Agreement for Special Projects – First of a Kind Project

IBM

This Agreement for Special Projects – First of a Kind Project ("FOAK Agreement"), #JEB1912, governs activity by which International Business Machines Corporation, a New York Corporation authorized to transact business in the State of Florida, ("IBM" or "Contractor"), whose address is Dept. 10-64A New Orchard Road, Armonk, NY 10504, and the City of Fort Lauderdale a Florida municipality, ("City" or "City of Fort Lauderdale"), whose address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301-1016, collaborate on first of a kind project activities (each called a "FOAK Project") that IBM and City of Fort Lauderdale agree to perform from time to time to advance technologies of mutual interest to IBM and City of Fort Lauderdale. The complete agreement between IBM and City of Fort Lauderdale (referred to individually as a "party" and collectively as "parties") for a FOAK Project consists of this FOAK Agreement and the Associated Contract Document(s) described below.

1.   Associated Contract Documents

A complete description of a FOAK Project, including the rights and obligations of the parties, will be set forth in a statement of work ("Statement of Work"), which may also include additional terms for a specific FOAK Project. A FOAK Project is active once IBM and City of Fort Lauderdale have signed this FOAK Agreement and a Statement of Work for the FOAK Project. IBM and City of Fort Lauderdale may have multiple Statements of Work in place, each for a different FOAK Project, or for different phases of a single FOAK Project.   Statements of Work are part of this FOAK Agreement only for those FOAK Projects to which they apply. Unless otherwise stated in a Statement of Work, each FOAK Project is separate and independent from other FOAK Projects.

Statements of Work and other documents (such as an addendum, supplement, schedule, exhibit or change authorization), are also referred to as "Transaction Documents" and may be incorporated for a single FOAK Project.

If there is a conflict among the terms of this FOAK Agreement and Transaction Documents, the terms of a Transaction Document prevail over those of this FOAK Agreement.

The following Transaction Documents are hereby incorporated by reference:

a.   Statement of Work for Agreement for Special Projects – First of a Kind #JEB1912-001

b.   Statement of Work for Project Management Services #JEB1912-002

2.   Definitions

Confidential Information – information that is contained in a record that is in whole or in part exempt from disclosure pursuant to Florida law or confidential pursuant to Florida law.

Invention – any idea, concept, design, technique, discovery or improvement, whether or not patentable, that either party's employees first conceive or reduce to practice in performance under the FOAK Agreement or a Statement of Work, together with all patent applications filed thereon and all patents granted thereon.

Subsidiary – a corporation, company, or other entity: i. more than 50% of whose outstanding shares or securities (representing the right to vote for the election of directors or other managing authority) are, now or hereafter, owned or controlled, directly or indirectly, by a party hereto, but such corporation, company, or other entity shall be deemed to be a Subsidiary only so long as such ownership or control exists; or ii. which does not have outstanding shares or securities, as may be the case in a partnership, joint venture or unincorporated association, but more than 50% of whose ownership interest representing the right to make the decisions for such corporation, company or other entity is now or hereafter, owned or controlled, directly or indirectly, by a party hereto, but such corporation, company or other entity shall be deemed to be a Subsidiary only so long as such ownership or control exists.

Work Product – those literary works or other works of authorship in any form (such as programs, program listings, programming tools, documentation, reports, drawings, test scenarios, and similar works) which are created or provided under a FOAK Project.

3.   Term and Termination

The FOAK Agreement will be effective on the date signed by both parties, and will remain in effect unless terminated. Each Statement of Work will contain a specific term for the FOAK Project described therein.

Termination or expiration of a Statement of Work will terminate the FOAK Project described in the Statement of Work but will not terminate the FOAK Agreement.

Either party may terminate the FOAK Agreement by providing ninety (90) days' written notice to the other party. Upon termination of the FOAK Agreement, all active statements of work to the FOAK Agreement will automatically terminate. Upon receipt of such notice, both parties will end all FOAK Project activities described in statements of work in an orderly manner as soon as practical or in accordance with a schedule agreed to by the parties.

4.   Confidentiality

The **Agreement for Exchange of Confidential Information,** attached hereto as Attachment 1 (the "AECI") will govern exchanges of Confidential Information pursuant to a FOAK Project. To the extent Confidential Information is exchanged in connection with a FOAK Project, the AECI is incorporated into, and subject to, this FOAK Agreement.

