



**POULIOTMERCURE**  
AVOCATS

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GREFFE

29 DEC. 2004

RÉGIE DE L'ÉNERGIE  
MONTREAL

Me Louise Tremblay  
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Le 23 décembre 2004

PAR MESSAGER

Me Véronique Dubois, Secrétaire  
**RÉGIE DE L'ÉNERGIE**  
Tour de la Bourse,  
800, Place Victoria-bureau 2.55  
Montréal, (Québec)  
H4Z 1A2

**OBJET:** Gazifère Inc. – Demande tarifaire 2004-2005  
Dossier : R-3537-2004  
Notre dossier : 103917-92,625

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Chère Consoeur,

La présente fait suite à nos lettres du 25 octobre et du 10 décembre 2004 dans le dossier mentionné en rubrique auxquelles étaient annexées les réponses aux demandes de renseignements de la Régie et des intervenants et a pour but d'apporter certaines précisions quant au contrat relié au système de facturation CIS (« système CIS »).

En réponse à la question 11.3 de la demande de renseignements no. 2 d'OC (GI-19, document 2, page 11), Gazifère a déposé une copie de l'entente de service conclue entre Enbridge Commercial Services Inc. (« ECS ») et The Consumers' Gas Company Ltd. pour les services reliés au système CIS (voir GI-19, document 2.4). Il s'agit de l'entente initiale qui a été déposée par Gazifère dans le cadre de sa cause tarifaire 2000.

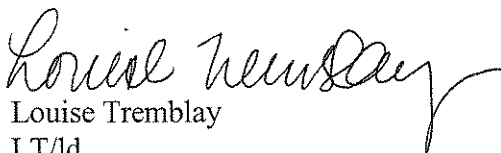
Suite au dépôt de cette entente, notre cliente a retracé l'entente qu'elle a signée avec Customerworks Limited Partnership le 1<sup>er</sup> janvier 2002 pour le service de facturation et les services reliés au système CIS. En effet, et tel que précisé en réponse à la question 19.2 de la demande de renseignements no. 4 de la Régie (GI-18, document 4, page 21), ECS détient la licence pour le système CIS et elle permet à Customerworks Limited Partnership d'utiliser ce système. Gazifère dépose donc, comme pièce GI-19, document 2.5, une copie de cette entente intitulée « Client Services Agreement » intervenue entre elle et Customerworks Limited Partnership.

Veillez noter que les services reliés au système CIS fournis à Gazifère aux termes de cette dernière entente sont identiques à ceux décrits dans l'entente déjà produite comme pièce GI-19, document 2.4. Quant aux coûts de ces services, il faut se référer à l'annexe A de l'entente avec

Customerworks Limited Partnership (GI-19, document 2.5) qui prévoit qu'ils sont facturés selon un mécanisme de paiements forfaitaires mensuels.

Veuillez agréer, Chère Consoeur, l'expression de nos sentiments les meilleurs.

POULIOTMERCURE, s.e.n.c.



Louise Tremblay  
LT/lid

c.c. : Me Nicolas Plourde (ACIG)  
M. Peter Fournier (ACIG)  
Me André Turmel (FCEI)  
Me Steve Cadrin (UMQ)  
Me Stéphanie Lussier (OC/ACEF de l'Outaouais)

M. Jean-François Lefebvre (GRAME)  
Me Dominique Neuman (S.É. et AQLPA)  
M. Jean Lacroix (RNCREQ)  
M. Yves Hennekens (UMQ)  
M. Gilles-André Paquin (ACEF de l'Outaouais)

## CLIENT SERVICES AGREEMENT

THIS AGREEMENT made as of the first day of January, 2002 (the "Effective Date")

**BETWEEN:**

**GAZIFERE INC.**, a corporation incorporated under the laws of Quebec  
("GI" or "Service Recipient")

- and -

**CUSTOMERWORKS LIMITED PARTNERSHIP**, a limited partnership  
formed under the laws of Alberta  
("CustomerWorks")

The above-named parties wish to reduce to writing the agreement (the "Agreement") pursuant to which CustomerWorks will provide services to GI.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the premises and mutual covenants hereinafter contained, the parties agree that:

### 1. SERVICES

- 1.1 Services from time to time to be provided to GI by CustomerWorks (the "Services") shall be identified and defined in one or more schedules (the "Services Schedules") which upon execution by GI and CustomerWorks shall be incorporated into and form part of this Agreement and such Services shall be provided subject to the terms of this Agreement.
- 1.2 The Services may from time to time relate to specific projects for which GI requires assistance.
- 1.3 The Services shall be performed in a timely manner to the satisfaction of the Service Recipient in accordance with: (i) good customer service practices as reflected by current market standards; (ii) the performance measures prescribed in this Agreement and the applicable Services Schedule; and (iii) such written

GI-19  
Document 2.5  
Requête 3537-0

directions as may be provided by GI from time to time and agreed to by Customerworks (collectively the "Performance Standards"). If GI disputes the quality or level of Services provided by CustomerWorks hereunder, the parties will endeavor to resolve the dispute forthwith in accordance with Section 14 below.

- 1.4 CustomerWorks shall, using reasonable commercial efforts, proactively monitor, investigate, assess and report to GI, as provided in the Services Schedule, all material industry and marketplace changes in technology and in work place practices which may improve the efficiency and quality of the delivery of Services to GI, or lower the cost of delivery of the Services to GI.
- 1.5 CustomerWorks shall jointly with GI develop and provide to GI by October 31, 2002 emergency response plans in anticipation of reasonably anticipated events or disasters of varying types affecting the delivery of the Services which plans shall set out a work continuance plan. Such plans shall be in form and substance satisfactory to GI, acting reasonably, and have as their primary objective the minimization of Service disruption and the restoration of the affected Service in as timely a way as is commercially reasonably possible. CustomerWorks shall as soon as reasonably possible demonstrate the executability of the plans to GI but in any event no later than December 31, 2002. Any disagreement between the parties under this Section shall be submitted forthwith to the dispute resolution process of Section 14 below.
- 1.6 CustomerWorks will provide GI and its agents, subcontractors and authorized representatives with reasonable access during the usual business hours of CustomerWorks to its hardware, software, network and other assets and records as are reasonably required in the delivery of the Services. CustomerWorks shall develop and administer appropriate security procedures regarding such access and with respect to maintenance of confidential information and notify GI of such procedures and any changes made from time to time which are reasonably necessary or desirable to protect and preserve the same (provided that such changes do not result in a reduction in the ability of CustomerWorks to perform any of the Services according to the Performance Standards).
- 1.7 CustomerWorks shall appoint an account manager (the "Account Manager") whose responsibility will be the management of the account of GI. If GI, acting reasonably, is not satisfied with the services of the Account Manager it shall provide notice to CustomerWorks with reasons for its dissatisfaction and a request that the Account Manager be replaced. CustomerWorks shall, using commercially reasonable efforts, replace the Account Manager with a candidate satisfactory to GI.
- 1.8 CustomerWorks shall use reasonable commercial efforts to proactively investigate, assess and apprise GI of opportunities that CustomerWorks has with third parties or other clients of CustomerWorks that will result in reducing GI's costs and increasing the efficiencies of Services.

- 1.9 CustomerWorks shall perform the Services in compliance with all federal, provincial, municipal and other laws, bylaws, regulations and statutes and any regulatory orders, decisions or rulings that may be applicable to CustomerWorks or the provision by it of Services under this Agreement.
- 1.10 The parties acknowledge that this Agreement and all Services Schedules shall be subject to any guideline, rule, code or regulation applicable to GI made by La Regie de l'energie pursuant to la loi sur la Regie de l'energie L.R.Q., c. R-6.01 (such guidelines, rules, codes, regulations and legislation collectively referred to as the "Act") as amended from time to time. All amendments to the Act applicable to GI which require changes to Services as a result of such amendment to the Act after the date hereof shall be treated as Scope Changes under Section 12 hereof. CustomerWorks agrees to do such things as are necessary to assist GI to comply with the Act including but not limited to advising GI immediately of any instances that constitute a violation of the Act that CustomerWorks becomes aware of in the course of providing Services hereunder.

## **2. WARRANTIES**

- 2.1 CustomerWorks warrants that the Services will be performed in a manner consistent with the Performance Standards and shall perform all other obligations arising under this Agreement in a diligent, timely fashion.
- 2.2 CustomerWorks warrants that the Services shall be provided free from material defects and deficiencies and shall be provided in accordance with the Performance Standards. CustomerWorks shall be responsible, at no additional cost to GI, to remedy material defects and deficiencies resulting from the failure of CustomerWorks to meet the Performance Standards. CustomerWorks shall advise GI forthwith in writing of any material defects and deficiencies in the Services of which it becomes aware in the course of providing Services.
- 2.3 Provided CustomerWorks receives written notice from GI of any material defect or deficiency in Services within three (3) months of its occurrence or discovery (whichever is later), CustomerWorks shall either cure the material defect or deficiency in the Services or submit a curative plan, satisfactory to GI, within thirty (30) days or such time periods that are agreeable to GI, acting reasonably.
- 2.4 If CustomerWorks is unable to satisfactorily cure or rectify the material defect or deficiency in Services and GI has suffered actual damages or loss, GI may recover from CustomerWorks the direct foreseeable damages that GI suffers as a result of CustomerWorks' failure to provide the Services in accordance with the Performance Standards. CustomerWorks shall not be liable for damages or loss to the extent the damage or loss was caused or contributed to by GIs' failure to comply with its obligations under this Agreement or for GI's loss of profits (except such amounts or calculations specifically provided for in a Service Schedule). The liability of CustomerWorks to GI under this Agreement shall be limited to

damages in the amount of the annual fees provided for in the most current Annual Forecast (as defined in Section 9.1) in effect at the time of the event giving rise to the damage.

