



Agreement for Services Acquired from an IBM Business Partner

Thank you for your business. We strive to provide you with high quality Services. If, at any time, you have any questions or problems, or are not completely satisfied, please let us know. Our goal is to do our best for you.

IBM ("we") has signed agreements with certain organizations (called "IBM Business Partners") to promote, market, and support certain Services. Some IBM Business Partners also fulfill these functions through other remarketers who are not IBM Business Partners. However, for purposes of brevity in this Agreement, when we use the term IBM Business Partner we mean IBM Business Partners and their remarketers. When the Customer ("you") orders our Services under this Agreement from an IBM Business Partner, we are responsible for providing the Services to you under the warranties and other terms of this Agreement.

We are not responsible for 1) the actions of IBM Business Partners, 2) any additional obligations they have to you, or 3) any products or services that they supply to you under their agreements. IBM Business Partners establish the price and terms at which they market IBM Services. In the event that your IBM Business Partner is no longer able to offer our Services, for any reason, we will so notify you in writing. You may continue to receive our Services by instructing us to transfer administration of your Service to either (1) another IBM Business Partner of your choice (who may require you to first execute one of their agreements) who is approved to offer you our Services, or (2) us and signing a separate IBM agreement for services.

This IBM Agreement for Services Acquired from an IBM Business Partner (called the "Agreement") governs the Services you acquire from an IBM Business Partner and we perform.

Part 1 - General

1.1 Definitions

Enterprise is any legal entity (such as a corporation) and the subsidiaries it owns by more than 50 percent. An Enterprise also includes other entities which are mutually agreed-to in writing.

Machine is a machine, its features, conversions, upgrades, elements, or accessories, or any combination of them. The term "Machine" includes an IBM Machine and any non-IBM Machine (including other equipment) for which we may provide maintenance Services.

Materials are literary works or other works of authorship (such as programs, program listings, programming tools, documentation, reports, drawings, and similar works) that we may deliver to you as part of a Service. The term "Materials" does not include licensed program products available under their own license agreement.

Service is performance of a task, provision of advice and counsel, assistance, or access to a resource (such as access to an information data base) we make available to you.

1.2 Agreement Structure

Attachments

PAGES 2 THROUGH 8 ARE ALSO PART OF THIS AGREEMENT. This Agreement and its applicable Attachments and Transaction Documents are the complete agreement between us regarding these Services, and replace any prior oral or written communications. No machines or licensed program products are acquired under this Agreement. Such items are available only under the terms of 1) the IBM Customer Agreement (or any equivalent agreement between us) or 2) the applicable third-party agreement. By signing below for our respective Enterprises, each of us agrees to the terms of this Agreement. Once signed, 1) unless prohibited by local law or specified otherwise, any reproduction of this Agreement, an Attachment, or Transaction Document made by reliable means (for example, photocopy or facsimile) is considered an original and 2) all Services ordered under this Agreement are subject to it.

Agreed to: (Enterprise name)

Agreed to:
Insert name of IBM Country Organization.

By _____
Authorized signature

By _____
Authorized signature

Name (type or print):

Name (type or print):

Date:

Date:

Enterprise number:

Agreement number:

Enterprise address:

IBM address:

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

Some Services have terms in addition to those we specify in this Agreement. We provide the additional terms in documents called "Attachments," which are also part of this Agreement. Attachments will be signed by both of us if requested by either of us. Your IBM Business Partner makes the Attachments available to you for signature.

Transaction Documents

For each business transaction, your IBM Business Partner will provide you with the appropriate "Transaction Documents" that confirm the specific details of the transaction. Transaction Documents will be signed by both of us if requested by either of us. The following are examples of Transaction Documents, with examples of the information they may contain:

1. statements of work (scope of Services, responsibilities, deliverables, completion criteria and estimated schedule or contract period); and
2. supplements and order forms (Service type ordered, and contract period).

Conflicting Terms

If there is a conflict among the terms in the various documents, those of an Attachment prevail over those of this Agreement. The terms of a Transaction Document prevail over those of both of these documents.

Our Acceptance of Your Request for Service

A Service becomes subject to this Agreement when we accept your request for Service from your IBM Business Partner by:

1. providing you a transaction document, or
2. providing the Service.

