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# **MASTER SERVICES AGREEMENT**

between

**MAXIMUS BC HEALTH INC.**

**MAXIMUS BC HEALTH BENEFIT OPERATIONS, INC.**

**MAXIMUS CANADA INC.**

**MAXIMUS, INC.**

and

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
BRITISH COLUMBIA, as represented by the Minister of Health Services**

as of

**November 4, 2004**

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**MASTER SERVICES AGREEMENT**

This Master Services Agreement is entered into as of November 4, 2004 (the **"Effective Date"**), between MAXIMUS BC Health Inc. (**"MAXIMUS Prime"**), a company organized under the laws of British Columbia, MAXIMUS BC Health Benefit Operations, Inc. (**"MAXIMUS Sub"**), and collectively with MAXIMUS Prime, the **"Service Provider"**), MAXIMUS Canada Inc. (**"MAXIMUS Canada"**), MAXIMUS, Inc. (**"MAXIMUS US"**) and Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Health Services (the **"Province"**). MAXIMUS Prime, MAXIMUS Sub, MAXIMUS Canada, MAXIMUS US and the Province are sometimes referred to herein individually as a **"Party"**, and collectively as the **"Parties"**.

**RECITALS**

- A. The Province currently manages and delivers health benefits operations in British Columbia including the business operations and technology in support of the Medical Services Plan and PharmaCare Plans;
- B. The Province wishes to establish a contractual business alliance with an experienced and qualified third party service provider pursuant to which the third party service provider will, among other things, manage and deliver certain services for the benefit of the Province, its residents, Province Customers and Stakeholders;
- C. As part of a joint solution procurement process the Province issued the JSRFP on July 29, 2003, a copy of which is attached hereto as Schedule P;
- D. The stated goals in the JSRFP were to:
  - (a) improve service to the public while protecting privacy and personal information;
  - (b) maintain or improve service to health care professionals;
  - (c) permit the Province to focus on its core business, being stewardship and leadership for the health system in British Columbia;
  - (d) increase operational flexibility;
  - (e) avoid capital costs associated with upgrades/replacement of existing systems; and
  - (f) manage costs within the context of the Ministry of Health Services Service Plan;
- E. MAXIMUS US was one of the Proponents that responded to the JSRFP, and was selected as a Preferred Proponent as contemplated by the JSRFP process;

- F. Upon being selected as a Preferred Proponent MAXIMUS US entered into the JSD Agreement with the Province;
- G. MAXIMUS US was then selected as the Successful Proponent and has since engaged in negotiations and due diligence with the Province;
- H. MAXIMUS US has carefully analyzed the goals and requirements of the Province including those set forth in the JSRFP and otherwise based upon discussions with the Province and based upon such review MAXIMUS US has, and undertakes to, fully address the goals and objectives of the Province;
- I. As a result of the JSRFP process the Province now intends to enter into a contractual business alliance with MAXIMUS US to provide certain services through the Service Provider and MAXIMUS Canada during the term of this Agreement according to the terms of this Agreement;
- J. MAXIMUS Sub is a wholly-owned subsidiary of MAXIMUS Prime;
- K. All of the issued and outstanding shares of MAXIMUS Prime are legally held in trust by the Trustee for the benefit of MAXIMUS Canada in accordance with the trust agreement between the Trustee, the Province and MAXIMUS Canada dated November 4, 2004 (the "Trust Agreement");
- L. In the event of any disclosure or potential disclosure of Province Data as a result of foreign legal requirements then beneficial ownership of MAXIMUS Prime (and correspondingly, MAXIMUS Sub) shall immediately transfer to the Province in accordance with the specific terms set forth in the Trust Agreement;
- M. MAXIMUS Canada is a wholly owned subsidiary of MAXIMUS US;
- N. MAXIMUS Canada and MAXIMUS US caused the Service Provider to enter into this Agreement with the Province regarding the provision of the Services;
- O. MAXIMUS US has agreed to grant a financial guarantee in favour of the Province in respect of the obligations of the Service Provider under this Agreement;
- P. MAXIMUS Canada has agreed to grant a performance guarantee in favour of the Province in respect of the obligations of the Service Provider under this Agreement;
- Q. The Province, MAXIMUS US, MAXIMUS Canada and the Service Provider are all dedicated to the security of information and protection of privacy and personal information and have therefore structured this Agreement and the relationships between the parties in order to ensure that this key objective is fully satisfied; and

- R. This Agreement documents the terms and conditions under which the Province agrees to engage the Service Provider to provide, and the Service Provider agrees to provide, such services.

NOW THEREFORE in consideration of the foregoing and the mutual covenants and agreements contained herein, the Parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

Unless otherwise provided herein or in the Schedules attached hereto, capitalized terms shall have the meanings given to those terms in Schedule A attached hereto. In addition to the definitions contained in Schedule A, certain other terms are defined in the context in which they are used in this Agreement.

### **1.2 Recitals**

The recitals to this Agreement are intended to be a general introduction to this Agreement and are not intended to expand the scope of the Parties' obligations hereunder or to alter the plain meaning of the terms and conditions of this Agreement.

### **1.3 Headings**

The division of this Agreement into Articles, Sections, Paragraphs and Subparagraphs and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

### **1.4 Interpretation**

In this Agreement, unless expressly stated to the contrary:

- (a) the terms "this Agreement", "hereof", "hereunder", and similar expressions refer, unless otherwise specified, to this Agreement taken as a whole and not to any particular Article, Section, Schedule or other portion hereof;
- (b) words importing the singular number only shall include the plural and vice versa and words importing gender shall include all genders;
- (c) unless something in the subject matter or context is inconsistent therewith, all references herein to Articles, Sections and Schedules refer to Articles, Sections and Schedules of this Agreement;
- (d) words and phrases denoting inclusiveness (such as "including" or "includes"), whether or not stated, are not limited by their context or the words or phrases which precede or succeed them;



- (e) unless otherwise provided herein, whenever the word “discretion” is used with respect to a Party, it will be deemed to mean such Party’s sole and absolute discretion;
- (f) any reference to a statute shall be deemed to refer to the statute and any regulations made thereunder in force as at the date hereof, as the same may be subsequently amended or replaced, unless otherwise expressly provided; and
- (g) any reference to “knowledge” of a Person shall mean the actual knowledge of such Person without inquiry.

## **1.5 Accounting Policy**

In this Agreement all references to “GAAP” refer, unless otherwise specified, to generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants or any applicable successor institute as at the date on which such calculation is made or required to be made, consistently applied. Unless otherwise provided herein or directed by the Province, all accounting, record keeping, book keeping and other actions of the Service Provider contemplated in this Agreement shall be performed and carried out consistent with GAAP.

## **1.6 Calculation of Time Periods**

Unless otherwise specified in this Agreement, when calculating the period of time within which or following which any act is to be done or any step taken, the date which is the reference date for starting the calculation of such period shall be excluded and the final date for completing such act or step shall be included.

## **1.7 Currency References**

Unless otherwise specified, all dollar references in this Agreement are deemed to refer to lawful money of Canada.

## **1.8 Time**

Time shall be of the essence in this Agreement.

## **1.9 Schedules**

The following are the Schedules annexed hereto and incorporated by reference and deemed to be part hereof:

Schedule A	- Definitions
Schedule B	- Transition and WIP Plans
Schedule C	- Transition Management Teams
Schedule D	- MAXIMUS Organizational Structure
Schedule E	- Description of Services

Schedule F	- Service Levels
Schedule G	- Key Roles
Schedule H	- Ongoing Deliverables
Schedule I	- Fees
Schedule J	- MAXIMUS Technology
Schedule K	- Communication Plan and Communication Process
Schedule L	- Transaction Documents
Schedule M	- Business Continuity and Disaster Recovery
Schedule N	- Location of Service Centre
Schedule O	- Management and Governance
Schedule P	- JSRFP
Schedule Q	- Designated Expedited Arbitrator List
Schedule R	- Transformation Plan
Schedule S	- MAXIMUS Ethics Policy
Schedule T	- Province Disclosure Schedule
Schedule U	- Key Suppliers, Material Subcontractors and Key Providers
Schedule V	- Specific Applicable Laws
Schedule W	- Articles of the Service Providers
Schedule X	- Privacy and Security Obligations

#### **1.10 Conflict Between Articles, Schedules and Transaction Documents**

The main body of this Agreement, the Schedules attached hereto, the Proposal (to the extent that it is expressly incorporated by reference herein), the Transaction Documents and the JSD Agreement are to be interpreted so that all of the provisions are given as full effect as possible. In the event of a conflict between the foregoing, unless expressly stated to the contrary, the order of precedence shall be:

- (a) first, the main body of this Agreement;
- (b) second, any Schedules attached hereto;
- (c) third, any Transaction Documents;
- (d) fourth, the Proposal (to the extent that it is expressly incorporated by reference herein); and

- (e) fifth, the JSD Agreement.

### **1.11 Objectives and Guiding Principles of Parties**

The Parties acknowledge and agree that the primary objectives and guiding principles of their contractual relationship under this Agreement are:

- (a) for the Service Provider to deliver certain health benefits operation services, including the business operations and technology, in support of the Medical Services Plan and PharmaCare Plans as currently provided by the Province or which will be provided by the Province immediately prior to the Hand-Over Date, if in scope, as well as other additional services set forth in or contemplated by this Agreement;
- (b) to develop a long term and mutually beneficial business relationship characterized by, among other things, mutual cooperation and good faith and flexibility to allow for the modification of the scope of the Services, the addition or removal of Services, the addition or removal of Province Customers or Stakeholders to the scope of the Agreement or change of Province Customers or Stakeholders, as well as the flexibility to adjust as a result of unforeseen conditions or circumstances;
- (c) to allow the Province to meet or exceed existing Service Levels expectations for the delivery of the Services to the Province Customers and Stakeholders commencing on the Hand-Over Date and to continually seek improvements in those Service Levels, where appropriate, with the objective of meeting and exceeding expectations of the Province Customers and Stakeholders;
- (d) to develop sufficient business processes to accommodate Service volume fluctuations;
- (e) to endeavour to proactively identify and create the most cost-effective method for delivering the Services as balanced against improved Service Levels;
- (f) to have the Service Provider act as its source of information regarding "best practices" by having the Service Provider (and its Affiliates) monitor and evaluate changes and trends in the health benefits services field, evaluate new and available technologies and services and participate in applicable business planning processes of the Province;
- (g) to establish mutually acceptable management targets and incentives for the performance of the duties and obligations of the Service Provider under this Agreement;
- (h) to provide the Services throughout the Term to the Province Customers and Stakeholders in a more flexible, sophisticated and efficient manner than the manner that the Province has been able to provide previously;
- (i) to enable the Province to substantially reduce future capital investment in resources by having the Service Provider be responsible (in the manner set forth in this

Agreement) for acquiring and maintaining the appropriate and current resources, assets and technology for the provision of the Services;

- (j) to allow the Province to focus on its core objectives, being stewardship and leadership for the health system in British Columbia, by having the Service Provider become the provider and manager of the Services;
- (k) for the Parties to mutually share in the benefits associated with entering into this Agreement and other opportunities that arise in respect of the relationship between the Parties in the manner contemplated by this Agreement;
- (l) to protect the security and privacy of information of Province Customers, Stakeholders, employees and others and to ensure that there are no circumstances pursuant to which any such information could be or is disclosed contrary to the terms of this Agreement or Applicable Laws or that any such information (whether in original or duplicate) exists, is stored or can otherwise be accessed anywhere other than in Canada;
- (m) to proactively practice and promote ethical practices that align with the Province;
- (n) to be sensitive to and respect the cultural diversity of the Province Customers and Stakeholders that the Service Provider provides Services to, employs or otherwise interacts with;
- (o) to minimize adverse impact on the applicable personnel and business operations of the Province by effectively structuring and managing the transition of responsibility for the delivery of the Services;
- (p) to provide for the transition of the Services, except for the Transition Services and the Termination Services, on the expiration or termination of this Agreement in a manner that is efficient, ensures the continued and uninterrupted delivery of such Services during such transition and minimizes adverse impact on the businesses of the Province and of the Province Customers and Stakeholders;
- (q) to promote and facilitate self service of information whenever reasonably possible;
- (r) to endeavour to proactively identify and implement new opportunities both inside the Ministry of Health Services and otherwise in the British Columbia government and potentially beyond for both cost effective and high quality services; and
- (s) where opportunities exist, to provide seamless service to the Province Customers and Stakeholders.

The Parties acknowledge and agree that the above listed objectives and principles are intended to document the mutual primary objectives and principles of the Parties in entering into this Agreement, and that therefore the specific and detailed provisions of this Agreement are to be interpreted in light of such primary objectives and principles and, where there is uncertainty, the specific and detailed

provisions are to be interpreted in a manner which best achieves such primary objectives and principles.

### **1.12 Joint and Several**

All commitments, obligations, representations, warranties, covenants and any other provisions in respect of the Service Provider as set forth in this Agreement are joint and several commitments, obligations, representations, warranties and covenants of MAXIMUS Prime and MAXIMUS Sub. All references in this Agreement to the "Service Provider" shall be deemed to be a reference to the joint and several obligations of both MAXIMUS Prime and MAXIMUS Sub. Any consent, Approval, authorization, agreement or other action by one such entity shall be deemed to be for and on behalf of both such entities.

### **1.13 Province Acting Reasonably**

With respect to the Province, any requirement set forth in this Agreement for the Province to act reasonably (including, without limitation, any requirement for Approvals by the Province not to be unreasonably withheld) shall not require the Province to act in a manner that is contrary to, or inconsistent with, any other policies, directives, executive directions, Treasury Board decisions, guidelines, rules, regulations, legislation or other similar determinations of the Province.

## **ARTICLE 2 TERM OF AGREEMENT**

### **2.1 Term**

The initial term of this Agreement (the "Initial Term") will commence on the Effective Date and will continue until the earlier of:

- (a) the date upon which this Agreement is terminated in accordance with the provisions hereof including, without limitation, as set forth in Sections 3.11 and 10.10 and as set forth in Article 21; or
- (b) the tenth (10th) anniversary of the Hand-Over Date.

The MAXIMUS Group hereby acknowledges that the Services being procured hereunder are being procured by the Province on a trial basis only. The Province is giving no assurances whatsoever to the MAXIMUS Group, expressed or implied, that this Agreement will be renewed or extended beyond the expiry of the Initial Term. The MAXIMUS Group specifically acknowledges and affirms that it has arranged its business affairs on the assumption that this Agreement will terminate, at the latest, at the end of the Initial Term.

The MAXIMUS Group hereby further expressly acknowledges and affirms that any termination of this Agreement in accordance with its terms, either at the expiry of the Initial Term or as otherwise provided in this Agreement, will not constitute an expropriation or be tantamount to expropriation at domestic or international law (including, but not limited to the *North American Free Trade Agreement*) and will not constitute grounds for asserting any claim whatsoever under domestic law or

any international agreement (including, but not limited to, Chapter Eleven of the *North American Free Trade Agreement* and the *General Agreement on Trade in Services*).

## **2.2 Renewal**

The Province may elect to renew the Initial Term for one additional renewal term of up to five (5) years, subject to earlier termination in accordance with the terms of this Agreement (the "**Renewal Term**"). Upon request to renew by the Province, the Service Provider will cooperate with and provide assistance to the Province with respect to the consideration by the Province of a potential renewal of the Initial Term, including consideration of the alternatives to renewal available to the Province and as to the length of the Renewal Term of such proposed renewal, and such cooperation and assistance shall include providing access to information and data as to the Services and performance of this Agreement as the Province and its advisors may request.

Where the Province intends to renew the Initial Term it will provide to the Service Provider not less than twenty-four (24) months' prior written notice of its intent to renew the Initial Term. Upon receipt of such notice the Parties agree to negotiate the terms of the Renewal Term in good faith. Where the Parties fail to agree upon the terms of the Renewal Term within ninety (90) days of delivery of the renewal notice then such matter shall be deemed to be a Dispute that can be escalated up to but not including arbitration. Where the Dispute is not resolved within six (6) months of the delivery of the renewal notice then, subject to Section 2.3, there shall be deemed to be no Renewal Term and, subject to Section 2.3, the Term shall expire at the end of the Initial Term or earlier in accordance with the terms of this Agreement.

## **2.3 Extension of Initial Term**

Where there is a Dispute with respect to a Renewal Term that is not resolved within six (6) months of the delivery of the renewal notice then the Province shall have the right, upon delivery of written notice to the Service Provider at any time up to thirteen (13) months prior to the expiry of the Initial Term, to extend the Initial Term for up to one (1) year (the "**Extension**"). Unless otherwise agreed to by the Parties, the terms and conditions of such Extension shall be the terms and conditions in effect at the end of the Initial Term and this Agreement shall apply during any Extension except that the Province agrees to further pay any additional incremental costs of the Service Provider reasonably incurred and that are demonstratable.

If the Parties have made any agreements to amend, change, modify or supplement the terms and conditions of this Agreement, including by way of Change Orders or the addition or subtraction of certain Services as contemplated in this Agreement during the Initial Term, then the Extension shall be on the same terms and conditions as contemplated herein shall mean such terms and conditions contained in this Agreement as so amended, changed, modified or supplemented, as the case may be, during the Initial Term.

The Initial Term of this Agreement together with the Renewal Term, any Extension and the Termination Assistance Period during which the Service Provider provides the Termination Services is collectively referred to as the "**Term**".

## **ARTICLE 3 IMPLEMENTATION AND TRANSITION**

### **3.1 Transition Generally**

The Parties shall commence a process (the “**Transition**”) on or before the Effective Date designed to transfer responsibility and accountability for the provision of the Services from the Province to the Service Provider effective on the Hand-Over Date. The Transition shall be conducted in accordance with the terms and conditions of this Agreement and the Transaction Documents and in a manner that will, to the greatest extent possible, ensure the continued, uninterrupted and efficient delivery of the Services and minimize disruption to the business operations of the Province and of the Province Customers and Stakeholders.