The Initial and Final Disclosure Dates are concurrent with the start and end dates of a FOAK Project. The Point of Contact is the Project Representative.

Subject to IBM's and City of Fort Lauderdale's valid patents and copyrights, nothing in the FOAK Agreement or any Transaction Document or other agreement applicable to a Project shall prohibit the inherent disclosure of information in the use, distribution, marketing or provision of any product or service.

To the extent it is a trade secret pursuant to Florida law, the Work Product, and all related information will be treated as Confidential Information, disclosed by IBM, under the AECI. All other information exchanged between the parties is non-confidential, unless disclosed pursuant to the terms of the AECI, as modified herein.

As a political subdivision of the State of Florida, the City is subject to Florida's Public Records law, Chapter 119, Florida Statutes. Notwithstanding anything else in this article to the contrary, the City's compliance with, or good faith attempt to comply with the requirements of Chapter 119 of Florida Statute shall not be considered a breach of the Agreement. Work Product

IBM specifies the Work Product to be delivered to City of Fort Lauderdale in a Statement of Work. IBM has all worldwide right, title, and interest in and to ownership of copyright in the Work Product and all copies and derivative works thereof, whether developed solely by either party or jointly by the parties. To the extent that such ownership does not attach by operation of law, City of Fort Lauderdale agrees to and hereby assigns, transfers and conveys to IBM all of City of Fort Lauderdale's worldwide right, title, and interest in and to ownership of copyright in the Work Product and all copies and derivative works thereof, whether developed solely by or for either party or jointly by the parties, unless mutually agreed to in writing by both parties.

IBM grants City of Fort Lauderdale a nonexclusive, worldwide, paid-up limited-duration license to use, execute, reproduce, display, perform, prepare derivative works based on the Work Product, and distribute (all internally only) copies of the Work Product and such derivative works related to the performance of the FOAK Project activities. This license will terminate upon the earlier of: a) the date of termination of the Statement of Work if the Statement of Work is terminated before the completion of the FOAK Project, or b) two years after the Effective Date of the Statement of Work. Per an implementation plan jointly developed by the City of Fort Lauderdale and IBM shall include verification testing. The proposed application described shall run ninety consecutive days without error. The license will terminate two years to the day after ninety consecutive days without error. IBM will have thirty days to cure such error and then another verification test wil be conducted.

To the extent it is a trade secret pursuant to Florida law, City of Fort Lauderdale agrees not to transfer, assign or allow any third party to access or use the Work Product without IBM's prior written approval.

Each party agrees to reproduce the copyright notice and any other notice or legend of ownership on any copies made under the licenses granted in this Statement of Work. Except as expressly stated in this FOAK Agreement or a Statement of Work, no rights or licenses to either party's intellectual property are granted. For purposes of this Agreement only, nothing contained in this FOAK Agreement or a Statement of Work or any other agreement between the parties shall restrict the use of any ideas, concepts, know-how, or techniques which either party, individually or jointly, develops or provides during the term of the FOAK Project.

5. Limitation of Liability

a. Items for Which a Party May be Liable

Circumstances may arise where, because of a default or other liability, a party to this FOAK Agreement is entitled to recover damages from the other. Regardless of the basis on which the party seeking to recover damages is entitled to claim damages from the other (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), the entire liability of the party against whom damages is sought for all claims in the aggregate arising under this Agreement will not exceed the amount of any actual direct damages up to $100,000.

This limit also applies to any of either party's subcontractors to the extent the agreement with the subcontractor contains such limit and, in the case of IBM, its program developers. It is the maximum for which a party and its subcontractors and, in the case of IBM, its program developers are collectively responsible. Damages for bodily injury (including death) and damage to real property and tangible personal property for which IBM is legally liable are not subject to a cap on the amount of damages. The City's maximum liability is limited pursuant to Section 768.28, Florida Statutes. Nothing contained in this Agreement shall be construed as waiving the City's sovereign liability.

b. Items for Which Neither Party is Liable

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

(1) loss of, or damage to, data;

(2) special, incidental, exemplary, or indirect damages or for any economic consequential damages;

