxes, travel and living expenses and other reasonable expenses incurred in accordance with the applicable SOW. Undisputed amounts are due no later than thirty (30) days after receipt by Company of Contractor's invoice.

All invoices shall reference the applicable Purchase Order Number and shall be addressed as follows:

PacifiCorp
Attn: Tami HoGland
Lloyd Ctr Tower-Rm 400
825 NE Multnomah
Portland, OR 97232

INVOICES WHICH DO NOT CONTAIN THE ABOVE INFORMATION, OR ARE NOT
ADDRESSED AS ABOVE, MAY CAUSE PAYMENT DELAY.

ARTICLE 6. TAXES

The consideration as stated in ARTICLE 5, CONSIDERATION AND PAYMENT, includes all taxes to be borne by Company arising out of Contractor's performance hereunder, including without limitation sales, use, and value-added taxes. State and local sales and use taxes shall be stated separately and shown on all invoices as a separate line item. Upon request of Company, Contractor shall promptly provide to Company evidence of payment of all state and local sales, use and value-added taxes.

ARTICLE 7. ACCOUNTING AND AUDITING

Contractor shall keep accurate and complete accounting records in support of all cost billings and claims to Company in accordance with generally recognized accounting principles and practices. For a period of three (3) years from the date of Final Acceptance, the Company has the right to obtain from Contractor copies of relevant documents to demonstrate compliance with the Contract. Such documents are limited to invoices, source documents serving as a basis for compensation, supplements, Contract Documents, correspondence between the Parties and copies of this Contract, all of which exclude cost figures.

Contractor shall assist Company with preparing necessary audit material at Company's expense, and will allow Company to review any work papers prepared by independent auditors as allowed by professional standards.

Audit findings by Company's representative will be provided to Contractor by Company, and the Parties shall mutually agree on the effect of any audit, including whether and to what extent any over-charges occurred. Any overcharges the Parties mutually agree to honor shall be described in a Notice of Over-Charge issued by Company to Contractor and shall be repaid to Company within thirty (30) days from date of Notice of Over-Charge.

ARTICLE 8. PERFORMANCE OF WORK

Contractor shall perform and complete all of the Work on a turnkey basis subject to the Acceptance Criteria, in accordance with the applicable SOW, and in compliance with Industry Standards and Applicable Laws; provided, however, that where any such standard or law provides for less stringent standards than those specifically stated in the Contract Documents, the standards specifically stated in the Contract Documents shall govern.

Contractor acknowledges that this Contract constitutes an obligation to design, procure, construct, implement and test through Final Acceptance the Project specifically described in each SOW, within the time specified in the associated Project Schedule.

References to the obligations of Contractor under this Contract as being "turnkey" and performing the Work on a "turnkey basis" mean that Contractor is obligated to supply all of the equipment, labor and services and to supply and perform in satisfaction all of the Work in satisfaction of the terms and conditions set forth in the Contract Documents.

ARTICLE 9. WARRANTIES AND REPRESENTATIONS

Organization, Standing and Qualification. Contractor is a corporation, duly organized, validly existing, and in good standing under the laws of New York, and has, or will have by the Notice to Proceed Date, full power and authority to engage in the business it presently conducts and contemplates conducting in accordance with all Applicable Laws, and is or will be duly licensed or qualified and in good standing under the laws of all states in which the Work is to be performed and in each other jurisdiction wherein the nature of the business transacted by it makes such licensing or qualification necessary and where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder. Upon request, Contractor shall furnish Company with a certified copy of its permit to transact business in the state wherein the nature of the business transacted by Contractor makes such licensing or qualification necessary prior to commencing Work under the Contract. Company may, at its option, withhold from any payment hereunder and remit to the relevant Governmental Authority such sums as required to be withheld by Applicable Law, unless Contractor has received a certificate absolving Company from such withholding in accordance with Applicable Law and has provided Company with a copy of such certificate. In addition, the

Company may, if required by Applicable Law, withhold the Final Payment of the Contract as a guarantee that sales and use tax will be paid in the event that Company has been provided notice by a Governmental Authority pursuant to Applicable Law to withhold funds. Contractor shall make such returns and pay such tax on account of payments received under this Contract as Applicable Law may require, and shall hold Company harmless on account of its failure to withhold any amount required by Applicable Laws from any payment made hereunder or on account of Contractor's failure to pay any such tax to a Governmental Authority.

Enforceable Contract. This Contract has been duly authorized, executed and delivered by Contractor and Company and constitutes the legal, valid and binding obligation of Contractor and Company, enforceable against Contractor or Company in accordance with its terms.

Due Authorization. The execution, delivery, and performance by Contractor of this Contract will not violate or conflict with (i) any Applicable Laws, (ii) any covenant, agreement, or understanding to which it is a party or by which it or any of its properties or assets is bound or affected, or (iii) its organizational documents.

Government Approvals. No authorization, approval, exemption, or consent of or by any Governmental Authority or other Person is required in connection with the authorization, execution, delivery, and performance of this Contract by Contractor, other than as set forth in this Contract.

No Suits, Proceedings. There are no actions, suits, proceedings, or investigations pending or, to Contractor's knowledge, threatened against it at law or in equity before any court (United States or otherwise) or before any Governmental Authority (whether or not covered by insurance) that individually or in the aggregate could result in any materially adverse effect on the business, properties, or assets or the condition, financial or otherwise, of Contractor or in any impairment of its ability to perform its obligations under this Contract. Contractor has no knowledge of any violation or default with respect to any order, writ, injunction, or decree of any court or any Governmental Authority that may result in any such materially adverse effect or such impairment.

Business Practices. Contractor and its representatives have not made any payment or given anything of value and Contractor will direct its employees, agents, and Subcontractors directly contracting with Contractor, and their employees or agents to not, make any payment or give anything of value, in either case to any government official (including any officer or employee of any Governmental Authority) to influence his, her, or its decision or to gain any other advantage for Contractor in connection with the Work to be performed hereunder. None of Contractor, its Subcontractors, or any of their employees or agents shall take any action that in any way violates the United States Foreign Corrupt Practices Act or any similar Applicable Law. Contractor shall provide reasonable Notice to Company of any violation of this covenant (or of the direction described in the first sentence hereof) and shall indemnify and hold Company harmless for all losses arising out of such violation.

Financial Condition. Contractor is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete its obligations under this Contract. Contractor is able to furnish the Software, equipment, labor, and design services needed for the Project, is experienced in and competent to perform the Work contemplated by the Contract Document and any applicable SOW, and is qualified to do the Work.

Additional Warranty Procedures. Where Company reasonably determines that an immediate need (a situation in which makes a reasonable determination that there is a condition or defect that could materially adversely impact the Work and its operations) exists to correct a defect relating to performance under this Contract, Company shall notify Contractor pursuant to Notice provisions in this Contract, Within two (2) days after receipt of said Notice, Contractor and Company shall confer with regard to appropriate procedures in responding to the "immediate need." Within a reasonable period thereafter, not to exceed a time specified in an SOW, such appropriate and necessary remedy shall be completed by Contractor. If Contractor fails in either its confer and resolve obligations under this paragraph, Company then has the right to perform the work in accordance with the warranty procedures; provided however that the failure to comply with such warranty procedures shall not voice any other warranties in this Contract.

ARTICLE 10. ACCEPTANCE OF DELIVERABLES

Deliverables supplied by the Contractor for the Work performed under this Contract for which Company's

review and acceptance is required by the applicable SOW, shall be deemed accepted once Company gives its written acceptance pursuant to said SOW. In the event the Company does not provide its written acceptance within the number of days designated in the applicable SOW, the Deliverables shall be deemed accepted. All Work and Deliverables are subject to review and/or testing at the time(s) set forth in the applicable SOW. Company has the right to reject any Work or Deliverables that do not meet Acceptance Criteria. Written notice from Company that any Work or Deliverable is rejected shall clearly state the reason for the rejection and shall not relieve Contractor or its obligations to meet any milestone delivery date(s). Neither inspection nor testing of Work or Deliverables, nor the lack of same, nor acceptance of the Work or Deliverables by the Company, nor payment therefore, prior to Final Acceptance by the Company relieves the Contractor from any obligations under this Contract. All review and testing for the Work shall occur according to the process defined in the relevant SOW.

ARTICLE 11. ASSIGNED PROJECT ROSTER

The Contractor shall designate key project personnel as defined in the Contract Documents. All employees assigned by the Contractor to perform any of the Contractor's obligations shall be fully qualified to perform the tasks assigned them.

The Company shall have the right to reasonably approve or disapprove the Contractor's selections for key project personnel, and any Subcontractors or independent contractors or subcontractors utilized by the Contractor for the Work hereunder.

In the event the Contractor intends to remove or change its key project personnel who are assigned to a Project or reassign any such personnel to another Project, the Contractor will give the Company fifteen (15) days advance written notice of the Contractor's intentions. The Company shall give due diligence and consideration to any request by Contractor to replace key project personnel and shall respond within fifteen (15) days from receipt of Contractor's notice. The Contractor shall not replace key Project personnel except for reasons beyond Contractor's reasonable control (including but not limited to death, disability, termination, retirement or promotion, without the written consent of the Company, which consent shall not be unreasonably withheld.

ARTICLE 12. DESIGNATED REPRESENTATIVE AND NOTICES

Prior to commencement of the Work, each Party shall designate a project manager authorized to act in its behalf and shall advise the other Party in writing of the name, address, and telephone number of such project manager. All communications relating to the day-to-day activities and the general management of project personnel, including but not limited to ensuring that any approval required under this Contract is executed by duly authorized representatives of the Parties under this Contract, shall be exchanged between such project managers.

Any notice by either Party to the other, whether by overnight courier or electronic communication, shall be delivered to the office of the project manager of the other Party, or, if deposited in the mail, properly stamped with the required postage and addressed to the office of such representative. If a mail notice is sent, it shall be deemed received within three (3) business days. All notices shall be in writing (unless otherwise designated herein). The Parties' addresses for purposes of notice shall be as set forth below:

If to Company:

Pacifi Corp

825 NE Multnomah

Portland, OR 97232
 Attn: _____
Mng Dir IT, LCT-400
 Telephone _____
503-813-6313

If to Contractor:

IBM

71 S. Wacker Dr.

Chicago, IL 60606
 Attn: _____
D. Masaracchia
 Telephone _____
312-529-3850

ARTICLE 13. SITE REGULATIONS

The Contractor, while performing Work at the Work Site, shall adhere to the Company's Work Site regulations which are provided to Contractor in advance, if any, including without limitation environmental protection, loss control, dust control, safety, and security, and prohibit the use or possession of drugs, alcohol,

and firearms by its employees and the employees of any sub-Contractors of any tier. The Contractor shall not damage existing equipment and facilities, and shall endeavor to avoid unreasonable interference with the Company's operations.

ARTICLE 14. COOPERATION WITH OTHERS/WORK RULES

The Contractor shall at all times maintain reasonable discipline among its employees, including the employees of its Subcontractors of any tier. The Contractor shall comply with Work Site rules established by the Company which are provided to Contractor in advance and shall cooperate with Company in enforcing such rules.

Any employee of the Contractor or its Subcontractors of any tier, who is reasonably deemed by the Company to be incompetent or disorderly or who poses a danger to the safety of the Work, shall be removed from the Work upon the written request of the Company and shall not again be employed in the Work without the consent of the Company. Any such removal shall not result in a delay in or change to Contractor's obligations regarding the schedule of the Work to be performed pursuant to this Contract.