### **3.2 Hand-Over of Services**

Except for the Transition Services, the Service Provider shall commence the provision of the Services on the Hand-Over Date and:

- (a) the Service Provider shall become responsible and accountable for providing the Services commencing on the Hand-Over Date; and
- (b) the Province shall be responsible and accountable for providing the Services to the extent the Province is performing or will perform such Services prior to the Hand-Over Date.

### **3.3 Transition Services**

The Service Provider shall provide all services (the “**Transition Services**”) reasonably necessary to complete the Transition on or before the Hand-Over Date in accordance with the terms of this Agreement.

### **3.4 Transition Plan**

The Transition shall be conducted in accordance with the transition plan prepared by the Service Provider, as Approved by the Province, which at a minimum shall contain the matters set forth in Schedule B attached hereto, as amended, modified and supplemented as contemplated in Section 3.5 of this Agreement (collectively, the “**Transition Plan**”). The Transition Plan shall include a timetable for the completion of each major task in the Transition based on the timeframe necessary to complete the Transition Services by the Hand-Over Date. For greater certainty, the Transition shall include the complete and timely performance by the Service Provider of all Transition Services in accordance with the due dates specified in the Transition Plan.

### **3.5 Modifications to Transition Plan**

It is intended that the initial Transition Plan be a reasonably comprehensive document. Notwithstanding the level of detail in the initial Transition Plan, the Parties shall meet to discuss potential modifications to the initial Transition Plan and the Service Provider shall, acting reasonably and with due diligence, amend, modify, supplement and refine the initial Transition Plan to create a

working Transition Plan on or before sixty (60) days after the Effective Date which is acceptable to the Province, acting reasonably. The working Transition Plan shall incorporate comments of the Province on the initial Transition Plan, and shall contain a detailed description of the Transition Services including a plan and a timeline for the completion of each critical element of the Transition as well as a list of outstanding Transition issues and elements to be resolved by agreement of the Parties in carrying out the Transition according to such working Transition Plan. For greater certainty, the working Transition Plan shall not change the Hand-Over Date to a later date unless determined by the Province in its sole discretion to be in the Province's best interest and mutually agreed to by both Parties. Once agreed to by the Parties, the working Transition Plan shall replace the initial Transition Plan and be deemed to form a part of this Agreement, and further amendments of such working Transition Plan shall be subject to the Approval of the Province.

If the Service Provider is unable to prepare a working Transition Plan which is acceptable to the Province, acting reasonably, on or before sixty (60) days after the Effective Date, the Province may, at its option:

- (a) give written notice to the Service Provider extending the deadline date for preparing a working Transition Plan which is acceptable to the Province, acting reasonably, and requiring the Service Provider to carry out the Transition in accordance with the initial Transition Plan until an acceptable working Transition Plan is prepared; or
- (b) designate the matter as an Expedited Dispute and upon such designation each Party shall immediately prepare its proposed form of Transition Plan and the Expedited Dispute process set forth in Section 23.3 shall be utilized to determine the appropriate Transition Plan as between the alternatives or as otherwise determined in accordance with such process.

For greater certainty any extension by the Province of the deadline date for preparing a working Transition Plan or any Expedited Dispute process shall not relieve the Service Provider of any of its other obligations under this Agreement including, without limitation, its obligation to complete the Transition by the Hand-Over Date.

### **3.6 Implementation of the Transition**

The Parties agree to use commercially reasonable efforts to complete the activities set forth in the current Transition Plan with due diligence in accordance with the timeline for the completion of each of such activities set out in the Transition Plan, and to cooperate with each other to make such reasonable changes to the Transition Plan and do such other acts and things as may be reasonably necessary to enable the Service Provider to complete the Transition by the Hand-Over Date.

During the Transition Period and for one month after the Hand-Over Date, each Party will assign a transition management team ("**Transition Management Team**"), comprised of the members as set forth in Schedule C, the working time of which will be primarily dedicated to the implementation of the Transition. The guiding principles, responsibilities and meeting process for meeting between members of each Transition Management Team shall be as set forth in Schedule C. Schedule C further includes a governance process to monitor progress and identify any issues or circumstances that may impact the schedule set forth in the Transition Plan. Any potential delays or circumstances



that may adversely affect the Transition shall be escalated in the manner set forth in Schedule C. The Parties further agree to proceed in accordance with the commitments as set forth in Schedule K.

The Service Provider shall be responsible for overall management and implementation of the Transition, including coordinating, planning and implementing the Transition in accordance with the Transition Plan and this Agreement, and shall use commercially reasonable efforts to minimize disruption to the business operations of the Province, the Province Customers and the Stakeholders and, in particular, will ensure that there is no disruption to or interruption of the Uninterruptible Services. Any such disruption to or interruption of the Uninterruptible Services shall be addressed in the manner otherwise set forth in this Agreement. The Service Provider and the Province shall each perform the tasks required of it in accordance with the terms of this Agreement and shall use commercially reasonable efforts to complete such tasks in accordance with the timeline set out in the Transition Plan.

The Province shall cooperate with the Service Provider and provide to the Service Provider resources, information and other input reasonably requested by the Service Provider to effect the Transition in accordance with this Agreement. Subject to Schedule X and the other terms of this Agreement, throughout the Transition the Province shall provide the Service Provider with all then current Province Data and relevant operational policies and procedures as required for the Transition in such format and through such process as may be agreed to between the Parties.

Each Party shall perform its respective employee-related obligations set out in the Employee Transfer Agreement as may be required to effect the Transition.

### **3.7 Delay in Completion of Transition**

- (a) The Service Provider will use its best efforts to complete the Transition by the Hand-Over Date.
- (b) If the Transition is not completed to the reasonable satisfaction of the Province on or before the Hand-Over Date:
  - (i) as a result of the fault or delay of the Service Provider, the Province may, in its sole and absolute discretion, exercise any of its rights and remedies pursuant to Section 3.13; or
  - (ii) not as a result of the fault or delay of the Service Provider, the Province may, in its sole and absolute discretion do any or all of the following:
    - A. postpone the Hand-Over Date to such date as the Province may select by giving written notice to the Service Provider of such postponed Hand-Over Date in which event the Parties shall use commercially reasonable efforts to complete the Transition to the satisfaction of the Province on or before such postponed Hand-Over Date;
    - B. if the Transition is not completed within five (5) months of the Effective Date and such delay past the originally proposed Hand-Over Date is not as a result of the fault or delay of the Province (or this

provision is otherwise triggered pursuant to this Agreement), give written notice of termination of this Agreement to the Service Provider in which event the provisions of Section 3.11 shall apply;

C. if the Transition is substantially complete and it is reasonably practicable to do so, give written notice to the Service Provider to commence all available Services on the Hand-Over Date and to complete the outstanding obligations of the Service Provider under the Transition Plan after the Hand-Over Date as soon as reasonably practicable after the Hand-Over Date (but in any event on or before April 1, 2005), in which event:

- (1) the Fees for all Services that are fully commenced by the Service Provider shall accrue from the Hand-Over Date and become payable in accordance with the terms hereof;
- (2) the Fees for all Services that have not been commenced by the Service Provider shall not commence to accrue until the date such Services are fully commenced;
- (3) the Fees for all Services that are partially but not fully commenced by the Service Provider shall be adjusted by the Province, acting reasonably, to take into account the portion of such Services that have been commenced, the impact on the utility of such Services from the portion of such Services which have not been commenced yet and any additional cost incurred by the Province and by the Service Provider which results from the performance by the Service Provider of any such partially commenced Services, and such adjusted portion of the Fees in respect of such partially commenced Services shall accrue from the Hand-Over Date and become payable in accordance with the terms hereof; and
- (4) where the Parties cannot agree upon an appropriate allocation of Fees to Services commenced and Services postponed then such Dispute shall be deemed to be an Expedited Dispute for the purposes of this Agreement.

### **3.8 Interim Provision of Services**

Subject to the mutual agreement of the Parties, the Service Provider may commence the provision of certain Services before the Hand-Over Date on such terms and conditions acceptable to the Parties and Approved by the Province.

### **3.9 Transition Costs**

Other than the financial responsibility for WIP during the Transition Period, the payment of the applicable Fees expressly set forth in Article 12 and any amounts payable pursuant to Section 3.11(e)

which shall be the responsibility of the Province, the Service Provider shall be responsible for all of the costs required for completing the Transition including all direct and indirect costs incurred in connection with the development and implementation of the Transition Plan and the overall management and implementation of the Transition.

### **3.10 Work in Progress**

The Parties acknowledge that there are certain Projects existing as of the date hereof or to be commenced after the date hereof in respect which there may be work which will not be completed by the Hand-Over Date and which will constitute work in progress ("WIP"). The Parties agree that:

- (a) the Province shall have financial and operational responsibility for any WIP during the Transition Period;
- (b) thereafter, from and after the Hand-Over Date:
  - (i) the Service Provider shall assume financial and operational responsibility as described in the Transition Plan for any WIP in respect of a Project which has not been completed by the Hand-Over Date which is in the ordinary course of operations, such WIP being designated in the WIP Plan as being Service Provider WIP, with such WIP to be completed by the Service Provider in accordance with the WIP Plan and otherwise in accordance with the instructions of the Province, and
  - (ii) with respect to WIP that is out of the ordinary course (being WIP which has a material impact on the delivery and performance of Services), as reasonably determined by the Parties and as designated as such in the WIP Plan, the Province shall maintain financial and operational responsibility in respect of such WIP and the Service Provider shall instead act according to the directions of the Province to complete such WIP to the extent required by the Province; and
- (c) WIP shall otherwise be managed as set forth in the WIP Plan.

For greater certainty, the Province may, in its sole discretion, determine that it is in the best interest of the applicable Stakeholder that all or certain WIP in respect of such Stakeholder should be completed by the Province without involvement of the Service Provider, in which event such WIP shall be excluded from the WIP Plan. All such matters and changes with respect to WIP shall in each case be recorded in the WIP Plan.

### **3.11 Termination Prior to Hand-Over Date**

Upon the Province giving written notice pursuant to this Article 3 to terminate this Agreement prior to the occurrence of the Hand-Over Date, the following provisions shall apply:

- (a) the obligations of the Parties to continue to pursue the transactions and the contractual relationship contemplated in this Agreement and in the other Transaction Documents shall immediately terminate and cease to be of further force or effect;

- (b) this Agreement shall terminate and cease to be of further force or effect subject to survival of those provisions specified in Section 26.12;
- (c) each of the other Transaction Documents, if executed and delivered, shall terminate and cease to be of further force or effect subject to survival of any provisions contemplated therein to survive termination of the applicable Transaction Document and any assets transferred in respect of such Transaction Documents prior to such date shall be transferred back to the original Party on the same terms as initially transferred;
- (d) the Service Provider shall, forthwith after the Termination Date, return to the Province all the Province Data provided to the Service Provider during the Transition Period or otherwise, and shall not retain and shall destroy all copies of such the Province Data which the Service Provider (or any agent, consultant or Person working for or hired by the Service Provider in connection with the Transaction Documents and the transactions contemplated therein) may have made or caused to be made; and
- (e) the Service Provider shall not be entitled to receive any payment or compensation from the Province as a result of such termination unless:
  - (i) such termination is pursuant to Section 3.7(b)(ii) as a sole result of the fault or delay of the Province in which case the Province agrees to pay to the Service Provider (A) \$1,000,000 plus (B) direct labour costs calculated based upon the actual salary and benefit costs for the applicable employees of the Service Provider and Subcontractors directly providing services as part of the Transition Services plus (C) lease termination fees;
  - (ii) such termination is pursuant to Section 3.7(b)(ii) and is not attributable to the fault or delay in any manner of either Party or Section 3.14(f), in which case each Party shall bear its own costs other than the Province agreeing to pay to the Service Provider one half of lease termination fees; and
  - (iii) such termination is pursuant to Section 3.7(b)(ii) expressly in respect of Section 3.14(f) and where such judgement or order contemplated by Section 3.14(f) was expressly known and commenced against the Province as of the Effective Date as set forth in Schedule T, in which case the Province agrees to pay to the Service Provider (A) \$1,000,000 plus (B) direct labour costs calculated based upon the actual salary and benefit costs for the applicable employees of the Service Provider and Subcontractors directly providing services as part of the Transition Services plus (C) lease termination fees plus (D) legal fees.

### **3.12 Transition Requirements**

The transfer of the provision and performance of the Services from the Province to the Service Provider shall be subject to the satisfaction or waiver by the Province in its sole discretion of each of

the transition requirements set forth in the Transition Plan and the condition set forth in Section 3.14(g) (collectively, the "**Transition Requirements**") on or before the Hand-Over Date.

### **3.13 Failure to Satisfy Requirements**

The Service Provider acknowledges and agrees that the Transition Requirements are critical to and for the sole benefit of the Province. If such requirements are not satisfied on or before the Hand-Over Date and this is not as a result of the fault or delay of the Service Provider and such requirements are not waived by the Province, then the Province may exercise its rights pursuant to Section 3.7(b)(ii) hereof. If such conditions precedent are not satisfied on or before the Hand-Over Date as a result of fault or delay on the part of the Service Provider and are not waived by the Province, then without limiting the right of the Province to pursue any other remedy pursuant to this Agreement, the Province may, at its sole discretion and option, exercise any or all of the following remedies:

- (a) postpone the Hand-Over Date to such date as the Province may select by giving written notice to the Service Provider of such postponed Hand-Over Date in which event the Service Provider shall use all commercially reasonable efforts to cause all remaining conditions precedent to be satisfied on or before such postponed Hand-Over Date and the Service Provider further agrees to credit the Province with the following amounts (the "**Hand Over Credits**") upon any postponement of the Hand-Over Date:
  - (i) all costs actually incurred by the Province in excess of the Fees that would have otherwise been payable as of the Hand-Over Date, calculated from and after the originally proposed Hand-Over Date;
  - (ii) where the Hand-Over Date is postponed for 30 days or more, \$250,000;
  - (iii) where the Hand-Over Date is postponed for 45 days or more, an additional \$250,000;
  - (iv) where the Hand-Over Date is postponed for 60 days or more, an additional \$500,000; and
  - (v) for every 15 days thereafter that the Hand-Over Date is postponed (the first such day being the 75<sup>th</sup> day after the originally proposed Hand-Over Date), \$1,000,000.

*By way of example, where the Hand-Over Date is postponed a total of 65 days, the Service Provider would credit the Province with \$1,000,000 plus actual costs incurred as Hand Over Credits, and where the Hand-Over Date is postponed a total of 100 days, the Service Provider would credit the Province with \$3,000,000 plus actual costs incurred as Hand Over Credits.*

- (b) if it is reasonably practicable to do so, give written notice to the Service Provider to commence all applicable Services on the Hand-Over Date and to use all commercially reasonable efforts to cause all remaining conditions precedent to be

satisfied after the Hand-Over Date as soon as reasonably practicable after the Hand-Over Date or on or before such date as the Province may reasonably require, but in any event within 30 days after the Hand-Over Date (unless otherwise agreed by the Parties), in which event the provisions of Sections 3.7(b)(ii)C(1) to 3.7(b)(ii)C(4) shall apply and the Service Provider further agrees to credit the Province with Hand Over Credits in the amounts calculated pursuant to 3.13(a) for the time period where the full Services are not provided to the Province, pro-rated based upon the number of Province employees involved in providing the services not yet provided by the Service Provider as compared to the total number of Personnel that should have commenced providing Services on the Hand-Over Date if all of the Services would have been provided on such date;

*By way of example, where a total of 100 employees are required to provide all of the Services, and the Service Provider does not provide Services on the Hand-Over Date and for 65 days thereafter which require 20 employees to perform (such services likely to be provided during such interim period by the Province), then the Service Provider would credit the Province with Hand Over Credits of \$200,000 (being \$1,000,000 times 20/100) plus actual costs incurred.*

- (c) require the Service Provider to provide the Province with a performance bond in respect of all remaining conditions precedent to be satisfied after the Hand-Over Date, such performance bond to be in such form, on such terms and in such amount as the Province may reasonably require but the amount of such performance bond shall not, in any event, be less than the estimated cost of causing such remaining conditions precedent to be satisfied and the performance bond shall provide that the Province shall be entitled to apply the performance bond in the event of default by the Service Provider in causing all remaining conditions precedent to be satisfied after the Hand-Over Date on or before such date as the Province may reasonably require;
- (d) suspend the Agreement and Transition Services (including, without limitation, the suspension of the accruing and payment of any Fees) to a date determined by the Province at which time the Transition Services would be recommenced with a revised Hand-Over Date as designated by the Province;
- (e) propose such alternate performance by the Service Provider in lieu of satisfaction of one or more of such remaining conditions precedent as the Parties may agree; or
- (f) where the Hand-Over Date has not occurred by 45 days after the originally scheduled Hand-Over Date, give written notice of termination of this Agreement to the Service Provider in which event the provisions of Section 3.11 shall apply.

### **3.14 Transaction Documents**

- (a) The form of the Transaction Documents shall be as attached hereto as Schedule L. As part of the Transition Plan the schedules to the Transaction Documents shall be completed and agreed to by the Parties. To the extent that such schedules cannot be

agreed to by the Parties, such disagreement shall be deemed to be an Expedited Dispute. On or before the Hand-Over Date the Parties shall execute the Transaction Documents and all ancillary documents thereto and in respect thereof.