### 3. RESPONSIBILITIES OF GI

- 3.1 GI shall provide CustomerWorks with information, access to and use of information (including computer interfaces) and applications and software that CustomerWorks may reasonably require to perform or provide the Services. While GI shall be under no obligation to provide or disclose any information if such action will (or could be reasonably expected to) result in a contravention of the Act or of any order or direction of La Regie de l'energie any such limitation on disclosure which impacts the delivery of Services shall be a Scope Change under Section 12.
- 3.2 GI shall pay CustomerWorks for the Services at the times and as otherwise set out in the applicable Services Schedule.
- 3.3 GI shall appoint an administrator (the "Administrator") who will act as the primary interface for the Account Manager. If CustomerWorks, acting reasonably, is not satisfied with the services of the Administration it shall provide GI with reasons for its dissatisfaction.

### 4. PRICING

- 4.1 The fees to be charged by CustomerWorks to GI for Services shall be set forth in the applicable Services Schedule and shall remain in effect for the Term unless changed pursuant to Section 12.1.

The parties agree that as part of the process of preparing the Annual Forecast (defined in Section 9.1), they shall meet annually to consider any joint opportunities available to them to reduce costs and related fees and/or improve Performance Standards. Additional meetings in this regard will be held as required. Any such opportunities will be considered as Scope Changes under Section 12.1.

- 4.2 GI will reimburse CustomerWorks for all reasonable out of pocket expenses that have been pre-approved in writing by GI and incurred by CustomerWorks (and for which receipts or other evidence of such expenses have been provided to GI) and that are directly related to the provision of Services under any Services Schedule, including (but not limited to) the following: (i) travel charges such as mileage, parking, airfare, out-of-town accommodation and meal expenses; and (ii) overnight courier charges. For greater certainty, all expenses shall be consistent with GI's internal policy for expenses, which policy will be provided to CustomerWorks on an annual basis for each calendar year during the term of this Agreement.

4.3 GI and its authorized representatives shall have the right but without any interference in the day-to-day operations of CustomerWorks or the confidentiality of other clients or customers of CustomerWorks, at GI's own cost and upon reasonable prior notice to CustomerWorks during the usual business hours of CustomerWorks in each case acting in a commercially reasonable manner, to examine and make copies of the books, records and charts (in any form whatsoever) of CustomerWorks that relate to the provision of Services (collectively the "Records") and to monitor, investigate and audit any processes or procedures that relate to the provision of Services, to the extent necessary to (i) ensure compliance with GI's regulatory requirements, policies and procedures; (ii) ensure security measures relating to GI's confidential information (including Customer information) are adequate; (iii) ensure that service level reporting specified herein is accurate; and (iv) verify the quality of any Service or the accuracy or any statement, charge, or computation made pursuant to any provision of this Agreement. The Records shall be maintained in accordance with the records retention policies of CustomerWorks (and where applicable in accordance with Canadian generally accepted accounting principles), provided the Records related to any matter disputed between the parties shall be preserved until such dispute is settled. GI's rights under this Agreement to view Records and to make copies of same shall:

- (i) continue for a period of two (2) years from the end of the calendar year to which such Records relate, notwithstanding the expiration or termination of this Agreement; and
- (ii) for the purposes of complying with the requirements of tax authorities, continue for a period of seven (7) years from the end of the calendar year to which such Records relate, notwithstanding the expiration or termination of this Agreement.

CustomerWorks may fulfill its obligations to preserve any Records by delivering them to GI together with a notice stating that such delivery is being made in satisfaction of its obligations under this Section 4.3.

## **5. INVOICE AND PAYMENT PROCEDURES**

5.1 The following sets forth the procedure applicable to invoicing and payments related to Services delivered or provided hereunder:

- (i) CustomerWorks will prepare and deliver to GI, on a monthly basis in arrears on the 15<sup>th</sup> date of each month, a written statement (an "Invoice") for Services provided during the previous month. Each Invoice will be consolidated to account for the Services provided under each Services Schedule to this Agreement (unless CustomerWorks determines that more than one invoice is to be provided) and shall identify the Services consumed, the associated pricing and any other information that relates to

pricing, including details of penalties applied pursuant to the appropriate Services Schedule.

- (ii) Fees for Services provided on an "as requested" basis shall be provided in accordance with terms negotiated by CustomerWorks and GI prior to the commencement of the Service which terms shall be reduced to writing in the form of a Services Schedule which shall be executed by the parties hereto and form a part hereof in accordance with the terms hereof.
- (iii) CustomerWorks shall provide GI with supporting information for an Invoice reasonably requested within fifteen (15) days from the date of an Invoice. If GI disputes the amount of an Invoice, the dispute shall be resolved forthwith in the manner described below in this Section 5.
- (iv) Unless GI, within thirty (30) days from the date on which it receives an Invoice from CustomerWorks, shall have disputed in writing the amount thereof, then the Invoice will be deemed to have been accepted by it. If GI disputes the amount of an Invoice within such thirty day period, the persons who executed the Services Schedule for GI and CustomerWorks (or their successors) will endeavor to resolve the dispute forthwith, and failing such resolution within 15 days, the dispute will be resolved using the procedures set forth in Section 14 below, whereupon the Invoice, revised to the extent necessary to resolve the dispute as aforesaid, will be deemed to have been accepted by both parties.
- (v) Except with respect to those portions of an Invoice which are the subject of a bona fide dispute between the parties, Invoices shall be payable within thirty (30) days from the date of the Invoice. Invoices delivered pursuant to this Section may include amounts related to the expenditures incurred by CustomerWorks and pre-approved pursuant to Section 4.2, to obtain goods or services from third parties for the benefit of GI. Any amount to be remitted by GI to CustomerWorks and not remitted on or before the date on which it is due shall thereafter bear interest at an annual rate equal to the prime rate of interest of the Toronto Dominion Bank (or its successor) (Toronto, Main Branch) on the due date plus one percent (1%) per annum, compounded monthly.
- (vi) Except as expressly amended in this Section 5, all other terms and conditions set forth in any Services Schedule attached hereto applicable to invoicing and payment shall remain in full force and effect.

In the event that the Minister of National Revenue for Canada or any other competent taxing authority having jurisdiction at any time proposes to issue or does issue any assessment or assessments that impose or would impose any liability for tax of any nature or kind whatsoever on CustomerWorks or GI on the basis that the fair market value of the Services is different than the amount charged by CustomerWorks for the corresponding Services (the "Services

Charge"), and in the event that the parties hereto agree that the fair market value of the Services is different than the Services Charge, then upon such agreement the Services Charge that GI is obligated to pay for the said Services shall be varied by increasing or decreasing the amount of the Services Charge as GI and CustomerWorks may agree.

- (vii) All amounts payable under this Agreement are expressed, and shall be paid, in Canadian dollars unless otherwise stated.
- (viii) GI shall have no liability or responsibility for the withholding, collection or payment of income taxes, unemployment insurance, statutory or other taxes or payments of any other nature on behalf of or for the benefit of CustomerWorks other than withholding taxes, if any, imposed by the *Income Tax Act* (Canada) with respect to payments to non-resident persons as defined therein. CustomerWorks agrees to indemnify and hold GI harmless from and against any order, penalty, interest or tax that may be assessed or levied against GI as a result of the failure or delay of CustomerWorks to file any return or information required to be filed by CustomerWorks by any law, ordinance or regulation relating to the Services performed by CustomerWorks herein. Without limiting the generality of the foregoing, GI shall not have liability or responsibility for the payment of any penalty or interest assessed or levied against CustomerWorks as a result of the failure of CustomerWorks to charge or remit GST as required under the *Excise Tax Act* of Canada.

## 6. INSURANCE

- 6.1 Save and except as specified in a Service Schedule, CustomerWorks shall at its own expense maintain and keep in full force and effect during the term hereof:
  - (i) commercial general liability insurance having a minimum inclusive coverage limit, including personal injury (including death) and property damage, of at least Three Million Dollars (\$3,000,000) per occurrence. Subject to the terms of the following sentence, GI shall be added as an additional named insured in the insurance policy, which should be extended to cover contractual liability, products/completed operations liability, owners'/contractors' protective liability and must also contain a cross liability clause. CustomerWorks shall be at liberty to name any secured lender providing financing to CustomerWorks as first loss payee on any policy of property insurance upon prior written notice to GI;
  - (ii) automobile liability insurance on all vehicles used in connection with this Agreement and such insurance shall have a limit of at least Three Million Dollars (\$3,000,000) in respect of bodily injury (including passenger hazard) and property damage inclusive of any one accident; and

- (iii) non-owned automobile liability insurance and such insurance shall have a limit of at least Three Million Dollars (\$3,000,000) in respect of bodily injury (including passenger hazard) and property damage, inclusive in any one accident.

6.2 CustomerWorks shall forthwith after entering into this Agreement, and from time to time thereafter at the request of GI (but no more often than once per year), furnish to GI a memorandum of insurance or an insurance certificate setting out the terms and conditions of each policy of insurance (all such policies of insurance being hereinafter described as the "Insurance Policies") maintained by CustomerWorks in order to satisfy the requirements of this section. The Insurance Policies shall be arranged with insurers acceptable to GI, acting reasonably. CustomerWorks shall not cancel, terminate or materially alter the terms of any of the Insurance Policies without giving prior notice in writing to GI. CustomerWorks shall cause or arrange for any of its insurers under any one or more of the Insurance Policies to oblige itself contractually in writing to GI to provide thirty (30) days prior notice in writing before canceling, terminating or materially altering the Insurance Policies under which it is an insurer.

## **7. AMENDMENTS**

- 7.1 This Agreement and any Services Schedules may be amended from time to time upon the approval in writing of both parties. Version control and archival storage of all amendments shall be the responsibility of CustomerWorks.
- 7.2 All amendments to this Agreement will be effected in accordance with the Service adjustment procedures described in Section 12 below.

## **8. MANAGEMENT REPORTS**

- 8.1 Various management and operating reports shall be provided by CustomerWorks. Such reports shall be in the form and the timing of their delivery shall be as described in the respective Services Schedules.
- 8.2 CustomerWorks will provide GI with reports summarizing the overall performance of the Services described in each Services Schedule at the frequency specified in the respective Services Schedule.
- 8.3 CustomerWorks and GI will meet to discuss each Services report on an as-required basis or as set out more particularly in a Services Schedule.