ARTICLE 15. STANDARD WORK SCHEDULE

Work scheduled and performed by the Contractor on the Company's premises shall conform to published working hours and shall account for the Company's observed holidays. Due diligence shall be considered by the Contractor for all union work rules.

ARTICLE 16. EXAMINATION OF WORK AND PROGRESS REPORTS

Contractor shall submit periodic progress reports as requested by Company. Company, its agent or representatives, may visit Contractor's office at any reasonable time to determine status of ongoing activities required by this Contract.

All Work will be subject to examination at any reasonable time or times by Company, which shall have the right to reject Work which does not meet the specifications contained in a relevant SOW.

ARTICLE 17. PROFESSIONAL RESPONSIBILITY

Contractor shall perform the Work using the standards of care, skill and diligence normally provided by a professional in the performance of similar services, and shall comply with all codes and standards applicable to the Work.

In the event of Contractor's failure to do so, Contractor shall, upon notice by Company, promptly reperform the Work and correct the defect at Contractor's sole cost. Contractor's obligation to correct and reperform its Work shall be in addition to, and not in lieu of, any other right that Company may have.

ARTICLE 18. STANDARDS OF DESIGN AND WORKMANSHIP

The finished Work shall conform to the specifications set forth in the relevant SOW. The intent of the Contract and Contract Documents is to acquire for the Company Work of good quality workmanship. Each and every Software Program delivered under this Contract shall be implemented, tested and documented in accordance with the specifications set forth in the associated SOW. Notwithstanding the above, the Parties agree to comply with the following:

Contractor hereby has the right to review and verify Company's usage data and other information affecting the calculation of charges, as well as data relating to Company's use of Software Programs at all sites and for all environments in which Company installs or uses Software Programs. Contractor may use an independent auditor to assist with such verification, provided Contractor has a written confidentiality agreement in place with such auditor.

Company agrees to create, retain, and provide to Contractor and its auditors written records, system tools outputs, and other system information sufficient to provide auditable verification that Company's installation and use of Software Programs complies with Contractor's applicable licensing and pricing terms. Contractor will notify Company in writing if any such verification indicates that there are discrepancies in pricing and licensing from the terms and conditions in this Contract. The rights and obligations in this section remain in effect during the period any Software Programs are licensed to Company and for two years thereafter.

ARTICLE 19. CHANGES

Either Party may at any time: seek changes, additions, deletions or amendments to an SOW; or seek to direct the performance, non-performance and/or variation in Work; or seek to alter the Project Schedule. If any such aforementioned changes in direction, whether Company requested or Contractor requested, results in a material change in the amount or character of the Work, an equitable adjustment in the Contract provisions, including but not limited to price terms may be made, and this Contract shall be modified in writing accordingly. Any said change requires mutual written agreement by the Parties. Any claim for an adjustment under this Article shall be processed in accordance with the provisions of ARTICLE 30, CLAIM NOTICE AND RESOLUTION PROCEDURE.

Nothing contained in this Article 19 shall excuse Contractor from proceeding with the performance of the Work in accordance with the Contract.

Contractor shall not suspend the Work pending resolution of any proposed Change In Work. Any dispute arising from or related to a Change In Work or the underlying changes or performance of changes contained therein shall comply with the provisions of ARTICLE 30, CLAIM NOTICE AND RESOLUTION.

ARTICLE 20. WARRANTY

Warranty for IBM-owned Software Programs. Contractor warrants that each IBM-owned Software Program, when used in the Specified Operating Environment, will conform to its Specifications and the details of the applicable Contract Documents. In addition, Contractor warrants that at the time of delivery no known viruses will exist in the Software Program and warrants that it will in good faith work with Company to eliminate any viruses or other infections. Contractor also warrants that, throughout the applicable warranty period, any media upon which it delivers Software Programs as part of the Work under this Contract shall be free of defects in materials and workmanship.

Warranty for Services. For each IBM Service provided by Contractor relating to the Work under this Contract, Contractor warrants that Contractor shall perform and/or deliver the Service using reasonable care and skill; in a professional and workmanlike manner; and in compliance with the then-current description and any completion criteria contained in the applicable Contract Documents.

Warranty Limitations. The warranties stated above will not apply to the extent there has been misuse, accident that is not the fault of Contractor, modification that is not specifically authorized in writing by Contractor, operation in other than either the Specified Operating Environment or a suitable physical environment, improper maintenance by Company, or failure in a Software Program or Service caused by either a non-IBM Software Product or Service unless Contractor specifically provides a warranty for that non-IBM Software Product or Service in an applicable SOW.

THESE WARRANTIES, UNLESS PROVIDED OTHERWISE IN A RELEVANT SOW, ARE THE EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

IBM does not warrant uninterrupted or error-free operation of a Product or Service or that IBM will correct all errors. IBM will identify IBM owned Software Programs that it does not warrant. Unless IBM specifies otherwise (in a formal quote), it provides Materials, non-IBM Software Programs, and non-IBM Services **WITHOUT WARRANTIES OF ANY KIND.** However, non-IBM manufacturers, suppliers or publishers may provide their own warranties to you.

Warranty Period. The "Warranty Period" for the Work shall be set forth in each SOW. Contractor shall have no liability under this Section from and after the end of the Warranty Period (or at the end of a period extended as described below); provided, however, that the Warranty Period for any item or part required to be repaired, corrected or replaced following discovery of a Defect during the original Warranty Period shall be extended from the time of such repair, correction or replacement for a period equal to the original Warranty Period. Notwithstanding the foregoing, no Warranty Period shall extend beyond a date that is defined in the applicable SOW.

Enforcement After Expiration. At or after the expiration of the Warranty Period, Company shall be responsible for enforcing all representations, warranties, and guarantees from Subcontractors, and Contractor shall provide reasonable assistance to Company, on a reimbursable basis, in enforcing such representations, warranties, and guarantees, when and as reasonably requested by Company. In addition, prior to the

expiration of each respective Warranty Period, or the extension thereof, Company, at its option and upon prior written Notice to Contractor, may enforce any such warranty against any Subcontractor if (i) Company determines that Contractor has not enforced such warranty against the Subcontractor in a timely and diligent manner or performed the warranty work itself, or (ii) a Contractor Event of Default exists.

Subcontractor Warranties. Without in any way derogating from Contractor's own representations and warranties with respect to all of the Work, Contractor shall use its reasonable efforts to obtain from all Subcontractors (including Suppliers) any representations, warranties, guarantees, and obligations offered by such Subcontractors, and to negotiate warranty periods longer than the Warranty Periods at no additional cost to Contractor with respect to design, materials, workmanship, equipment, tools, supplies and other items furnished by such Subcontractors. All representations, warranties, guarantees, and obligations of such Subcontractors shall, at the request and direction of Company, and without recourse to Contractor, be assigned to Company or any financing entity upon default by Contractor or termination or expiration of this Contract; provided, however, that, notwithstanding such assignment, Contractor shall be entitled to enforce each such representation, warranty, guarantee, and obligation through the end of the warranty periods.

Correction of Defects.

(a) Company shall promptly give timely written Notice to Contractor upon discovery of any failure of any of the Work to satisfy the Project Warranties during the Warranty Period (including Subcontractor warranty period and warranty period extensions). In the event of any such failure under circumstances in which there is an "immediate need" (a situation when there is a threat of imminent harm to persons or property or a situation that in Company's reasonable determination could materially adversely impact the operation of the Project and/or Work), the Company shall perform such warranty work for Contractor in accordance with the Additional Warranty Procedures (set forth in Article 9); provided however, that the failure to comply with such Warranty Procedures shall not void the Project Warranties. If a Software Program does not function consistent with the specification set forth in the applicable SOW during the first year after Final Acceptance and IBM is unable to make it do so after reasonable efforts and time, Company shall return Software Program and will be refunded the total amount of fees paid for Software Program. If Contractor can reproduce Company's reported problem in the Specified Operating Environment, Contractor will issue defect correction information, a restriction, or a bypass. Contractor provides Program Services for only the unmodified portion of a current release of a Program. Contractor provides Program Services i) on an on-going basis (with at least six months' written notice before Contractor terminates Program Services), ii) until the date Contractor specifies, or iii) for a period the Parties mutually specify. IBM warrants that it does and shall perform each IBM Service using reasonable care and skill, and according to the current description and completion criteria, if any, contained in the Contract Documents.

ARTICLE 21. LICENSE GRANT

License Grant. Software Programs are hereby licensed to Company as specified in applicable Contract Documents or other license document, such as the IBM International Program License Agreement. In the event that a Contract Document or other applicable license document does not specify the manner in which a Software Program is licensed to Company, Contractor will grant (at the time of the transfer of the software) Company a nonexclusive license to use a Software Program only by Company in the United States. Software Programs are owned by IBM Contractor, one of its subsidiaries, or a third-party and are copyrighted and licensed (not sold). Under each license, Contractor authorizes Company to use the Software Program's machine-readable portion on only the Designated Machine. If the Designated Machine is inoperable, Company may use another machine temporarily. If the Designated Machine cannot assemble or compile the Software Program, Company may assemble or compile the Software Program on another machine. If Company changes a Designated Machine previously identified to Contractor, Company agrees to (1) notify Contractor of the change and its effective date, (2) use the Software Program to the extent of authorizations Company has obtained, (3) make and install copies of the Software Program, to support the level of use authorized, provided Company reproduces the copyright notices and any other legends of ownership on each copy or partial copy; and (4) use any portion of the Software Program IBM i) provides in source form, or ii) marks restricted (for example, "Restricted Materials of IBM") only to resolve problems related to the use of the Software Program, and modify the Software Program so that it will work together with other products. For each Software Program, Company agrees to comply with any additional or different terms in the Licensed Program Specifications the Contract Documents, or applicable license documents, and to ensure that all users of the Software Program (accessed either locally or remotely) do so only pursuant to Company's authorized

use. For each Software Program, Company also agrees to maintain a record of all copies made, and provide the record to IBM at its request. Company agrees not to reverse assemble, reverse compile, otherwise translate, or reverse engineer the Software Program, unless expressly permitted by applicable law without the possibility of contractual waiver or sublicense, assign, rent, or lease the Software Program or transfer it outside Company.

If approved in advance in writing by IBM (which approval includes any applicable license use rights included in license documentation), and subject to any necessary agreements which IBM requires, Company may exercise its rights hereunder through third party subcontractors for the sole purpose of assisting Company in its permitted use of the Software; provided, however, that each such third party subcontractor must agree in a legally binding writing, to which Company is a named third party beneficiary, to be bound by terms and conditions herein.

ARTICLE 22. INSURANCE AND WORKER'S COMPENSATION

Without limiting any liabilities or any other obligations of Contractor, Contractor shall, during the period of Work under this Contract, secure and carry with insurers the following insurance coverage:

Workers' Compensation. Contractor shall comply with all applicable Workers' Compensation Laws and shall furnish proof thereof satisfactory to Company prior to commencing Work.

Employers' Liability. Insurance with a minimum single limit of \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 disease policy limit.