- (b) The Hand-Over Closing shall take place in the offices of the Province in Victoria, British Columbia at 10:00 o'clock a.m. Victoria time on the Hand-Over Date; or at such other time and date, or both, as the Province and the Service Provider may agree upon.
- (c) At the Hand-Over Closing, the Province shall deliver the following to the Service Provider:
  - (i) duly executed copies of the Transaction Documents; and
  - (ii) possession of the assets as contemplated to be transferred pursuant to the Asset Conveyance Agreement.
- (d) At the Hand-Over Closing, the MAXIMUS Group shall deliver the following to the Province:
  - (i) written evidence of any Fee credits so contemplated by the Transaction Documents;
  - (ii) duly executed copies of the Transaction Documents; and
  - (iii) certified copies of resolutions of the directors of the Service Provider, MAXIMUS Canada and MAXIMUS US approving the transactions contemplated by this Agreement, including, without limitation, the execution of the Transaction Documents (including the Guarantees) and the delivery of the Services hereunder and all documents, instruments and agreements required to be executed and delivered by the members of the MAXIMUS Group pursuant to this Agreement.
- (e) It shall be a condition of the Hand-Over Closing that all matters of payment and the execution and delivery of documents by any Party to the others pursuant to the terms of this Agreement shall be concurrent requirements and that nothing will be complete at the Hand-Over Closing until everything required as a condition precedent to the Hand-Over Closing has been paid, executed and delivered, as the case may be.
- (f) It shall be a condition of the Hand-Over Closing for the benefit of the Province that there shall be no judgments or orders outstanding against or affecting the Province or any of its assets by or before any court, tribunal, commission, board or other Governmental Authority that would have the legal effect of precluding the Province from performing its duties and obligations hereunder at the time of the Hand-Over Closing. If any such judgments or orders are outstanding at the time of the Hand-Over Closing the Province may exercise its rights pursuant to Section 3.7(b)(ii)A or B hereof.

- (g) It shall be a condition of the Hand-Over Closing for the benefit of the Province that the Service Provider complete and execute the CRA's form of memorandum of understanding with non-federal organizations in respect of security standards, as updated from time to time by CRA, and that the CRA approve of the Service Provider's security standards by executing such completed memorandum of understanding on or before the Hand-Over Date.
- (h) Each of the Parties (including all members of the MAXIMUS Group) shall execute and deliver such further documents and do such further acts and things as may be reasonably required from time to time, either before, on or after the Hand-Over Date, to carry out the full intent and meaning of the Transition Service, the Transaction Documents and this Agreement.

#### **ARTICLE 4**

#### **GENERAL MANAGEMENT OF RELATIONSHIP**

##### **4.1 Governance**

The Parties agree that forthwith upon execution of this Agreement, the Parties shall establish a governance structure in the manner set forth in Schedule O. The Parties further agree that during the Term their relationship shall be expressly governed by and they shall take all steps and actions contemplated by the processes and procedures set forth in Schedule O, as such schedule may be amended and supplemented by the Parties from time to time in accordance with this Agreement.

#### **ARTICLE 5**

#### **TRANSFORMATION**

##### **5.1 Transformation Obligations**

The Service Provider will accomplish the orderly transition of the Basic Services contemplated on the Hand-Over Date to include the Transformed Services contemplated upon completion of the Transformation, without any material disruptions of the Services or of Province Customers or Stakeholders. All costs associated with the Transformation will be borne by the Service Provider, including all license fees paid or payable to any Person for the use of any Software.

##### **5.2 Transformation Plan**

The Transformation shall be conducted in accordance with the transformation plan prepared by the Service Provider, as Approved by the Province, which at a minimum shall contain the matters set forth in Schedule R attached hereto, as amended, modified and supplemented as contemplated in Section 5.3 of this Agreement (collectively, the "**Transformation Plan**"). The Transformation Plan shall include a timetable for the completion of each Stage in the Transformation. For greater certainty, the Transformation shall include the complete and timely performance by the Service Provider of the Transformation in accordance with the Transformation Stage Completion Dates specified in the Transformation Plan and the addition of Transformed Services in accordance with the Transformation Plan.



### 5.3 Modifications to Transformation Plan

It is intended that the initial Transformation Plan be a reasonably comprehensive document. Notwithstanding the level of detail in the initial Transformation Plan, the Parties shall meet to discuss potential modifications to the initial Transformation Plan and the Service Provider shall, acting reasonably and with due diligence, amend, modify, supplement and refine the initial Transformation Plan to create a working Transformation Plan on or before sixty (60) days after the Hand-Over Date which is acceptable to the Province, acting reasonably. Without limiting the generality of the foregoing, the Service Provider shall ensure that the Transformation Plan adequately addresses policy compliance and operational impact; impact on and interface with Province Customers and Stakeholders; standards adherence and privacy and security (the "Critical Issues"), all to the satisfaction of the Province. Any such amended Transformation Plan shall include appropriate Stages and Transformation Stage Completion Dates. The working Transformation Plan shall incorporate comments of the Province on the initial Transformation Plan, and shall contain a detailed description of the Transformed Services. For greater certainty, the working Transformation Plan shall not change the Transformation Stage Completion Dates to later dates unless determined by the Province in its sole discretion to be in the Province's best interest and mutually agreed to by both Parties. Once agreed to by the Parties, the working Transformation Plan shall replace the initial Transformation Plan and be deemed to form a part of this Agreement (including amending Schedule R and the Stages and Transformation Stage Completion Dates set forth therein), and further amendments of such working Transformation Plan shall be subject to the Approval of the Province.

If the Service Provider is unable to prepare a working Transformation Plan which is acceptable to the Province, acting reasonably, on or before sixty (60) days after the Hand-Over Date, the Province may, at its option:

- (a) given written notice to the Service Provider extending the deadline date for preparing a working Transformation Plan which is acceptable to the Province, acting reasonably, and requiring the Service Provider to carry out the Transformation in accordance with the initial Transformation Plan until an acceptable working Transformation Plan is prepared; or
- (b) designate the matter as an Expedited Dispute and upon such designation each Party shall immediately prepare its proposed form of Transformation Plan and the Expedited Dispute process set forth in Section 23.3 shall be utilized to determine the appropriate Transformation Plan as between the alternatives or as otherwise determined in accordance with such process.

For greater certainty any extension by the Province of the deadline date for preparing a working Transformation Plan or any Expedited Dispute process shall not relieve the Service Provider of any of its other obligations under this Agreement including, without limitation, its obligation to complete the Stages by the Transformation Stage Completion Dates.

### 5.4 Transformed Services

The Service Provider shall be responsible for overall management and implementation of the Transformation, including coordinating, planning and implementing the Transformation in

accordance with the Transformation Plan and this Agreement, and shall use commercially reasonable efforts to minimize disruption to the Services and the business operations of the Province, the Province Customers and the Stakeholders and, in particular, will use any and all efforts required to prevent any disruption to or interruption of the Uninterruptible Services.

## **5.5 Acceptance Testing**

- (a) The Acceptance Test procedures in this Section 5.5 and in the Transformation Plan shall apply to each Stage of the Transformation, as it is completed.
- (b) Subject to specific timelines otherwise set forth in the Transformation Plan, or as otherwise agreed by the Parties, the Province shall have twenty (20) Business Days from the date that the deliverables are made available to the Province for each Stage of the Transformation to perform the Acceptance Tests to verify that in all material respects such deliverables conform with the Transformation Plan, all requirements of this Agreement and all related requirements including Policy compliance and that the Critical Issues are adequately addressed.
- (c) Subject to specific timelines otherwise set forth in the Transformation Plan, or as otherwise agreed by the Parties, the Province shall have sixty (60) Business Days from the date that all deliverables for the entire Transformation have been delivered to the Province to perform the Acceptance Tests and any other types of acceptance testing specified in the Transformation Plan to verify that in all material respects that the deliverables as a whole conform with the Transformation Plan and that the Critical Issues are adequately addressed. For greater certainty the Parties acknowledge that there are no separate penalties payable with respect to this final Acceptance Test.
- (d) Promptly upon becoming aware of any Non-Compliance issues, the Province will notify the Service Provider of the Non-Compliance and will provide the Service Provider with all information available to the Province with respect to the Non-Compliance.
- (e) The Service Provider shall use its best efforts to correct all Non-Compliance issues and to deliver the corrected deliverables to the Province within five (5) Business Days after the conclusion of the relevant Acceptance Test (or such other period of time as may be specified in the Transformation Plan or otherwise agreed by the Parties acting reasonably). Where such efforts cannot correct all Non-Compliance issues within such five (5) Business Day period then the Service Provider shall within such period deliver to the Province a written plan describing how and within what time periods it shall remedy such Non-Compliance issues with the Service Provider continuing to be bound to use its best efforts to correct the balance of such Non-Compliance issues as expeditiously as possible. The Province shall have a further twenty (20) Business Days from the date on which the corrected deliverables are delivered (or such other period of time as may be specified in the Transformation Plan or otherwise agreed by the Parties) in which to conduct additional Acceptance Tests to determine whether the Non-Compliance Issues have been corrected. The

reporting, correction and re-testing process shall, subject to Section 5.6, be repeated until all Non-Compliance issues have been corrected.

- (f) The deliverables for a given Stage shall, subject to this Section and to Section 5.6, be accepted by written notice from the Province and the Province agrees to promptly give such notice when the deliverables conform to the Transformation Plan and address all Critical Issues (such date of delivery of written notice from the Province being herein referred to as the "Acceptance Date").
- (g) The Province shall promptly provide written notice to the Service Provider when the deliverables for the entire Transformation have been made available to the Province, the Province has completed its Acceptance Tests, the deliverables conform with the Transformation Plan and all Non-Compliance issues reported during the Acceptance Tests have been corrected to the reasonable satisfaction of the Province. Such notice of acceptance shall constitute final acceptance of the deliverables.

## **5.6 Delay in Completion of Transformation**

All Stages shall have Transformation Stage Completion Dates as set forth in the Transformation Plan. Where the Acceptance Date for any Stage is past the Transformation Stage Completion Date for a Stage then credits shall be granted by the Service Provider to the Province (the "Transformation Credits") as follows:

- (a) where the Acceptance Date for any Stage is 31 days or more past the Transformation Stage Completion Date, \$25,000;
- (b) where the Acceptance Date for any Stage is 45 days or more past the Transformation Stage Completion Date, an additional \$50,000;
- (c) where the Acceptance Date for any Stage is 60 days or more past the Transformation Stage Completion Date, an additional \$100,000; and
- (d) for every 15 days thereafter that the Acceptance Date for any Stage is past the Transformation Stage Completion Date for such Stage, \$100,000.

*By way of example, where the Acceptance Date for a Stage is 100 days past the Transformation Stage Completion Date, then the Province would be entitled to a Transformation Credit in the amount of \$375,000 (\$25,000 + \$50,000 + \$100,000 + \$100,000 + \$100,000)*

## **ARTICLE 6 SERVICES**

### **6.1 Overview of Services**

Subject to Article 7 hereof, during the Term, the Service Provider shall provide to the Province and the Province Customers and Stakeholders, and the Province shall obtain from the Service Provider, the following services (collectively, the "Services" and each a "Service"):

- (a) the Transition Services;
- (b) the Basic Services;
- (c) the Transformed Services;
- (d) the Termination Services, and
- (e) all such other services as set forth or otherwise described in this Agreement;

such Services to be obtained and provided upon the terms and subject to the conditions set out in this Agreement.

## **6.2 Included or Inherent Services**

The Parties acknowledge that there are functions or tasks not specifically listed or described in this Agreement that are customarily required for the proper performance and provision of the Services or as otherwise required to operate health benefit operations in a manner consistent with the services provided by the Province on the Effective Date and that such functions are inherent or included in the Services. Without limiting the foregoing, such functions or tasks shall be deemed to be implied or included in the scope of the Services to the same extent and in the same manner as if those functions or tasks had been specifically described in this Agreement. Notwithstanding the foregoing, this provision is not intended to expand the scope of the Services beyond the Services described in this Agreement or to require a higher standard of Service delivery for such functions or tasks than for the Services described in this Agreement.

## **6.3 Description of Basic Services**

Commencing on the Hand-Over Date and during the Term, the Service Provider shall provide to the Province and to the Province Customers and Stakeholders, and the Province shall obtain from the Service Provider, the basic services described as such in Schedule E attached hereto (which includes the inherent services described in Section 6.2), as such schedule may be amended and supplemented by the Parties from time to time in accordance with this Agreement (collectively, the “**Basic Services**”).

## **6.4 Transformed Services**

Commencing after the Acceptance Date for each Stage and continuing thereafter during the Term, the Service Provider shall provide to the Province and to the Province Customers and Stakeholders, and the Province shall obtain from the Service Provider, the transformed services described with respect to such Stage, being the Basic Services as described in Schedule E attached hereto as transformed pursuant to the Transformation Plan and the Proposal (and which includes the inherent services described in Section 6.2), as Schedule E and the Transformation Plan may be amended and supplemented by the Parties from time to time in accordance with this Agreement (collectively, the “**Transformed Services**”).

## **6.5 Service Recommendations**

As part of the Services, the Service Provider shall, from time to time as it may deem to be appropriate but not less frequently than annually, make recommendations to the Province for improvements to the Services based on changes and trends in the health benefits operations field and available new technologies and services, and implement any of such recommendations Approved by the Province in accordance with the Change Request process in Article 7. Upon such Approval the descriptions of the Services as set forth in this Agreement or in documents referenced herein shall be deemed to be amended accordingly.

## **6.6 Business Continuity and Disaster Recovery**

- (a) The Service Provider will assign designated technical support staff and a designated disaster recovery manager who will be on the Service Provider's executive staff and will be identified as an incumbent in a Key Role. The Service Provider will maintain a contact list of such designated Personnel and will update such list and distribute it to the Province on a quarterly basis each Contract Year.
- (b) As part of the Services, the Service Provider agrees to assume all responsibility for the provision of disaster recovery services in accordance with Schedule M and the Disaster Recovery/Business Continuity Plans, effective on the Hand-Over Date.
- (c) On or before the Hand-Over Date as part of the Transition Services, the Service Provider will review the Province's existing Disaster Recovery/Business Continuity Plans as set forth in Schedule M and will update such plans as reasonably determined by the Service Provider and Approved by the Province. The updates Approved by the Province shall be implemented and maintained by the Service Provider for the Term of this Agreement and shall thereafter be deemed the Disaster Recovery/Business Continuity Plans. The Service Provider will be responsible for all costs in respect of any updates to the Disaster Recovery/Business Continuity Plans.
- (d) The Disaster Recovery/Business Continuity Plans shall at all times expressly address all Force Majeure events and Labour Disputes and further ensure that IT Uninterruptible Services are not disrupted notwithstanding Labour Disputes.
- (e) The Disaster Recovery/Business Continuity Plans, as updated, shall be thoroughly tested by the Service Provider within six (6) months after the Hand-Over Date in a manner that causes minimal disruption to the ongoing operations of the Province. Such testing shall be done in full consultation with the Province and shall be continued until the Province is satisfied that the Service Provider can fully implement the updated Disaster Recovery/Business Continuity Plans. At the request of the Service Provider, the Province may waive the foregoing requirement for testing the Disaster Recovery/Business Continuity Plans.
- (f) The Service Provider will review and test the Disaster Recovery/Business Continuity Plans at least once per Contract Year. Any changes to the Disaster Recovery/Business Continuity Plans, will be submitted by either Party to the other in

accordance with the Change Request Procedure. For greater certainty, the Province will review and have the right to Approve any changes prior to implementation.

- (g) The Service Provider shall conduct disaster recovery unit testing on changed components of the Disaster Recovery/Business Continuity Plans (the “**DR Unit Test**”). The Service Provider will provide appropriate back-out procedures required to re-establish the operational environment to pre-DR Unit Test state.
- (h) If any DR Unit Test fails, the Service Provider will:
  - (i) immediately execute approved back-out procedures and restore the environment to its pre-test condition;
  - (ii) perform a root cause analysis of the failure of the changed components and provide such root cause analysis to the Province; and
  - (iii) recommend an appropriate action plan to the Province to correct the deficiency related to the changed components, which will include a time schedule for resolution with the input of and Approval of the Province.
- (i) The Service Provider will conduct a test in accordance with the provisions of the Disaster Recovery/Business Continuity Plans, on the Systems and whenever a major System change or Disaster Recovery/Business Continuity Plans change occurs (such as, without limitation, the relocation of any data centre, completion of a Stage in the Transformation or a material amendment to the Disaster Recovery/Business Continuity Plans) (a “**Disaster Recovery System Test**”). The Disaster Recovery System Test will be conducted with the Province’s participation and co-operation. The Province has the right to observe, review and approve the Disaster Recovery System Test, the execution of the test plan, and the results of the tests.
- (j) If a Disaster Recovery System Test is not successful, the Service Provider will perform a root cause analysis of the failure and the Service Provider will provide such root cause analysis to the Province within three (3) Business Days. The Service Provider will submit to the Province for its approval an appropriate corrective action plan and time schedule within three (3) Business Days of completion of the root cause analysis to correct the deficiency, provided however, that such time period for resolution shall not exceed one week. In either case, as soon as reasonably possible the Service Provider will re-perform the Disaster Recovery Systems Test and the provisions of this Section 6.6(j) shall apply thereto.
- (k) In the event of an actual declared Disaster and without limiting any remedies otherwise available in this Agreement (including as set forth in Article 24):
  - (i) to the extent that such Disaster is not addressed or not fully addressed in the Disaster Recovery/Business Continuity Plans, the Service Provider will use all commercially reasonable efforts to provide disaster recovery and business continuity services to restore the Services;

- (ii) the Service Provider shall use continuous and best efforts (including without limitation the redeployment or reassignment of other available personnel from the MAXIMUS Group to the extent permitted by Applicable Law) to restore all Services in accordance with the Disaster Recovery/Business Continuity Plans; and
  - (iii) if the Service Provider does not restore all covered Services in accordance with the Disaster Recovery/Business Continuity Plans, the Province may procure such services from a commercially available service provider.
- (l) The Service Provider will ensure that the Disaster Recovery/Business Continuity Plans include a business continuity plan for the purpose of mitigating any undue exposure to its ability to continue conducting its business and providing the Services in the normal course in the event of any emergency, crisis, Labour Dispute or Force Majeure event. The Service Provider agrees to incorporate all reasonable suggestions provided by the Province in respect of such plan.
  - (m) The Service Provider will ensure that within twelve (12) months of the Hand-Over Date the Disaster Recovery/Business Continuity Plans shall include a form of Termination Assistance Plan that could reasonably be used as a basis for developing a more complete version of such plan in the manner contemplated in Article 22.
  - (n) Pursuant to Section 24.1 the Disaster Recovery/Business Continuity Plans shall include the Uninterruptible Services Plan.