## **9. FORECAST OF SERVICES AND PLANS**

- 9.1 GI and CustomerWorks shall work together to arrive at forecasts of activity levels, associated performance targets and annual operating plans ("Annual Forecasts"). The parties will complete the Annual Forecast at such time in each

year as shall correspond with GI's annual budgeting process (30 days written notice of which has been given by GI to CustomerWorks) but in any event by no later than three (3) months prior to the end of the applicable fiscal year in each twelve-month period (or such other date agreed to by the parties) and such Annual Forecast shall encompass forecasted service needs for the following twelve-month period. Penalties contained in the Services Schedules shall not apply where activity thresholds are exceeded in circumstances provided in the Services Schedules.

- 9.2 Periodic Service reviews under Section 8.2 will include a review of the Performance Standards describing the use of Services and comparing any variances between actual and forecasted consumption of Services.
- 9.3 GI will notify CustomerWorks, as promptly as is reasonable in the circumstances, of expected variances from the Annual Forecast provided in accordance with subsection 9.1 above. CustomerWorks will use reasonable efforts to accommodate any increases or decreases in forecasted Services needs and the parties will act reasonably in amending the relevant Services Schedules to accommodate such increases or decreases, provided that, penalties set out in Services Schedule shall not apply where increases exceed the specified threshold in the applicable Services Schedule. Where GI advises CustomerWorks of an expected reduction of required Services compared to the volume of Services reflected in the Annual Forecast or where CustomerWorks advises that it expects such a reduction based on the level of Services being used, then the parties will meet promptly to discuss the reasons and to establish whether the Annual Forecast (and the corresponding Services Schedule levels) should be revised. Any such revision in the Annual Forecast shall be addressed in accordance with Section 12 below.

## **10. TRANSITION PERIOD**

- 10.1 The Performance Standards in respect of certain Services will be subject to a transition period for the period of time indicated within the applicable Services Schedule. If the parties cannot agree to specific Performance Standards to be in effect at the end of the transition period in respect of such Services, the determination of those Performance Standards will be submitted to the dispute resolution process of Section 14 for determination. The transition period will enable GI to assess the service levels provided by CustomerWorks with respect to the applicable Services.
- 10.2 Service reviews will occur as mutually agreed to by CustomerWorks and GI during the transition period. In the event that the parties agree that the service level or fee for the Services should be adjusted prior to the expiry of the transition period, the applicable service levels or fees shall be adjusted in accordance with the Services adjustment process described in Section 12 below.

## 11. TERM, TERMINATION AND RENEWAL

- 11.1 This Agreement, together with all Service Schedules shall commence on the Effective Date and continue in force until December 31, 2006 (the "Term") unless terminated earlier as provided herein.
- 11.2 CustomerWorks must advise the Administrator (or his or her successor) in writing of the expiry date of any Services Schedule seven (7) months prior to such expiry date with a proposal for the provision of Services including service levels, content and price for an Additional Term (as defined below), which proposal shall be valid for acceptance by GI during the period ended three months prior to the end of the Term or Additional Term.
- 11.3 (a) Subject to Sections 11.6 and 11.7, this Agreement shall automatically be renewed for additional terms, each being of one year (an "Additional Term"), unless otherwise agreed to, at prices determined by either:
- (i) the process set out in paragraph (b) below; or
  - (ii) if GI elects (at least initially) not to issue a Request for Quotation (as defined in paragraph (b) below) the parties agree that the change in prices for any one or more Services for such Additional Term shall be negotiated by them.
- (b) At the end of the fifty-fourth month of the Term or the sixth month of any Additional Term, as the case may be, GI may, in its sole and absolute discretion, elect to solicit third parties to provide one or more Services or issue a request for quotation to third parties for the provision of one or more Services (in either case a "Request for Quotation"). CustomerWorks shall have the option of matching the quotation chosen by GI (chosen in its sole discretion) from the responses to the Request for Quotation and where CustomerWorks matches such quotation (in service levels, content and price) this Agreement shall be renewed for an Additional Term with Services provided subject to the terms and specific fees set out in such quotation.
- (c) In the event CustomerWorks elects not to match the successful quotation in respect of some or all of the Services within the time period specified in the Request for Quotation (not to be less than one week), the obligation of CustomerWorks to provide such Services, shall terminate at the end of the Term or Additional Term as the case may be in respect of such Services.
- 11.4 The provisions of Sections 14, 16, 17, 18 and 20 and shall survive the termination of this Agreement.
- 11.5 This Agreement shall be construed as a separate and independent agreement for each Service entered into under this Agreement. Any termination or expiration of this Agreement with respect to a particular Service shall not

terminate this Agreement with respect to any other Service then existing under this Agreement except as provided herein.

11.6 GI may terminate a Service if:

- (i) CustomerWorks defaults in the performance of its material duties or obligations (and for the purposes of making such determination of materiality the matters set out in the Services Schedule shall be considered but not necessarily the time frames and performance requirements specified therein) in respect of a Service (a "Material Default") which default is not substantially remedied within thirty (30) days after written notice is provided by GI to CustomerWorks specifying the nature of the default; or
- (ii) CustomerWorks makes more than (2) two Material Defaults in two consecutive months in respect of the Service, or (3) three Material Defaults in any twelve month period in respect of the Service, even where such Material Defaults are cured within the specified time period.

11.7 This Agreement may be terminated by GI if: (i) CustomerWorks defaults in the performance of its material duties or obligations (and for the purposes of making such determination of materiality the matters set out in the Services Schedule shall be considered but not necessarily the time frames specified therein) under this Agreement which default is not substantially remedied within thirty (30) days after written notice is provided by GI to CustomerWorks specifying the nature of the default; (ii) CustomerWorks becomes or is declared insolvent or bankrupt, is in material default of any financial obligations to third parties that, in GI's opinion, acting reasonably, will affect CustomerWorks' ability to perform its duties or obligations hereunder (including without limitation, a default under any loan or security agreement); or (iii) CustomerWorks is the subject of any proceedings relating to its liquidation, insolvency, or the appointment of a receiver or similar officer of all or substantially all of its property or if CustomerWorks makes an assignment for the benefit of all or substantially all of its creditors and, in the case of any such proceedings commenced against CustomerWorks without the consent of CustomerWorks, CustomerWorks does not proceed with due diligence and in good faith to have such proceedings dismissed and in fact does not succeed in having such proceedings dismissed within thirty (30) business days of their commencement.

11.8 GI agrees that the remedy of damages for any breach by it of Sections 17 or 18 or for infringement hereof may be inadequate and that in the event of any such breach or infringement CustomerWorks shall be entitled to make an application to the appropriate court for temporary and/or permanent injunctive relief against GI, without the necessity of proving actual damage to CustomerWorks. Notwithstanding the right of CustomerWorks to apply for injunctive relief under this Section, CustomerWorks acknowledges that it shall not be entitled to

terminate this agreement by reason of GI breaching Section 17 or 18 hereof or for infringement.

- 11.9 At the sole option of CustomerWorks, any or all of the Services together with this Agreement may be terminated by CustomerWorks if GI makes a material default in the payment of fees (except where such fees are being contested in good faith in accordance with Section 5.1).
- 11.10 This Agreement and any Services shall immediately terminate upon written consent of both parties.
- 11.11 Upon receipt of a notice of termination of this Agreement or in respect of any Services which is not disputed, the parties shall meet forthwith and negotiate in good faith an orderly termination plan to enable the parties to mitigate the costs associated with such termination without materially impacting the delivery of the Services and provide reasonable assistance to one another in implementing said plan including, without limitation, the transfer of applicable data. In addition to the foregoing, in connection with such termination plan, CustomerWorks shall:
- (a) offer to sell to GI any and all assets owned by CustomerWorks and used exclusively by CustomerWorks in the provision of Services for net book value (calculated as at the effective date of termination of this Agreement);
  - (b) offer to transfer or assign to GI (where permitted under the terms of such contract) any and all third party service provider contracts and equipment leases that relate exclusively to the provision of the Services to GI;
  - (c) offer to license or sublicense to GI (to the extent such sublicense is permitted by the original license) any software that is owned or licensed by CustomerWorks and that is used by CustomerWorks exclusively in providing the Services to GI;
  - (d) identify to GI, the staffing and equipment requirements associated with the provision by CustomerWorks of the Services that are critical to the establishment of substantially similar services by GI; and
  - (e) in its sole discretion, offer GI a shared use or shared services agreement in respect of assets that are not used exclusively in the provision of Services.

## 12. SERVICE ADJUSTMENTS

- 12.1 For the purpose of this Agreement "Scope Change" shall mean and include:
- (i) the identification by a party of the need to modify elements of Services or Services Schedules, including to add or discontinue Services;
  - (ii) modifications to Performance Standards requested by GI under Section 1.3(iii);

- (iii) changes to Services identified under Section 1.4;
- (iv) Services provided on an "as requested" basis under Section 5.1(ii);
- (v) a material change in the volume or activity in connection with a Service (such material change measured in any given year in relation to the then applicable Annual Forecast);
- (vi) material changes to pricing in the marketplace or industry standards for services substantially similar to the Services hereunder; and
- (vii) any matter other than those set forth in paragraphs (i) to (vi) above that has been initiated or proposed by a party that would materially impact upon the nature, scope or delivery of the Services or Performance Standards.

Either CustomerWorks or GI may initiate a request for a Scope Change. All requested Scope Changes must be identified in writing setting out: (i) the basis for the proposed Scope Change and the nature of the Scope Change; (ii) the expected impact of the Scope Change on fees and the method of Service delivery; and (iii) an appropriate notice period within which the party receiving such notice of Scope Change may respond in detail to the points raised in such request, such period not to be less than thirty (30) days unless otherwise agreed to by both parties.

- 12.2 Either party may propose a Scope Change to existing Services at any time during the term of such Services. No Scope Change shall be effective unless both parties agree to the requested modifications and the effective date for implementation. The procedures set forth in Section 14 below shall be followed if agreement regarding a Scope Change cannot be reached by the parties.
- 12.3 The parties shall use reasonable commercial efforts to minimize disruption by a Scope Change to the delivery of the Services and to the business operations of the parties generally.
- 12.4 In the event the parties proceed with a Scope Change they shall complete and execute an amendment to the relevant Services Schedule.