Your Acceptance of Additional Terms

You accept the additional terms in an Attachment or Transaction Document by doing any of the following:

1. signing the Attachment or Transaction Document
2. using the Service, or allowing others to do so; or
3. making any payment to your IBM Business Partner for the Service.

1.3 Charges and Payment

Your IBM Business Partner sets the charges and terms governing charges. You will make payment directly to your IBM Business Partner. However, we may charge you directly for expenses incurred to perform your Service request, e.g., actual travel and living expenses, out-of-pocket expenses. We will not incur these expenses without your prior approval.

1.4 Changes to the Agreement Terms

In order to maintain flexibility in our Services, we may change the terms of this Agreement by giving you three months' written notice. However, these changes are not retroactive. They apply, as of the effective date we specify in the notice, only to new requests for Service and ongoing transactions. Part 3 of this Agreement contains additional provisions for changes to the terms of individual Service transactions.

Otherwise, for a change to be valid, both of us must sign it. Additional or different terms in any written communication from you are void.

1.5 Limitation of Liability

Circumstances may arise where, because of a default on our part or other liability, you are entitled to recover damages from us. In each such instance, regardless of the basis on which you are entitled to claim damages from us (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), we are liable for no more than

1. damages for bodily injury (including death) and damage to real property and tangible personal property; and
2. the amount of any other actual direct damages, up to the greater of U.S. \$100,000 (or equivalent in local currency), or the charges (if recurring, 12 months' charges apply) you paid to your IBM Business Partner for the Service that is the subject of the claim.

This limit also applies to any of our subcontractors. It is the maximum for which we and our subcontractors are collectively responsible.

Items for Which We are Not Liable

Under no circumstances are we or our subcontractors liable for any of the following:

1. third-party claims against you for damages (other than those under the first item listed above);
2. loss of, or damage to, your records or data; or
3. special, incidental, or indirect damages or for any economic consequential damages (including lost profits or savings), even if we are informed of their possibility.

1.6 Mutual Responsibilities

Both of us agree that under this Agreement:

1. neither of us grants the other the right to use its (or any of its Enterprise's) trademarks, trade names, or other designations in any promotion or publication without prior written consent;
2. all information exchanged is non confidential. If either of us requires the exchange of confidential information, it will be made under a signed confidentiality agreement;
3. each is free to enter into similar agreements with others;
4. each grants the other only the licenses and rights specified. No other licenses or rights (including licenses or rights under patents) are granted;
5. each may communicate with the other by electronic means and such communication is acceptable as a signed writing to the extent permissible under applicable law. An identification code (called a "user ID") contained in an electronic document is sufficient to verify the sender's identity and the document's authenticity;

6. each will allow the other reasonable opportunity to comply before it claims that the other has not met its obligations;
7. neither of us will bring a legal action more than two years after the cause of action arose unless otherwise provided by local law without the possibility of contractual waiver or limitation; and
8. neither of us is responsible for failure to fulfill any obligations due to causes beyond its control.

1.7 Your Other Responsibilities

You agree:

1. not to assign, or otherwise transfer, this Agreement or your rights under this Agreement, delegate your obligations, or resell any Service, without our prior written consent. Any attempt to do so is void;
2. that you are responsible for the results obtained from use of the Services; and
3. to provide us with sufficient, free, and safe access to your facilities for us to fulfill our obligations.

1.8 Agreement Termination

You may terminate this Agreement on written notice to your IBM Business Partner and to us following the expiration or termination of your obligations.

Either of us may terminate this Agreement on written notice to the other and to your IBM Business Partner, if the other does not comply with any of its terms.

Any terms of this Agreement which by their nature extend beyond the Agreement termination remain in effect until fulfilled, and apply to both of our respective successors and assignees.

1.9 Geographic Scope

All your rights and all our obligations are valid only in (*insert name of country*) except that all licenses to Materials are valid as specifically granted.

1.10 Governing Law

The laws of (*insert country name here*) govern this Agreement.

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

Part 2 - Warranty Terms

2.1 Warranty for IBM Services

Unless we specify otherwise, the following warranties apply only in *insert name of country*.

For each IBM Service, we warrant that we perform it:

1. using reasonable care and skill; and
2. according to its current description (including any completion criteria) contained in this Agreement, an Attachment, or a Transaction Document.

2.2 Extent of Warranty

THESE WARRANTIES ARE YOUR EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF

MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2.3 Items Not Covered by Warranty

We do not warrant uninterrupted or error-free operation of any deliverable or Service.