## 6.7 Protection of Systems

The Service Provider will use commercially reasonable efforts to ensure that all Systems provided or used by it or its Subcontractors or Suppliers to provide the Services do not and will not contain any virus, Trojan horse, worm, backdoor, shutdown mechanism or similar software, code or program which is intended to, is likely to or has the effect of disabling, denying authorized access to, damaging or destroying, corrupting or affecting the provision of the Services or the normal use of any of the Service Provider's or the Province's systems, networks or software or any data on or used in conjunction with any of the aforementioned (a "Contaminant"). The Service Provider shall not insert or knowingly permit any third party to insert a Contaminant into any of the Systems used to provide the Services. In the event the Service Provider becomes aware of the existence of a Contaminant, it will remove the Contaminant in a prompt and co-ordinated manner so as to minimise the spread and impact of such Contaminant.

## 6.8 Location of Service Centre

No Services will be provided or performed by the Service Provider at any location outside of British Columbia and no data relating to the Services (including the Province Data) will be stored, transmitted or otherwise made available or disclosed in any manner outside of British Columbia and no Person outside of British Columbia shall have access in any manner to such data except:

- (a) data that the Province has Approved for public use or disclosure in advance in writing; and

- (b) as otherwise Approved in advance in writing by the Province to the extent that such Approval is in compliance with all Applicable Laws of British Columbia and Canada including, without limitation, the *Freedom of Information and Protection of Privacy Act* (British Columbia).

The Service Provider will not relocate the Service Centre nor provide any Services from any location or facility other than the Service Centre without the prior written approval of the Province, which may be withheld at the Province's sole discretion. Notwithstanding the foregoing, any Approval by the Province for changes with respect to the utilization of the SPAN/BC network shall not be unreasonably withheld by the Province.

## **6.9 Maintenance and Support**

Upon Termination the Service Provider hereby agrees to provide to the Alternative Service Provider, maintenance and support services in respect of any Service Provider Intellectual Property, Province Intellectual Property or other intellectual property or software utilized in the provision of the Services on a MFC Pricing basis and shall not be subject to any one-time transfer or set up fees but may include on-going maintenance fees. Such services shall also be subject to the terms of the Source Code Escrow Agreement.

## **6.10 Efficient Resource Usage**

The Service Provider will take all reasonable actions necessary to efficiently use the resources and services in the provision of the Services, including:

- (a) tuning or optimizing the systems used to perform the Services;
- (b) in consultation with, and subject to the prior Approval of the Province, making schedule adjustments (consistent with the Province's priorities and schedules for the Services and the Service Provider's obligation to meet the Service Levels) and delaying the performance of non-critical functions within established limits; and
- (c) properly training staff and providing an appropriate work environment in which they can efficiently and effectively operate.

## **6.11 Technology Standards**

In addition to the obligations set forth in Schedule X and as otherwise set forth in this Agreement, the Service Provider will implement the Province's existing technical architecture standards and guidelines to the same extent as such standards and guidelines are themselves complied with by the Province as of the Hand-Over Date, as such standards are updated or revised by the Province from time to time (subject to Article 7). The Service Provider will advise the Province of any significant incompatibilities known to the Service Provider that would result from changes to such standards. If the Province requests the Service Provider's assistance to document technical architecture standards, the Service Provider will deliver a draft manual setting out the technical architecture standards within eight months of the request. The Service Provider will update the Manual from time to time during the term as such standards change in accordance with Article 7. The architectural standards and guidelines shall form part of the Manual. The Parties agree that the foregoing will be a cooperative



effort with the Service Provider providing a leadership role, in order to leverage the various expertise of the Parties.

#### **6.12 Implementing Improved Technology**

- (a) The Service Provider shall provide the Services using proven, current technology that will enable the Province and the Province Customers and Stakeholders to take advantage of technological advancements and support the Province's efforts to meet and exceed expectations of the Province Customers and Stakeholders. The Service Provider will, throughout the Term, identify and, with the Province's Approval, implement technology improvements to address the objectives set forth in Section 1.11 including:
  - (i) maintaining the application software Systems used to deliver the Services (excluding software described in (ii) below) at N or N-1 levels of currency;
  - (ii) shrinkwrap and operating system Systems used to deliver the Services at levels of currency that are vendor supported;
  - (iii) ensuring that all desktops and laptops are no more than three years old, and all other Systems (other than software Systems described above) used by the Service Provider to provide Services are used no more than the longer of: (A) five years; or (B) the depreciation period contemplated by GAAP, and which will go through a managed transition process as reflected in the Annual Operating Plan, and that support services are available from the manufacturer, distributor or licensor of such hardware and software; and
  - (iv) ensuring that no equipment or software is at an age or level of obsolescence that prevents or materially interferes with the ability to adhere to the Service Levels.
- (b) Except where the Province agrees in writing that such implementations are not necessary, the Service Provider will report to the Province at the end of each quarter throughout the Term, demonstrating its actions taken to meet its obligations relating to improvements in technology set forth in this Section 6.12.
- (c) All decisions concerning material Systems used to provide the Services will be set out in an Annual Operating Plan as approved by the Joint Executive Committee.
- (d) The Service Provider will also, at the Province's option:
  - (i) facilitate the attendance of the Province personnel at any presentation offered to the Service Provider by any technology vendor whose software, equipment or materials are used, or are being considered by the Service Provider for use, directly or indirectly in a material manner, in the provision of Services, except in the event the Service Provider cannot obtain the consent of such technology vendor; and

- (ii) invite the Province personnel to attend each presentation of an educational or similar nature to more than one of its outsourcing clients.
- (e) The Service Provider will implement management processes and procedures to facilitate and maximize continuous cost reductions through the identification and implementation of improved technology and of more efficient methods of rendering the Services. The Service Provider will also proactively plan for, identify and realize opportunities to improve the Services and to reduce the costs in respect of the delivery of the Services. The Annual Operating Plan shall identify material savings opportunities. Each Contract Year, the Service Provider will present to the Joint Executive Committee a summary of the progress and results of the savings opportunities pursued in that Contract Year. Without limiting the generality of the foregoing, the Service Provider will:
  - (i) ensure that the Province obtains value for money consistent with the leading well managed North American service providers of services similar to the Services;
  - (ii) develop, subject to the Approval of the Province, a cost saving improvement plan that reflects the above, and review with the Province and, as appropriate, update such plan on an annual basis; and
  - (iii) where reasonably requested by the Province, form working groups with the Province to review, implement and exploit cost savings opportunities.

### 6.13 Quality Management

The Service Provider acknowledges and agrees that:

- (a) it is responsible for implementing and carrying out continuous and total quality management and improvement for the Services;
- (b) its senior management will create and sustain quality operations along with a supporting management system to guide all activities of the Service Provider towards quality excellence;
- (c) it will use objective data and analysis to support a responsive approach to quality;
- (d) it will establish a quality management plan (the “**Quality Management Plan**”) that defines short and long term priorities to establish a quality service delivery process;
- (e) it will establish quality assurance practices as set forth in the Quality Management Plan that are based on process design and control, as quality assurance encompasses continuous improvement of processes, products and services in addition to quality assessment;

- (f) it will maintain an ongoing focus on satisfaction of the Province and its customers demonstrated by knowledge of their requirements, service standards and an adequate complaint resolution process for quality improvements; and
- (g) such activities will be performed entirely by the Service Provider's staff at its own expense and will not require the resources of the Province without its prior written Approval.

#### **6.14 Language Used in the Provision of Services**

All Services shall be provided in English except as otherwise set forth in Schedule E. The addition of any language capacity other than English or the delivery of Services in languages other than English shall be governed by Article 7.

#### **6.15 Documentation**

- (a) The Service Provider will deliver:
  - (i) an interim operational procedures manual, subject in form and substance to the Province's Approval (such approval or disapproval to be provided within 20 days of the Service Provider's submission of a draft copy), no later than four months after the Effective Date; and
  - (ii) a revised, detailed and comprehensive operational procedures manual (the "Manual") subject in form and substance to the Province's prior Approval (such approval or disapproval to be provided within 30 days of the Service Provider's submission of a draft copy), no later than the end of the Transition Period. The Service Provider will periodically, but not less than quarterly, unless otherwise agreed by the Province, update such detailed operational procedures manual to reflect changes in the operations or procedures described therein. Updates thereof will be provided to the Province for review, comment and Approval.
- (b) The Manual will describe the procedures associated with the business processes and technology support services that the Service Provider will undertake in order to provide the Services. The Manual will also describe the methods of operations and procedures the Service Provider will use to perform the Services such as, network topologies, security administration, system configurations, call centre processes, human resource functions, business processes and associated documentation (including, for example, operations manuals, user support manuals, job scheduling procedures, specifications and updates of such materials) that provides further details of such activities. The Service Provider will at all times maintain as part of the Manual current documentation with respect to the systems, business processes, processes in support of the operations and procedures set forth in this Section 6.15 used to deliver the Services (which documentation will be sufficient to enable the Province, or another service provider that is reasonably skilled in the provision of services similar to the Services, to fully assume the provision of the Services) and the

Manual will detail how such documentation will be maintained. The Manual is intended to describe to the Province how the Services will be performed and will in no event be interpreted so as to relieve either Party of any of its performance obligations under this Agreement.

#### **6.16 Training and Knowledge Management**

The Service Provider shall ensure that all of its Personnel (including all Transitioned Personnel) and all External Personnel receive quality training courses, refresher courses and retraining programs in respect of delivery of the Service in accordance with the provisions of this Agreement. Without limiting the generality of the foregoing, the Service Provider shall ensure that training with respect to privacy and confidentiality is conducted in the manner contemplated in Schedule X and that additional training is conducted in accordance with the Training Plan referenced in Schedule H.

As part of the Basic Services, the Service Provider will provide the Province with ongoing knowledge transfer with respect to the Services in the manner Approved by the Joint Executive Committee or as otherwise reasonably requested by the Province from time to time. Such knowledge transfer shall allow the Province to retain the appropriate level of understanding of operations and the manner in which Services are delivered.

New Province staff who have duties related to the Services or the Service Provider will be provided with orientation and training by the Service Provider as mutually scheduled by the Parties. The Service Provider further agrees to provide the Province and its staff with information and general training sessions with respect to significant process or systems changes (such as with respect to Stages in the Transformation).

The Service Provider agrees that in accordance with the Transformation Plan it shall install a reporting tool that shall enable the Province to access and generate its own reports as reasonably required by the Province from time to time.

#### **6.17 Province Retained Responsibilities**

During the Term, the Province shall remain responsible for and shall retain control of:

- (a) setting of all Policies and guidelines, including without limitation, policies and guidelines relating to the Medical Services Plan, the PharmaCare Plan, the Services, records management, privacy and security;
- (b) agreements with third parties (including Stakeholders), other than Subcontractors or Suppliers, relating to the Services, including without limitation any data access agreements in respect of the Province Data and inter-provincial agreements;
- (c) setting compensation rates, fees, charges and other amounts for Province Customers and Stakeholders;
- (d) Medical Service Plan and PharmaCare Plan appeal processes established by policy or legislation;

- (e) setting technology standards;
- (f) setting data requirements, format and transmission protocol for claims submissions;
- (g) Province Customer and Stakeholder relations;
- (h) Approval of Service Provider communications with any Stakeholder, as more particularly set forth in Schedule K;
- (i) exercise of powers for and on behalf of Her Majesty the Queen in Right of the Minister of Health Services;
- (j) approvals as may be required in respect of Projects;
- (k) media relations; and
- (l) such other direct responsibilities as expressly contemplated in this Agreement or as otherwise reasonably retained by the Province.

For greater certainty, where the Province exercises its responsibilities hereunder and such exercise affects the Service Provider in the manner contemplated in Article 7, such Article shall apply.

The Parties acknowledge that these responsibilities are vested solely in the Province. The Service Provider has no right nor obligation to exercise any responsibilities so set forth herein and is not accountable for actions taken by the Province in respect of the same.

#### **6.18 Failure of the Province to Perform**

In the event of:

- (a) a failure by the Province to perform in accordance with its obligations under this Agreement (other than a failure to make payments in accordance with Section 12.2);
- (b) a failure by CITS or the BC Government to provide services to the Service Provider to the extent that the Services are contingent upon such CITS or BC Government services; or
- (c) the Province Intellectual Property utilized by the Service Provider under license pursuant to Section 18.3 infringing the Intellectual Property rights of a third party such that the Service Provider is unable to utilize such Province Intellectual Property;

then the Service Provider will immediately notify the Province's Executive Contract Manager (and in any event notify the Province's Executive Contract Manager within five (5) Business Days from the date the Service Provider discovers that such failure or infringement has occurred), providing reasonable details with respect to such failure or infringement (such as, the specific obligation or co-operation sought, the individuals from whom it was sought, and the date such request was made). The Service Provider Project Director and the Province Executive Contract Manager shall promptly meet in order to discuss and resolve, if possible, the failure or the infringement. Where the failure or

infringement cannot be promptly resolved by such Persons then it shall be escalated to the Joint Steering Committee. Where the failure or infringement cannot be resolved by the Joint Steering Committee, then it shall be escalated to the Joint Executive Committee. The Province shall, upon completion of such escalation process, unless the Province contests the Service Provider's assertion, address such failure or make reasonable commercial efforts to either negotiate a license, provide a "work around" or provide alternative Intellectual Property as a replacement for such infringing Province Intellectual Property. If such failure or infringement has a material impact on the delivery and performance of the Services or on the cost of providing the Services then such failure or infringement shall be deemed to be a Permitted Material Change with Fees, time frames for performance, Service Levels and Services being adjusted, either on a temporary basis or a long term basis, in accordance with the process set forth in Article 7. If the Service Provider does not so notify the Province as set forth herein, no such Permitted Material Change shall be deemed to have occurred and such failure shall not constitute an excuse or defence for the Service Provider's failure to perform its obligations.

The Parties acknowledge that a successive number of minor failures by the Province may, in aggregate, have an impact on the ability of the Service Provider to deliver the Services. The Parties therefore expressly agree that the Service Provider has the right to elect not to immediately deliver notice hereunder for minor failures, with such election in no way restricting the Service Provider from subsequently delivering a notice hereunder that is in respect of all such failures (to the extent that they continue to impact delivery of the Services), all of such failures thereafter being deemed, for the purposes of this Section, to be a single failure by the Province to perform in accordance with its obligations under this Agreement.

Any failure of Province Shared Infrastructure shall not be governed by this Section but shall instead be governed by the provisions set forth in Section 25.9.

#### **6.19 No Service Outside of Agreement**

The Service Provider agrees that it shall not provide any services to any other Person or otherwise engage in any activity outside of the provision of Services in accordance with the terms of this Agreement, unless the Service Provider first receives the prior written Approval of the Province, which Approval shall not be unreasonably withheld or delayed (other than the right to withhold such Approval in the Province's sole discretion where the Province determines that there is any risk of disclosure or unauthorized access or use of the Province Data). Where such Approval of the Province is given, the Service Provider shall keep all services provided to other Persons and data of such Person completely segregated from the Services provided to the Province and the Province Data, and ensure that such services do not impair the Service provided to or any of the rights or remedies of the Province hereunder.

#### **6.20 Restrictions on Shared Environment**

The Service Provider shall ensure that all Systems and premises that are used to provide the Services are not in any manner shared or otherwise utilized to provide services to any other Person unless expressly Approved in advance by the Province. With respect to any shared Systems or premises that are Approved by the Province, the Service Provider shall ensure that all such Systems and premises are segregated and not accessible at any time by any Persons other than those expressly

authorized by or in accordance with this Agreement and that such Systems and premises are not used for any purposes except for those expressly Approved by the Province. Without limiting the generality of the foregoing, the Service Provider shall at all times comply with the privacy, confidentiality and security obligations as set forth in Schedule X and as otherwise set forth in this Agreement. At no time and under no circumstances shall Province Data be shared or otherwise accessible by any shared system other than Province Shared Infrastructure.

## **ARTICLE 7 CHANGES TO SERVICES**

### **7.1 Ordinary Course Changes**

The Parties acknowledge and agree that the health benefits operations activities of the Province which are the subject of the delivery of Services pursuant to this Agreement are subject to constant changes in the ordinary course of such activities which do not have a material impact on the delivery and performance of the Services and on the cost of providing the Services (the “**Ordinary Course Changes**”) and which may include, without limitation, the following:

- (a) changes in business processes;
- (b) changes in the Policies;
- (c) changes required or arising as a result of a change in one or more Applicable Laws or a change in any other applicable requirement of any Governmental Authority;
- (d) changes in the corporate policies of the Stakeholders which affect the delivery and performance of the Services;
- (e) changes in suppliers and contractors of the Province or of the Stakeholders, or changes in equipment and systems of the Province or Stakeholders;
- (f) changes in the technology used by the Province, Province Customers or Stakeholders;
- (g) changes to the reporting requirements of the Province; and
- (h) other changes in the manner, extent, frequency, duration and type of Services where the net effect does not have a material impact on the aggregate cost structure for the Service Provider.

For the purposes of Ordinary Course Changes, the Annual Operating Plan will provide for certain unallocated resources to address Ordinary Course Changes, consistent with the Service Provider’s policy and intention of conducting most changes as Ordinary Course Changes. The Service Provider shall advise the Joint Steering Committee in the event that the Service Provider, acting reasonably, determines that on a net basis the Ordinary Course Changes in any Contract Year are materially exceeding resources anticipated in the Annual Operating Plan. Where the Joint Steering Committee confirms such determination by the Service Provider then the Joint Steering Committee shall be responsible for preparing a Change Request that reflects those Ordinary Course Changes that materially exceed resources anticipated in the Annual Operating Plan. Where the Joint Steering

Committee is unable to determine an appropriate solution satisfactory to both Parties or is unable to agree upon a form of Change Request then such issue shall be deemed to be a Dispute.