### **13. ANNUAL PERFORMANCE REVIEW**

- 13.1 In addition to such other reviews as set forth in the Services Schedule, the Account Manager and the Administrator shall co-operate in the completion of a formal annual performance review. All Services will be reviewed with reference to the Performance Standards. The annual performance reviews must be completed within sixty (60) days of each anniversary date of this Agreement.

## 14. DISPUTE RESOLUTION

- 14.1 In the event of an issue related to the performance of a Service described in a Services Schedule, the fees payable under a Services Schedule, or the interpretation of the Agreement (including a Services Schedule) (the "Dispute"), the parties shall use their reasonable commercial efforts to settle such Dispute. To this effect they shall consult and negotiate with each other in good faith to attempt to reach a just and equitable solution satisfactory to both parties. If the parties are not, in the first instance, successful in resolving the Dispute the parties shall refer the Dispute for resolution using the procedures described in this Section 14.
- 14.2 The Account Manger and the Administrator must meet within two (2) days (on a day other than a Saturday or Sunday or a statutory holiday in the City of Toronto in the Province of Ontario (hereinafter, a "business day")) after either CustomerWorks or GI receives from the other a written notice of Dispute. The purpose of the meeting will be to develop an action plan that can be presented to CustomerWorks and GI within five (5) business days after the delivery of the notice described in the preceding sentence. A copy of the action plan for resolution shall be sent to the Vice-President of CustomerWorks designated by CustomerWorks and the General Manager of GI . If the representatives are unable to develop an action plan or the action plan fails to bring a resolution to the conflict within ten (10) business days after the delivery of the original notice described above, the issue shall be escalated further.
- 14.3 On the eleventh (11<sup>th</sup>) business day after the delivery of the original notice described above, the Dispute shall be escalated to the President of CustomerWorks and the General Manager of GI if no resolution has been reached by such time.
- 14.4 If the Dispute cannot be resolved by the President of CustomerWorks and the General Manager of GI within three (3) business days after the time it was referred to them, then it shall be submitted by either party to mediation substantially in compliance with the mediation rules of the ADR Chambers. Where the Dispute has not been resolved by mediation within fifteen (15) days of such Dispute being referred to mediation then the Dispute shall be escalated further as described below.
- 14.5 In the event that the processes described in Section 14.4 above do not result in a resolution of the Dispute acceptable to both parties within thirty 30 days after the date on which the Dispute first became known to the parties, the Dispute may be submitted by either party to arbitration pursuant to Exhibit B which is included in and forms a part of this Agreement. The place of the arbitration will be at such location as the parties to the Dispute may agree, provided that failing agreement such arbitration will be held at Toronto, Ontario. Subject to this Section 14.5 and Exhibit A, the Dispute will not be made the subject matter of any action in any court by any party. After completion of the arbitration, an action may be initiated

by the parties only for the purpose of enforcing the decision of the arbitrator and recovery of the costs incidental to the action. The decision of the arbitrator will be conclusively deemed to determine the interpretation of this Agreement (including the Services Schedules) and the rights and liabilities of the parties in respect of the matter arbitrated.

- 14.6 Pending the resolution of any Dispute, all invoices for Services provided that relate specifically to the Dispute will be held by CustomerWorks. If the resolution is in the favour of CustomerWorks, then CustomerWorks may apply any late charges as provided in Section 5.1(v) to the payment for Services that was postponed due to the invocation of the dispute resolution process.

## 15. REPRESENTATIONS AND WARRANTIES

### 15.1 GI's Representations and Warranties

GI hereby represents and warrants to CustomerWorks that:

- (i) it is duly incorporated and validly existing under the laws of the Province of Quebec;
- (ii) it has the corporate power and the capacity to enter into, and to perform its obligations under this Agreement. Each of this Agreement and each of the agreements, contracts and instruments required by this Agreement to be delivered by it has been duly authorized by it;
- (iii) this Agreement has been duly executed and delivered by it and is a valid and binding obligation of it, enforceable in accordance with its terms subject to applicable bankruptcy and insolvency laws;
- (iv) neither the entering into of this Agreement, nor the performance by it of any of its obligations under this Agreement will contravene, breach or result in any default under the articles, by-laws, constating documents or other organizational documents of it or under any mortgage, lease, agreement, other legally binding instrument, license, permit, statute, regulation, order, judgment, decree or law to which it is a party or by which it may be bound;
- (v) it shall comply with all applicable local, provincial and federal laws and regulations; and
- (vi) it shall comply with its privacy rights related obligations under the federal *Personal Information Protection and Electronic Documents Act* and under any and all equivalent and applicable provincial legislation.

### 15.2 CustomerWorks Representations and Warranties

CustomerWorks hereby represents and warrants to GI that:

- (i) it is a limited partnership formed and validly existing under the laws of the Province of Alberta;
- (ii) it has the corporate power and the capacity to enter into, and to perform its obligations under this Agreement. Each of this Agreement and each of the agreements, contracts and instruments required by this Agreement to be delivered by it has been duly authorized by it;
- (iii) this Agreement has been duly executed and delivered by it and is a valid and binding obligation of it, enforceable in accordance with its terms subject to applicable bankruptcy and insolvency laws;
- (iv) neither the entering into of this Agreement, nor the performance by it of any of its obligations under this Agreement will contravene, breach or result in any default under its limited partnership agreement, and other organizational documents of it or under any mortgage, lease, agreement, other legally binding instrument, license, permit, statute, regulation, order, judgment, decree or law to which it is a party or by which it may be bound;
- (v) it shall comply with all applicable local, provincial and federal laws and regulations;
- (vi) it currently holds or will obtain and will continue to hold at all times during the term of this Agreement, all licenses, consents and approvals necessary or required to enable it to carry out its obligations under this Agreement;
- (vii) the employees, agents, or subcontractors of CustomerWorks who are performing the Services shall possess such skills and qualifications as are necessary or desirable for the performance of the Services in accordance with the Performance Standards; and
- (viii) it shall comply with all applicable privacy related obligations under the federal *Personal Information Protection and Electronic Documents Act* and any or all equivalent and applicable provincial legislation.

## 16. INDEMNIFICATION AND LIMITATION OF LIABILITY

- 16.1 Each of the parties shall indemnify, defend and hold harmless the other party and its respective employees and agents from and against any third party claims, demands, loss, damage or expenses (including reasonable legal fees and court costs) relating to bodily injury or death of any person or damage to real and/or tangible personal property directly caused by the negligence or willful misconduct of the indemnifying party or its respective employees, agents or any subcontractor during the course of the provision or delivery of Services hereunder.

- 16.2 Each of the parties shall indemnify, defend and hold harmless the other party and its respective employees and agents from and against any third party claims, demands, loss, damage or expenses (including reasonable legal fees and court costs) to the extent that a third party claim arises out of or relates to an indemnifying party's activities which constitute a breach or non-fulfillment of any of the warranties, obligations or covenants of that party or its respective agents, employees or any subcontractor under this Agreement.
- 16.3 CustomerWorks shall indemnify, defend and hold harmless GI and its employees and agents from and against any third party claims, that any of the Services (or deliverables provided thereunder) infringe any Canadian or United States patent, copyright, trademark, trade secret or other intellectual property of such third party and will pay for any loss, costs or damages or expenses (including reasonable legal fees and court costs) arising directly in respect of such third party claims. In addition to the remedies available to GI hereunder, CustomerWorks shall replace, at no additional cost to GI, the Service that is the source of the infringement claim with another Service that is substantially equivalent in function as the infringing Service.
- 16.4 In any claim for indemnification under this Agreement: (i) the party claiming indemnification must promptly notify the other party in writing of the claim; (ii) the party against whom indemnification is claimed shall have sole control of the defense of any such claim or action through counsel of its own choosing at its own expense; (iii) the party claiming indemnification must cooperate fully to the extent necessary and execute all documents necessary for the defense of such claim; and (iv) the party claiming indemnification shall have the right to approve settlement of any claim, such approval not to be unreasonably withheld or delayed. In the event the parties agree to settle a claim, each party agrees not to publicize the settlement without first obtaining the other party's written permission.
- 16.5 Each party agrees that except for each party's obligations of confidentiality and indemnification for infringement, in no event shall a party or any of their officers, directors, employees, shareholders, agents or representatives be liable to the other party for any special, indirect, incidental, exemplary, or consequential damages or loss of profits or goodwill, whether such liability is based on contract, tort, negligence, strict liability, products liability or otherwise, in any way arising from or relating to this Agreement or resulting from the use of or inability to use any Services even if the party has been notified of the possibility or likelihood of such damages occurring. Notwithstanding the foregoing, in no event shall a party be liable for loss of profits (except such amounts or calculations specifically provided for in a Service Schedule) arising from (i) breach of that party's obligations of confidentiality, or (ii) infringement.
- 16.6 The liability of CustomerWorks to GI under this Agreement shall be limited to damages in the amount of the annual fees provided for in the most current

Annual Forecast (as defined in Section 9.1) in effect at the time of the event giving rise to the damage.

## 17. INTELLECTUAL PROPERTY

- 17.1 For purposes of this Section, "Intellectual Property" shall mean all manner of information, processes and inventions, whether capable of protection or not, which are developed in the course of or arise or result from the Services provided by CustomerWorks hereunder, including all discoveries, developments, designs, patent applications, issued patents, industrial design registrations, design patents, trade-mark applications, registered trade-marks and copyright which may relate thereto, and any rights arising out of know-how, sources of supply, compilations, software, trade secrets, techniques, reports, information and developments which are created, developed or acquired during the delivery of the Services described herein.
- 17.2 To the extent that Intellectual Property is developed or acquired by CustomerWorks that relates specifically to the delivery by CustomerWorks of Services hereunder, CustomerWorks will grant to GI a perpetual, non-exclusive, irrevocable, paid-up right and license to use the Intellectual Property, subject to any restrictions of any third party materials embodied in the Intellectual Property and disclosed to GI, and to such reasonable restrictions or limitations as may be required by CustomerWorks for reasons including but not limited to, competitive or other business reasons.
- 17.3 To the extent the Intellectual Property is developed by GI, GI will grant to CustomerWorks a perpetual, non-exclusive, irrevocable, paid-up right and license to use the Intellectual Property, subject to any restrictions of any third party materials embodied in the Intellectual Property and disclosed to CustomerWorks, and to such reasonable restrictions or limitations as may be required by GI for reasons including but not limited to, competitive or other business reasons.
- 17.4 To the extent the Intellectual Property is jointly developed by CustomerWorks and GI, the parties shall engage in good faith negotiations to establish their respective rights based upon their respective contributions, provided that in the event that the parties are unable to agree, the parties shall be joint owners of any such Intellectual Property and each party shall have a paid up right to use such Intellectual Property of indefinite duration.