(3) lost profits, business, revenue, goodwill, or anticipated savings; or

(4) the accomplishment or completion of FOAK Project activities.

c. Damages Excluded from Limitation of Liability

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

6. Inventions

An Invention is treated as follows:

a. if made separately by the employees or contractors of one party, the Invention will be the property of that party ("**Inventing Party**"). The Inventing Party grants to the other party an irrevocable, nonexclusive, worldwide, paid-up license under the Invention to make, have made, use, have used, lease, sell, offer to sell, import, or otherwise transfer any apparatus, and to practice any method, covered by the Invention, said license including the right to grant sublicenses to the other party's subsidiaries to do any of the former; and

b. if made jointly by the employees or contractors of both parties, the Invention will be jointly owned by the parties. Each party has the right to grant licenses to others or assign its rights without the consent of or accounting to the other party.

c. IBM may use subcontractors in connection with the work performed under this agreement. When using subcontractors, however, IBM must obtain prior approval from City of Fort Lauderdale for activities or duties to take place at City of Fort Lauderdale business sites. In case of any sublet work IBM shall furnish evidence that each and every subcontractor has in force and effect insurance policies providing coverage identical to that required by IBM.

Where one party elects not to share equally in the expenses for a Joint Invention, the other party shall have the right to seek or maintain such protection for such Joint Invention at its own expense and shall have full control over its preparation, prosecution and maintenance, even though title to any issuing patent will be joint.

7.   Publicity

If a FOAK Project has generally accomplished its objective described in the applicable Statement of Work, the parties agree that IBM may promote the activity under the FOAK Project as described below. IBM may reference City of Fort Lauderdale by name and use any oral or written statements concerning the FOAK Project in communications with IBM customers and the general public, provided however, that each party agrees not to initiate or distribute any press releases or publicity matters related to or referencing the subject matter of this FOAK Agreement or any related FOAK Project hereunder without prior review of the other party except as otherwise provided by Florida law.

If representatives of both parties agree in advance, City of Fort Lauderdale may also meet with IBM and its customers on scheduled dates and places as the parties reasonably agree in advance to discuss City of Fort Lauderdale's experiences related to the FOAK Project.

Neither party grants the other the right to use its trademarks, trade names, or other designations in any promotion or publication without prior written consent.

8.   Warranties

Each party warrants that it has the authority to enter into this FOAK Agreement.

Neither party warrants that it will accomplish or complete any or all FOAK Project activities.

THE WORK PRODUCT IS EXPERIMENTAL AND IS LICENSED ON AN "AS IS" BASIS, WITHOUT WARRANTY OR INDEMNITY OF ANY KIND. IBM DOES NOT WARRANT THAT USE OR OPERATION OF THE WORK PRODUCT WILL BE UNINTERRUPTED OR ERROR-FREE.

THESE WARRANTIES ARE THE PARTIES' EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER WARRANTIES INDEMNITIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY INDEMNITY OR CONDITION OF NON-INFRINGEMENT.

9.   City of Fort Lauderdale Resources

If City of Fort Lauderdale is making available to IBM any facilities, software, hardware or other resources in connection with a FOAK Project, City of Fort Lauderdale agrees to obtain any licenses or approvals related to these resources that may be necessary for IBM to perform the services and develop the Work Product.   IBM will be relieved of its obligations that are adversely affected by City of Fort Lauderdale's failure to promptly obtain such licenses or approvals.

Unless otherwise agreed in an Statement of Work or other Transaction Document, City of Fort Lauderdale is responsible for a) any data and the content of any database City of Fort Lauderdale makes available to IBM in connection with a service under this FOAK Agreement or a Statement of Work, b) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data, and c) backup and recovery of any databases and stored data.

10.   Tax

Each party shall be responsible for any personal property taxes on property it owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts.

Each party shall be responsible for any sales, use, excise, value-added, services, consumption, or other tax that is assessed on the provision of the goods, license of software, and services as a whole, or on any particular good or service received by that party except to the extent the City is exempt from such taxes.

Each party shall notify the other party of any claim for taxes asserted by applicable taxing authorities for which the party is responsible hereunder.