The Province may require the Service Provider to implement any Ordinary Course Change by written notice to the Service Provider of such change, in which event the following provisions shall apply:

- (i) no formal documentation requesting such Ordinary Course Change is required and the Province may request such Ordinary Course Change by any form of written notice (including electronic forms of notice) to the Service Provider;
- (j) the Approval or agreement of the Service Provider to such Ordinary Course Change is not required, and the Service Provider shall implement such Ordinary Course Change upon receipt of notice from the Province as soon as reasonably practicable to do so; and
- (k) the Parties shall cause a record of each such Ordinary Course Change to be maintained as contemplated in Section 7.13.

## **7.2 Determination of Permitted Material Changes**

In addition to the Ordinary Course Changes, the Parties acknowledge that the health benefits operations of the Province is subject to certain changes in the ordinary course of such business which may have a material impact on the delivery and performance of the Services and, in some cases, on the cost of providing the Services (the "**Material Changes**"), including Material Changes as follows:

- (a) material changes to the scope of the Services as contemplated in Section 7.4; and
- (b) material changes to a Service Level as contemplated in Section 7.5,

(such Material Changes contemplated in Sections 7.4 and 7.5 are collectively called the "**Permitted Material Changes**").

## **7.3 Implementation of Permitted Material Change**

The Province may require the Service Provider to implement any Permitted Material Change by written notice to the Service Provider of such change, in which event the following provisions shall apply:

- (a) the written notice to be given by the Province to the Service Provider in respect of such Permitted Material Change shall be in the form of and comply with the requirements of a Change Request;
- (b) the Approval or agreement of the Service Provider to such Permitted Material Change is not required;
- (c) a Change Request in respect of a Permitted Material Change shall immediately become a Change Order for the purposes of this Article 7 upon issuance by the



Province, and the Service Provider shall implement such Permitted Material Change upon receipt of notice from the Province as soon as reasonably practicable to do so;

- (d) the Fees shall be increased or decreased and Service Levels, time frames and Services shall be impacted in the manner and to the extent contemplated in Sections 7.4, 7.5 and 7.10;
- (e) where Fees are to be increased or decreased or Service Levels, time frames or Services are to be impacted, in all cases in accordance with paragraph (d) above, and a determination must be made in respect of the amount of such increase or decrease or the impact in respect of Service Levels, time frames or Services, the following procedure shall apply:
  - (i) forthwith after receipt from the Province of a Change Request in respect of a Permitted Material Change, the Service Provider shall provide the Province with its proposed adjustment of the Fee and any impact on Service Levels, time frames and Services, in all cases with supporting documentation (the "Impact Assessment");
  - (ii) forthwith after the Province has received and reviewed such Impact Assessment from the Service Provider, the Province shall, on a reasonable basis, based on such proposed Impact Assessment and by separate written notice to the Service Provider, set the adjustment to the Fee or otherwise adjustment with respect to the Services, Service Levels or time frames, which adjustment shall take effect immediately with retroactive effect to the date of the implementation of the Permitted Material Change, if applicable;
  - (iii) if the Service Provider has a material Dispute with respect to such adjustment, the Dispute shall be settled pursuant to the dispute resolution procedure set out in Article 23 herein; and
  - (iv) the adjustment determined by the Province shall apply until any Dispute in respect thereof has been resolved whereupon the Parties shall make adjustments between the Parties as to Fees, Services and Service Levels to give effect to the resolution of the Dispute retroactive to the date of the implementation of the Permitted Material Change giving rise to such Dispute;
- (f) costs of implementing a Permitted Material Change shall be borne by the Service Provider, unless otherwise determined by the Province, acting reasonably, as indicated in its Change Request issued in respect of such Permitted Material Change; and
- (g) the Parties shall cause a record of each such Permitted Material Change to be maintained as contemplated in Section 7.13.

#### **7.4 Material Changes to Scope of Services**

The Province shall be entitled to issue a Change Request, as a Permitted Material Change, to change the scope of the Services, as follows:

- (a) to amend the Services to remove a distinct portion of the Services from the Services, as determined by the Province acting reasonably, as a result of:
  - (i) failure of the Service Provider to consistently provide such portion of the Services in a manner consistent with and in compliance with this Agreement,
  - (ii) a determination by the Province, acting reasonably, that such portion of the Services is strategic to the overall business of the Province and is to be performed by the Province itself; or
  - (iii) an external requirement including amended federal or provincial legislation, standards or policies that necessitate such removal; or
- (b) to add to the Services, services:
  - (i) that are within the scope of the relationship of the Parties that are currently performed or may during the Term be performed by the Province for the Province Customers or Stakeholders; or
  - (ii) that are required to be added due to external requirements including amended federal or provincial legislation, standards or policies that necessitate such additions.

Adjustment to the scope of Services as set forth above may impact Fees, Service Levels, other Services or time frames in the manner set forth in Sections 7.3 and 7.10.

#### **7.5 Material Changes to Service Levels**

The Province shall be entitled to issue a Change Request, as a Permitted Material Change, to change the Service Levels, as follows:

- (a) to amend the Service Levels to set such Service Levels at a higher standard, as determined by the Province acting reasonably, as a result of:
  - (i) an external requirement including amended federal or provincial legislation, standards or policies that necessitate such higher standard; or
  - (ii) any change to such Service Levels to reflect current common practices or industry standards in the health benefit operations industry; or
- (b) to amend the Service Levels to set such Service Levels at a lower standard, as determined by the Province acting reasonably:

- (i) inability of the Service Provider to consistently provide such portion of the Services in a manner consistent with and in compliance with this Agreement;
- (ii) in order to reduce costs where such Service Levels exceed the levels required by the Province;
- (iii) as a result of external requirements including amended federal or provincial legislation, standards or policies that necessitate such lower standard; or
- (iv) in order to reflect current common practices or industry standards in the health benefits operations industry.

Adjustment to Services Levels as set forth above may impact Fees, Service Levels, other Services or time frames in the manner set forth in Sections 7.3 and 7.10.

## 7.6 Change Requests

For the purposes of this Agreement, a **"Change Request"** is:

- (a) a request to change or increase or reduce the scope of any of the Services;
- (b) a request to alter or amend any of the Service Levels;
- (c) any other matter contemplated by this Agreement or that the Parties may agree to as properly being the subject matter of a Change Request,

where the change is a Material Change. For greater certainty, any Ordinary Course Change shall not require a Change Request. Change Requests may only be submitted by the Project Director of the Service Provider and the Executive Contract Manager of the Province, or a Person acting in the place of the same or authorized by the same, where such Person is not reasonably available.

## 7.7 Change Orders

A Change Request shall become a **"Change Order"** when the requirements of the procedure to consider such Change Request set out in this Article 7 (the **"Change Request Procedure"**) have been satisfied and the Change Request is Approved by each of the Parties where such Approval is required pursuant to this Article 7.

## 7.8 Initiating Change Requests

The Province or the Service Provider may initiate a Change Request by notice in writing to the other Party, and such notice shall include all relevant information reasonably required for the proper consideration of such Change Request, including the details of the basis of the proposed Change (including the estimated cost of implementing such Change) and the impact which the proposed Change is anticipated to have upon: (i) the rights and obligations of the Parties under this Agreement, (ii) the Services, (iii) any systems or operations of the Province or of the applicable the Province Customers or Stakeholders, (iv) the Fees payable under this Agreement (which shall be determined in accordance with Section 7.10), and (v) the other terms of this Agreement.

A Change Request shall indicate a reasonable time for the response to such Change Request which shall not be less than five (5) Business Days, unless the Parties mutually agree to a different period of time. Notwithstanding the foregoing, the Change Request in respect of a Permitted Material Change shall not require a response from the Service Provider other than as set forth in Section 7.3.

#### **7.9 Response to Change Requests**

Except for a Change Request in respect of a Permitted Material Change, the Party receiving a Change Request may either accept, reject, or make a counter-proposal in response to such proposed Change Request in writing setting out:

- (a) a specific response to the proposed Change Request;
- (b) the analysis of such Party of the anticipated effect on the business operations of the Province and of the applicable Province Customers and Stakeholders and on the provision of the Services and the applicable Service Levels, and the estimated cost of and arising from the implementation of such Change Request; and
- (c) in the case of rejection or a counter-proposal, the specific details of the same.

For greater certainty, the Service Provider shall make reasonable commercial efforts to accept a Change Request unless it is unable to make the Changes contemplated, in which event the Service Provider shall provide an explanation of the same to the Province in accordance with Subsection (c) above. If a mutually acceptable resolution is not reached in respect of a Change Request, either Party may treat any material disagreement as a Dispute to be resolved solely pursuant to the dispute resolution procedure set out in Article 23.

#### **7.10 Change Request Impact on Fees**

Where a Change Request impacts Fees then the Parties agree that such impact on Fees shall be determined in a manner consistent with the determination of amounts as set forth in the Economic Model.

#### **7.11 Implementation of Change**

The Parties shall use commercially reasonable efforts to minimize disruption to the delivery of the Services and to the business operations of the Province, the Province Customers and Stakeholders and of the Service Provider as the result of the implementation of a Change Order arising from a Change Request. In particular, the Service Provider shall ensure the implementation of a Change Request shall not interfere with or disrupt the provision of Uninterruptible Services. The cost of implementing a Change Order shall be borne as set out in the Change Order or as otherwise provided in this Agreement. All reviews as contemplated in Schedule X will be conducted in respect of any Change Order as more specifically contemplated in such Schedule.

#### **7.12 Consequential Amendment of this Agreement**

If the Parties proceed with a Change Order (whether as the result of a Permitted Material Change, or through agreement or Dispute resolution), the Change Order shall constitute an amendment to this

Agreement including the relevant Schedules to this Agreement, and the Parties shall enter into a written agreement or acknowledgment signed by both Parties evidencing such Change Order and corresponding amendments. Subject to such written evidence of such amendment, from and after the effective date of the implementation of such Change Order, this Agreement shall be interpreted accordingly and this Agreement, as so amended, shall continue in full force and effect for the remainder of the Term.

### **7.13 Record of Changes**

The Parties shall jointly maintain an accurate and complete record of all changes to the Services contemplated in this Article 7 including all Ordinary Course Changes, all Permitted Material Changes and all Change Orders and related Change Requests in respect of other Material Changes. Such record may be maintained in such form as the Parties may agree including by way of a server based record accessible by both Parties. Each Party shall cooperate to make such corrections to such records as the other Party may reasonably request to ensure such record of all changes is accurate and complete, in all material respects, at all times throughout the Term.

## **ARTICLE 8 SERVICE LEVELS AND PERFORMANCE METRICS**

### **8.1 Overview of Service Levels**

Subject to the specific and more detailed provisions of this Article 8 and subject to any higher standard or level of performance otherwise required in this Agreement which may be applicable in the circumstance, the Service Provider shall use all commercially reasonable efforts to perform the Services throughout the Term to a standard and level of performance which is equal to or greater than the standard and level of performance for such Services or similar services immediately before the Hand-Over Date and which will maintain or increase satisfaction of the Province Customers and Stakeholders.

### **8.2 Service Levels Generally**

The Parties acknowledge and agree that:

- (a) the Service Levels are comprised of the Service Level Requirements as set out in Schedule F attached hereto and the Service Level Objectives as set out in Schedule F;
- (b) during the Term, the Service Provider shall meet or exceed the relevant Service Levels for the Services identified in this Agreement, unless otherwise mutually agreed in writing by the Parties and, where applicable, agreed to in writing by the affected Province Customer or Stakeholder;
- (c) the Service Levels set out in this Agreement, as may be amended from time to time in accordance with this Agreement, are intended to be baseline performance standards and levels for the delivery and performance of the Services;
- (d) during the Term, the Service Provider shall use commercially reasonable efforts to identify ways to improve or increase the Achieved Service Levels including, without

limitation, continually monitoring and evaluating changes and trends in the health benefits field of operations and monitoring and evaluating new and available technologies and service delivery processes and strategies that are applicable to the Services;

- (e) during the Term, the Service Provider shall use all commercially reasonable efforts to continually improve the quality of the Services and the Achieved Service Levels in a manner consistent with the terms and intent of this Agreement, acting reasonably and taking into account the cost as compared to the benefit of such improvements from the perspective of the Province; and
- (f) any improvements in Achieved Service Levels or performance standards and levels achieved by the Service Provider, whether or not as part of any progressive improvement requirements contemplated in this Agreement, will not result in an increase in the Fees payable under this Agreement unless otherwise agreed to by the Province.

### **8.3 Phased SLRs**

With respect to Phased SLRs, the Service Provider shall perform such Service until the Phase-In Date at or above the performance standard and level which were actually achieved by the Province in the performance of such Service to the applicable Province Customers or Stakeholders as reflected in Schedule F. After the Phase-In Date the Service Provider shall meet or exceed the Service Level Requirements with respect to such Services as set forth in Schedule F. The Service Provider agrees that such performance standard and level prior to the Phase-In Date shall be determined by the Province to the extent reasonably reliable data is available with respect thereto including, without limitation, Province Customer and Stakeholder feedback received by the Province, complaint logs, or similar information

### **8.4 Transformed Service Levels**

With respect to any Service Levels for Transformed Services, such Service Levels shall only apply after the Acceptance Date for the Stage applicable to such Transformed Services.

### **8.5 Absence of Documented Service Levels**

In the event that there is no documented Service Level in respect of a particular Service, the Service Provider shall perform such Service at or above the performance standard and level which were actually achieved by the Province in the performance of such Service for applicable Province Customers or Stakeholders in the ordinary course of business immediately prior to the Hand-Over Date, and such performance standard and level shall be deemed to be the Service Level Objective applicable in respect of such Service under this Agreement until a different Service Level is established in respect of such Service pursuant to this Agreement. The Service Provider agrees that such performance standard and level shall be determined by the Province to the extent reasonably reliable data is available with respect thereto including, without limitation, Province Customer and Stakeholder feedback received by the Province, technical standards, complaint logs, or similar information.

## **8.6 Restrictions on Changes to Service Levels**

The Service Provider acknowledges that the establishment of Service Levels is a matter of fundamental importance between the Province, the Province Customers and Stakeholders. The Service Provider shall not agree or purport to agree with any Province Customer or Stakeholder, whether in its own right or purportedly as agent for and on behalf of the Province, to amend, change or modify in any manner any of Service Levels (which, for greater certainty, shall include the Service Levels for Key Providers contained in any Supplier Contract) without the Approval of the Province. The Service Provider acknowledges and agrees that the Province may change such Service Levels without the Approval of the Service Provider pursuant to Section 7.5.

## **8.7 Review and Changes to Service Levels**

The Parties acknowledge and agree that Service Levels are intended to be comprehensive, but not all inclusive. The Parties further acknowledge and agree that it is the intention of the Parties that during the Term of this Agreement, the Parties may agree to different or additional performance standards and levels in respect of any of the Services and shall amend the Service Levels in writing accordingly in the manner set forth in Schedule F or otherwise pursuant to a meeting of the Joint Executive Committee, or pursuant to a Change made or a Change Request issued pursuant to Article 7 hereof. For greater certainty nothing herein shall restrict or in any other way limit the rights of the Province pursuant to Article 7 to otherwise amend or change Service Levels.

## **8.8 Monitoring Service Levels**

From and after the Hand-Over Date, the Service Provider shall establish and maintain in place, at all times, appropriate policies and procedures to monitor and evaluate the achievement of the Service Levels by the Service Provider in providing the Services, including, without limitation, the maintenance of a service level register in order to permit the Service Provider to:

- (a) assist the Province in evaluating and determining Achieved Service Levels;
- (b) satisfy the reporting obligations of the Service Provider to the Province hereunder or assist the Province to satisfy the reporting obligations of the Province to the Province Customers or Stakeholders under the agreements or commitments of the Province with the Province Customers or Stakeholders;
- (c) respond to or to assist the Province to respond to inquiries from the Province Customers or Stakeholders in respect of performance of the Services; and
- (d) confirm and verify actual Achieved Service Levels in respect of any Service from time to time upon reasonable notice.

## **8.9 Recording Failures or Complaints with respect to Service Levels**

From and after the Hand-Over Date, the Service Provider shall establish and maintain in place, at all times, appropriate policies and procedures to identify and report to the Province in a timely manner each failure to meet a Service Level in respect of the provision of a Service, with reasonable detail as to such failure in order to allow the Province to evaluate the consequence of such failure, to

communicate with or respond to the applicable Province Customer or Stakeholder that received the Service that failed to meet such Service Level and to cooperate with the Service Provider to rectify and remedy the consequence of such failure and to prevent future failure to meet such Service Level in the performance of such Service by the Service Provider. Without limiting the generality of the foregoing, such reports shall include a description of the measures taken by the Service Provider to rectify and remedy and the timeline in which such measures were taken by the Service Provider to rectify and remedy each such failure under, or interruptions of or non-compliance with the Service Levels and the requirements of this Agreement. Such reports shall be provided to the Province on a monthly basis, organized by Service type as the Province may request, in accordance with applicable reporting requirements set out in Schedule H unless sooner requested by the Province in respect of any specific failure from time to time. The Service Provider shall also provide immediate Notice of each material failure to meet a Service Level as described in Section 8.10.

#### **8.10 Problem Alert and Escalation Procedures**

From and after the Hand-Over Date, the Service Provider shall develop, implement, maintain and comply with problem alert and escalation procedures, which the Parties may mutually agree, acting reasonably, to modify from time to time thereafter. In the event that Service Provider becomes aware of an event, occurrence, error, deficiency, defect, interruption or malfunction in the Services, or any other system or service provided by any other Person which is related to, is impacted by, or which impacts the Services, which the Service Provider reasonably believes could have a material adverse effect on the delivery of the Services (a "**Problem**"), the Service Provider shall immediately notify the Province of such Problem.