Commercial General Liability. The most recently approved ISO policy, or its equivalent, written on an occurrence basis, with limits not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate (on a per location and/or per job basis) bodily injury and property damage, including the following coverages:

- a. Premises and operations coverage
- b. Independent contractor's coverage
- c. Contractual liability
- d. Products and completed operations coverage
- e. Coverage for explosion, collapse, and underground property damage
- f. Broad form property damage liability
- g. Personal injury liability, with the contractual exclusion removed
- h. Sudden and accidental pollution liability

Business Automobile Liability. The most recently approved ISO policy, or its equivalent, with a minimum single limit of \$1,000,000 for bodily injury and property damage including sudden and accidental pollution liability, with respect to Contractor's vehicles whether owned, hired or non-owned, assigned to or used in the performance of the Work.

Professional Liability. Insurance covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. IBM shall in good faith use commercially reasonable efforts to ensure that Professional Liability coverage continues in place with the same terms and conditions as described herein until after December 31, 2010. The intent of this policy is to provide coverage for claims arising under this Contract and caused by any error, omission, breach or negligent act for which the Contractor is held liable.

Umbrella Liability. Insurance with a minimum limit of \$5,000,000 each occurrence/aggregate where applicable to be excess of the coverages and limits required in Employers' Liability insurance, Commercial General Liability insurance and Business Automobile Liability insurance above.

Except for Workers' Compensation insurance, the policies required herein shall include provisions or endorsements naming or including Company, its officers, directors, agents, and employees as additional insureds.

To the extent of Contractor's negligent acts or omission, all policies required by this Contract shall include provisions that such insurance is primary and non-contributory; and the policy contain a cross liability or severability of interest clause or endorsement. Should any of the policies described herein be canceled, or their limits of liability materially changed, before the expiration date thereof, Company shall use commercially

reasonable efforts to ensure that the insurer affording coverage will mail within thirty (30) days prior written notice to the certificate holder named herein. Failure to mail such notice shall impose no obligation of liability of any kind upon the insurer affording coverage, its agents or representatives.

A certificate certifying to the issuance of such insurance shall be furnished to Company prior to commencement of Work by Contractor. Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate.

ARTICLE 23. INDEMNIFICATION

IBM will defend and hold Company harmless to the extent provided herein, at IBM's expense and pay all costs, losses, suits, judgments, expenses, damages, and attorney's fees that a court finally awards or that are included in a settlement approved by IBM related to the following types of claims:

- a. Damage to real property and tangible personal property;
- b. Bodily injury to, or death of any person(s), including without limitation employees of Company, or of Contractor or its sub-Contractors of any tier; and
- c. Claims arising out of Workers' Compensation or Unemployment Compensation laws applicable to employees of Contractor.

Contractor's indemnity obligation under this Article shall not extend to any liability caused by the sole negligence of any of the Indemnitees.

ARTICLE 24. LIMITATION OF LIABILITY

Circumstances may arise where, because of a default on Contractor's part or other liability, Company is entitled to recover damages from Contractor. In each such instance, regardless of the basis on which Company is entitled to claim damages from Contractor (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), Contractor is liable for no more than:

1. Payments referred to in the Patents and Copyrights Indemnity Section below;
2. Damages for bodily injury (including death) and damage to real property and tangible personal property; and
3. Claims against Contractor arising out of Workers' Compensation or Unemployment Compensation laws applicable to employees of Contractor.
4. The amount of any other actual direct damages shall be limited to two times (2x) the charges for the Software Program or Services (if recurring, 12 months charges apply) that is the subject of the claim or \$100,000, whichever is greater. For purpose of this term, Product includes Materials, Machine Code and Licensed Internal Code.

This limit also applies to any of Contractor's subcontractors and Program developers. It is the maximum for which Contractor and its subcontractors and Program developers are collectively responsible.

Items for Which IBM is Not Liable

Under no circumstances is Contractor, its subcontractors, or Program developers liable for any of the following even if informed of their possibility:

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

ARTICLE 25. LAWS AND REGULATIONS

Contractor shall at all times comply with all laws, including without limitation those governing wages, hours, desegregation, employment discrimination, employment of minors, health and safety, which are applicable to IBM as a provider of information technology products and services. IBM is not responsible for determining

the requirements of laws applicable to Company's business, including those relating to the Software Programs, Services and other Work required by this Contract, nor that IBM's provision of or Company's receipt of particular Software Programs, Services and other Work under this Contract meets the requirements of law. Neither Party is obligated to take any action that would violate Applicable Law. Contractor shall comply with equal opportunity laws and regulations pursuant to ARTICLE 35, EQUAL EMPLOYMENT OPPORTUNITY AND OTHER NONDISCRIMINATION CLAUSES.

ARTICLE 26. INDEPENDENT CONTRACTOR

Contractor is an independent contractor and persons employed by Contractor in connection herewith shall be employees or subcontractors of Contractor and not employees of Company in any respect.

ARTICLE 27. CRIMINAL BACKGROUND CHECK, IDENTITY VERIFICATION AND RELATED SCREENING

If requested by the Company, the Contractor shall conduct, at Contractor's cost and expense, criminal background checks for the current and past countries of residence on all employees, agents, Subcontractors or independent contractors and the employees, agents or representatives of Subcontractors or independent contractors, that have electronic or physical access to Work or Company facilities. At a minimum, a social security number verification and seven-year criminal background check, including felony or misdemeanor convictions involving: (a) violence to persons/property; (b) theft/fraud; (c) drug/alcohol; or (d) traffic/other are required. Employment history, education verification, and professional certifications may also be required by the Company. All background checks will be conducted in accordance with federal, state, provincial, and local laws, and subject to existing collective bargaining unit agreements or other agreements, if any. Contractor shall not allow persons who have not met the Company's criteria to perform Work, unless Contractor has received assent from Company. Contractor shall supply a certification that meets Company's criteria for each Contractor employee, agent or representative and for employees, agents or representatives of any Subcontractor or independent contractor employed by Contractor. Contractor shall ensure that employees, agents, Subcontractors or independent contractors and the employees of Subcontractors or independent contractors sign an appropriate authorization form prior to criminal background checks being conducted, acknowledging the background check is being conducted and permitting Contractor to use the results of the background check in determining personnel assignments.

Contractor shall have and ensure compliance with a substance abuse/drug and alcohol policy that complies with all applicable federal, state and/or local statutes or regulations. In addition, if requested by Company in a SOW, Contractor shall ensure a drug test, at Contractor's cost and expense, for all employees, agents, Subcontractors or independent contractors and the employees, agents or representatives of Subcontractors or independent contractors, that have electronic or physical access to Work or Company facilities has been completed prior to assignment at Company. Such drug test shall be a five (5) Panel Drug Test, which should be recognizable at testing labs as a "SamHSA5 panel at 50NG - THC "cut-off".

For any assigned worker who has had a recent background check or drug test, then "recent" shall be defined as less than six (6) months prior to the assignment date. Such recent background check or drug test shall be documented per the previous paragraph.

Contractor shall ensure Department of Transportation compliance, including but not limited to valid drivers license, equipment inspections, hours of service and all appropriate documentation for any assigned worker who may drive while on assignment to Company.

Contractor warrants that Contractor, its employees, agents, Subcontractors or independent contractors and the employees of Subcontractors or independent contractors have met the Company's criteria or received assent from the Company and are in compliance with Contractor's substance abuse/drug and alcohol policy.

It is understood and agreed that Company may request that Contractor provide an ongoing and updated list of persons that have been denied access to Company Work or facilities.

ARTICLE 28. BUSINESS ETHICS

Contractor, Company, and their employees, agents, representatives and Subcontractors shall at all times maintain the highest ethical standards and avoid conflicts of interest in the conduct of Work for the Company.

ARTICLE 29. NERC CIPS COMPLIANCE

In the event that the Work under this Contract requires any authorized cyber or authorized unescorted physical access to Company's Critical Infrastructure Protected ("CIP") assets, Consultant and all Sensitive Personnel shall be required to comply with North American Electric Reliability Corporation ("NERC") CIP Standards ("CIPS"), as adopted by Company's Criteria (attached hereto and incorporated herein as Exhibit E, "Company's Criteria—NERC CIPS"). For all Sensitive Personnel, Contractor shall:

- a. Ensure Sensitive Personnel are informed of and comply with Company's training, personnel risk assessment, security awareness and information protection programs;
- b. Conduct the background checks outlined in subsection (a) of ARTICLE 27, CRIMINAL BACKGROUND CHECK, IDENTITY VERIFICATION AND RELATED SCREENING, and provide the certification required by subsection (c) of the same article;
- c. Conduct the drug test outlined in subsection (b) of ARTICLE 27, CRIMINAL BACKGROUND CHECK, IDENTITY VERIFICATION AND RELATED SCREENING and provide the certification required by subsection (c) of the same article;
- d. Ensure Sensitive Personnel complete Company provided CIPS compliance training prior to accessing CIPS Assets;
- e. Provide Company with a list of Sensitive Personnel authorized to access CIPS assets that shows Sensitive Personnel's information sensitivity classification clearance level and assures Sensitive Personnel adherence to protected information handling procedures;
- f. Report Sensitive Personnel terminations for cause immediately to Company but not longer than twelve (12) hours from time of termination and report all other Sensitive Personnel terminations or changes in employment status for those who no longer require access within twelve (12) hours from time of occurrence;
- g. Keep accurate and detailed documentation to confirm compliance with the requirements of the NERC CIPS.

Contractor shall not allow any personnel who have not met the foregoing requirements of this ARTICLE to perform Work, unless Contractor has received prior written consent from Company. Contractor shall supply Company with a certification on the form included as Exhibit _ "Contractor Information Form" for each of the Sensitive Personnel to be assigned to the Work, prior to such assignment.

Contractor and its Sensitive Personnel shall each be required to execute a separate confidentiality and non-disclosure statement, substantially in the form of the standard PacifiCorp "Confidentiality and Non-Disclosure Agreement" available on request.

Contractor shall designate one person to be responsible for compliance with the requirements of this ARTICLE 29, and all reporting and inquiries shall be made via e-mail to CIPS-Contracting@PacifiCorp.com. Any event giving rise to a reporting obligation under this ARTICLE 29, shall be reported to Company within twelve (12) hours of its occurrence.

ARTICLE 30. CLAIM NOTICE AND RESOLUTION PROCEDURE

In the event either Party has a claim, request for a time extension and/or additional compensation, or any other adjustment of the terms of the Contract or Contract Documents, or has any dispute arising out of the Work (hereinafter "Claim"), that Party shall notify the other Party in writing within five (5) working days following the occurrence of the event giving rise to the Claim.

All disputes hereunder shall be settled, if possible, by mutual agreement of the Company and Contractor. If the matter is not resolved by the Parties' representatives within ten (10) business days from the time the Notice above is received, either Party may, by giving written Notice to the other as defined hereunder, cause

the matter to be referred to a meeting of appropriate management representatives of the Parties. Such meeting shall be held within ten (10) business days following such written notice.

If the matter is not resolved within thirty (30) business days after the date of the management meeting described above or such later date as may be mutually agreed by the Parties in writing, then the Parties may pursue any other remedies (legal and equitable) they may have.

Even if a Claim arises, Contractor shall continue its performance as required under this Contract.

ARTICLE 31. TERMINATION FOR CONVENIENCE

The Parties will specify in each relevant SOW whether either or both of them shall the right to terminate the SOW for convenience. Company may terminate this Contract at any time without cause by sending to Contractor written notice at least two (2) weeks prior of such termination. As to any SOW which has not yet been completed at the time of such termination, this Contract shall remain in force, as if not terminated, until the completion or termination of the SOW.