Unless we specify otherwise, we provide Materials and non-IBM Services **WITHOUT WARRANTIES OF ANY KIND.**

Part 3 - Services

3.1 IBM Services

Services may be either standard offerings or customized to your specific requirements. Each Service transaction may include one or more Services that:

1. expire at task completion or an agreed upon date;
2. automatically renew as another transaction with a specified contract period. Renewals will continue until either of us terminates the Service; or
3. do not expire and are available for your use until either of us terminate the Service.

3.2 Personnel

Each of us will be responsible for the supervision, direction, and control of our respective personnel.

We reserve the right to determine the assignment of our personnel.

We may subcontract a Service, or any part of it, to subcontractors selected by us.

3.3 Materials Ownership and License

We will specify Materials to be delivered to you. We or third parties have all right, title, and interest (including ownership of copyright) in Materials created during the Service performance period or otherwise (such as those that preexist the Service). We will deliver one copy of the specified Materials to you. We grant you an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, and distribute, within your Enterprise only, copies of these Materials.

You agree to reproduce the copyright notice and any other legend of ownership on any copies made under the license granted in this Section.

Any idea, concept, know-how, or technique which relates to the subject matter of a Service and is developed or provided by either of us, or jointly by both of us, in the performance of a Service may (subject to applicable patents and copyrights) be freely used by either of us.

3.4 Changes to Service Terms

We may change the terms of Services that are renewable or non-expiring by giving you three months' written notice. However, these changes are not retroactive. They apply immediately to renewal transactions and as of the effective date we specify in the notice to all existing transactions. If we make a change to the terms of a renewable Service that 1) affects your current contract period and 2) you consider unfavorable, at the request of your IBM Business Partner, we will defer it until the end of that contract period.

IBM If us agree to change any Services work other than as described above,* we will prepare a written description of the agreed change (called a "Change Authorization"), which both of us must sign. The terms of a Change Authorization prevail over those of the statement of work and any of its previous Change Authorizations.

3.5 Renewal

Renewable Services renew automatically for a same length contract period unless either of us provides written notification (at least one month prior to the end of the current contract period) to the other and to your IBM Business Partner of their intent not to renew.

3.6 Termination and Withdrawal

Either of us may terminate a Service if the other does not meet its obligations concerning the Service.

You may terminate a Service transaction on one month's written notice to us and to your IBM Business Partner.*

We may withdraw a renewable or non-expiring Service or support for an eligible product on three months' written notice to you. If we withdraw a Service for which you have prepaid and we have not yet fully provided it to you, your IBM Business Partner will give you a prorated refund.

Any terms which by their nature extend beyond termination or withdrawal remain in effect until fulfilled and apply to respective successors and assignees.

3.7 Service for Machines

We provide certain types of repair and exchange Service either at your location or at a service center to keep Machines in, or restore them to, conformance with their official published specifications. We may repair the failing Machine or exchange it at our discretion.

When the type of Service requires that you deliver the failing Machine to us, you agree to ship it suitably packaged (prepaid unless we specify otherwise) to a location we designate. After we have repaired or exchanged the Machine, we will return it to you at our expense unless we specify otherwise. We are responsible for loss of, or damage to, your Machine while it is 1) in our possession or 2) in transit in those cases where we are responsible for the transportation charges.

You agree to:

1. obtain authorization from the owner to have us service a Machine that you do not own; and
2. where applicable, before we provide service –

- a. follow the problem determination, problem analysis, and service request procedures that we provide,
- b. secure all programs, data, and funds contained in a Machine, and
- c. inform your IBM Business Partner of changes in a Machine's location.

When Service involves the exchange of a Machine or part, the item we replace becomes our property and the replacement becomes yours. You represent that all removed items are genuine and unaltered. The replacement may not be new, but will be in good working order and at least functionally equivalent to the item replaced. The replacement assumes the warranty or Service status of the replaced item. Before we exchange a Machine or part, you agree to remove all features, parts, options, alterations, and attachments not under our service. You also agree to ensure that the item is free of any legal obligations or restrictions that prevent its exchange.

Any feature, conversion, or upgrade we service must be installed on a Machine which is 1) for certain Machines, the designated, serial-numbered Machine and 2) at an engineering-change level compatible with the feature, conversion, or upgrade.