#### **8.11 Problem Management and Root Cause Analysis**

From and after the Hand-Over Date, the Service Provider shall develop, implement, maintain and comply with the problem management procedures, which the Parties may mutually agree, acting reasonably, to modify from time to time thereafter. Service Provider shall treat any Problem as a priority and work diligently to avert or minimize any adverse effect such Problem may have, including developing a work around solution. In the event of a Problem, the Service Provider will perform a root-cause analysis as soon as practicable, but no later than the time frame set out in the problem management procedures, to identify the cause of such failure, to develop and implement a proposal for correcting such failure, and to identify improved processes to identify, detect and avoid similar failures in the future. Such root-cause analysis and proposal shall be provided by the Service Provider as part of the Services at no additional cost to the Province. The Service Provider shall be required to investigate Problems caused by the aforesaid third party systems or services, make reasonable commercial efforts to require the third party to correct the Problem. If such third party is unable or refuses to correct the Problem, if the Service Provider has the capability and resources to fix the Problem, the Service Provider shall use commercially reasonable efforts to correct the Problem. For greater certainty, Problems of Subcontractors and Suppliers shall be deemed to be Problems of the Service Provider. The Service Provider will review each root cause analysis with the Province, including monthly reviews to monitor Service Provider's corrective and remedial (including detective and preventive) actions.



## **8.12 Reporting Achieved Service Levels**

Without limiting the application of Section 8.9 hereof, the Service Provider shall prepare and maintain records and reports, and provide the Province as of the Hand-Over Date with direct data access to such records and reports, summarizing the Achieved Services Levels, such records and reports to be in the form set out in Schedule H or such other format as the Province may reasonably require from time to time. Such reports shall be integrated with and form part of the reports provided pursuant to this Article 8.

## **8.13 Failure to Achieve Service Level Standards**

Without limiting the generality of Sections 8.9, 8.10 and 8.11, in the event of the failure of the Service Provider to meet a Service Level in respect of the performance of a Service, the Service Provider shall keep the Province, and the applicable Province Customer or Stakeholder if so requested by the Province, apprised of the status and efficacy of the efforts and steps taken by the Service Provider to correct, rectify and remedy such failure and the resulting consequences. Without limiting the generality of the foregoing, if the Service Provider fails to meet a Service Level in respect of the performance of a Service on a reoccurring basis, or otherwise fails to perform a Service in accordance with this Agreement, and such failure is caused or results from the actions or failure to act of any Personnel, External Personnel or Subcontractor, the Province may, by written notice to the Service Provider, request the Service Provider to remove such Personnel, External Personnel or Subcontractor from the provision of Services to the Province pursuant to this Agreement in which event the Service Provider shall so remove and replace such Personnel, External Personnel or Subcontractor. For greater certainty, any cost resulting from such removal and replacement shall be the responsibility of the Service Provider.

For greater certainty, where such failure is a material failure as described in subsection 21.1(k) or results in a Consistent Failure, such failure shall give rise to a Material Breach of this Agreement and the Province shall be entitled to exercise all rights and remedies provided to it in this Agreement in respect of such Material Breach (including those set forth in Article 21) which may further include any of:

- (a) the removal of the Service in respect of which there was a failure to meet the applicable Service Level from the Services to be provided by the Service Provider pursuant to this Agreement and an appropriate consequential reduction in the applicable portion of the Fees pursuant to Section 7.4;
- (b) the taking by the Province of all action necessary or desirable to correct, rectify and remedy such failure and the resulting consequences at the cost of the Service Provider, including without limitation procuring or otherwise obtaining Services or goods from any alternative service providers or suppliers, and the set-off of the cost of all such action and of the amount of all damages or loss suffered by the Province or the applicable Province Customers or Stakeholders as a result of such failure against the Fees otherwise payable by the Province to the Service Provider; or
- (c) a claim by the Province against the Guarantors under the Guarantees.

A failure to meet a Service Level which does not give rise to a Material Breach shall not give rise to a right of the Province to terminate this Agreement but shall give rise to rights and remedies of the Province in respect of defaults generally in accordance with this Agreement including, without limitation, Service Level Credits as set forth in Section 8.14.

#### **8.14 Service Level Credits**

The Service Provider's failure to meet Service Levels Requirements for Services will result in service level credits being issued to the Province in accordance with this Section 8.14 ("Service Level Credits"). Unless otherwise specified in a schedule hereto, the Parties agree that the monthly maximum Service Level Credits to which the Province shall be entitled shall not exceed the At Risk Amount. The Province shall be entitled to distribute up to three times the At Risk Amount against the various Service Levels Requirements for purposes of calculating the Service Level Credits owing to the Province. The Service Level Credits will be aggregated for all missed Service Levels Requirements in the applicable month and credited to the Province, provided such Service Level Credits shall not exceed the At Risk Amount in such month and there not being multiple Service Level Credits for a single failure (as more specifically contemplated in Schedule F). The Province will have the right, on 90 days notice, but no more than twice each Contract Year to adjust the amounts allocated to the Service Level Credits for the Service Level Requirements as long as the aggregate monthly Service Level Credits to which the Province is eligible hereunder is not increased.

The Service Provider agrees that the Service Level Credits are only partial compensation for the damage that may be suffered by the Province as a result of the Service Provider's failure to meet any Service Level Requirement and that payment of any Service Level Credit is without prejudice to any entitlement the Province may have to damages or other remedies under this Agreement, at law or in equity. Service Level Credits shall not be deducted from damages to which the Province is entitled under this Agreement, nor shall Service Level Credits be included in calculating the Direct Damages Cap. However, Service Level Credits credited to the Province in respect of a claim may be deducted from a claim made by the Province for repayment of Fees paid in respect of such claim. For greater certainty, the Service Provider agrees that it is obligated to meet Service Levels even if no Service Level Credits are available to the Province.

#### **8.15 Objectives for Service Levels and Province Customer and Stakeholder Satisfaction**

The Service Provider acknowledges and agrees that the primary objectives for the Service Levels established for the Services are to:

- (a) maintain and increase customer satisfaction of Province Customers and Stakeholders and to attract new opportunities to the Services;
- (b) ensure the Services are provided in a cost-effective and cost-competitive manner; and
- (c) otherwise to meet the objectives of the Parties as set forth in Section 1.11.

The Service Provider agrees to make commercially reasonable efforts to cooperate with the Province and to take all actions reasonably requested by the Province to maintain and increase such customer satisfaction. Without limiting the generality of the foregoing, either Party may initiate surveys of Province Customers and/or Stakeholders, as to their level of customer satisfaction with the

performance of the Services, the third party costs of which shall be borne by the Party so initiating such survey. Each Party agrees, at their own expense, to provide reasonable assistance to the other Party with respect to any surveys so conducted. The Service Provider agrees that it shall not initiate any such survey unless it has received the prior Approval of the Province, which Approval shall include Approval as to the format, content and process for such survey to be conducted by the Service Provider. The Service Provider further agrees to assist the Province by tracking performance levels and customer complaints and the response to and handling of such complaints and to further participate in all campaigns and programs of the Province to increase customer satisfaction as the Province may reasonably request.

Without limiting the generality of the foregoing, the Parties agree that on or before the first anniversary of the Hand-Over Date, the Province and the Service Provider shall jointly conduct a satisfaction survey of then current Province Customers and Stakeholders designed to obtain information on and to assess the perception of Province Customers and Stakeholders in respect of the performance of the Services. Direct third party costs in respect of conducting such satisfaction survey shall be borne by the Province.

The results of any survey shall be reviewed by the Joint Executive Committee. If the results of the survey indicate a failure or perceived failure to meet applicable Service Levels or a decrease in the level of customer satisfaction of the Province Customers or Stakeholders in respect of the Services as compared to prior periods or prior surveys, the Service Provider shall, upon the direction of the Joint Executive Committee, within 6 months of receipt of the survey results, design, propose and implement, following consultation with the Province and issuance of applicable Change Requests and Change Orders, a remedial plan to prevent reoccurrence of the problem and to increase customer satisfaction of the Province Customers.

## **ARTICLE 9 RELATIONSHIP**

### **9.1 Service Provider Not an Agent**

Except as otherwise expressly set forth in this Agreement, nothing in this Agreement shall be construed to grant the Service Provider any right to act as an agent for or on behalf of the Province, including with respect to the Province Customers, Stakeholders or any other third parties. The Service Provider acknowledges and agrees that it has no authority to bind, and shall not bind or purport to bind, the Province with respect to the Province Customers, Stakeholders or other third parties as to the performance of the Services or any matter relating thereto without the express and prior Approval of the Province.

In certain limited circumstances the Service Provider will be required to provide the Services under the Brand, including by way of written or oral communications with Province Customers and Stakeholders. The Service Provider expressly acknowledges and agrees that it shall do so strictly within the scope of Services contemplated by this Agreement, in accordance with Section 18.9, pursuant to the Communications Plan and otherwise pursuant to Schedule K. To the extent that the Service Provider has any questions as to such scope or authority the Service Provider shall immediately contact the Province and seek clarification in writing and thereafter shall only proceed in accordance with such clarification from the Province.

The Service Provider will be a party to the Assigned Contracts from and after the Hand-Over Date as a result of the assignment of such Assigned Contracts by the Province to the Service Provider pursuant to the Asset Conveyance Agreement, which Assigned Contracts shall, following such assignment, constitute Supplier Contracts. Any contract or relationship between the Service Provider and Suppliers in the provision of the Services shall be subject to Section 10.13. In entering into or becoming the assignee of a Supplier Contract with a Supplier, the Service Provider shall be acting in its own right and not as agent for and on behalf of the Province, and the Service Provider expressly agrees not to act or to purport to act as agent for and on behalf of the Province, and not to bind or to purport to bind the Province, with respect to any Supplier unless authorized by express and prior Approval of the Province.

In addition, the Province may, at any time and from time to time, appoint the Service Provider to act as its agent in respect of a Province Supplier Contract in accordance with Section 10.13.

## **9.2 Cooperation**

Each Party will cooperate with the other Party in good faith in the performance and satisfaction of its respective activities, liabilities and obligations contemplated by this Agreement by, among other things, making available, as may be reasonably requested by the other Party, such management decisions, information, Approvals and acceptances in order that the provision of Services under this Agreement may be accomplished in a proper, timely and efficient manner without unreasonable delay.

## **9.3 Power and Authority of Service Provider**

Subject to the terms of this Agreement, the Service Provider shall have the power and authority to take such actions as it deems to be prudent, necessary or advisable to carry out the provision of the Services in accordance with the terms and conditions set forth in this Agreement including, without limitation, the Services Levels. Notwithstanding the foregoing, the Service Provider shall not take any action required by this Agreement, if such action is subject to the Approval of the Province, without having received the prior written approval of the Province's Executive Contract Manager or another representative of the Province who has authority to approve such matter as specified in writing by a representative of the Province on the Joint Executive Committee. Failure to comply with this Section shall not invalidate such Approval where the Province purported to act with authority in providing the same.

## **9.4 USA PATRIOT Act**

The Service Providers expressly acknowledge and agree that they are subject solely to the laws of British Columbia and Canada and not subject to the *USA PATRIOT Act* including, without limitation, not being subject to any orders, directives, rulings, requirement, judgment, injunction, award or decree, decision or other requirement ("Order") issued pursuant to the *USA PATRIOT Act* or any directions or requests from any member of the MAXIMUS Group (including MAXIMUS US) in respect of the same.

The Service Providers further expressly acknowledge and agree that their Articles restrict their corporate ability to comply, directly or indirectly, with any Orders.

The Service Providers agree that they shall immediately inform the Province if they receive any such Order, direction or request as set out in the paragraph above and further that they shall at all times act in accordance with the terms and conditions of this Agreement.

Any breach of this Section shall be a Material Breach under this Agreement. The Parties expressly acknowledge and agree that this Section imposes obligations on the Service Provider only and that it does not compel MAXIMUS US to act contrary to any laws, including the *USA PATRIOT Act*, that it is subject to from time to time. The foregoing limitation applies to the terms of this Section but does not otherwise limit the rights of the Province under this Agreement with respect to the MAXIMUS Group. This Section represents a lawful restriction on the Service Providers, being Persons governed by the laws of British Columbia.

#### **9.5 Province's Right to Issue Directives**

Subject to complying with Article 7, the Province may, from time to time, at the Service Provider's request or at the Province's own initiative, issue written directives and instructions and establish written policies and procedures governing the duties and obligations of the Service Provider and the performance by the Service Provider of its duties and obligations under this Agreement and shall provide timely notice to the Service Provider of any such written directives, instructions, policies and procedures. The Service Provider shall at all times act in accordance with such written directives, instructions, policies and procedures which it has received from the Province, provided that such written directives, instructions, policies and procedures shall not oblige the Service Provider to perform any duty or obligation not provided for in this Agreement and shall not have the effect of causing the Service Provider to be in breach of Applicable Laws or of any of its duties and obligations under this Agreement. For greater certainty, any such directives and instructions shall be subject to Article 7 and any Material Change shall be addressed in the manner contemplated by Article 7.

#### **9.6 Province Approval**

The Service Provider shall not undertake any matter outside of the scope of the Services and shall not undertake any of the following matters in respect of any Service without the Approval of the Province:

- (a) any financing or borrowing from a Person other than from the MAXIMUS Group and other than trade credit or causing or permitting the creation or maintenance of any security interest, guarantee, or other encumbrance on any assets used in the provision of Services or any other assets of the Service Provider other than in respect of leased equipment;
- (b) those matters specifically identified in this Agreement as requiring the Approval or other authorization of the Province;
- (c) making or agreeing to make any capital expenditure on behalf of the Province;
- (d) entering into any agreement with or paying any amount to a Person who does not deal at Arm's Length with the MAXIMUS Group or any of their Affiliates;

- (e) retaining legal counsel on behalf of the Province with respect to any matter involving any Service, or initiating or responding to any legal, regulatory or other proceeding on behalf of the Province or settling any claim prosecuted by or against the Province arising from a legal or regulatory proceeding regarding any Service; or
- (f) charging or receiving fees or other amounts from the Province other than the Fees and the amounts to be paid by the Province to the Service Provider pursuant to this Agreement or as otherwise Approved by the Province from time to time.

## **9.7 Approval and Response Time**

If the Approval of the Province is required pursuant to this Agreement, the Service Provider shall, except as otherwise provided in this Agreement, deliver written notice to the Province in a manner described in Section 26.2, setting out particulars of the matter and requesting the Approval of the Province, including advising of the time period in which a response is reasonably requested and if applicable, the implications of not responding within that time period. The Province shall use reasonable commercial efforts to respond to any request by the Service Provider for the Approval of the Province or for the directions or instructions of the Province within five (5) Business Days, or such other period as is expressly provided for in this Agreement or set out in a protocol agreed to in writing by the Joint Executive Committee or is reasonably requested by the Service Provider in its notice requesting such Approval, but except as otherwise provided in this Agreement, the failure of the Province to respond during such period shall not result in liability of the Province or be deemed to constitute the Approval of the Province. Where the Province delays in providing such response to the Service Provider and such request for Approval expressly sets forth the consequences of not responding within the required time period then the Service Provider shall not be responsible for such consequences where the same are directly attributable to the delay of the Province in providing such response.

## **9.8 No Guarantee of Volumes**

The Service Provider acknowledges and agrees that the Province makes no representation or warranty as to the nature, timing, quality, quantity or volume of Services required from the Service Provider under this Agreement or the compensation that may be earned by the Service Provider. The Service Provider acknowledges and agrees that it has conducted its own due diligence prior to entry into this Agreement as to the services performed by the Province to the Province Customers and Stakeholders historically, and that the Province has advised the Service Provider and the Service Provider is aware that historic information with respect to the Services may not be representative of the future nature, timing, quality, quantity or volume of Services that will be required by the Province Customers and Stakeholders.

## **9.9 Non-Solicitation**

During the Term and for a period of two years thereafter, the Service Provider shall not, and shall not cause or permit any member of the MAXIMUS Group to directly or indirectly solicit for employment:

- (a) any employee of the Province whose employment with the Province is related to the provision of the Services or this Agreement,
- (b) any former employee of the Province whose employment was transferred to the Service Provider pursuant to the Employee Transfer Agreement and whose employment was in turn transferred to the Alternative Service Provider in connection with the termination of this Agreement, or
- (c) any former employee of the Service Provider whose employment was transferred to the Alternative Service Provider in connection with the termination of this Agreement,

in any manner whatsoever with respect to employment anywhere in North America (and for such purpose, employment shall be deemed to include hiring of such a Person as an independent contractor where such independent contractor is hired to perform services or to work on a basis substantially equivalent to that of a full time employee), unless the Service Provider has obtained the express prior written Approval of the Province to do so or unless such Person has expressly rejected an offer from the Province or another Person in connection with the termination of this Agreement and such rejection is not as a result of prior direct or indirect solicitation by the Service Provider or any member of the MAXIMUS Group. For greater certainty, the Service Provider may hire such a Person provided that the Service Provider has not directly or indirectly solicited for employment such a Person.