ARTICLE 32. TERMINATION FOR CAUSE

1. For purposes of this Contract, a material default (one that may serve as the basis of this Contract's termination "for cause") shall be the occurrence of any of the following:
 - a. A breach by either Party of any of its material obligations under this Contract, if such breach continues uncured for a period of ten (10) calendar days after receipt of written notice from the non-breaching Party, unless such breach cannot by its nature be remedied within such period; in which event, the breaching Party shall provide evidence reasonably satisfactory to the non-breaching Party within ten (10) calendar days after receipt of such notice that such breach will be corrected or that the breaching Party is making reasonable progress to that end.;
 - b. A determination that any representation, statement, or warranty made by either Party in the Contract, or any other statement, report, or document which a Party is required to furnish to the other Party, was false or misleading in any material respect;
 - c. The filing by or against Contractor of a proceeding under any bankruptcy or similar law, unless such proceeding is dismissed within thirty (30) calendar days from the date of filing; the making by Contractor of any assignment for the benefit of creditors; the filing by or against Contractor for a proceeding for dissolution or liquidation, unless such proceeding is dismissed within thirty (30) calendar days from the date of filing; the appointment of or the application for the appointment of a receiver, trustee, or custodian for any material part of Contractor's assets unless such appointment is revoked or dismissed within thirty (30) calendar days from the date thereof; the attempt by Contractor to make any adjustment, settlement, or extension of its debts with its creditors generally; the insolvency of Contractor; the filling or recording of a notice of lien or the issuance or the obtaining of a levy of execution upon or against a material portion of Contractor's assets, unless such lien or levy of execution is dissolved within thirty (30) calendar days from the date thereof.
 - d. A Material Adverse Change has occurred with respect to Contractor, and Contractor fails to provide such performance assurances as are reasonably requested by Company.
 - e. Any violation of law committed by a Party, its employees, agents or subcontractors.
2. Upon the occurrence of a breach or material default specified in this ARTICLE, the non-breaching Party shall have the right to terminate this Contract for cause.
3. Upon the occurrence of any such material default, following the applicable process described in this ARTICLE, the non-breaching Party shall be entitled upon written notice to the breaching Party without limiting any of the non-breaching Party's other rights or remedies, to terminate this Contract or to terminate the breaching Party's right to proceed with that portion of the Work affected by any such material default.
4. Upon termination of this Contract or any portion of this Contract upon a material default, the non-breaching Party shall be entitled to pursue any and all rights and remedies that it may have against the breaching Party under this Contract or at law or in equity.

5. Upon receipt of any such written notice of termination of the entire Contract or of any right to proceed with any portion of the Work following the applicable process described in this ARTICLE, Contractor shall, at its expense, for that portion of the Work affected by any such termination;

- a. Assess the status of any Service still due and preserve any Work performed; and
- b. To the extent that they are assignable, assign to Company any and all subcontracts and equipment rental agreements as designated in writing by Company.

ARTICLE 33. OWNERSHIP OF DESIGNS AND WORK PRODUCT

The Parties will specify Materials to be delivered in the applicable SOW as being "Type I Materials," "Type II Materials," "Type Z Materials" (all further described below), or otherwise as mutually agreed. No SOW pursuant to which Materials are to be provided shall be effective unless and until the Materials Type has been agreed upon and specified in such SOW. IBM or its suppliers retains ownership of the copyright in any of IBM's or its suppliers' works that pre-exist or were developed outside of this Agreement and any modifications or enhancements of such works that may be made under this Agreement. To the extent they are embedded in any Materials, such works are licensed in accordance with their separate licenses provided to Customer, if any, or otherwise as Type II Materials. Notwithstanding the foregoing, Company hereby grants Contractor a temporary license to use, reproduce, perform and prepare derivative works from Company's IP, to the extent that such IP is required to perform a Service according to this Contract during the Service performance period as outlined in the Contract (including any applicable SOW).

Type I Materials are those, created during the Service performance period, in which Company has all right, title and interest (including ownership of copyrights). Contractor will retain one copy of the Type I Materials. Company hereby grants Contractor; 1) an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, distribute (internally and externally) copies of, and prepare derivative works based on, Type I Materials; and 2) the right to authorize others to do any of the former.

Type II Materials are those, created or provided during the Service performance period or otherwise (including materials that preexist the Service), in which Contractor or third-parties have all right, title and interest (including ownership of copyright). Contractor will deliver one copy of the specified Type II Materials to Company. Contractor grants to Company an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute, within Company's Enterprise only, copies of Type II Materials, and hereby confirms that Company has the rights associated with this grant of such licenses for third-party Type II Materials which are licensed to Company by Contractor under this Contract.

Type Z Materials are those, created during the Service performance period, in which Company has all right, title and interest (including ownership of copyright). No license is granted to Contractor with respect to Type Z Materials, except to the extent necessary to provide Software Products and Services under the Contract. Both Parties are free to enter into similar agreements with others and to develop and provide materials or services which are similar to those provided under the Contract.

Each Party agrees to reproduce the copyright notice and any other legend of ownership on any copies made under the license(s) granted under this ARTICLE.

Subject to the above qualifications on ownership of IP for each material type, both Parties are, unless otherwise agreed to in a SOW, free to use any ideas, concepts, know-how or techniques which are developed jointly during a Project and are not the IP of the other or third-parties.

ARTICLE 34. INTELLECTUAL PROPERTY INDEMNITY

For purposes of this ARTICLE, the term "Product" means Software Programs, Materials and Machine Code.

Claims for which IBM is responsible:

If a third-party claims that a Product which IBM provides to Customer infringes on that party's patent or copyright rights, IBM will defend and hold Company harmless against that claim at IBM's expense and pay all costs, losses, suits, judgments, expenses, damages, and attorney's fees that a court finally awards or that are included in a settlement approved by IBM, provided that Company:

- a. promptly notifies IBM in writing of the claim; and

- b. allows IBM to control, and cooperates with IBM in, the defense and any related settlement negotiations.

If such a claim is made or appears likely to be made, Company agrees to permit IBM to enable Company to continue to use the Product, or to modify it, or replace it with one that is at least functionally equivalent. If IBM determines that none of these alternatives is reasonably available, Company agrees to return the Product to IBM on IBM's written request. IBM will then give Company a credit equal to:

- a. for a Machine, Customer's net book value calculated according to generally-accepted accounting principles;
- b. for a Software Program, the amount paid by Customer, or 12 months' license charges (whichever is less); and
- c. for Materials, the amount Company paid IBM for the creation and delivery of the Materials

Claims for Which IBM is Not Responsible

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

- a. anything provided by Company or a third-party on Company's behalf that is incorporated into a Product or IBM's compliance with any designs, specifications, or instructions provided by Company or a third-party on Company's behalf, which Contractor did not specifically approve in writing;
- b. modification of a Product by Company or a third-party on Company's behalf, or a Software Program's use other than in accordance with its applicable licenses and restrictions;
- c. the combination, operation, or use of a Product with any product, hardware device, program, data, apparatus, method, or process that Contractor did not provide as a system or specify in writing which is delivered as part of the Work under this Contract, if the infringement would not have occurred were it not for such combination, operation or use;
- d. the distribution, operation or use of a Product outside Company's Enterprise; or
- e. infringement by a non-IBM-owned Product or an Other Software Program alone.

This ARTICLE concerning protection of the Parties' IP and indemnification therefore states IBM's entire obligation and Company's exclusive remedy regarding third-party claims involving IP under this Contract, except to the extent such IP claims are brought, filed or asserted in any way with other claims not involving IP. Such collateral claims not involving IP shall be resolved according to any and all the legal and equitable remedies granted in this Contract.

ARTICLE 35. EQUAL EMPLOYMENT OPPORTUNITY AND OTHER NONDISCRIMINATION CLAUSES

Contractor shall at all times comply with all Applicable Laws governing wages, hours, desegregation, employment discrimination, employment of minors, health, and safety. Contractor shall comply with equal opportunity laws and regulations to the extent that they are applicable.

ARTICLE 36. CONFIDENTIAL INFORMATION / NONDISCLOSURE

Confidentiality and Non-disclosure shall be in accordance with the current Confidentiality Agreement between the Parties effective September 11, 2008.

ARTICLE 37. RELEASE OF INFORMATION – ADVERTISING AND PROMOTION

Neither the names of Company, nor the Work Site shall be used in any advertising or other promotional context by Contractor without the express prior written consent of Company.

ARTICLE 38. NON-ASSIGNMENT

Contractor shall not assign this Contract, or any part hereof, or any rights or responsibilities hereunder without the prior written consent of Company, and any attempted assignment in violation hereof shall be void.

Notwithstanding this provision, Contractor shall be entitled to assign its right to payment without the consent of Company.

Company may assign its rights under this Contract, without Contractor's prior written consent, to any affiliate within its Enterprise. Customer may not otherwise assign its rights without Contractor's prior written consent, such consent not to be unreasonably withheld or delayed.

ARTICLE 39. SUBCONTRACTS

Contractor shall neither subcontract nor permit any portion of the Work to be subcontracted without the prior written consent of Company; and Contractor shall be fully responsible for the acts or omissions of any Subcontractors of any tier and of all persons employed by them, and neither the consent by Company, nor anything contained herein, shall be deemed to create any contractual relation between the sub-Contractors of any tier and Company.

ARTICLE 40. NONWAIVER

The failure of either Party to insist upon or enforce strict performance by the other of any of the terms of the Contractor to exercise any rights herein shall not be construed as a waiver or relinquishment to any extent of that party's right to assert or rely upon such terms or rights on any future occasion.

ARTICLE 41. SEVERABILITY

Any provisions of this Contract prohibited or rendered unenforceable by law shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Contract.

ARTICLE 42. FORCE MAJEURE

Neither Party shall be liable for delays due to strike (except for strikes by Contractor's own workforce or Subcontractors), fire, riots, acts of God, acts of the public enemy, or other similar unforeseeable cause beyond the control and without the fault or negligence of the Party incurring such delay; however, both Parties agree to seek to mitigate the potential impact of any such delay. Any Force Majeure delay shall not be the basis for a request for additional compensation. In the event of any such delay, the required completion date may be extended for a reasonable period not exceeding the time actually lost by reason of the delay, unless Company provides consent otherwise in writing.

Company-Caused Delay. Should Company cause a delay in Contractor's performance, this Contract may be modified according to ARTICLE 19, CHANGES.

Request for Time Extension. Any request for time extension, scheduling changes, additional compensation, or other changes to the Services to be provided under an applicable SOW shall be made in accordance with the provisions set forth in ARTICLE 19, CHANGES.

ARTICLE 43. APPLICABLE LAW AND VENUE

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon. Any litigation between the parties arising out of or relating to this Contract will be conducted exclusively in federal or state courts in the State of Oregon, and Contractor consents to jurisdiction by such courts.

ARTICLE 44. ENTIRE AGREEMENT/DOCUMENTS INCORPORATED BY REFERENCE

This Contract and all Contract Documents (incorporated herein by references throughout this Contract) constitute the complete agreement between the Parties. All understandings, representations, warranties, agreements and any referenced attachments, if any, existing between the Parties regarding the subject matter hereof are merged into and superseded by this Contract, which fully and completely expresses the agreement of the Parties with respect to the subject matter hereof.