GI shall own and/or retain control over all proprietary information, and data relating to each customer of GI at the date hereof and each future customer of GI in each case that has from time to time been provided Services hereunder ("Customer") (such data including GI customer data that is gathered and stored by CustomerWorks in conducting the Services, including analyses or compilations prepared with such data) and documentation and the use thereof, provided to CustomerWorks for the purpose of supporting CustomerWorks in

providing the Services to GI. The parties acknowledge that all GI customer information and data (as such term is used in this Section) is owned by GI and shall only be used by CustomerWorks for the purposes of providing the Services. Upon request or direction from GI, CustomerWorks shall promptly return to GI a copy of all or any Customer and other GI information and documentation previously provided to CustomerWorks during the Term or the Additional Term, as the case may be, by GI. Prior to such return of Customer information and documentation GI shall reimburse CustomerWorks for all reasonable incremental costs incurred by CustomerWorks in connection with such return.

- 17.5 Except for proprietary information supplied by GI to CustomerWorks as set forth above, or as otherwise provided herein or agreed upon by the parties, CustomerWorks will be responsible for developing or acquiring (by purchase or license) all software and proprietary know-how which may be required to provide the Services according to the Performance Standards.

## 18. CONFIDENTIALITY

- 18.1 CustomerWorks agrees to keep confidential (whether or not identified or marked as confidential) all information: (i) relating to any customer provided by GI to CustomerWorks; (ii) all information relating to customers of GI that is gathered, stored or otherwise generated by CustomerWorks in connection with the provision of the Services; and (iii) any analysis, compilations, data, studies, reports or other documents prepared by CustomerWorks based upon information furnished by GI or generated as a result of the Services except for Intellectual Property as provided under Section 17.2 (provided that such exception shall not include information that constitutes confidential information under this Section 18).
- 18.2 Each of the parties agrees to keep confidential all information provided by the other party (the "disclosing party") to it (the "receiving party") that has been identified as confidential or which would reasonably be considered confidential information at common law, and a receiving party shall not, without the prior written consent of the disclosing party, disclose any part of such information (and in the case of CustomerWorks the information described in subsection 18.1 hereof) which is not available in the public domain from public sources except to those of its employees, subcontractors or agents who require access to the information in connection with performance of the Services.
- 18.3 The covenants and agreements of the parties in this Section 18 shall not apply to any information:
- (i) which is independently developed by a receiving party or which is lawfully in the receiving party's possession or the possession of its personnel, as the case may be, at the time of disclosure and which was not acquired directly or indirectly from the disclosing party;

- (ii) which is at the time of disclosure in, or after disclosure hereunder falls into, the public domain through no fault of the receiving party or its personnel; or
  - (iii) disclosure of which is necessary to comply with any order of a governmental or regulatory authority with jurisdiction over the receiving party provided that immediate notice of such disclosure requirement has been given to the disclosing party and the disclosing party has been given an opportunity to contact the governmental or regulatory authority and object to such disclosure.
- 18.4 GI shall be entitled periodically to conduct reviews of the procedures implemented by CustomerWorks in relation to the confidentiality obligations described in this Section 18. The conduct of any such review shall be guided by the recommendations expressed in Section 5900 of the Canadian Institute of Chartered Accountants' Handbook as amended from time to time.
- 18.5 Upon the termination of the provision of Services pursuant to any Services Schedules each receiving party shall at the sole discretion and upon the instructions of the disclosing party either (i) immediately return to such disclosing party all confidential information and all copies thereof in its possession or control (other than such confidential information which continues to be used or relevant to the provision of Services pursuant to any other Services Schedule), or (ii) destroy such information and copies and certify to the disclosing party that such destruction has been carried out.
- 18.6 The receiving party shall not make copies of any confidential information without the prior written consent of the disclosing party.
- 18.7 The parties will use commercially reasonable efforts to cooperate and support each other in responding to and resisting, if possible, any request for public disclosure of confidential or sensitive information, pursuant to applicable freedom of information legislation or otherwise.

## 19. FORCE MAJEURE

- 19.1 For purposes of this Agreement, an "Event of Force Majeure" or "Force Majeure" shall mean acts of God, public enemy or terror, wars (declared or undeclared), revolutions, insurrections, civil commotion, fires, floods, slides, epidemics, quarantine restrictions, freight embargoes or power failures, strikes, walkouts (excluding illegal lockouts) or any event or circumstance which reasonably constitutes a material disabling event or circumstance, which is beyond the reasonable control of a party, which does not arise from the neglect or default of a party, and which will or is likely to result, in a material delay, interruption or failure by a party in carrying out its duties, covenants or obligations under this Agreement, but which does not mean or include any delay caused by a party's lack of funds or financial condition, except where GI suffers a lack of funds or an

impaired financial condition caused by an Event of Force Majeure which results in CustomerWorks inability to provide any or all of the Services.

- 19.2 Except as specifically provided for in any Services Schedule where applicable, on the occurrence of an Event of Force Majeure the party claiming Force Majeure will promptly notify the other of the particulars of the relevant event or circumstances and, if reasonably possible, supply supporting evidence. Each party shall use all reasonable commercial efforts to remove, curtail or contain the cause of the delay, interruption or failure, and to resume, with the least possible delay, compliance with its respective duties, covenants and obligations under the Agreement. Neither party shall be liable to the other for any delay, interruption or failure in the performance of its duties, covenants or obligations hereunder if caused by an Event of Force Majeure.

If the Event of Force Majeure is of such a nature that the Services to be performed under this Agreement would be substantially different than those required under a normal state of operation of the Services, CustomerWorks shall make best efforts to return the Services to the normal state of operations within a reasonable period of time after occurrence of the Event of Force Majeure having regard to the circumstances. Provided however that in any event the emergency response plan contemplated by Section 1.5 shall be implemented forthwith in accordance with the terms thereof (and in any event within one hour) after the Force Majeure notice described in Subsection 19.2 above is given and that the Services shall return to the normal state of operations as soon as commercially possible and in any event no later than ninety (90) days after the Force Majeure notice described in Subsection 19.2 above is given. In the event the Services cannot be returned to the pre-Event of Force Majeure level of service within these periods of time and as required herein, either party may: (a) institute negotiations and make all reasonable commercial efforts to modify the terms and conditions of this Agreement to ensure delivery of the Services subject to the Event of Force Majeure to standards satisfactory to GI and on terms acceptable to both parties; or (b) terminate this Agreement in respect of the Services subject to the Event of Force Majeure.

## 20. RECRUITMENT AND SOLICITATION

- 20.1 Both parties covenant and agree that during this Agreement and for a period of one (1) year thereafter, they will not, directly solicit for employment any person, firm, company or any other entity whatsoever who is, or who was at the time, so engaged by the other party for the purposes of this Agreement without the prior written consent of the other party.

## 21. GENERAL

- 21.1 GI shall be responsible for and shall pay all applicable federal, provincial, municipal taxes arising from the provision of Services hereunder, including

provincial sales tax if applicable and GST. Each party shall be responsible for taxes based on its own net income.

- 21.2 A party shall, from time to time, and at all times, do such further acts and execute and deliver all such further deeds and documents as shall be reasonably requested by the other party in order to fully perform and carry out the terms of this Agreement.
- 21.3 Time is of the essence of this Agreement.
- 21.4 Any notice, request, demand, direction or other communication required or permitted to be given or made under this Agreement to a party shall be in writing and may be given by hand delivery to the party to whom it is addressed or sent by facsimile to such party at its address noted below or at such other address of which notice may have been given by such party in accordance with the provisions of this Section.

**CustomerWorks:**

**Address:** 80 Allstate Parkway  
Markham, Ontario  
L3R 6H3

Attention: President

**Facsimile:** 908-943-6268

with a copy to:

**Address:** 500 Consumers Road  
North York, Ontario  
M2J 1P8

Attention: CustomerWorks General Counsel and Corporate  
Secretary

**Facsimile:** 416-753-6674

**GI:**

**Address:** 71 Rue Jean Proulx  
Hull, Quebec  
J8Z 1W2

Attention: General Manager  
Facsimile: (819) 771-6079

with a copy to:

Address: 500 Consumers Road  
North York, Ontario  
M2J 1P8

Attention: Mark Boyce, Associate General Counsel and Corporate  
Secretary

Facsimile: 416-495-5994

Any such facsimile shall be deemed to have been received at the opening of business at the premises of such addressee on the first business day following the transmission of such facsimile supported by a confirmation of receipt. Either party may change its address for notice by providing notice of such change by any of the methods provided for in this Section.

- 21.5 This Agreement may be executed in counterparts, no one of which needs to be executed by both of the parties. Each counterpart, including a facsimile transmission of this Agreement, shall be deemed to be an original and shall have the same force and effect as an original provided that an executed original counterpart of this Agreement is received by the other party within seven days of the transmission by facsimile by the first party. All counterparts together shall constitute one and the same instrument.
- 21.6 This Agreement will enure to the benefit of and be binding upon the parties thereto and their respective successors. This Agreement may not be assigned by either of the parties thereto without the prior written consent of the other such consent not to be unreasonably withheld. Any disagreement between the parties under this Section shall be submitted forthwith to the dispute resolution process of Section 14 above. GI may assign this Agreement to an affiliate (as such term is defined in the *Business Corporations Act* (Ontario)) without the consent of CustomerWorks.
- 21.7 CustomerWorks shall notify GI promptly and in writing of any proposed subcontractors to be used in connection with any of the Services where any such work to be subcontracted:
- (i) results in a material change to the delivery of any Service;
  - (ii) represents a substantial part of any Service; or
  - (iii) is a material element of the Service.