#### **9.10 Conflict of Interest**

At no time during the Term shall any member of the MAXIMUS Group or any employee thereof directly or indirectly engage in any activity, business or undertaking that could create a conflict of interest or perceived conflict of interest with or on behalf of the Province in respect of any Services. Where the MAXIMUS Group at any time becomes aware of any act, omission or event that could be construed as creating a conflict of interest or a perceived conflict of interest for the MAXIMUS Group or any employee thereof, the Province or otherwise in respect of the Services, or where the MAXIMUS Group is uncertain as to whether or not a conflict of interest or a perceived conflict of interest could exist in a particular situation, then the MAXIMUS Group will immediately advise the Province of the same and abide by any direction given by the Province in respect of the same except where such member of the MAXIMUS Group disagrees with such direction from the Province in which case such matter shall be deemed to be a Dispute which shall be addressed in accordance with Article 23 except where such Dispute reaches arbitration the matter shall therein instead be determined by the Province in accordance with any Policies or processes demonstrably utilized or held by the Province. For greater certainty, the Parties acknowledge that the different economic interests of the Parties in itself shall not be deemed to be a conflict of interest. The Province retains the right to prohibit any Person (including any subcontractor or supplier to the MAXIMUS Group) from taking any action, delivering any Services or otherwise participating in any manner with respect to the Services or this Agreement where the Province determines, in its sole opinion, that such Person's current or past corporate or other interests may give rise to a conflict of interest in connection therewith. Any determination or direction by the Province in respect of this Section 9.10 will be based upon such information as the Province, in its sole discretion, determines to be relevant. Without limiting the generality of the foregoing, the Service Provider expressly agrees with the

Province that the Service Provider will require its Personnel to conduct themselves in a manner consistent with the "conflicts of interests" guidelines as set forth in the *Standards of Conduct for Public Services Employees* (British Columbia), a copy of which has been provided by the Province to the Service Provider, as such standard is revised by the Province from time to time upon notice to the Service Provider (subject to labour relation impacts with respect to such revisions).

The MAXIMUS Group represents, warrants and covenants that none of its members or employees has given nor will any of its members or employees give commissions, payments, kickbacks, lavish or excessive entertainment, or other inducements of more than minimal value in any form to any employee or agent of the Province in connection with this Agreement. The MAXIMUS Group acknowledges that the giving of any such payments, gifts, entertainment, or other thing or benefit is strictly in violation of the Province's policy on conflicts of interest, and may result in the cancellation of this and all future contracts between the Parties. The MAXIMUS Group acknowledges that it has read the Province's policy on conflicts of interests and it agrees that it shall abide by such policy during the Term, as such policy is revised from time to time upon reasonable notice to the Service Provider.

The Service Provider further covenants and agrees with the Province that the Service Provider shall at all times comply with the MAXIMUS Group ethics policy, a copy of which is attached hereto as Schedule S, as such policy is revised by the MAXIMUS Group from time to time upon written Notice to the Province.

## **ARTICLE 10**

### **SERVICE PROVIDER DUTIES AND OBLIGATIONS**

#### **10.1 General Duties and Obligations of the Service Provider**

At all times during the Term and without limiting the other provisions set forth herein, the Service Provider agrees to, and to cause its directors, officers, employees, agents, the MAXIMUS Group, Affiliates, Subcontractors and Suppliers to, exercise its rights, powers and authority and to perform its obligations, duties, covenants and responsibilities under this Agreement (including, without limitation, the performance of the Services) in the following manner:

- (a) in compliance with all of the terms and conditions of this Agreement including, without limitation, the Service Levels and all other external documents referenced herein;
- (b) consistent with the Parties' objectives set out in Section 1.11 hereof;
- (c) in a competent, efficient, diligent, prudent, honest and faithful manner and in the best interests of the Province, the Province Customers and Stakeholders;
- (d) in accordance with the written directives and instructions made by the Province from time to time pursuant to this Agreement;
- (e) in compliance with the standards of a first class professional health benefits service provider in Canada (unless otherwise specifically directed by or agreed to in writing with the Province); and



- (f) in a manner that results in a safe and non-discriminatory work environment.

The Service Provider further acknowledges that the Province utilizes certain processes and standards that are especially efficient or are specifically requested by applicable Province Customers and Stakeholders including, without limitation, those processes and standards as have been communicated in writing to the Service Provider or which are otherwise set forth in Schedule E, and agrees to consider the reasons for and the benefit of such processes and standards prior to altering or replacing such processes and standards with the processes and standards of the Service Provider to the extent that the Service Provider otherwise has such right to alter or replace such processes and standards in accordance with the terms of this Agreement.

## **10.2 Compliance with Applicable Laws**

Subject to the more specific provisions set forth in Section 9.4, the Service Provider agrees that it will, and it will cause all members of the MAXIMUS Group and its and their respective Affiliates, its partners, directors, officers, principals, owners, Personnel, External Personnel, agents, representatives, Subcontractors and Suppliers (collectively, the "Service Provider Group"), as applicable, to exercise its rights, powers and authority and to perform its obligations, duties, covenants and responsibilities under this Agreement (including, without limitation, the performance of the Services) in accordance with all Applicable Laws of the Province of British Columbia and Canada including any applicable orders issued thereunder.

## **10.3 Compliance with Specific Applicable Laws**

Without limiting the foregoing Section 10.2, at all times during the Term, the Service Provider will comply with and will cause the Service Provider Group to comply with the specific Applicable Laws set forth in Schedule V in exercising any right, power or authority or in performing any obligation, duty, covenant or responsibility under this Agreement (including the performance of the Services) and the Service Provider will assist the Province and will cause the Service Provider Group to assist the Province in its compliance obligations as set out in Schedule V. The Service Provider further acknowledges that it is familiar with the requirements of the Applicable Laws set forth in Schedule V as they have application to the Service Provider Group or the Services.

## **10.4 Compliance with Policies**

At all times during the Term, the Service Provider will, and will cause all members of the Service Provider Group to, exercise its rights, powers and authority and to perform its obligations, duties, covenants and responsibilities under this Agreement (including, without limitation, the performance of the Services) in a manner that complies with all applicable Policies which have been provided to the Service Provider from time to time. For greater certainty, any new policies delivered by the Province to the Service Provider after the Hand-Over Date shall be subject to Article 7 and any Material Change in respect thereof shall be addressed in the manner contemplated by Article 7.

## **10.5 Obtaining and Maintaining Licenses and Permits**

At all times during the Term, the Service Provider will, at its cost, obtain and maintain in full force and effect all licenses and permits issued by any Governmental Authority which are required or desirable for the proper performance of the Services or otherwise required or desirable for the

performance and completion of the transactions contemplated in this Agreement and the other Transaction Documents.

#### **10.6 Service Provider Personnel – General**

At all times during the Term, the Service Provider shall utilize sufficient personnel of the Service Provider (collectively, “**Personnel**”) and/or sufficient personnel of Suppliers, Subcontractors or other members of the MAXIMUS Group (collectively, “**External Personnel**”) to perform the Services. The Service Provider shall be responsible for the management and supervision of, and for the acts, omissions and performance of, such Persons.

The Service Provider shall ensure that the Personnel and External Personnel performing the Services shall: (i) possess a degree of skill and experience appropriate to the tasks to which they are allotted and the performance and Service Levels which they are required to achieve, (ii) have received appropriate training, (iii) perform the Services to the standards set out in this Agreement including as set forth in Article 8; and (iv) expressly comply with the privacy, security and confidentiality provisions as set forth in Schedule X.

Without limiting the generality of the foregoing:

- (a) where directed by the Province or where otherwise appropriate and prudent to do so due to the nature of the Service or of the Province Data being accessed, the Service Provider shall conduct appropriate background checks with respect to the applicable Personnel and shall contractually require Suppliers, Subcontractors and other members of the MAXIMUS Group to do the same with respect to the applicable External Personnel;
- (b) the Service Provider shall ensure that there is a sufficient number of Personnel and External Personnel available at all times during the Term to provide the Services in accordance with Service Levels and the other terms and conditions of this Agreement;
- (c) the Service Provider shall ensure that the Personnel and, in particular, the Key Roles, are appropriately staffed and available during such times as necessary to ensure the continuous and uninterrupted provision of the Services at all times during the Term;
- (d) subject to the terms of the Employee Transfer Agreement, the Service Provider shall be solely liable and responsible for (to the exclusion of the Province, the Province Customers and Stakeholders) all costs, expenses, liabilities or claims, whenever incurred, relating to: (i) salaries and other compensation payable to its Personnel and expense reimbursement, (ii) labour relations proceedings or orders, grievances, arbitration proceedings or unsatisfied arbitration awards relating to the Personnel, (iii) strikes or other actions due to labour disputes and (iv) complaints, claims, decisions, applications, orders or prosecutions under any employment or labour standards, occupational health and safety, workers’ compensation, pay equity, employment equity and human rights legislation relating to the Service Provider, Personnel and External Personnel, regardless of the time that the matter or event giving rise to any

such costs, expenses, liability or claims arises or occurs, and for greater certainty, none of such costs, expenses, liabilities or claims referred to in this Section 10.6(d) shall be subject to reimbursement by the Province to the Service Provider;

- (e) the Service Provider shall deal with all Suppliers, Subcontractors and other members of the MAXIMUS Group in such a manner that the Province, the Province Customers and Stakeholders shall have no liability resulting from the failure of Suppliers, Subcontractors and other members of the MAXIMUS Group to meet the same responsibilities and payment obligations as described above in Section 10.6(d) with respect to the External Personnel, and for greater certainty, none of such costs, expenses, liabilities or claims contemplated in this Section 10.6(e) shall be subject to reimbursement by the Province to the Service Provider or to the Suppliers, Subcontractors and other members of the MAXIMUS Group;
- (f) subject to the Province making a request to the Service Provider to remove Personnel, External Personnel or Subcontractors pursuant Section 8.13, the Service Provider shall comply at all times with all applicable collective agreements and all applicable employment standards, occupational health and safety, workers' compensation, human rights legislation, and other Applicable Laws relating to its Personnel, shall obligate each Supplier and Subcontractor to comply with the same as applicable to the External Personnel of such entities, and shall deal with all Suppliers and Subcontractors in such a manner that the Province and the Province Customers and Stakeholders shall have no liability resulting from any failure of the Suppliers or Subcontractors to so comply with such responsibilities and obligations with respect to the External Personnel;
- (g) subject to and without affecting the rights of the Service Provider to make claim against the Employee Transition Assistance Fund pursuant to and in accordance with the terms of the Employee Transfer Agreement, the Service Provider shall be solely liable and responsible for, to the exclusion of the Province, the Province Customers and Stakeholders, all costs arising from or otherwise relating to the termination by the Service Provider of any Personnel and the termination by any Supplier or Subcontractor of any External Personnel and the Service Provider shall not be reimbursed by the Province for any such costs, expenses, claims or liabilities; and
- (h) the Service Provider shall comply with and shall cause the Suppliers and Subcontractors to comply with bonding requirements for Personnel and External Personnel, as the case may be, as reasonably requested by the Province from time to time (for greater certainty, any such requests shall be subject to Article 7 and any Material Change shall be addressed in the manner contemplated by Article 7).

#### **10.7 Organizational Structure of Service Provider**

From time to time during the Term as appropriate, the Service Provider shall provide to the Province a current organization chart of its management and Personnel positions (the "**Organizational Structure**"), updated as and when material changes are made. The Organizational Structure shall identify the positions of the Personnel who have responsibility for Subcontractors and Suppliers,

including the specific Material Subcontractors and Key Suppliers that such Personnel has responsibility for. The initial Organizational Structure is set forth in Schedule D. From time to time as the Service Provider may reasonably request, the Province will provide the Service Provider with a current organization chart of its management and its personnel for use by the Service Provider in determining the appropriateness of and in considering any changes to the current Organizational Structure.

#### **10.8 Notice of Material Events affecting Service Provider Personnel**

The Service Provider shall promptly advise the Province in writing of any material matter or event involving or impacting the Personnel, the Suppliers or the Subcontractors or any of the personnel of the same that may result in any material adverse consequences to the Province or the Province Customers or Stakeholders or that may result in a disruption to or otherwise adversely affect the Services.

With respect to Personnel (other than those in Key Roles) who provide management roles or who have direct relationships with Stakeholders the Service Provider will not transfer such Personnel from his or her designated role or location except where the Service Provider has provided notice in advance to the Province and has given the Province the opportunity to consult with the Service Provider in respect of the same.

#### **10.9 Key Roles**

The Service Provider acknowledges and agrees that the Province has entered into this Agreement in reliance that incumbents in Key Roles will be engaged at all times during the Term in the provision of the Services to the Province, the Province Customers and to Stakeholders. With respect to each Key Role:

- (a) the Service Provider will not transfer the incumbent from his or her designated position (in whole or in part) to another position with the MAXIMUS Group or with any Affiliate of the same for any reason except with the Approval of the Province, which Approval shall not be unreasonably withheld but which may be conditional upon the Province being provided with a succession plan for the Key Role which the Province Approves, and if required, is approved by applicable Stakeholders;
- (b) the Service Provider will not terminate any Personnel in a Key Role for any reason including for cause except where the Service Provider, to the extent reasonably possible, provides the Province with prior notice of the same;
- (c) in the event of an extended or unexpected absence of the incumbent in a Key Role, the Service Provider shall forthwith advise the Province of such absence and the Parties shall consult with each other as to appropriate steps to be taken in respect of such absence; and
- (d) any new Person assigned to a Key Role in accordance with this Section shall be of equal or better qualifications and experience as the Persons who have previously held such position, and such individual shall be suitably trained and transitioned to the Key Role.

## 10.10 Subcontractors

The Service Provider is the general contractor for the Services and remains responsible for all of its obligations under this Agreement, regardless of whether a subcontract or supply agreement is made or whether the Service Provider relies upon any Subcontractor to any extent. The Service Provider's use of Subcontractors for any of the Services will in no way increase the Service Provider's rights or diminish the Service Provider's liabilities to the Province with respect to this Agreement, and in all events, except as otherwise expressly provided for herein, the Service Provider's rights and liabilities hereunder with respect to the Province will be as though the Service Provider had itself performed such Services. The Service Provider will be liable for any defaults or delays caused by any Subcontractor in connection with the Services as if such defaults or delays were caused by the Service Provider. All references in this Agreement to "Service Provider" shall be deemed to include references to all Subcontractors of the Service Provider subject to those specific provisions of this Agreement where Subcontractors are distinguished from the Service Provider in which case such specific distinction shall supercede the inclusion of Subcontractors in the term "Service Provider" specifically in respect of such provision.

The terms of this Agreement shall in all events be binding upon the Service Provider regardless of and without regard to the existence of any inconsistent terms in any Subcontract other than Assigned Contracts whether or not and without regard to the fact that the Province may have directly and/or indirectly had notice of any such inconsistent term.

The Service Provider shall require all Subcontractors to obtain, maintain and keep in force during the time they are engaged in providing the Services hereunder adequate insurance coverage having regard for the size of the Subcontract. The Service Provider will, upon the Province's request, (a) furnish the Province with evidence of such insurance to the Province; and/or (b) ensure that the Province is named as first loss payee with respect to such insurance.

The warranties of the Service Provider set forth in this Agreement will be deemed to apply to all Services performed by any Subcontractor as though the Service Provider had itself performed such Services. The Province may, but shall not be obligated to, enforce such warranties of any Subcontractor to the extent that the Province determines that the Service Provider is not paying and/or performing its warranties; provided, that any such election by the Province will not relieve the Service Provider from any obligations or liability with respect to any such warranty.

All Subcontracts entered into by the Service Provider with Subcontractors shall include the following provisions:

- (a) requiring adherence to the applicable obligations of the Service Provider in the same manner as provided in this Agreement including without limitation the Service Levels, confidentiality obligations, intellectual property provisions, data exchange, reporting, audit and access rights (for greater certainty, such rights must directly provide for the Province to be able to exercise its rights under this Agreement in respect of the Subcontractor as if such Subcontractor was instead the Service Provider);

- (b) assignment of intellectual property rights to the Service Provider or licenses to the Service Provider in respect of any intellectual property created in such relationship and waiver of moral rights in respect of the same, to the extent required by the Service Provider to comply with its obligations under this Agreement;
- (c) obligations regarding compliance with Applicable Laws including source deductions and remittances (including for taxes, workers compensation and similar requirements);
- (d) termination rights consistent with the terms of this Agreement;
- (e) to the extent reasonably possible, assignment rights to the Alternative Service Provider upon the termination or expiry of this Agreement; and
- (f) any other provisions necessary for the Service Provider to fulfil its obligations under this Agreement.

The Service Provider will also ensure that it will:

- (g) monitor the performance of Subcontractors and promptly address and remedy any applicable performance issues;
- (h) address and remedy any performance issues or disputes with Subcontractors in a manner which has no adverse impact on the nature, quality or delivery of the applicable Services;
- (i) advise the Province if any aspect of its relationship with any Subcontractor will or may have a material impact on the relationship between the Service Provider and the Province, and will seek the approval of the Province in respect of any such material impact; and
- (j) ensure that contingency plans are devised for the possibility of a Subcontractor failing to perform, needing to be replaced, or terminating the Subcontract with the Service Provider.

All External Personnel of the Subcontractor will also be required to execute documents directly with the Province binding such External Personnel to confidentiality and non-disclosure agreements as required by the Province and in a form Approved by the Province. The Service Provider will not disclose any Province Confidential Information to such Subcontractor until such Subcontractor and all of its External Personnel have agreed in writing to assume such confidentiality obligations and until such Subcontractor is Approved by the Province as a Subcontractor that can access Province Confidential Information.

The Service Provider shall be fully liable for all actions and omissions of the Subcontractors. If a Subcontractor breaches a Subcontract, or is alleged to have breached a Subcontract, the Service Provider will notify the Province in writing and provide the Province with such information relating to the alleged breach as the Province may reasonably request.

Without limiting the other obligations set forth herein, any breach of the confidentiality obligations set forth in this Agreement by a Subcontractor or any External Personnel of such Subcontractor, will be deemed to constitute a breach of the confidentiality provisions of this Agreement. For Subcontracts which are Assigned Contracts, the Service Provider:

- (k) will use reasonable efforts to enforce existing confidentiality provisions in such Assigned Contracts;
- (l) will not, without the Province's Approval reduce or eliminate existing provisions with respect to confidentiality;
- (m) will use reasonable efforts to expand the confidentiality provisions of such Assigned Contracts to be in conformance with this Agreement;
- (n) when renewing such Assigned Contracts pursuant to renewal provisions, will make its best efforts to amend the confidentiality terms to comply with the provisions of this Agreement and further make its best efforts to obtain the additional confidentiality agreements noted above;
- (o) when renegotiating such Assigned Contracts at the end of their respective terms, will amend the confidentiality terms to comply with the provisions of this Agreement and further obtain the additional confidentiality agreements noted above, unless the Province waives the requirements of this provision in writing;

and any breach of the confidentiality provisions of the Assigned Contracts or other agreements with Service Provider made pursuant hereto by Subcontractors will be deemed to constitute a breach of the confidentiality provisions of this Agreement.