11.   General

a.   Both parties agree that a FOAK Project may not be successfully completed; the results achieved may not be as anticipated at the outset of a FOAK Project and that a FOAK Project may not lead to an announced product or generally available solution. Any changes to City of Fort Lauderdale's operations in expectation of a successfully completed FOAK Project or an eventual product or

solution must be based solely on City of Fort Lauderdale's business judgment. IBM has no obligation to provide support or maintenance for the Work Product unless explicitly specified in a Statement of Work.

b.   Each party will bear its own FOAK Project expenses.

c.   Each party will be responsible for the supervision, direction and control of its own personnel while engaged in FOAK Project activities.

d.   The parties may modify this FOAK Agreement as jointly agreed to in writing.

e.   Each party grants the other only the licenses and rights specified. No other licenses or rights (including licenses or rights under patents) are granted.

f.   Any notice required or permitted under this FOAK Agreement will be sent to the representative named below. Each party will notify the other in writing if their representative changes.

If to the City of Fort Lauderdale: City of Fort Lauderdale Attn: Telephone: (___) Email:	If to IBM: International Business Machines Corporation Attn: Telephone: (___) Email: With a copy to: IBM Office of General Counsel Somers, NY 294 ROUTE 100 SOMERS NY 10589-3216

g.   If any term of this FOAK Agreement is found by a court of competent jurisdiction to be unenforceable in any respect, the validity of the remainder of this FOAK Agreement will be unaffected.ok

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

i.   Neither party may assign its rights or delegate or subcontract its duties under this FOAK Agreement to third parties without the prior written consent of the other party, such consent not to be unreasonably withheld. Notwithstanding the foregoing, either party may upon written notice assign this FOAK Agreement in conjunction with the sale of all or a substantial part of a party's business that utilizes this FOAK Agreement. Any unauthorized assignment of this FOAK Agreement is void.

j.   Any terms of this FOAK Agreement, which by their nature extend beyond the date this FOAK Agreement ends, remain in effect until fulfilled and apply to respective successors and assignees.

k.   [Reserved.]

l.   This FOAK Agreement is nonexclusive. Neither party is a legal representative nor legal agent of the other. Neither party is legally a partner of the other, and neither party is an employee or franchise of the other, nor does this FOAK Agreement create a joint venture between the parties. Notwithstanding any provision of this FOAK Agreement, either party may offer (either by itself or together with third parties) to provide any products and/or services to a customer without any obligation to the other party. Either party may independently develop, acquire and market materials, products and services that may be competitive with the other party's products or services. Each party is free to enter into similar agreements with others.

m.   Neither party will assume or create any obligations on behalf of the other or make any representations or warranties about the other, other than those authorized in writing by the other party.

n. Neither party is responsible for failure to fulfill obligations due to causes beyond the control of such party.

o. No right or cause of action for any third party is created by this FOAK Agreement or any Statement of Work or transaction under it, nor is either party responsible for any third party claims against the other party except as permitted by the Limitation of Liability section above for bodily injury (including death) or damage to real or tangible personal property for which a party is legally liable to that third party.

p. Each party will comply with applicable export and import laws and regulations, including those of the United States that prohibit or limit export for certain uses or to certain end users. Each party acknowledges that the U.S. Export Administration Act of 1979, as amended, (and its implementing regulations, as amended) prohibit the export of technology, software and/or commodities to certain specified countries. Each party agrees to comply and to reasonably assist the other in complying with applicable government export and import laws and regulations. Further, each party agrees that unless authorized by applicable government license or regulation, including but not limited to U.S. authorization, both parties will not directly or indirectly export or re-export, at any time, any technology, software and/or commodities furnished or developed under this or any other, Agreement between the parties, or its direct product, to any prohibited country (including release of technology, software and/or commodities to nationals, wherever they may be located, of any prohibited country) as specified in applicable export, embargo, and sanctions regulations.

q. Each party agrees to permit the other to store and use its business contact information wherever they do business, in connection with a FOAK Project or with IBM products or services, or in furtherance of the business relationship.

r. The laws of the State of Florida govern the rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this FOAK Agreement, without regard to its conflict of law principles. The agreement shall construed and governed under the laws of the State of Florida. Venue for any lawsuit by one party against the other party or otherwise arising out of this Agreement, and for any other legal proceeding, shall be in Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida.

s. The Contractor shall furnish proof of insurance requirements as indicated below. The coverage is to remain in force at all times during the contract period. The following minimum insurance coverage is required. The commercial general liability insurance policy shall name the City of Fort Lauderdale, a Florida municipality, as an "additional insured." This MUST be written in the description section of the insurance certificate, even if there is a check-off box on the insurance certificate. Any costs for adding the City as "additional insured" shall be at the Contractor's expense. The Contractor shall ensure that any and all of its subcontractors comply with these insurance requirements.