Neither Company nor Contractor assumes any responsibility for any understanding or representation made by any of its employees, officers, or agents during or prior to the negotiations and execution of this Contract, unless such understanding or representation is expressly stated in the Contract

The Parties intend that the terms and conditions of the Contract should be complementary with each other; however, in the event of a conflict between the terms and conditions of any SOW and those of the Contract or

other Contract Documents, the terms and conditions of the relevant SOW shall govern.

ARTICLE 45. EXECUTION AND EFFECTIVE DATE

This Contract has been executed by duly authorized representatives of the Parties and shall be effective as of date of execution by the Company.

CONTRACTOR:

COMPANY:

Company

By: Deborah S. Masaracchia
(Signature)

By: [Signature]
(Signature)

Name: DEBORAH S. MASARACCHIA
(Type or Print)

Name: Maureen Sammon
(Type or Print)

Title: IBM CLIENT EXEC
September 16, 2008
(Date Executed)

Title: SVP & Chief Admin. Officer
9-16-2008
(Date Executed)

EXHIBIT A

Statement of Work - Number ONE (1) (CAHD-7G7QFD)

for

Migration of SAP R/3 and BI Systems from Oracle to DB2 LUW for PacifiCorp

The parties to the is Statement of Work herein made apart of the Contract dated September 16, 2008 Between PACIFICORP ("Company") and INTERNATIONAL BUSINESS MACHINES ("Contractor"), together ("the Parties") for Services described herein.

1. Statement of Work

This Statement of Work ("SOW") defines the performance and schedule of tasks to be accomplished by Contractor under the terms and conditions of the IBM / PacifiCorp Contract No. 4600001934, Effective Sept. 16, 2008 ("Contract"). This Contract is part of and has been referenced and incorporated into said SOW.

This SOW includes the following subsections:

- Scope of Services
- Key Assumptions
- Contractor Responsibilities
- Company Responsibilities
- Completion Criteria
- Estimated Schedule
- Deliverable Materials
- Other Terms and Conditions

Changes to this SOW will be processed in accordance with Appendix E, "Project Change Procedures".

The following are incorporated in and made part of this Scope of Work, by this reference:

- Appendix A, "PacifiCorp Metrics"
- Appendix B, "Deliverable Material Guidelines"
- Appendix C, "Deliverable Material Acceptance Process"
- Appendix D, "Pricing Schedule"
- Appendix E, "Project Change Procedures"
- Appendix F, "Escalation Procedure"

2. Scope of Services

The objective of this Project is to manage solution delivery for IBM hardware, software, and services. The scope of the project is to:

- Provide Project Management for Hardware Installation, Database installation, Conversion, and Go-Live.
- Provide IBM AIX/System p Implementation Services to assist Company with the implementation of the System p servers. (Installation of hardware is not included.)
- Create the design for hardware configuration and virtualization.

- Configure, and implement the operating system, System p POWER virtualization (“VIO”), logical partitions, hypervisor and all software components for included hardware.
- Design and implement DB2 Backup and Recovery and Disaster Recovery processes.
- Migrate SAP R/3 and BI systems from Oracle to DB2 LUW as specified in IBM Responsibilities (below). Installation and configuration of DB2 and SAP for each system, as required, is included. Deep compression will be enabled on the R/3 ERP Production and Development systems, and the BI Production and Development systems.
- Assist Company with preparation for testing the migrated SAP systems.
- Perform the system cutovers for each SAP R/3 and BI environment.
Landscapes/environments included are:
 - SAP R/3 source landscape:
 - R/3 ERP Production system (PRD)
 - R/3 ERP Test system (QAS)
 - R/3 ERP Unit Test system (UTS)
 - R/3 ERP Development system (DEV)
 - SAP R/3 Sandbox Systems PS02 and PS02T
 - SAP BI source landscape:
 - BI Production system (BWP)
 - BI Test system (BWQ)
 - BI Development system (BWD)

The Project Scope is based on the metrics documented in Appendix A, received from Company in June, 2008.

3. Key Assumptions

This SOW and IBM's estimates to perform are based on the following key assumptions. Deviations that arise during the proposed Project will be managed through the procedure described in Appendix E, “Project Change Procedures”.

1. This SOW addresses servers located at the Company location(s) at 825 NE Multnomah Suite 800 Portland, OR 97232-2190 and the servers located at the Company location(s) at 1407 West North Temple, Salt Lake City, UT 84115.
2. Contractor will assign a project manager to oversee the migration project. Contractor will work closely with Company's assigned Project Manager to ensure minimal impact to Company's business operations.
3. Company will make required resources and information (personnel, materials, etc) available for Project implementation per the project plan and as needed to support IBM.
4. Company will coordinate through its Project Manager all resources required for all phases of testing (pre and post migration).
5. The Parties agree that design and implementation of Multi-Dimensional Clustering (MDC) implementation is not within the scope of this Project.
6. Not all Work will be performed on the Work Site. Work related to production system test migrations and migration of test and development systems will be performed remotely, keeping travel and living costs to a minimum. (Production system cutovers are executed with the SAP-certified IBM migration team lead on-site and actively engaged through the cutover process.)
7. Company's project manager will ensure that Contractor has VPN or other suitable network access for SAP migration activities associated with this Project.
8. Company and Contractor will adhere to SAP-prescribed standards and procedures where applicable.

9. Company's project manager will coordinate with the Contractor and Company teams to ensure adequate hardware is available for this effort. Systems larger than 4TB in table data size require additional planning and consideration, and cannot be migrated in-place.
10. Company will accept or advise of deficiencies for each deliverable material or milestone submission within 5 business days. If neither is received within 5 business days, the deliverable material or milestone is considered accepted by default.
11. No UNICODE data conversion is being performed.

4. Contractor Responsibilities

The specific Services to be provided by Contractor to Company are described as follows:

4.1 Contractor General Responsibilities

1. Contractor will provide Services under this SOW during normal business hours, 8:00 a.m. to 5:00 p.m. (local time) Monday through Friday, except Contractor holidays, unless otherwise mutually agreed upon.
2. Contractor staffs projects on a national basis with either local or non-local resources based upon resource availability at project initiation. At the start of a project and on an ongoing basis, our project managers shall work together to mutually determine any onsite requirements of non-local perform resources. For long term engagements, the typical 40 hour work week of full time non-local resources normally consists of the resource traveling to Company's Work Site on Monday, returning to their home city at the end of the workday on Thursday and performing Project related activities remotely on Friday, as applicable. During weeks with a national Holiday or during periods when a resource is not required to be on the Work Site full time, both Parties will work together to define an alternate full time work schedule. Such alternate work schedule may include the resource performing Project-related activities remotely.
3. Some Contractor activities in this Project may be performed on Contractor premises.
4. Some of the Services may be performed by an IBM subcontractor. If an IBM subcontractor assists with the project, Contractor is solely responsible for completion of the work described herein and compliance with the terms hereof and coordinating any involvement of Contractor subcontractors who may be engaged to assist Contractor in accomplishing the work described herein. When Contractor activities for this Project are to be performed on Company premises, Contractor will supply the names of personnel assigned to the Company project manager three (3) weeks prior to Contractor personnel arriving at the Company work site.

4.2 Contractor Migration Responsibilities

Contractor will deliver a Production Cutover Plan template for each landscape and system in scope (as appropriate) prior to the beginning of the engagement. IBM's technical team lead will coordinate with Company's project manager to incorporate all required tasks into the final project plan.

4.2.1 Software Installation and Configuration

In this activity, Contractor will prepare the nine (9) virtualized Company-designated target servers for the SAP landscape migrations.

1. Contractor will provide up to one hundred (100) hours of Services to build Company's System p infrastructure, to include up to four (4) IBM p570 Servers. Tasks to support this activity are:
 - a. Conduct a planning session for the System p advanced POWER virtualization;
 - b. Configure, install and micro partition in the IBM System p Server into Virtual I/O ("VIO"), AIX or Linux partitions, for a total of up to ten partitions per IBM p570 server;
 - c. Configure logical volumes, file systems and TCP/IP connectivity for the newly created partitions on each server;

- d. Assist Company to upgrade existing HMC(s) to V7, if needed;
 - e. Configure a single Network Installation Manager (called "NIM") server;
 - f. Other eligible IBM Services as directed by PacifiCorp and agreed to by Company and Contractor before deployment of Contractor resources;
 - g. Provide basic skills instruction for up to two of Company's designated operations staff on tasks performed herein.
2. Contractor will install and configure DB2 and SAP on each server.
 3. Contractor will prepare a Software Installation and Configuration Report summarizing installation and configuration activities for the seven Company-designated target servers.

Completion Criteria

This task shall be considered complete when Company formally accepts, in writing or via electronic mail, the Software Installation and Configuration Report, in accordance with the process defined in Appendix C, "Deliverable Material Acceptance Process".

Materials

- 1) Software Installation and Configuration Report

4.2.2 R/3 Landscape Migration Process

The Services for this task include:

1. R/3 Migration Design and Planning
 - a. Assist Company with scanning the production system for non-SAP-compliant code, using SAP-recommended methodology and tools. Non-SAP-compliant code will be promptly identified to Company for resolution. SAP or IBM scanning tools will be leveraged for the production system scan.
 - a. Jointly develop, with the Company project manager, the initial project plan and Production Cutover Plan for the R/3 systems.
 - b. Assist Company-designated personnel with development of an implementation plan for high-availability disaster recovery (DB2 HADR) processes for SAP R/3 production server.
 - c. Perform a systems review and develop and finalize the migration strategy with the assistance of designated Company Subject Matter Experts (SMEs).
 - d. After completion of the migration strategy planning process, make initial revisions to the Production Cutover Plan.
2. R/3 Production System (PRD) Migration Testing
 - a. Perform one or more test migrations from a copy of PRD to the target server configured with DB2, which includes:
 - a. Execute the export and import process and post processing steps.
 - b. Revise the Production Cutover Plan from the template as required.
 - c. Verify the target DB2 production system configuration and environment, and make appropriate recommendations, if any, regarding the target system configuration.
 - d. Finalize the production system cutover plan and refine the estimated production system cutover downtime requirement.
 - e. Repeat the above testing process as necessary to address Company's cutover requirements.
 - b. Implement and test the DB2 Backup and Recovery process and HADR failover.

3. R/3 Development System (DEV) Migration
 - a. Verify the target DB2 development system configuration and environment for the DEV migration, and make appropriate recommendations, if any, regarding the target system configuration.
 - b. Execute the export and import process and post processing steps.
 - c. Assist with a test of the backup and restore process and system clone procedure.
 - d. Perform remediation for identified problems related to DB2 and the migration, if any.
4. Migration and Cutover of the R/3 Production System (PRD)
 - a. Execute the optimized export and import process and post-processing steps as defined in the project plan.
 - b. Verify target production system configuration and make appropriate recommendations, if any, for changes to the target production system configuration.
 - c. Perform post go-live support steps and defect resolution for any identified issues related to DB2 and the migration.
 - d. Contractor will work with Company to jointly define methodologies, which will become part of the project plan, to determine the pre-upgrade response time of Company's present SAP R/3 production transactions. Considering Contractor is providing only a portion of the hardware supporting the targeted solution, Contractor will achieve a production R/3 response time that is a response time of eight-tenths of a second (0.8 seconds) average or the existing system's average production R/3 SAP transaction response defined above over a thirty (30) day period with up to eight-hundred (800) concurrent users. This response time will be measured using SAP transaction response time reports. The foregoing does not apply to the extent that failure to meet performance metrics is a result of any reason beyond IBM's control.
5. R/3 Test (QAS and UTS) Systems Refresh
 - a. Assist Company personnel with the database copy ("clone") procedure to build a new copy of QAS and a new copy of UTS using the migrated production system as the source system.
6. Documentation of R/3 Landscape Migration Activities
 - a. Contractor will prepare an R/3 Landscape Migration Report describing the overall migration process, issues encountered and remediation applied, and details regarding the implementation of SAP recommended steps as published in the SAP Go-Live Report.
7. Post-Cutover Defect Resolution Support
 - a. IBM migration team will provide defect resolution support for any R/3 landscape post-migration issues caused by the migration to DB2 for up to 30 calendar days from the date of the R/3 Production System cutover. After 30 calendar days, Company will use the designated IBM support process for all support issues.