In such instance GI shall have the right, acting reasonably, to reject the appointment of any such subcontractor(s) within ten (10) business days of receiving such notice.

If CustomerWorks determines that GI is acting unreasonably in acting under this Section, it shall submit the matter for dispute resolution pursuant to Section 14 of this Agreement.

- 21.8 The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder", and similar expressions refer to this Agreement and not to any particular Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.
- 21.9 Words importing the singular number shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa, and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.
- 21.10 In the event that one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality or enforceability of the remaining provisions hereof shall not be affected or impaired thereby. Each of the provisions of this Agreement is hereby declared to be separate and distinct.
- 21.11 This Agreement (including the Services Schedules) may not be modified or amended except by an instrument in writing signed by both of the parties to this Agreement or by their respective permitted successors.
- 21.12 This Agreement constitutes the whole and entire agreement between the parties respecting the subject matter of the Agreement and supersedes any prior agreement, undertaking, declarations, commitments, representations, verbal or oral, in respect thereof.
- 21.13 In the event that any provision contained in this Agreement conflicts with a provision contained in a Services Schedule hereto, the former shall prevail to the extent of any such inconsistency.
- 21.14 Each reference to a statute herein is deemed to be a reference to that statute and to the regulations made under that statute as amended or re-enacted from time to time.
- 21.15 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada

applicable therein and each party hereto attorns to the jurisdiction of the courts of the Province of Ontario for the limited purposes provided for herein.

21.16 The parties confirm that it is their wish that this Agreement, as well as any other documents relating to this Agreement, including notices, Services Schedules and authorizations, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.

IN WITNESS WHEREOF the parties have executed this Agreement ~~as of the Effective Date~~ this 28th day of October, 2002.

GAZIFERE INC.

Per: [Signature]

Per: [Signature]

CUSTOMERWORKS LIMITED PARTNERSHIP,  
by its General Partner 630319 B.C. LTD.

Per: [Signature]

Per: [Signature]

APPROVED AS TO FORM  
LEGAL [Signature]

Per: [Signature]

Per: [Signature]

**EXHIBIT A**  
**ARBITRATION PROCEDURES**

1. The place of the arbitration will be Toronto, Ontario.
2. The parties will agree on the appointment of an arbitrator.
3. If the parties are unable to agree upon an arbitrator, either of the parties may apply to either the ADR Chambers or the Ontario Court of Justice for the appointment of an arbitrator.
4. The agreed or appointed arbitrator (in either case, the "Arbitrator") will establish reasonable rules to govern all aspects of the arbitration and to ensure that the arbitration is conducted expeditiously, provided however that, regardless of whether the Arbitrator is appointed by the ADR Chambers or the Ontario Court of Justice, the arbitration procedure shall substantially conform to the ADR Chambers arbitration rules then in effect.
5. The parties, if in agreement, may request that the Arbitrator decide between final and complete proposals submitted by each of the parties.
6. The decision or award of the Arbitrator with respect to the dispute must be rendered in writing, and must contain a brief recital of the facts and principles upon which the decision was made and the reasons therefor.
7. The decision or award of the Arbitrator made pursuant to this Exhibit A is final and binding upon each of the parties and there is no appeal therefrom. Thereafter, any action may only be for the purpose of enforcing the decision or award and the recovery of costs incidental to the action.
8. The decision or award of the Arbitrator will be conclusively deemed to determine the interpretation of this Agreement and the rights and liabilities as between the parties in respect of the matter in dispute.
9. Except as may be otherwise agreed by the parties, or as may be ordered by the Arbitrator, the Arbitrator will be entitled to its or their usual charges for services rendered to be paid equally by the parties.
10. Subject to this paragraph 10, no dispute that is or may be the subject of a submission to arbitration in accordance with this Exhibit A will give rise to a cause of action between or will be made the subject matter of an action in any court of law or equity by either of the parties unless and until the dispute has been submitted to arbitration and finally determined in the accordance with this Exhibit A and any action commenced thereafter with respect to the dispute may only be for judgment in accordance with the decision of the Arbitrator and the

costs incidental to the action. In any action of this sort, the decision of the Arbitrator will be conclusively deemed to determine the rights and abilities between the parties in respect of the dispute.

11. Notwithstanding the foregoing, if the actions or inactions of a party are, in the view of the other party, acting reasonably, producing or likely to produce irreparable harm that cannot be adequately compensated for by damages or that will result in damages that are difficult to estimate, the aggrieved party may apply to a court for injunctive or mandatory injunctive relief to remedy the situation pending the conduct of arbitration. The court before which the proceeding is brought may, if it determines the arbitration would not, in the circumstances, be beneficial to a continuing relationship between the parties, grant the aggrieved party the right to proceed with an action notwithstanding the otherwise general application of arbitration as the chosen mode of dispute resolution.
  12. The parties desire that any dispute that is to be determined in accordance with the dispute resolution provisions should be conducted in strict confidence and that there will be no disclosure to any person of the fact of the dispute or any aspect of the dispute except as necessary for the resolution of the dispute. Any hearing will be attended only by those persons whose presence, in the opinion of the Arbitrator, is reasonably necessary for the determination of the dispute. All matters relating to, all evidence presented to, all submissions made in the course of, and all documents produced in accordance with the dispute resolution procedure or an order of the Arbitrator or created in the course of or for the purposes of the arbitration, including any award or interim award by the Arbitrator, will be kept confidential and will not be disclosed to any person without the prior written consent of all parties to the arbitration except as required to enforce the award or as required by law or as permitted by an order of the Arbitrator made pursuant to a motion or application on notice to all parties to the arbitration.
  13. Insofar as the provisions of the *Arbitration Act, 1991* (Ontario) are not inconsistent with the arbitration procedures set forth in this Exhibit A or the ADR Chamber arbitration rules, the provisions of such Act shall apply.
-

**SERVICES SCHEDULE NO. 1 TO THE CLIENT SERVICES AGREEMENT DATED JANUARY 1, 2002,  
BETWEEN CUSTOMERWORKS LIMITED PARTNERSHIP AND GAZIFERE INC. (the "Agreement")**

**1.0 PREFACE**

This Services Schedule (the "Schedule") is intended to identify *Customer Support Services* to be provided to Gazifère Inc. (hereinafter referred to as "Services Recipient"), by CustomerWorks Limited Partnership, (hereinafter referred to as the "Services Provider").

This Schedule consists of this document and appendices <A> through <C>.

The Customer Support Services set forth in this Schedule are to be provided to the Services Recipient for a period of five (5) years commencing January 1, 2002. The term of this Schedule may be renewed in accordance with the Section 11.3 of the Agreement.

Pursuant to section 10 of the agreement, this Schedule is subject to a twelve (12) month Transition Period ending December 31, 2002.

Terms not otherwise defined in this schedule shall have the meaning given to them in the Agreement.

**2.0 DEFINITION OF SERVICES**

The Services Provider agrees to provide the Services Recipient with the following Customer Support Services for all of its Mass Market and Key Accounts on a fee per bill basis and in accordance to policies and practices established and communicated by the Services Recipient

a) **Meter Reading Systems Support Services.** The activities involved in:

- Ensuring that the distributed meter reading system process is operating efficiently for all low pressure gas meters.
- Preparing and managing low pressure reading and billing schedules
- Processing meter reading hand-held input and output files to customer billing systems
- Assigning routes to hand-helds
- Maintaining central and local site dial-up connectivity and security
- Managing server security and archiving specifications
- Printing standard meter reading reports, customer systems standard reports (as set forth in appendix <c>) and consecutive estimate letters and forwarding same to Service Recipient
- Obtaining the correct monthly calorific value and applying it to metered consumption as of cycle day 7 of each billing month. The calorific value will be the "Actual Posted Heat Values" as posted on the TransCanada Pipelines Internet site for the Consumers Eastern Delivery Area.
- Providing technical and operational support including contingency planning and ongoing maintenance of third party software, hardware, and related third party licensed software upgrades. The current standard file format for the meter reading input and output files will be a customized version of Premiere Plus that is required by the billing system. Meter reading services for high pressure and temperature compensated meters are excluded from this Schedule

b) **Mass Market Billing Support Services.** The activities involved in:

- Providing data entry services on an exception basis as per data originated and approved by the Services Recipient
- Forwarding returned mail, Plan Protégé labels, standard customer system reports (as set forth in appendix <C>), selected bills, refund vouchers and cheques, automated customer correspondence, customer statements T5's and return transactions to the Services Recipient
- Printing of refund cheques and vouchers, labels and white copy of monthly statements and listings;

c) **Bill Preparation Services.** The activities involved in:

- Calculating and applying charges according to Services Recipient's approved legislated distribution rates, rental rates, taxes and service fees.
- Processing approved requests from the Services Recipient for new or changed bill messages to be displayed on the bill and criteria to be programmed for enclosing inserts with bills.
- Calculating the bill and collection notice balances
- Aging the arrears balances, and posting receivables to account sub-ledgers and to the financial ledger, as well as gathering the information to be displayed on the bill or notice
- Determining the appropriate bill messages to be presented on each bill and the appropriate inserts to be enclosed with each bill according to criteria approved by the Services Recipient.
- Determining if bill exceptions or special handling applies to the bill and producing the bill records for presentment;

d) **Bill and Notice Production Services** The activities involved in:

- Printing, folding and selective inserting for Mass Market paper bills and notices
- Arranging delivery of mass market bills to Canada Post
- Printing monthly statement bills and forward to the Service Recipient for mailing to Canada Post.
- Inserting includes the return envelope and up to four (4) optional inserts as provided by Services Recipient.

e) **Receivables and Payments Management Services.** The activities involved in:

- Managing all payment processing including cashier, drop box, mail, bank, telephone, pre-authorized and Internet payments
- Making deposits for mailed payments to the Services Recipient's bank accounts,
- Administering correcting adjustments (i.e. duplicate payments) to receivables
- Recording receivable transactions;
- Forwarding any correspondence and post dated cheques received with the payments and all payment exceptions to the Services Recipient;

f) **Key Account Billing Services.** The activities involved in:

- Maintaining key customer accounts
- Calculating gas charges and credits
- Calculating and processing billing adjustments (excluding retroactive billing due to distribution rate changes)
- Processing miscellaneous transactions (including refunds, transfers).
- Pulling and photocopying bills on an as needed basis.
- Performing daily bill checks
- Calculating and processing contract non-compliance transactions consisting of:
  - Unauthorized overrun gas
  - Annual minimum bills
  - Curtailment penalties
  - Curtailment gas purchases
  - Banked gas account dispositions
  - Delivery make-ups, suspensions and title transfers
- Preparing monthly T-service consumption report that details metered consumption volumes for transportation service large volume accounts.
- Printing large volume bills and forward to the Services Recipient for insertion and delivery to Canada Post.