The City of Fort Lauderdale shall be given notice 10 days prior to cancellation or modification of any required insurance. The insurance provided shall be endorsed or amended to comply with this notice requirement. In the event that the insurer is unable to accommodate, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested and addressed to the Procurement Services Division.

The Contractor's insurance must be provided by an A.M. Best's "A-" rated or better insurance company authorized to issue insurance policies in the State of Florida, subject to approval by the City's Risk Manager. Any exclusions or provisions in the insurance maintained by the contractor that excludes coverage for work contemplated in this solicitation shall be deemed unacceptable, and shall be considered breach of contract.

Workers' Compensation and Employers' Liability Insurance

Limits: Workers' Compensation – Per Chapter 440, Florida Statutes
    Employers' Liability - $500,000

Any firm performing work for or on behalf of the City of Fort Lauderdale must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed, by the City's Risk Manager, if they are in accordance with Florida Statutes.

Commercial General Liability Insurance

Covering premises-operations, products-completed operations, independent contractors and contractual liability.

Limits: Combined single limit bodily injury/property damage $1,000,000.

This coverage must include, but not limited to:
a. Coverage for the liability assumed by the contractor under the indemnity provision of the contract.
b. Coverage for Premises/Operations
c. Products/Completed Operations
d. Broad Form Contractual Liability
e. Independent Contractors

Automobile Liability Insurance

Covering all owned, hired and non-owned automobile equipment.

Limits: Bodily injury $250,000 each person,
$500,000 each occurrence
Property damage $100,000 each occurrence

Certificate holder should be addressed as follows:

City of Fort Lauderdale
Procurement Services Division
100 N. Andrews Avenue, Room 619
Fort Lauderdale, FL 33301

t.   In the event Contractor engages any subcontractor in the performance of this Agreement, Contractor shall ensure that all of Contractor 's subcontractors perform in accordance with the terms and conditions of this Agreement. Contractor shall be fully responsible for all of Contractor's subcontractors' performance.. Contractor's use of subcontractors in connection with this Agreement shall be subject to City's prior approval, which approval City may revoke at any time.

u.   The Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that it does not have business operations in Cuba or Syria as provided in section 287.135, Florida Statutes (2012), as may be amended or revised. The City may terminate this Contract at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2012), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2012) , as may be amended or revised.

This FOAK Agreement, including its applicable Transaction Documents, is the complete agreement regarding FOAK Projects, and replaces any prior oral or written communications between City of Fort Lauderdale and IBM. In entering into this FOAK Agreement, including each Transaction Document, neither party is relying on any representation that is not specified in this FOAK Agreement or a Transaction Document. Additional or different terms in any written communication from City of Fort Lauderdale are void.

Each party accepts the terms of this FOAK Agreement by signing this FOAK Agreement (or another document that incorporates it by reference) by hand or electronically. Once signed, 1) any reproduction of this FOAK Agreement or Transaction Document made by reliable means (for example, electronic image, photocopy or facsimile) is considered an original and 2) all FOAK Projects under this FOAK Agreement are subject to it.

ATTEST: City of Fort Lauderdale

_____   By: _____
Jonda K. Joseph, City Clerk   John P. "Jack" Seiler, Mayor

                                                 By: _____
                                                 Lee R. Feldman, City Manager

                                                 Approved as to form:

                                                 _____
                                                 Senior Assistant City Attorney

WITNESSES: IBM

_____   By: _____
Signature   Print Name:
Print Name: President

_____
Signature
Print Name:
                                                 ATTEST:
(CORPORATE SEAL)

                                                 _____
                                                 Secretary

STATE OF _____
COUNTY OF _____

        The foregoing instrument was acknowledged before me this _____ day of _____,
2012, by _____, as president for International Business Machines Corporation, a New York
Corporation authorized to transact business in the State of Florida.