Completion Criteria

This task shall be considered complete when Company formally accepts, in writing or via electronic mail, the R/3 Landscape Migration Summary Report, in accordance with the process defined in Appendix C, "Deliverable Material Acceptance Process".

Materials

- 1) R/3 Landscape Migration Summary Report

4.2.3 R/3 Functional Test Servers Implementation

The Services for this task include:

1. Copy either the migrated R/3 PRD or R/3 QAS system data, as specified by Company, to the PS02 and PS02T servers.
2. Document the activities performed in this step, including the system copy procedure, in the R/3 Functional Test Servers Implementation Report. The Report will enumerate the system copy

procedure (to enable Company personnel to repeat the process as needed), any issues encountered and their remediation.

Completion Criteria

This task shall be considered complete when Company formally accepts (in writing or via electronic mail) the R/3 Functional Test Servers Implementation Report, in accordance with the process defined in Appendix C, "Deliverable Material Acceptance Process".

Materials

- 1) R/3 Functional Test Servers Implementation Report

4.2.4 SAP BI Landscape Migration Process

The Services for this task include:

1. BI Migration Preparation
 - a. Assist Company with scanning the production system for non-SAP-compliant code, using SAP-recommended methodology and tools. Non-SAP-compliant code will be promptly identified to Company for resolution. SAP or IBM scanning tools will be leveraged for the production system scan.
 - b. Jointly develop, with the Company project manager, the initial project plan and Production Cutover Plan.
 - c. Perform a systems review and develop and finalize the migration strategy with the assistance of designated Company Subject Matter Experts (SMEs).
 - d. After completion of the migration strategy planning process, make initial revisions to the Production Cutover Plan.
2. BI Production System (BWP) Migration Testing
 - a. Perform one or more test migrations from a copy of BWP to the target server configured with DB2, which includes:
 1. Execute the export and import process and post processing steps.
 2. Revise the Production Cutover Plan from the template as required.
 3. Verify the target DB2 production system configuration and environment, and make appropriate recommendations, if any, regarding the target system configuration.
 4. Finalize the production system cutover plan and refine the estimated production system cutover downtime requirement.
 5. Repeat the above testing process as necessary to address Company's cutover requirements.
3. BI Development System (BWD) Migration
 - a. Verify the target DB2 development system configuration and environment for the BWD migration, and make appropriate recommendations, if any, regarding the target system configuration.
 - b. Execute the export and import process and post processing steps.
 - c. Assist with a test of the backup and restore process and system clone procedure.
 - d. Perform remediation for identified problems related to DB2 and the migration, if any.
4. Migration and Cutover of the BI Production System (BWP)
 - a. Execute the optimized export and import process and post-processing steps as defined in the project plan.
 - b. Verify target system configuration and make appropriate recommendations, if any, for changes to the target system configuration.
 - c. Perform post go-live support steps and defect resolution for any identified issues related to DB2 and the migration.

5. BI Test (BWQ) System Refresh
 - a. Assist Customer's personnel with the database copy ("clone") procedure to build a new copy of BWQ using the migrated production system as the source system.
6. Documentation of the BI Landscape Migration
 - a. Contractor will prepare a BI Landscape Migration Report describing the overall migration process, issues encountered and remediation applied, and details regarding the implementation of SAP recommended steps as published in the SAP Go-Live Report.
7. Post-Cutover Defect Resolution Support
 - b. IBM migration team will provide defect resolution support for any post-migration issues caused by the migration to DB2 for up to 30 calendar days from the date of the BI Production System cutover. After 30 calendar days, Company will use the designated Contractor support process for all support issues.

Completion Criteria

This task shall be considered complete when Company formally accepts (in writing or via electronic mail) the BI Landscape Migration Summary Report, in accordance with the process defined in Appendix C, "Deliverable Material Acceptance Process".

Materials

- 1) BI Landscape Migration Summary Report

4.2.5 SAP Migration Project Completion

The purpose of this task is to formalize acceptance of the migrated solutions and permit the release of remaining funds held by Retainage.

After Customer Acceptance of the R/3 Landscape Migration Summary Report or BI Landscape Migration Summary Report (whichever is accepted last), Contractor will submit a Certificate of Project Completion.

Completion Criteria

This task shall be considered complete when Company's project sponsor accepts, in writing or via electronic mail, the Certificate of Project Completion, in accordance with the process defined in Appendix C, "Deliverable Material Acceptance Process" and Contractor attains the performance goals documented in Section 4.2.2 item 4d.

Materials

- 1) Certificate of Project Completion

4.3 Project Management Responsibilities

Contractor will provide an individual ("IBM Project Manager") to provide direction and control of Contractor project personnel, and to establish a framework for project communications, reporting, procedural and contractual activity. The major sub tasks are:

1. Review this SOW, and any associated documents, with the Company Project Manager.
2. Coordinate and manage the activities of Contractor project personnel.
3. Maintain Project communications through the Company Project Manager.
4. Establish documentation and procedural standards for the development of this Project.
5. Prepare a Project plan at the onset of this Project for performance of this SOW. The Project plan will define tasks, schedule and responsible person(s) or organization(s) for each Milestone.
6. Conduct project status meetings.
7. Prepare and submit monthly Status Reports.

8. Review and administer the Project Change control procedure with the Company Project Manager.

Completion Criteria

This is an ongoing activity which will be considered complete at the end of the Services. The Project Plan will be a "living document" updated during the course of the project by Contractor and Company project managers.

Materials

- a. Monthly Status Report

5. Company Responsibilities

The responsibilities listed in this section are in addition to those responsibilities specified in the Contract, and are to be provided at no charge to IBM. IBM's performance is predicated upon the following responsibilities being fulfilled by Company as scheduled in the Project plan. Delays in performance of these responsibilities or suspension of the Services by Company may result in additional charges and/or delay of the completion of the project, and will be handled in accordance with Appendix E, "Project Change Procedures".

5.1.1 Company General Responsibilities

1. Ensure appropriate staff is available to provide such assistance as Contractor reasonably requires and that Contractor is given reasonable access to Company's senior management, as well as any members of Company's staff to enable Contractor to provide Services. Company will ensure that their staff has the appropriate skills and experience to perform Company's responsibilities under this Statement of Work. If any of the Company staff fails to perform as required, Company will make suitable additional or alternative staff available.
2. Provide suitable office space, supplies, furniture, high speed connectivity to the Internet, and other facilities for IBM's personnel while working on your premises.
3. Provide security clearance and building access for Contractor project personnel. Most of the work involved in this project will be performed during normal working hours (8:00am to 5:00pm). However, on some occasions, Company may need to provide access to facilities outside of these hours.
4. Be responsible for the content of any 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 Services from access by unauthorized personnel.
5. Be responsible for the identification and interpretation of any applicable laws, regulations, and statutes that affect your existing application systems or programs that Contractor will have access to during the Services. It is Company's responsibility to assure that the systems and programs meet the requirements of those laws, regulations and statutes.
6. Authorize IBM Corporation and its subsidiaries (and their successors and assigns, contractors and IBM Business Partners) to store and use your business contact information wherever they do business, in connection with Contractor products and Services or in furtherance of IBM's business relationship with Company, except as limited in the master Contract.
7. Make final selection of solution and technical architectures.

5.1.2 Company Project Manager

Prior to the start of the Project described under this SOW, Company will designate a person, called the Company Project Manager, to whom Contractor communications will be addressed and who has the authority to act for Company in all matters regarding this SOW.

The Company Project Manager will:

1. Assist the Contractor Project Manager with development of the project plan for the performance of this SOW prior to implementation. This includes project activities, tasks, assignments, and estimates.
2. Serve as the interface between Contractor and all Company departments, organizations and sites participating in this project.
3. Administer the Project Change Control Procedure with the Contractor Project Manager.
4. Participate in project status meetings.
5. Obtain and provide information, data, decisions and approvals, within two (2) working days of IBM's request, unless both Contractor and Company agree to an extended response time.
6. Help resolve Project issues and escalate issues within the Company organization, as necessary.

5.1.3 Company Migration Responsibilities

The overall project structure and effort estimate is based on a core-scope approach that has specific responsibilities which must be managed by the Company Project Manager with assistance from the Contractor project manager, as needed.

Company will:

1. Make a separate target system ("migration target system") available for the SAP migration, including preparation, installation of SAP on DB2, and testing.
2. Prepare each migration target system to start the SAP and database installation consistent with the schedule set forth in the project plan. This includes:
 - a. Ensuring the target systems are connected to the LAN.
 - b. Ensuring storage needed for the migration is available, connected, and accessible from the target machine.
 - c. Preparing, jointly with IBM, the file system layout for the migration target system based on the existing migration source system, for file systems other than database file systems. Database file systems will be prepared based on IBM's recommendations.
 - d. Ensuring the migration source and target systems are accessible via the LAN and that remote access is available to IBM's SAP migration specialists. Root access (effective using sudo) to target and source systems is necessary for Contractor to provide services.
 - e. Ensuring there is enough disk space on the migration source system to export the source database (approximately 15% of the net source database size).
3. Have the Kernel installation CDs or installation images for the current SAP release and the DB2 installation CDs or installation images for the target operating system available, including the latest SAP-certified DB2 Fixpacks.
4. Ensure the DB2 Database License Keys are available (these can be obtained from the SAP Service Marketplace).
5. Generate the required SAP license and migration keys for the target DB2 based system.
6. Be responsible for SAP migration activities that require execution by Company's staff, in accordance with SAP guidelines and published notes. Company agrees that Contractor is neither responsible nor liable if any of the SAP migration activities performed by Company personnel should result in failure due to non-adherence to SAP instructions. In such cases, Company is responsible to engage SAP for support.
7. Verify compatibility of third-party software with DB2. Examples include certain tax-ware products and database-specific monitoring tools. Company also agrees to be responsible for resolving

database compatibility or performance issues with the third-party software vendor (if appropriate), or replace incompatible software as required.

8. Be responsible for testing of all migrated systems.
9. Be responsible for modifying any custom ABAP code or external interfaces that are not database independent per SAP standards.
10. Provide Contractor VPN or other suitable remote network access for SAP migration activities associated with this Project.

6. Completion Criteria

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

- Contractor accomplishes the Contractor activities described in Section 4 Contractor Responsibilities, including delivery to Company of the Materials described in Section 8 Deliverable Materials, if any;
- You or Contractor terminates the project in accordance with the provisions of the Contract. Provided, however, neither Party may terminate this SOW without cause.