(g) **Customer billing systems.** The activities involved in:

- Maintaining and supporting the day to day operation of customer billing systems
- Processing of routine change requests
- Completing necessary system testing
- Providing emergency service response
- Maintaining system upgrades
- Providing standard reports for existing products & services.
- Accommodating changing business requirements in supporting customer systems, providing estimates for such changes and providing ad hoc reporting;

### 3.0 RESPONSIBILITIES

#### Service Provider Responsibilities

- a) Deliver the Services based on policies and practices established and communicated by the Services Recipient and in place at the time of the establishment of the Agreement and as amended from time to time. These policies and practices remain the property of the Services Recipient;
- b) Notify the Services Recipient of any changes to the Service Provider's procedures in the provision of Customer Support Services, and obtain Services Recipient agreement to such changes, where such changes will impact the Services Recipient's operations, in accordance with change procedures set out in the Agreement;
- c) Not change policies regarding the Customer Support Services within this Schedule without prior communication to the Services Recipient.
- d) Perform the Customer Support Services competently in accordance with mutually agreeable requirements, targets, schedules, practices and policies;
- e) Comply with the Services Recipient's policies to perform the Customer Support Services, and comply with conditions as set out in agreements the Services Recipient has with third parties that are used in the provision of the Customer Support Services. Such conditions will be subject to the prior agreement of the Service Provider;
- f) Fulfill Services Recipient requests for billing changes due to regulatory agency directives;
- g) Provide dial-up communication lines where required between the central site and remote sites to receive and transmit meter reading files;
- h) Ensure that adequate supplies of stationery are in hand for use by the Service Provider and Service Recipient for the Customer Support Services defined in this schedule. This includes bill forms, envelopes, collection notices, mail or postal tags, work tickets, monthly statement, copy bills, and refund cheques;
- i) Ensure that all Services Recipient visual, electronic or paper customer data (contained in the customer billing systems or otherwise provided to or accessed by the Services Provider) are kept secure, protected and confidential for the Services defined in this schedule;
- j) Provide performance level reports as referenced in Section 5.0;
- k) Ensure that the requirements for any engagement are fulfilled through regular review and follow up;
- l) Consult with the Services Recipient through the Services Recipient's coordinator or the coordinator's designate on matters related to the Customer Support Services;

- m) Complete the Customer Support Services and business resumption planning according to Services Recipient's policies and practices, and the timeframes specified in the reading and billing schedules;
- n) Promptly report when Customer Support Services cannot be completed as scheduled to the Services Recipient such as force majeure situations and system downtimes, and provide frequent problem and resolution status. All reasonable efforts will be made to provide Customer Support Services according to this Schedule;
- o) Provide operational support to the Services Recipient during normal Service Provider business hours that are currently 7:30 AM through 4:30 PM Eastern Standard Time Monday to Friday excluding statutory holidays. The Service Provider will make its best effort to resolve all reported problems according to the level of criticality. Subject to provisions relating to force majeure set forth in the Agreement, critical problems impacting customers or negatively impacting the Services Recipient's business operation will be responded to within four (4) hours. All problems will be addressed within twenty-four (24) hours in which time a course of action will be determined and communicated;
- p) Provide application support during periods of application availability as detailed in Appendix <B>;
- q) Prior to the first day of August in each year during the term of this Schedule, and from time to time within the term of this Schedule (as necessary), the Service Provider and the Services Recipient, will set the reading and billing schedules for the 12-month period following the first day of October in the said year. Any subsequent revisions to the reading and billing schedule must be approved by the Parties. The Services Provider will adhere to the billing schedule, report the average reading to billing lag on a monthly basis and review exceptions with the Services Recipient;
- r) Control the execution of batch processes, billing processes, interface files and report applications each Business Day as scheduled or required;
- s) Print and distribute reports to the Services Recipient each Business Day as scheduled or required;
- t) Mass Market and Key customer account balances will be arithmetically correct according to the data and transactions that are input;
- u) Print and mail bills and notices to customers each Business Day as scheduled or as required during exceptional circumstances;
- v) Apply payments to the billing application(s) accurately within two (2) Business Days of making the bank deposit, excluding payments received by the Services Recipient and payment exceptions identified by the third party payment remittance processor;
- w) Print all refunds cheques and forward them to the Services Recipient within two (2) Business Days of the date of the refund listing (reports refunds as requested by the Services Recipient), provided that the daily volume of work is within 10% of the expected activity forecast and the Services Recipient has provided all information and materials to the Service Provider that is required in order to complete the work;
- x) Apply receivables and other transactions to the account sub-ledgers and the financial ledger accurately within one (1) business day of successful posting, and provide reconciliation assistance as required;
- y) Administer the billing process to meet the delivery requirements and incentive rates of Canada Post;
- z) Respond to requests for additional work in accordance to the terms outlined in the Consulting and Professional Services Schedule. Consult with the Services Recipient when setting priorities in relation to other workload. Guidelines for notice and completion times for anticipated additional work are listed in Section 4.0;

## Services Recipient Responsibilities

- a) Provide all necessary data, rate and price schedules, or other materials to the Services Provider's key contact in the format requested, on schedule or in a timely manner to enable the Services Provider to provide the Services as agreed upon in various schedules including the meter reading and billing schedule;
- b) Inform the Services Provider of amendments to the "Act" (as referred to in section 1.10 of the Agreement) or its successor legislation and all applicable Quebec provincial legislation. Also inform the Services Provider of changes to Rules made by La Régie de l'énergie of which the Services Recipient has been advised have or are proposed to be implemented and which regulate the delivery of the Services to the Services Recipient.
- c) Ensure meter reading hardware is compatible with the Service Provider's meter reading software specifications in order for the Service Provider to fulfil its responsibilities;
- d) Perform its responsibilities as they relate to the Customer Support Services in accordance with mutually agreeable requirements, targets, schedules, practices and policies;
- e) Adhere to the meter reading schedule and review reading to billing lag exceptions with the Service Provider;
- f) Review business plans and business activity forecasts with the Service Provider on an annual basis to enable the Service Provider to provide the Customer Support Services;
- g) Consult with the Service Provider through the Service Provider coordinator or the coordinator's designate on matters related to the Customer Support Services;
- h) Comply with the Service Provider's policies to perform the Customer Support Services, and comply with conditions as set out in agreements the Service Provider has with third parties that are used in the provision of the Customer Support Services. Such policies and conditions will be subject to the prior agreement of the Services Recipient;
- i) Provide access to information and resources including personnel and documents within its control that the Service Provider reasonably requires to fulfill its responsibilities;
- j) Provide up-to-date guidelines and detailed business requirements pertaining to the Customer Support Services to the Service Provider that enable the Services Recipient to meet its regulatory requirements and perform the Customer Support Services according to established policies on a consistent basis;
- k) Ensure the accuracy, legibility and completeness of all data, rate schedules, forecasts or other material supplied to the Service Provider, and be responsible for the results obtained provided that the Service Provider performed as instructed;
- l) Permit the Service Provider's employees and authorized agents as may be authorized by the Service Provider, access to the Services Recipient's systems and data at such times and for such purposes as is necessary to allow the Service Provider to perform its obligations under this Schedule;
- m) Consult with the Service Provider to provide and co-ordinate the installation of automatic meter reading devices on gas meters as required;
- n) Maintain the mass market customer database to reflect customer additions, deletions and other changes in customer and meter information, and investigate bill and meter reading exceptions, including maintaining efficient meter reading routes and coordinating mass route changes with the Service Provider. Mass route changes in excess of 100 meters will be dealt with according to the Consulting and Professional Services schedule.;
- o) Respond to all customer enquiries, perform all collection activities and field meter readings, and manage the delivery of products and services to customers;

- p) Provide adequate advance notice to the Services Provider when the Services Recipient will require an unusual volume of data processing and when operational support may be required outside of normal Services Provider hours;
- q) Perform a daily reconciliation to ensure payments and other receivables are posted accurately to the Services Recipient's general ledgers;
- r) Advise the Services Provider of general bill insert and message requirements 3 months in advance, and detailed insert and message requirements one month in advance complying with weight and size specifications required to maintain postage incentive rates and to maintain the current level of 2 page bills (10%). The Services Recipient agrees to assume the additional costs where it has been determined that the Services Recipient is responsible for the increase in costs related to the bill-production process;
- s) Provide customer communication specifications for bill messages and notices to the Services Provider according to guidelines in the policies and practices. Print and deliver bill inserts five (5) business days prior to the insertion start date to the Services Provider or a third party location identified by the Services Provider;
- t) Provide feedback on the performance and progress of resources assigned to engagements when an engagement is managed by the Services Recipient;

#### 4.0 PERFORMANCE MEASURES & PENALTIES

The following table outlines the Service Level Targets for the Customer Support Services. The Services Provider shall not be responsible for, nor shall the Services Recipient be entitled to any remedies for failure to meet Customer Support Service Levels to the extent that such failure was caused by the failure of the Services Recipient to meet the requirements of Section 3.0.