                                                 _____
(Signature of Notary Public - State of   )
(SEAL)

_____

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

Agreement for Exchange of Confidential Information

IBM

The parties' mutual objective under this Agreement for Exchange of Confidential Information #JEB1912-003 (Agreement) is to provide protection for Confidential Information, as defined in the FOAK Agreement, ("Information" or "Confidential Information") while maintaining each party's ability to conduct its respective business activities. Each party agrees that the following terms apply when one party (Discloser) discloses Information to the other (Recipient).

12.   Disclosure

Information will be disclosed either:

a.   in writing;

b.   by delivery of items;

c.   by initiation of access to Information, such as may be in a data base; or

d.   by oral or visual presentation.

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

13.   Obligations

The Recipient agrees to:

a.   use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and

b.   use the Discloser's Information for the purpose for which it was disclosed or otherwise for the benefit of the Discloser.

The Recipient may disclose Information to:

c.   its employees who have a need to know, and employees of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know. Control means, with respect to IBM, to own or control, directly or indirectly, over 50% of voting shares; and

d.   any other party with the Discloser's prior written consent.

The Recipient may disclose Information to the extent required by law. However, the Recipient will give the Discloser prompt notice of such disclosure.

14.   Confidentiality Period

Information disclosed under this Agreement will be subject to this Agreement for two years following the initial date of disclosure except as otherwise provided by Florida law.

15.   Exceptions to Obligations

The Recipient may disclose, publish, disseminate, and use information that is not Confidential Information.

16.   Disclaimers

THE DISCLOSER PROVIDES INFORMATION WITHOUT WARRANTIES OF ANY KIND.

Any Information regarding the Discloser's future products or services is subject to change or withdrawal without notice. The development, release, and timing of any future features or functionality described for Discloser's products and services remains at Discloser's sole discretion.

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

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

17.   Import/Export

The Recipient will:

e.   comply with all applicable export and import laws, regulations, and associated embargo and sanction regulations, including prohibitions on export for certain end uses or to certain end users, and

f.   unless authorized by applicable governmental license or regulation, not directly or indirectly export or re-export any technical information or software subject to this Agreement (including direct products of such technical information or software) to any prohibited destination or country (including release to nationals, wherever they may be located, of any prohibited country) as specified in such applicable export regulations.

This section will survive the termination or expiration of this Agreement and the confidentiality period above and will remain in effect until fulfilled.

18.   Termination

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

19.   General

g.   This Agreement does not require either party to disclose or to receive Information, perform any work, or enter into any license, business engagement or other agreement.

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

i.   The exchange of Information under this Agreement does not create any joint relationship, or authorize either party to act or speak on behalf of the other.

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

(1)   developing, manufacturing, marketing or providing to others products or services which may be competitive with products or services of the Discloser;

(2)   developing, manufacturing, marketing or providing products or services to others who compete with the Discloser;

(3)   assigning its employees in any way it may choose; or

(4)   entering into any business relationship with any other party.

k.   Any feedback (including suggestions, data and/or written materials) provided by a Recipient of Information regarding the Discloser's products or services (or future plans about them) shall not be subject to any obligation of confidentiality under this Agreement, provided that there shall be no right to identify a party as the source of any such feedback.

l.   Only a written agreement signed by both parties can modify this Agreement.

m.   Both parties agree to the application of the laws of the State of Florida to govern, interpret, and enforce all of the parties' respective rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles. Florida law supersedes anything in this Agreement that appears to conflict with Florida.

This Agreement, including its applicable supplements, is the complete agreement regarding disclosures of Information, and replaces all prior oral or written communications, representations, undertakings, warranties, promises, covenants, and commitments between City of Fort Lauderdale and IBM. In entering into this Agreement, including each supplement, neither party is relying on any representation that is not specified in this Agreement. Additional or different terms in any written communication from City of Fort Lauderdale are void.

Each party accepts the terms of this Agreement by signing this Agreement (or another document that incorporates it by reference) by hand or electronically. Once signed, i) any reproduction of this Agreement or a supplement made by reliable means (for example, electronic image, photocopy or facsimile) is considered an original and ii) all disclosures of Information under this Agreement are subject to it.