Repair and exchange Services do not cover:

1. accessories, supply items, and certain parts, such as batteries, frames, and covers;
2. Machines damaged by misuse, accident, modification, unsuitable physical or operating environment, or improper maintenance by you;
3. Machines with removed or altered Machine or parts identification labels;
4. failures caused by a product for which we are not responsible; or
5. service of Machine alterations.

We manage and install engineering changes that apply to IBM Machines and may also perform preventive maintenance.

We provide maintenance Services for selected non-IBM Machines.

When you request maintenance Services under this Agreement, your IBM Business Partner will inform you of the date on which maintenance Services will begin. We may inspect the Machine within one month following that date. If the Machine is not in an acceptable condition for service, you may have us restore it.* Alternatively, you may withdraw your request for maintenance Services.*

* Check with your IBM Business Partner to determine if you will incur an additional charge for this.



Agreement for Services Acquired from an IBM Business Partner

Approved Deviations

The terms of this Agreement apply for all countries except that the following terms are country amendments which replace or modify terms in Parts 1 through 3 for the identified country. All terms in Parts 1 through 3 which are not changed by these amendments remain in effect.

ASIA PACIFIC

AUSTRALIA

Part 1 - General

1.5 Limitation of Liability

The following paragraph is added to this Section:

Where we are in breach of a condition or warranty implied by the Trade Practices Act 1974, our liability is limited to, the cost of having the Services supplied again.

1.10 Governing Law

The following replaces the first sentence:

The laws of the State or Territory in which the transaction is performed govern this Agreement.

Part 2 - Warranties

The following paragraph is added to this Part:

The warranties specified this Part are in addition to any rights you may have under the Trade Practices Act 1974 or other legislation and are only limited to the extent permitted by the applicable legislation.

INDIA

Part 1 - General

1.6 Mutual Responsibilities

The following replaces item 7:

7. if no suit or other legal action is brought, within two years after the cause of action arose, in respect of any claim that either of us may have against the other, the rights of the concerned party in respect of such claim will be forfeited and the other party will stand released from its obligations in respect of such claim; and

1.5 Limitation of Liability

The following replaces items 1 and 2:

1. liability for bodily injury (including death) or damage to real property and tangible personal property will be limited to that caused by our negligence; and

2. as to any other actual damage arising in any situation involving nonperformance by us pursuant to, or in any way related to the subject of this Agreement, our liability will be limited to the charge paid by you for the individual Service that is the subject of the claim.

Applicability to subcontractors (unchanged)

JAPAN

1.8 Agreement Termination

The following paragraph is added to this Section:

When all or a substantial portion of either party's assets, credits or business are so changed as to make continued performance of that party's obligations impracticable or impossible, the other party may terminate this Agreement with prior written notice (copy to IBM Business Partner).

Part 3 - Services

3.7 Service for Machines

In the last paragraph of this Section, only the first sentence applies.

NEW ZEALAND

Part 1 - General

1.5 Limitation of Liability

The following paragraph is added to this Section:

Where Services are not acquired for the purposes of a business as defined in the Consumer Guarantee Act 1993, the limitations in this Section are subject to the limitations in that Act.

Part 2 - Warranties

The following paragraph is added to this Part:

The warranties specified in this Part are in addition to any rights you may have under the Consumer Guarantee Act 1993 or other legislation which cannot be excluded or limited. The Consumer Guarantee Act 1993 will not apply in respect of any services which we provide, if you require the services for the purposes of a business as defined in that Act.

PEOPLE'S REPUBLIC OF CHINA

Part 1 - General

1.6 Mutual Responsibilities

The following replaces item 5:

5. each may communicate with the other in writing only;

1.10 Governing Law

The following replaces the first sentence:

The laws of the State of New York govern this Agreement. Any dispute concerning this Agreement may be settled by arbitration. The arbitration will take place in Stockholm, Sweden, under the auspices of the International Arbitration Center in English in accordance with the rules then in effect under the United Nations Commission on International Trade Law (UNCITRAL). The arbitration award will be final and binding on both parties and both parties will act accordingly. The arbitration fee will be borne by the losing party.