The Warranty Period for the Services provided under this SOW shall end upon Company's acceptance of the Deliverable Materials in accordance with the Deliverable Materials Acceptance Process in Appendix C.

7. Estimated Schedule

The start date, to be determined by both Parties, is currently estimated to be October 1, 2008 ("Start Date"), and the estimated end date is estimated to be March 31, 2009 ("End Date"), or on other dates as mutually agreed in writing by the Parties.

If the SOW is executed on a date after the above Start Date, that Start Date shall automatically be extended to be the first business day following the day the last signature is affixed to this SOW. The End Date shall automatically be extended by the same number of days.

Reasonable effort shall be made to keep the schedule dates intact.

8. Deliverable Materials

The Deliverable Materials, identified as Type II Materials, resulting from these Services are:

- Monthly Status Reports*
 - All Materials identified in section 4.
- * = Deliverable Material exempt from the Deliverable Material Acceptance Process

See Appendix B, "Deliverable Material Guidelines," for a description of each Deliverable Material. See Appendix C, "Deliverable Material Acceptance Process," for the Material acceptance process.

9. Data File Content and Security

You are solely responsible for the actual content of any data file, selection and implementation of controls on its access and use, and security of the stored data.

10. Other Terms and Conditions

At the completion of the Project, Contractor may cite Company's name and the general nature of the Services we performed for Company to its other customers, and prospective customers, as an indication of client satisfaction, with prior written consent by Company. In entering into this SOW, Company is not relying upon any representation made by or on behalf of Contractor that is not specified in the Contract, including, without limitation, the actual or estimated completion date, number of hours to provide any of the Services, charges paid, or the results of any of the Services to be provided under this SOW.

Each Party agrees that the complete Contract between them regarding the Contractor's performance,

Materials and Services consists of 1) this SOW, 2) the master Contract and 3) all the other Contract Documents, as mutually agreed.

Required Consents

Company is responsible for promptly obtaining and providing to Contractor all required consents (the "Required Consent") necessary for Contractor to provide the Services described in this SOW. A Required Consent means any consents or approvals required from the owners of the hardware, software, firmware and other products Company may use, to give Contractor and its subcontractors the right or license to access, use and/or modify (including creating derivative works) those hardware, software, firmware and other products, without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such products. Contractor will be relieved of its obligations that are adversely affected by Company's failure to promptly obtain such licenses or approvals. Company agrees to reimburse Contractor for any reasonable and direct costs and other amounts that Contractor may incur from Company's failure to obtain the Required Consents, including any reasonable and direct costs and amounts arising from claims asserted by third parties with respect to such failure to obtain a required consent. Contractor agrees to assist Company in identifying which Required Consents are necessary, and, to the extent possible, to assist Company in obtaining the Required Consents.

Each Party agrees that the complete agreement, which replaces any prior oral or written communications between us regarding this transaction, consists of 1) the Statement of Work, its Appendices, and 2) the Contract.

Agreed to:

PacifiCorp

Portland , Oregon 97323

By:


Authorized signature

Name (type or print): Maureen Sammon

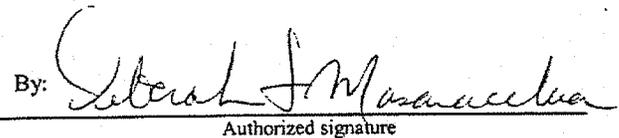
Date: Sept. 16, 2008

Agreed to:

International Business Machines Corporation

Armonk, New York 10504

By:


Authorized signature

Name (type or print): DEBRAH S. MASARACCHIA

Date:

Sept 16, 2008

Appendix A: PacifiCorp Metrics

SAP Solution	System ID	System Type	System Copy from P2N?	SAP Basis Release	Double Stack (ABAP + JAVA)?	OS-Type (Source System)	OS Release (Source System)	DB Type (Source System)	DB Release (Source System)	DB Size [GB] (Used)	Largest Table Size (GB)*	# of CPUs	CPU Speed (GHz)	Memory (GB) (Source System)	Acceptable downtime (hrs)*
R/3 / ERP	PRD	Production	no	4.7	No	SOLARIS	10	Oracle	9i	2700		12	1.2	48	
R/3 / ERP	UTS	Test	yes	4.7	No	SOLARIS	10	Oracle	9i	2700		8	1.2	32	
R/3 / ERP	QAS	Test	yes	4.7	No	SOLARIS	10	Oracle	9i	400		8	1.2	16	
R/3 / ERP	DEV	Development	no	4.7	No	SOLARIS	10	Oracle	9i	1700		8	1.2	16	
BI	BWP	Production	no	3.5	No	SOLARIS	10	Oracle	9i	1700		8	1.4	64	
BI	BWQ	Test	yes	3.5	No	SOLARIS	10	Oracle	9i	600		8	1.2	16	
BI	BWD	Development	no	3.5	No	SOLARIS	10	Oracle	9i	1500		8	1.2	16	
R/3 / ERP	PS02	Production	no	4.7	No	SOLARIS	10	Oracle	9i	2700					
R/3 / ERP	PS02T	Production	no	4.7	No	SOLARIS	10	Oracle	9i	400					

* - not specified in original questionnaire responses

Appendix B: Deliverable Material Guidelines

B - 1: Monthly Status Report

Purpose:

IBM will provide a Monthly Status Report during the Project to describe the activities which took place during that period. Significant accomplishments, Milestones, and problems will be described.

Content:

The report will consist of the following, as appropriate:

- Activities performed during the reporting period
- Activities planned for the next reporting period
- Project change control activity
- Problems, concerns, and recommendations

Delivery:

One hard copy will be delivered to the PacifiCorp Project Manager within five (5) working days following the reporting period.

B - 2: Software Installation and Configuration Report

Purpose:

To provide the Customer with a written summary of software installation and configuration activities performed by IBM.

Content:

This document will contain:

1. A summary of software installation activities;
2. A summary of any special configuration settings made during the installation and configuration of DB2 or SAP for each server; and
3. An installation record for each IBM p570 server.

Delivery:

IBM will deliver one (1) copy of the Software Installation and Configuration Report in softcopy format.

B - 3: R/3 Landscape Migration Summary Report

Purpose:

To provide the Customer with a written summary of the R/3 Landscape Migration performed by IBM.

Content:

This document will contain:

1. Results from production system test migration execution including technical information obtained from the production system test migration.
2. A summary of how the technical information from the production system test migrations were applied to the Production System Cutover Plan.
3. A review of the implementation of SAP's recommended actions as provided by SAP in the SAP Go-Live Report.
4. A summary of the Development System Migration and any significant issues encountered.
5. A summary of the results obtained when the migrated SAP solution was copied to the QAS system.
6. Any technical challenges or unusual risks that occurred during the R/3 Landscape Migration and remediation or risk mitigation activities performed.

Delivery:

IBM will deliver one (1) copy of the R/3 Landscape Migration Summary Report in softcopy format.

B - 4: R/3 Functional Test Servers Implementation Report

Purpose:

To provide the Customer with a written summary of the R/3 Functional Test Servers implementation and general instructions for copying data from the Customer's selected source system to its R/3 Functional Test Servers.

Content:

This document will contain:

1. A summary of the implementation activities for the PacifiCorp PS02 and PS02T systems, and any significant issues encountered.
2. A summary of any remediation performed by IBM to address any issues with the system copy process.
3. General directions for cloning a chosen SAP source system to PS02 and PS02T.

Delivery:

IBM will deliver one (1) copy of the R/3 Functional Test Servers Implementation Report in softcopy format.

B - 5: BI Landscape Migration Summary Report

Purpose:

To provide the Customer with a written report of the BI Landscape Migration performed by IBM.

Content:

1. Results from production system test migration execution including technical information obtained from the production system test migration.
2. A summary of how the technical information from the production system test migration(s) was applied to the Production System Cutover Plan.
3. A report on the implementation of SAP's recommended actions as provided by SAP in the SAP Go-Live Report.
4. A summary of the Development System Migration and any significant issues encountered.
5. A summary of the results obtained when the migrated SAP solution was copied to the BWQ system.
6. Any technical challenges or unusual risks that occurred during the BI Landscape Migration and remediation or risk mitigation activities performed.

Delivery:

IBM will deliver one (1) copy of the BI Landscape Migration Report in softcopy format.

B - 6: Certificate of Project Completion

Purpose:

This document will serve to certify that IBM has successfully accomplished those tasks delineated in 4.2 IBM Migration Responsibilities, and to document PacifiCorp's acceptance of the migrated solution.

Content:

A single page document ("Certificate") stating

- a) PacifiCorp and IBM agree that the tasks assigned IBM under this Statement of Work as defined in 4.2 IBM Migration Responsibilities have been satisfactorily completed.
- b) PacifiCorp has accepted the migrated solution.

This document will include signature areas for the PacifiCorp project sponsor and the IBM project manager.

Delivery:

IBM will deliver one (1) copy of the Certificate of Project Completion in hardcopy format.

Appendix C: Deliverable Material Acceptance Process

Each Deliverable Material as defined in Appendix B: Deliverable Materials Guidelines will be reviewed and accepted in accordance with the following procedure:

- One (1) printed draft or softcopy of the Deliverable Material will be submitted to the PacifiCorp Project Manager. It is the PacifiCorp Project Manager's responsibility to make and distribute additional copies to any other reviewers.
- Within five (5) business days of receipt, the PacifiCorp Project Manager will either accept the Deliverable Material or provide the IBM Project Manager a written list of requested revisions. If the IBM Project Manager receives no written response from the PacifiCorp Project Manager within five (5) business days, then the Deliverable Material will be deemed accepted.
- The IBM Project Manager will consider PacifiCorp's request for revisions, if any, within the context of IBM's obligations as stated in Appendix B - Deliverable Materials Guidelines.
- Those PacifiCorp revisions agreed to by IBM will be made and the Deliverable Material will be resubmitted to the PacifiCorp Project Manager, at which time the Deliverable Material will be deemed accepted.
- Those PacifiCorp revisions not agreed to by IBM will be managed in accordance with Appendix E, "Project Change Procedures".

Appendix D: Pricing Schedule

This Pricing Schedule contains all of the final, mutually agreed pricing for the services to be delivered as described herein and in accordance with the related SOW.

PRICING

The professional services to fully implement products into a fully functional and operating system and described and specified in the SOW shall be provided for a fixed price of: **\$523,606.16**.

PAYMENTS

1. Payments for implementation services shall be made based on the following progress milestones. Payment is due per the Contract.
2. Invoices shall be submitted and Payments made at the milestones listed below:

Milestone	Milestone Value	Retainage	Amount Due
Software Installation and Configuration	\$74,860.62	\$14,972.13	\$59,888.49
R/3 Landscape Migration	\$199,442.46	\$39,888.49	\$159,553.97
R/3 Functional Test Servers Implementation	\$24,930.31	\$4,986.06	\$19,944.25
BI Landscape Migration	\$224,372.77	\$44,874.55	\$179,498.22
SAP Migration Project Completion	Total Retainage:		\$104,721.23
		Total Fees:	\$523,606.16

3. PacifiCorp shall retain and withhold payment of Twenty percent (20%) of all payments to be made to Contractor under this SOW (the "Retainage") other than the final payment of the Contract Price. Such amount shall be held by PacifiCorp and any interest thereon shall accrue for the account of PacifiCorp and not Contractor. Immediately following acceptance of the final deliverable specified in the SOW, PacifiCorp shall pay the retained amounts to Contractor, less an amount equal to \$5,775 per day for each calendar day of delay beyond the scheduled date of delivery of the final deliverable per project plan and schedule up to the total amount of the Retainage, to the extent such delay is caused solely by IBM. The amounts retained by Company for any such delay shall be Company's sole and exclusive remedy for such delay.