The Service Levels and Service Level Targets shall be reviewed from time to time and may be revised upon mutual agreement of both parties. Subject to above, Service Level Targets will be reviewed annually and may be revised upon mutual agreement of both parties on the anniversary date of this Schedule.

*NOTE: Where the Billing Support Services are currently performed and specific performance is not measured, it is agreed that measures will be established and recorded within the transition period noted in Section 1.0 of this Schedule.*

Key Service	Performance Level	Target Success Factor	Penalty	Frequency
Reading to billing lag for low pressure meters	Number of average calendar days between reading and billing are less than seven (7) calendar days	99% TBD	Note 1	TBD
Billing Accuracy – Key Accounts	Number of bills without system errors excluding customer system limitations (measured daily)	98% TBD	Note 1	TBD
Billing Accuracy – Mass Market Accounts	Number of bills without an out-of-balance condition (measured daily)	98% TBD	Note 1	TBD
Billing Controls and Reporting Accuracy	Accuracy of amounts reported to the condition of balance	99.9% TBD	Note 1	TBD
Deliver bills to Canada Post	Same day as printed by 3:00 PM EST	98% TBD	Note 1	TBD
Special Requests	Modifications are completed successfully, on schedule and within budget	99% TBD	Note 1	TBD

<u>Key Service</u>	<u>Performance Level</u>	<u>Target Success Factor</u>	<u>Penalty</u>	<u>Frequency</u>
<b>Distribution Rate Change</b> - Requires an update to an existing price on the gas rate table - No change to rate structure - No manual billing by Service Provider	1. Minimum number of business days the Services Recipient must allow from time they make the initial request to the time of implementation 2. Number of days Service Provider will take to complete the estimate. 3. Time to complete request after full approval has been received.	20 business days  10 business days  10 business days	Note 1	TBD
<b>Distribution Rate Table Change &amp; Rebill</b> - Requires an update to an existing price on the gas rate table - No change to rate structure - Manual billing required by Service Provider	1. Minimum number of business days the Services Recipient must allow from time they make the initial request to the time of implementation 2. Number of days Service Provider will take to complete the estimate. 3. Time to complete request after full approval has been received.	40 business days  10 business days  30 business days	Note 1	TBD
<b>New Distribution Rate or Structure</b> - Require a new rate to be added to the gas rate table or a redesign of an existing rate structure - Manual billing required by Service Provider	1. Minimum number of business days the Services Recipient must allow from time they make the initial request to the time of implementation 2. Number of days Service Provider will take to complete the estimate. 3. Time to complete request after full approval has been received.	60 business days  10 business days  50 business days	Note 1	TBD
<b>Over Earnings and/or Variance Account Adjustment</b> - Require a retroactive rate adjustment be made to active and final accounts - May include preparation of refunds or manual billing by Service Provider	1. Minimum number of business days the Services Recipient must allow from time they make the initial request to the time of implementation 2. Number of days Service Provider will take to complete the estimate. 3. Time to complete request after full approval has been received.	50 business days  10 business days  40 business days	Note 1	TBD

**NOTE 1:**

It is agreed that a system of performance credits will be developed, approved by both parties and implemented within the transition period noted in Section 1.0 of this Schedule

A credit point schedule will be established for the purpose of assigning financial penalty amounts to various credit point levels. Service level attainment will be measured each month and reported by the 15<sup>th</sup> day of the month following attainment. In the event that the credit point total translates into a financial penalty based on the penalty schedule, this financial penalty will be applied as a credit to the invoice prepared by the Services Provider for the next month.

In the case of missed point targets, the Services Provider is expected to provide a continuous improvement action plan that addresses resolution of the issues resulting in non performance to service level targets.

## 5.0 MANAGEMENT AND PERFORMANCE REPORTING

### Performance Measures

The Services Provider will provide the Services Recipient with a monthly report on performance to the Service Level Targets. Any under performance by the Services Provider will be addressed during a monthly performance management review.

The Service Provider will provide additional reporting to the Services Recipient at a mutually agreeable level and frequency.

### Key Contacts

For the Services Provider:

For ongoing day-to-day operational issues and questions, the Key Contacts are as follows:

- ◆ For Billing Services, the key contact will be the Manager of Billing Services.
- ◆ For Key Account Services, the key contact will be the Manager, Key Account Services
- ◆ For all other Services provided under this agreement, or as alternative to the above contacts, the key contact will be the Service Provider Account Manager

For problems with delivery on Performance Measures or Services not meeting client expectations, the Services Provider Account Manager will be the key contact. The Account Manager will undertake to resolve the problems as expeditiously as possible. Failing resolution, the Dispute Resolution procedures identified in the Agreement will be followed.

Any concerns with respect to the performance related to the work undertaken within this agreement will be brought to the attention of the Services Recipient's Key Contact prior to initiating the escalation process defined within the Agreement, if the concern cannot be resolved with the Service Provider Account Manager.

If the parties cannot reach agreement on the remedial action within 10 business days of the original written communication from the Services Recipient, the Dispute Resolution process described in the Agreement may be implemented.

For the Services Recipient to advise of any new marketing or customer communications initiatives that may impact any of the services provided under this agreement, the initial key contact will be the Account Manager. A designate may then be assigned as key contact for the particular program.

For new Services, or changes to existing Services, the Services Provider Account Manager will be the key contact. A designate may then be assigned as key contact for the particular program.

For the Services Recipient:

- ◆ For Customer Support Services, the key contact will be the Supervisor, Customer Accounting and Call Centre.
- ◆ For all other Services provided under this agreement, or as an alternative to the above contact, the key contact will be the Supervisor, Financial Accounting.



Appendix A

	Pricing Mechanism	Price	Annual Estimated Volume (2002)
Bill Production	Cost per bill	\$1.08	303,000 ( Includes 1,800 Key Accounts)
Collection Notices	Cost per notice	\$0.14	25,000
CIS Services Agreement	Monthly Flat Fee	\$22,761 \$23,535 \$24,361 \$25,217	2002 2003 2004 2005

**Notes to Appendix A:**

- a) Cost per bill and cost per notice excludes postage and pre-printed stationery. The cost per bill includes up to 10% two-page bills at no additional cost. Two page bills, over the 10%, will be billed at a cost of \$.02 per page.
- b) The Services Recipient will pay for flow through costs including the fee charged to the Services Provider by a third party vendor for the storage and printing of stationery, postage and for consulting or professional fees charged by third parties.
- c) If the average monthly volume of work (measured on a quarterly basis) exceeds by more than ten (10) percent of the average monthly level established in the Annual Forecast, as agreed upon by the Services Recipient and the Services Provider, the Services Provider shall use reasonable efforts to supply sufficient capacity to meet such business volume. The Services Provider shall not be responsible for, nor shall the Services Recipient be entitled to any remedies for failure to meet Service Levels to the extent that such failure was caused by the excess of average monthly level permitted by this Section.

Appendix B

Service Provider Applications

Application	Application Usage by Service Recipient			Application Usage by Service Provider			Application Support Coverage
	Sales	Call Centre	Operations		Billing	Meter Reading	
MUMR	No	No	No		No	No	08:00 – 17:00 M-F
MVRS	No	No	No		No	Yes	08:00 – 17:00 M-F
OSIM	Yes	No	Yes		Yes	No	08:00 – 17:00 M-F
DASH	No	No	No		Yes	No	08:00 – 17:00 M-F
RNTL	No	Yes	No		Yes	No	08:00 – 17:00 M-F
RVST	No	No	No		Yes	No	08:00 – 17:00 M-F
LVB	No	No	No		Yes	No	As per Batch schedule
LVRIA	No	No	No		Yes	No	08:00 – 17:00 M-F
LVRB	No	No	No		Yes	No	08:00 – 17:00 M-F
LVTS	No	No	No		Yes	No	08:00 – 17:00 M-F
LSDS	No	Yes	No		Yes	No	08:00 – 17:00 M-F
AMBS	No	No	No		Yes	No	08:00 – 17:00 M-F
CURT	No	No	No		Yes	No	08:00 – 17:00 M-F
CATS	No	No	Yes		Yes	No	08:00 – 17:00 M-F
TELE	No	No	No		No	No	N/A
Vision-R	Yes	Yes	Yes		Yes	No	08:00 – 17:00 M-F
Group-1	Yes	Yes	No		Yes	No	08:00 – 17:00 M-F
ELVIS	No	Yes	No		Yes	No	Supported by ECS not Service Provider
CGRT	No	No	No		Yes	No	As per Batch schedule
Ref/Res	No	No	No		No	No	08:00 – 17:00 M-F
CIS (batch) reports	Yes	Yes	Yes		Yes	No	As per Batch schedule
CIS (online)	Yes	Yes	Yes		Yes	No	08:00 – 17:00 M-F
BFQ	No	No	No		No	No	N/A
CRR	No	No	No		Yes	No	08:00 – 17:00 M-F
RVCL	No	No	No		Yes	No	08:00 – 17:00 M-F
RFND	No	No	No		Yes	No	08:00 – 17:00 M-F
CIMS	No	Yes	No		Yes	No	08:00 – 17:00 M-F
ACORS	No	No	No		No	No	08:00 – 17:00 M-F
PACN	No	No	No		No	No	08:00 – 17:00 M-F
ICSS	Yes	Yes	Yes		Yes	No	24 * 7 * 365
SWMS	No	No	No		Yes	No	08:00 – 17:00 M-F
ARMS							ARMS isn't used by S Recipient
Billcalc	No	Yes	Yes		Yes	No	Not supported by IT (historically client owned and operated – no IS involvement)

Keymaster	No	Yes	Yes		Yes	No	Supported by ECS Operations not Service Provider
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**Appendix C**

**Definitions & Standard Reports**

It is agreed that the following terms and standard reports (among others) will be defined and approved by the Services Recipient and the Services Provider within the transition period noted in Section 1.0 of this schedule.

**Definitions (TBD)**

- Operational support
- Special requests
- Account Manager
- Service Coordinator
- Billing accuracy
- Incorrect bill
- Bill Check
- Automated Customer Correspondence
- Payment Exceptions

**Standard Reports (TBD)**

Name of Report	Description	Provided By / To	Frequency