EUROPE, MIDDLE EAST, AFRICA (EMEA)

CENTRAL EUROPE AND RUSSIA (CER)

The following terms apply to all CER countries (Albania, Armenia, Belarus, Bosnia/Herzegovina, Bulgaria, Croatia, Czech Republic, Georgia, Hungary, Kazakhstan, Kirghizia, Macedonia, Moldova, Poland, Romania, Russia, Serbia/Montenegro, Slovak Republic, Slovenia, Ukraine).

1.10 Governing Law

The following paragraphs replace the first sentence:

The Agreement will be governed by the laws of Austria. In case of conflict with any international conventions, Austrian substantive law will prevail.

All disputes arising out of this Agreement or related to its violation, termination, or nullity will be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Centre of the Federal Economic Chamber in Vienna (Vienna Rules) by three arbitrators appointed in accordance with these rules. The arbitration will be held in Vienna, Austria, and the official language of the proceedings will be English. The decision of the arbitrators will be final and binding upon both parties. Therefore, pursuant to paragraph 598 (2) of the Austrian Code of Civil Procedure, the parties expressly waive the application of paragraph 595 (1) figure 7 of the Code.

We may, however, institute proceedings in a competent court in the country of installation.

EGYPT

Part 1 - General

1.5 Limitation of Liability

The following replaces item 2:

2. as to any other actual direct damages, our liability will be limited to the total amount you paid to your IBM Business Partner for the Service that is the subject of the claim.

Applicability to subcontractors (unchanged)

ESTONIA, LATVIA, AND LITHUANIA

Part 1 - General

1.10 Governing Law

The following paragraph replaces the first sentence:

Finnish law will apply. All disputes arising in connection with the Agreement will be finally settled in arbitration. Each party will appoint one arbitrator and they will jointly appoint the chairman. If they cannot agree on the chairman, then the chairman will be appointed by the Central Chamber of Commerce in Helsinki. In the arbitration, the Finnish law on arbitration will be adhered to. The arbitrators will come together, and the arbitration will take place, in Helsinki.

FRANCE

Part 1 - General

1.4 Changes to the Agreement Terms

The following is added to the end of the first paragraph:

If you disagree with the change, you may terminate this Agreement by notifying us and your IBM Business Partner, in writing, within fifteen days after the date of our notification to you of the change.

1.5 Limitation of Liability

The following replaces the second sentence in the first paragraph:

In such instances, regardless of the basis on which you are entitled to claim damages from us, we are liable for no more than:

1. (unchanged)
2. (unchanged)

3.4 Changes to Service Terms

The following is added to the end of the first paragraph:

If you disagree with the change, you may terminate the transaction by notifying us and your IBM Business Partner, in writing, within fifteen days after the date of our notification to you of the change.

GERMANY

Part 1 - General

1.2 Agreement Structure

Your Acceptance of Additional Terms, items 2 and 3 do not apply.

1.5 Limitation of Liability

The following paragraph is added to this Section:

The limitations and exclusions specified in the Agreement will not apply to damages caused by us with fraud or gross negligence, and for express warranty.

In item 2, replace "U.S. \$100,000" with "DM 1,000,000."

The following sentence is added to the end of the first paragraph of item 2:

Our liability under this item is limited to the violation of essential contractual terms in cases of ordinary negligence.

Part 2 - Warranties

2.2 Extent of Warranty

This Section does not apply.

Part 3 - Services

3.6 Termination and Withdrawal

The following sentence is added to the end of the first paragraph:

If we fail to meet our obligations concerning the Service, you remain responsible to pay for the portion of the Service which we completed and which you can utilize.

IRELAND

Part 1 - General

1.5 Limitation of Liability

The following replaces items 1 and 2:

2. death or personal injury or physical damage to your real property solely caused by our negligence; and
3. the amount of any other actual direct damages, up to the greater of Irish Pounds 75,000 in respect of Services or 125 percent of the charges (if recurring, the 12 months' charges apply) you paid to your IBM Business Partner for the Service that is the subject of the claim or which otherwise gives rise to the claim.

Applicability to subcontractors (unchanged)

The following paragraph is added at the end of this Section:

Our entire liability and your sole remedy, whether in contract or in tort, in respect of any default will be limited to damages.

Part 2 - Warranties

2.2 Extent of Warranty

The following paragraphs are added to this Section:

Except as expressly provided in these terms and conditions, all statutory conditions, including all warranties implied, but without prejudice to the generality of the foregoing all warranties implied by the Sale of Goods and Supply of Services Act 1980 are hereby excluded.