The sole exclusive remedy for IBM's failure to meet performance criteria, found in Section 4.2.2, item 4d, will be the amount of any delay and the consequent withholding of the Retainage by PacifiCorp under this retainage section.

In exchange for IBM agreeing to the performance metric in Section 4.2.2 item 4d, PacifiCorp agrees to be an external reference for IBM as a DB2 SAP showcase and IBM migration services showcase. This reference showcase could be in print, speech or both.

Travel and living expenses are in addition to the above charges and will be invoiced monthly in accordance with PacifiCorp Guidelines from the Contract and IBM policy. Exceptions to the PacifiCorp Guidelines are as follows:

- a) Option to stay over the weekend. Expenses will be equal or less than travel back to home location. For example, month to month hotels costs, meals and car rental for non-work days spent at PacifiCorp work location.
- b) Occasional Spousal travel to client location in lieu of travel home
- c) Mobile phone and data related expenses for PacifiCorp

Milestone Acceptance Criteria

As IBM delivers the Materials required to complete a Project Milestone, the IBM Project Manager will promptly request formal customer acceptance ("Acceptance Request") of the Material from the PacifiCorp Project Manager or designated representative. Project Milestones and Acceptance Criteria for Milestone Completion are listed below.

Acceptance Request Handling.

For each Acceptance Request, PacifiCorp shall have five (5) business days to respond to IBM's Project Manager, at which time PacifiCorp may:

- a. Accept the Material provided by IBM; or
- b. Reject the Acceptance Request ("Rejected Acceptance Request") and provide IBM with a list of deficiencies with respect thereto.

In the event that the IBM Project Manager does not receive a response to a submitted Acceptance Request from PacifiCorp within five (5) business days, PacifiCorp will be deemed to have accepted such Material and the associated Milestone (if applicable).

Rejected Acceptance Request Handling.

For each Rejected Acceptance Request provided to IBM by PacifiCorp, IBM will:

- a. Address the list of deficiencies in respect thereto, and
- b. Provide the revised Material to IBM's Project Manager for resubmission of an Acceptance Request to PacifiCorp.
- c. Resubmitted Acceptance Requests shall be processed in accordance with the terms of Acceptance Request Handling, above.

For requests that are rejected by PacifiCorp more than two (2) times, PacifiCorp and IBM agree to jointly develop and execute a formal resolution plan for the rejected Acceptance Request. If the list of deficiencies cannot be resolved by IBM in a reasonable length of time, IBM's Project Manager will initiate the Escalation Procedure process.

Milestone Completion Criteria

IBM shall promptly request payment for Services performed for each Milestone as it is accepted by PacifiCorp.

1. Software Installation and Configuration

This milestone shall be considered complete upon customer acceptance of the Software Installation and Configuration Report

2. R/3 Landscape Migration

This milestone shall be considered complete upon customer acceptance of the R/3 Landscape Migration Report.

3. R/3 Functional Test Servers Implementation

This milestone shall be considered complete upon customer acceptance of the R/3 Functional Test Servers Implementation Report.

4. BI Landscape Migration

This milestone shall be considered complete upon customer acceptance of the BI Landscape Migration Report.

5. SAP Migration Project Completion

This milestone shall be considered complete upon signature of the Certificate of Project Completion by the PacifiCorp project sponsor and the IBM Project Manager.

Appendix E: Project Change Procedures

E - 1: Project Change Control Procedure

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

- 1) IBM and PacifiCorp may determine that it is necessary to add additional Services or extend the End Date. In such event, PacifiCorp may authorize additional funding or End-Date extension by execution of a Project Change Request as discussed below.
- 2) PacifiCorp may authorize an extension of the end date by the written request of PacifiCorp's SOW signatory. The request must reference the SOW number. If accepted or initiated by IBM, such letter or e-mail shall act as a Change Authorization to this SOW. All other requested changes will require execution of a Project Change Request as discussed below.
- 3) For all other changes, the Project Change Request (PCR) will be the vehicle for communicating change. The PCR must describe the change, the rationale for the change and the effect the change will have on the project.
- 4) A PCR must be signed by authorized representatives from both PacifiCorp and IBM to authorize implementation of the change. Until a change is agreed to in writing, both parties will continue to act in accordance with the latest agreed version of the SOW.

Appendix F: Escalation Procedure

When a conflict arises between the PacifiCorp and IBM during the performance of this SOW, the project team member(s) will be the first to address the problem internally. When the conflict cannot be resolved at the project team level, the following escalation procedures (categorized as Level 1, Level 2, and Level 3) will be followed.

- Level 1.** If the project team cannot resolve the conflict within two (2) working days, The PacifiCorp Project Manager and IBM's Project Manager will meet to address the issue.
- Level 2.** If the conflict is not resolved within three (3) working days after being escalated to Level 1, the PacifiCorp's Executive Sponsor will meet with the IBM Project Executive to address the issue.
- Level 3.** If the conflict remains unresolved after Level 2 intervention, resolution will be addressed in accordance with the Project Change Procedure or the Contract.

EXHIBIT B
Terms of Hardware Purchase

All terms and conditions of IBM product maintenance and support shall be in accordance with the existing IBM Customer Agreement dated July 3, 2002, ref. #HW31546.

EXHIBIT C
Terms of Maintenance Support

All terms and conditions of IBM product maintenance and support shall be in accordance with the existing IBM Customer Agreement dated July 3, 2002, ref. #HW31546.

EXHIBIT D - Guidelines for PacifiCorp Contractor Expense Reports

**** Receipts are required for all reimbursable expenses except meals less than \$25.00 ****

- **Airfare and lodging:** All travel, that you request reimbursement from PacifiCorp, must be approved prior to booking. Contract firms may make their own arrangements for air travel, rental car and hotel stays, but expenses must meet these guidelines. PacifiCorp will reimburse for coach class travel only. Charges in excess of coach ticket are the responsibility of the contract firm. Booking flights less than seven (7) days prior to departure is strongly discouraged and must be approved by the hiring manager. PacifiCorp will only reimburse for standard hotel rooms and prefers that contractors use hotels where negotiated discounts are available. Check with PacifiCorp for hotels with discounted rates. The contractor is welcome to utilize the PacifiCorp, or your own corporate, discounts.
- **Rental cars / ground transportation:** If a rental car is required, there will be only one car per contract firm and rental will require the approval of the hiring manger. PacifiCorp may require proof of insurance. A discounted rate is also available with Enterprise for car rentals.
- **PacifiCorp will reimburse shuttle, cab or mileage for one trip to and from the airport up to a maximum of \$50 for each business trip.** If you park at the airport, PacifiCorp will reimburse you for economy parking only. Receipts for all ground transportation, parking and mileage are required.
- **Use of personal or company vehicles will be reimbursed at the currently effective IRS allowed rate per mile.** Required automobile insurance is required.
- **Meals:** PacifiCorp will reimburse for breakfast, lunch and dinner for each day of contract work for non-local contractors. The standard meal reimbursement should not exceed \$55 per day. However, this is not a per diem amount that is automatically paid for each day of work. PacifiCorp will not reimburse for any meals that the contractor (or contracting agency) purchases for PacifiCorp employees, such as team lunches/dinner.
- **PacifiCorp will only reimburse for meal gratuities @ 15%.** All other gratuities are not reimbursable (e.g. taxis, porters, bellhops, or hotel staff).
- **Non-Reimbursable Expenses:** The following is a listing, though not all inclusive, of expenses that will not be reimbursed;
 - Business gifts
 - Expenses for non-business purposes
 - Fines
 - Local travel time (defined as within 50 miles of consultants office)
 - General office supplies.
 - Personal entertainment or recreation (in-room movies, health club)
 - Expenses incurred by contractor family members.
 - Expenses not supported with a valid receipt.
 - Alcoholic beverages.
 - Laundry service.
 - Barber and beautician fees.
 - Personal hygiene products (shampoo, razors blades, toothbrushes)
 - Parking for local contractors.
- **Expense report documentation:** Accurate expense reports submitted in a timely manner substantially reduce the invoice processing time. Reports include a worksheet or listing of each expense, with date, type of expense and amount noted. **Receipts are required for all reimbursable expenses except meals less than \$25.00 .** You can use a standard form from your company or request one from PacifiCorp. Please see the sample entry below if you are creating your own worksheet.

Date	Type of expense	Amount	Location (i.e., Plant location)	Receipt included
5/1/2008	Hotel room charge	98.11	Hunter Plant	Yes
5/1/2008	Meals	27.24	Hunter Plant	Yes
5/1/2008	Vehicle Rental	34.55	Hunter Plant	Yes
5/1/2008	Fuel	12.95	Hunter Plant	Yes

EXHIBIT E - COMPANY'S CRITERIA NERC CIP Standards – Background Check Criteria

The North American Electric Reliability Corporation (NERC) has issued a catalog of Reliability Standards in response to the Federal Energy Regulatory Commission's (FERC) mandate that federal regulations be enacted and enforced for electric utilities.

The Critical Infrastructure Protection (CIP) Standards are a subset of those Reliability Standards that seek to ensure that electric utilities, as part of the nation's critical infrastructure, are able to sustain and secure against vulnerabilities that may threaten the electric system and the utilities that operate it. The CIP were passed into law effective January 17, 2008.

PacifiCorp is subject to audits by the Western Electricity Coordinating Council (WECC) to prove compliance with the Reliability Standards. Mandatory compliance with the first set of CIP requirements, which focus on security management, security controls, personnel security, and training, is required by June 30, 2008. The intent of these requirements is to ensure that all personnel having access to critical facilities (including control centers, substations, generation plants, etc.), critical infrastructure information (such as maps and one-line diagrams) and cyber assets have the appropriate personnel security clearance and security training.

Individuals who have access to critical assets will be required to consent to criminal and civil background screens, social security verification and military background screens. Background checks will be repeated every seven years. Additionally, in order to comply with the law, individuals will be required to complete annual training.

Individuals who are considered "restricted persons" may not have access to critical facilities or cyber assets. The USA Patriot Act of 2001 should be used as the baseline for determining whether an individual is a "restricted person." An individual will be a "restricted person" if the person meets any of the following criteria:

- Is currently under indictment for a crime punishable by imprisonment for a term exceeding one year;
- Has been convicted (within the past seven years) in any court of a crime punishable by imprisonment for a term exceeding one year;
- Is currently a fugitive from justice;
- Is currently an unlawful user of any uncontrolled substance (as defined in section 102 of the Controlled Substance Act [21 USC 802]);
- Is an alien illegally or unlawfully in the United States;
- Has been adjudicated as mentally defective or has been committed to any mental institute (within the past seven years);
- Is an alien (other than an alien lawfully admitted for permanent residence) who is a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan, or Syria, or any other country to which the U.S. Secretary of State, pursuant to applicable law, has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism; or
- Has been discharged from the Armed Services of the United States under dishonorable conditions (within the past seven years).

If an individual's background check indicates that he/she meets any of the above criteria, the individual will be considered a "restricted person" and his/her access to critical facilities will be revoked.