ITALY

Part 1 - General

1.2 Agreement Structure

Your Acceptance of Additional Terms

The following sentence is added at the end of this subsection:

If you are not a consumer, you must give your express acceptance of specific clauses.

1.5 Limitation of Liability

The following replaces the second sentence in the first paragraph:

In each such instance unless otherwise provided by mandatory law, we are liable for no more than:

1. (unchanged)
2. as to any other actual damage arising in all situations involving non-performance by us pursuant to, or in any way related to the subject matter of this Agreement, our liability, will be limited to the total amount you paid to your IBM Business Partner (for recurring charges, our liability will be limited to 12 months' charges) for the Service that is the subject of the claim.

Applicability to subcontractors (unchanged)

Items for Which We are Not Liable

Replace the first paragraph with:

Unless otherwise provided by mandatory law, we and our subcontractors are not liable for any of the following:

1. (unchanged)
2. (unchanged)
3. indirect damages, even if we are informed of their possibility.

PORTUGAL

Part 1 - General

1.5 Limitation of Liability

Items for Which We are Not Liable

Replace the first paragraph with:

Unless otherwise provided by mandatory law, we, our subcontractors are not liable for any of the following:

1. (unchanged)
2. (unchanged)
3. (unchanged)

SOUTH AFRICA, NAMIBIA, BOTSWANA AND SWAZILAND

Part 1 - General

1.5 Limitation of Liability

The following paragraph is added to this Section:

Our entire liability to you for actual damages arising in all situations involving non-performance by us in respect of the subject matter of this Agreement will be limited to the charge paid by you to your IBM Business Partner for the individual Service that is the subject of your claim from us.

SWEDEN

Part 1 - General

1.10 Governing Law

The following paragraphs are added to this Section:

Any dispute concerning this Agreement which relates to a transaction performed in Sweden, will be settled by the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce by three arbitrators all appointed in accordance with the Rules.

The place of arbitration will be Stockholm, Sweden. The language to be used in the proceedings will be Swedish.

SWITZERLAND

Part 1 - General

1.6 Mutual Responsibilities

The following paragraph is added to item 2:

During our business relationship, we will use customer related data (for example, customer address, installation address, contact person, and delivery specifications). Unless otherwise agreed, you accept that such data will be used and distributed within the IBM Enterprise and to certain third parties, such as subcontractors, within Switzerland and abroad.

TURKIYE

Part 1 - General

1.6 Mutual Responsibilities

The following replaces item 7:

7. neither of us will bring a legal action more than five years after the cause of action arose, unless otherwise provided by local law without the possibility of contractual waiver or limitation; and

UNITED KINGDOM

Part 1 - General

1.5 Limitation of Liability

The following replaces items 1 and 2:

1. death or personal injury or physical damage to your real property solely caused by our negligence;

2. the amount of any other actual direct damages, up to the greater of Pounds Sterling 75,000 in respect of Services or 125 percent of the charges (if recurring, the 12 months' charges apply) you paid to your IBM Business Partner for the Service that is the subject of the claim or which otherwise gives rise to the claim;

Applicability to subcontractors (unchanged)

The following item is added:

4. breach of our obligations implied by Section 2 of the Supply of Goods and Services Act 1982.

The following paragraph is added at the end of this Section:

Our entire liability and your sole remedy, whether in contract or in tort, in respect of any default will be limited to damages.

1.10 Governing Law

The following replaces the first sentence of this Section:

All disputes relating to this Agreement will be governed by English Law and will be submitted to the exclusive jurisdiction of the English courts.

Part 2 - Warranties

2.3 Items Not Covered by Warranty

The following replaces the first sentence in the third paragraph:

Unless we specify otherwise and to the extent it is permitted by applicable law, we provide Materials and non-IBM Services **WITHOUT WARRANTIES OF ANY KIND.**

NORTH AMERICA

CANADA

Part 1 - General

The term "Attachment(s)" replaces the term "Amendment(s)" wherever the former term appears in this Agreement.

1.10 Governing Law

The following replaces the first sentence:

The laws in the Province of Ontario govern this Agreement.

UNITED STATES OF AMERICA

Part 1 - General

1.10 Governing Law

The following replaces the first sentence:

The laws of the State of New York govern this Agreement.