In the event of any breach of confidence by a Subcontractor or any External Personnel of a Subcontractor, the Parties agree as follows:

- (p) in the event either Party discovers that a breach of confidentiality by a Subcontractor or any External Personnel of a Subcontractor has occurred, it shall promptly notify the other Party in writing;
- (q) the Service Provider shall take all steps to remedy or to have remedied such breach;
- (r) the Service Provider shall develop and inform the Province of any remedial plans;
- (s) if the Province agrees in writing to such remedial plan, and the Service Provider carries out the plan, then the Province will not be entitled to terminate this Agreement solely on the basis of the Subcontractor's breach of confidence; and
- (t) if the Province does not agree in writing to such remedial plan, or if the Service Provider does not carry out the plan, the Province shall have the right (as a Material Breach) to terminate this Agreement in accordance with Article 21.

During the Term of this Agreement, the Service Provider will provide the Province with extracts of Subcontracts along with copies of the confidentiality agreements noted above sufficient for the Province to confirm the Service Provider's compliance with the obligations set forth in this Article 10. Following termination or expiry of this Agreement for any reason, as part of the Termination Services, the Service Provider will provide the Province with full and complete copies of any Subcontracts that the Alternative Service Provider may wish to assume subject to the Alternative Service Provider's and any other Alternative Service Provider's agreement to maintain such Subcontracts in confidence.

#### **10.11 Material Subcontractors**

Any Subcontract that:

- (a) is in respect of the provision of the Services that represent in excess of two percent (2%) of the number of Personnel involved in providing the Services in the immediately prior Contract Year;
- (b) an aggregate dollar value of two percent (2%) or more of the Fees invoiced to the Province by the Service Provider in the immediately prior Contract Year;
- (c) is in respect of material obligations as determined by the Province, acting reasonably;  
or
- (d) provides the Subcontractor with access to any Province Data or material Province Confidential Information;

shall be defined as a "Material Subcontract" and the provisions set forth herein, in addition to the provisions set forth in Section 10.10 shall apply. In the first Contract Year the above references to "prior Contract Year" shall be deemed to be the estimated Personnel or Fees, as applicable, in respect of such first Contract Year. For the purposes of this Agreement any Subcontractor who is a party to a Material Subcontract shall also be defined as a "Material Subcontractor".

The Service Provider shall not use any Material Subcontractors in respect to the provision of any Services or other obligations performed under or in respect of this Agreement unless the Service Provider obtains the prior Approval of the Province. Any request for Approval of a Material Subcontractor shall include information regarding the components of the Services affected, the reason why such Person is a Material Subcontractor, the scope of the proposed subcontract, the identity and qualifications of the proposed Material Subcontractor, the reasons for subcontracting the work in question and the form of the proposed Material Subcontract agreement. At no time shall the Service Provider subcontract more than ten percent (10%) of the Services in aggregate (excluding Services that are provided by the Key Providers or that are Affiliates of the Service Provider) without Approval of the Province, which Approval may be unreasonably withheld. The Service Provider shall assure the Province that the Province has all rights to information and inspection, and related rights, as to Material Subcontractors that Province has as to the Service Provider.

For all Material Subcontracts, the Service Provider agrees to use reasonable commercial efforts to have the Province named as an intended third party beneficiary and the Service Provider will ensure that the Material Subcontract is assumable or assignable to the Province or any other Alternative



Service Provider upon termination of this Agreement, and will not enter into any Material Subcontract that is not assumable or assignable without the Province's Approval.

Prior to granting Approval with respect to any Material Subcontract such Material Subcontractor shall be required to enter into the Supplier/Subcontractor Direct Agreement in the manner contemplated pursuant to Schedule X, which agreement between the Province and the Material Subcontractor shall expressly confer the rights on the Province as set forth above. Neither the Service Provider nor the Material Subcontractor may assign the Material Subcontract to any Person without the prior Approval of the Province.

The Province shall have the right during the Term to revoke its prior Approval of a Material Subcontractor for cause and direct the Service Provider to replace such Material Subcontractor within 15 days such Approval being revoked with a Material Subcontractor of suitable ability and qualifications or shall perform the Services being performed by such Material Subcontractor directly.

In the event that the Province determines in good faith that:

- (e) the continued use of any Material Subcontractor is not in the best interests of the Province,
- (f) the Material Subcontractor's performance has been materially deficient;
- (g) a good faith doubt exists concerning the Material Subcontractor's ability to render future performance; or
- (h) there have been material misrepresentations by or concerning the Material Subcontractor;

then the Province shall give the Service Provider written notice to that effect requesting that such Material Subcontractor be replaced. Promptly after its receipt of such a request by the Province, the Service Provider shall investigate the matters stated in the request and discuss its findings with the Province. If requested to do so by the Province, the Service Provider shall, within the timeframe specified by the Province as part of such request (such time frame established after consultation with the Service Provider), remove any access that the Material Subcontractor may have to the Province Data or other Confidential Information or physical locations where the Services are provided pending completion of the Service Provider's investigation and discussions with the Province. If, following discussions with the Service Provider, the Province reaffirms in good faith its request for the replacement of such Material Subcontractor, the Service Provider shall within fifteen (15) days of such reaffirmation replace such Material Subcontractor with a Material Subcontractor of suitable ability and qualifications or shall perform the applicable Services directly.

The Service Provider will use commercially reasonable efforts to ensure any replacement of a Subcontractor has a minimum negative impact on Achieved Service Levels.

#### **10.12 Key Providers**

Any Subcontract that:

- (a) is in respect of the provision of the Services that represent in excess of five percent (5%) of the number of Personnel involved in providing the Services;
- (b) an aggregate dollar value of five percent (5%) or more of the Fees invoiced to Province by the Service Provider in the immediately prior Contract Year;
- (c) is in respect of a Designated Service;
- (d) provides the Subcontractor with any right to store or otherwise make any copy of any Province Data or material Province Confidential Information; or
- (e) provides that the Subcontractor will perform Services directly for Province Customers.

shall be defined as both a "Material Subcontract" and a "Key Subcontract" and the provisions set forth herein and the relevant provisions in Schedule O attached hereto, in addition to the provisions set forth in Sections 10.10 and 10.11 shall apply except that if the Province revokes its prior Approval of a Key Provider, or provides written notice requesting that a Key Provider be replaced, the Service Provider shall have thirty (30) days to replace such Key Provider instead of fifteen (15) days. In the first Contract Year the above references to "prior Contract Year" shall be deemed to be the estimated Personnel or Fees, as applicable, in respect of such first Contract Year. For the purposes of this Agreement any Subcontractor who is a party to a Key Subcontract shall also be defined as being both a "Material Subcontractor" and a "Key Provider".

All Key Subcontracts entered into by the Service Provider with Key Providers shall, in addition to the provisions set forth in Sections 10.10 and 10.11, include the following provisions:

- (f) the express right of the Province to remedy any default or pay any outstanding fees;
- (g) the right to have the Material Subcontract assigned to the Alternative Service Provider upon the termination or expiry of this Agreement; and
- (h) the agreement of the Material Subcontractor to provide the Province with direct notice of any material breach or potential material breach of the Material Subcontract agreement by either party thereto.

The Province agrees that prior to exercising its rights in the manner set forth above with respect to a default or potential default by the Service Provider under a Key Subcontract, the Province shall first provide the Service Provider with Notice of its intention to proceed and a time period pursuant to which the Service Provider shall be required to remedy the default. Where the Service Provider fails to remedy the default in such time period to the reasonable satisfaction of the Province and the Province reasonably determines that the default may adversely affect the Province or the delivery of the Services in a material respect, then the Province shall have the right to exercise its rights in respect of such Key Subcontract. Any amounts payable by the Province or otherwise expended by the Province may be offset by the Province against any Fees owing under this Agreement.

### 10.13 Supplier Contracts

The Service Provider may enter into Supplier Contracts in respect of the Services on the following basis:

- (a) the Service Provider has the right to enter into Supplier Contracts with such Suppliers as the Service Provider may select, subject to applicable rights of Approval of the Province in accordance with the terms of this Agreement;
- (b) the Service Provider shall procure all services and goods in a cost effective manner;
- (c) all costs and expenses of the Supplier Contracts shall be the sole responsibility of the Service Provider, including any termination costs and penalties;
- (d) the Service Provider shall ensure that the Suppliers have the required skill, qualifications and experience to delivery services to the Service Provider in accordance with the standards and requirements in this Agreement;
- (e) the Service Provider shall not be relieved of any obligations in respect of the Services and under this Agreement notwithstanding any Supplier Contract with any Supplier and the Service Provider shall be responsible for all actions and failure to act of all Suppliers and all consequences thereof,
- (f) all Supplier Contracts shall be assignable in the manner contemplated in Article 22 in connection with the termination of this Agreement; and
- (g) the Province may require the Service Provider to remove any Supplier from providing to the Service Provider in respect of this Agreement if the Province determines in good faith that the continued use of such Supplier is detrimental to the provision of the Services by the Service Provider in accordance with this Agreement or otherwise not appropriate (such as due to a conflict of interest), in which event the Service Provider shall so remove such Supplier.

The Service Provider will also ensure that it will:

- (h) monitor the performance of Suppliers and promptly address and remedy any applicable performance issues;
- (i) address and remedy any performance issues or disputes with Suppliers in a manner which has no adverse impact on the nature, quality or delivery of the applicable Services;
- (j) advise the Province if any aspect of its relationship with any Supplier will or may have a material impact on the relationship between the Service Provider and the Province, and will seek the approval of the Province in respect of any such material impact; and

- (k) ensure that contingency plans are devised for the possibility of a Supplier failing to perform, needing to be replaced, or terminating the Supplier Contract with the Service Provider.

The Province may, at any time and from time to time, appoint the Service Provider to act as its agent in respect of a Province Supplier Contract by express and prior written Approval and upon the granting of such Approval, the Service Provider shall have authority to act as agent for and on behalf of the Province, but only in respect of such the Province Supplier Contract and only to the extent and with the degree of authority specifically and expressly designated by the Province in such written Approval, and the Service Provider hereby acknowledges and agrees that it will comply with all such restrictions in acting as agent for and on behalf of the Province and shall not exceed or purport to exceed such specific and express grant of authority from the Province. Unless otherwise specifically authorized by the Approval of the Province, the Service Provider shall not make or agree to any change to a Province Supplier Contract. The Province may give directions to the Service Provider in respect of a the Province Supplier Contract, in which event the Service Provider shall act reasonably to comply with such directions.

#### **10.14 Key Suppliers**

Any Supplier Contract that:

- (a) has an aggregate dollar value of two percent (2%) or more of the Fees invoiced to the Province by the Service Provider in the immediately prior contract year;
- (b) is in respect of material obligations as determined by the Province, acting reasonably;  
or
- (c) provides the Supplier with access to any Province Data or material Province Confidential Information or in any manner gives the Supplier Custody of any of the same;

shall be defined as a "Key Supplier Contract" and the provisions set forth herein, in addition to the provisions set forth in Section 10.13 shall apply. In the first Contract Year the above references to "prior Contract Year" shall be deemed to be the estimated Fees in respect of such first Contract Year. For the purposes of this Agreement any Supplier who is a party to a Key Supplier Contract shall also be defined as a "Key Supplier".

The Service Provider shall not enter into any Key Supplier Contract unless the Service Provider obtains the prior Approval of the Province. Any request for approval of a Key Supplier Contract shall include information regarding the components of the services being delivered, the reason why such Person is a Key Supplier, the scope of the proposed contract, the identity and qualifications of the proposed Key Supplier, the reasons for obtaining the services in question and a copy of the form of Key Supplier Contract. The Service Provider shall insure that the Province has all rights to information and inspection, and related rights, with respect to Key Suppliers that the Province has with respect to the Service Provider. All references in this Agreement to "Service Provider" shall be deemed to include references to all Key Suppliers of the Service Provider subject to those specific provisions of this Agreement where Key Suppliers are distinguished from the Service Provider in

which case such specific distinction shall supercede the inclusion of Key Suppliers in the term "Service Provider" specifically in respect of such provision.

All Key Supplier Contracts entered into by the Service Provider with Key Suppliers (other than Key Suppliers who are the Province of British Columbia or who are Controlled by the Province of British Columbia) shall, in addition to the provisions set forth in Section 10.13, include all of the provisions and require all of the other agreements and other obligations as required for Key Subcontracts and Material Subcontracts, including, without limitation, the Key Supplier being required to enter into the Supplier/Subcontractor Direct Agreement in the manner contemplated pursuant to Schedule X.

In the event that the Province determines in good faith that:

- (d) the continued use of any Key Supplier is not in the best interests of the Province,
- (e) the Key Supplier's performance has been materially deficient;
- (f) a good faith doubt exists concerning the Key Supplier's ability to render future performance; or
- (g) there have been material misrepresentations by or concerning the Key Supplier;

then the Province shall give the Service Provider written notice to that effect requesting that such Key Supplier be replaced. Promptly after its receipt of such a request by the Province, the Service Provider shall investigate the matters stated in the request and discuss its findings with the Province. If requested to do so by the Province, the Service Provider shall immediately remove any access that the Key Supplier may have to the Province Data or other Confidential Information or physical locations where the Services are provided pending completion of the Service Provider's investigation and discussions with the Province. If, following discussions with the Service Provider, the Province reaffirms in good faith its request for the replacement of such Key Supplier, the Service Provider shall replace such Key Supplier with a Key Supplier of suitable ability and qualifications within 7 days of such reaffirmation or shall perform the applicable services directly. The Service Provider will use commercially reasonable efforts to ensure any replacement of a Key Supplier has a minimum impact on Achieved Service Levels.

#### **10.15 Service Provider Technology**

As a part of the Services, the Service Provider shall provide, set-up, implement, operate, maintain and upgrade reliable and continuous hardware, software and information systems necessary to monitor, process, control and report for purposes of supporting and enhancing the delivery of the Services. Such required technology, including hardware, Service Provider Software, databases and communication linkages with the Province, is set forth in Schedule J attached hereto, as the same shall be transformed pursuant to the Transformation (collectively, the "MAXIMUS Technology").

The Service Provider shall manage all data in connection with the Services, including the Province Data, in accordance with the management, access and security principles and procedures set forth in Schedule J and Schedule X attached hereto, as the same shall be transformed pursuant to the Transformation.

The Service Provider shall provide online access to the system for the Province and Stakeholder personnel, as designated by the Province, including the ability to run ad-hoc reports and batch reports, all as more particularly set forth in Schedule J, as the same shall be transformed pursuant to the Transformation.

The Service Provider shall accommodate real time two way data exchange between the systems of the Service Provider and of the Province by receiving, transmitting and exchanging information electronically with the Province, in the form and manner prescribed by the Province as set out in Schedule J attached hereto and in Schedule X, as the same shall be transformed pursuant to the Transformation.

The Service Provider shall provide specific training as listed in Schedule J attached hereto to the employees of the Province (including the stayback team of the Province and their support staff) as to how to access information and create reports and shall provide additional training on an "as required" basis, as agreed between the Service Provider and the Province, each acting reasonably. Further training shall be provided as part of the Transformation.

As part of such MAXIMUS Technology and without additional cost, the Service Provider shall offer and provide, and shall cause the MAXIMUS Group to offer and provide to the Province appropriate and current technology from the Service Provider and from the MAXIMUS Group relevant or applicable to the provision of the Services. Any material upgrades of MAXIMUS Technology shall be as set forth in an Approved Annual Operating Plan or as otherwise contemplated or authorized by this Agreement.

In the event that the Service Provider determines that it is beneficial and cost effective to the Province and to the Province Customers or Stakeholders to migrate to new Software applications, the Service Provider shall seek Approval of the Province prior to undertaking this initiative and shall provide a report outlining:

- (a) the benefits of new technology and any potential risks to the Province and to the Province Customers and Stakeholders;
- (b) plans to mitigate any risks to the Province and to the Province Customers and Stakeholders;
- (c) an overview of the migration plan; and
- (d) such other information as may be reasonably requested by the Province.

In connection with a request by the Service Provider to migrate to new Software, the Province shall not unreasonably withhold its Approval provided that the Province is satisfied that, with respect to requirements of the Province, there will not be a material reduction of functionality with respect to the new Software applications (functionality to include ease of use of the Software, access to the Software and the types of reports that may be generated), there are no greater risks to the Service delivery and there is no additional risk as to the disclosure of Province Data. All costs of any such migration to new Software will be the responsibility of the Service Provider.

The Service Provider also agrees to act reasonably to consider any request from the Province to migrate to new Software for such reason and on such basis as the Province may advise from time to time, including as a result of a change in the requirements of the Province as to the functionality of the Software comprising the MAXIMUS Technology. For greater certainty, any such request shall be subject to Article 7 and any Material Change shall be addressed in the manner contemplated by Article 7.

The Service Provider will ensure that all interfaces to its Systems continue to operate at all times during the Term, including, without limitation, when changes are being made to such Systems.

#### **10.16 Communication Plan, Branding and Disclosures**

The Parties shall operate in accordance with the Communication Plan, branding requirements, publicity restrictions and other processes and procedures as set forth in Schedule K.

#### **10.17 Insurance**

The Service Provider shall procure and maintain at all times during the Term of this Agreement, at its own expense and without reimbursement from the Province, along with any other insurance coverages appropriate for a prudent operator of this type, at least the following insurance policies:

- (a) **Commercial General Liability.** Commercial general liability insurance protecting against damage from personal injury (including death) and from claims for property damage which may arise out of the operations of the Service Provider and its employees under this Agreement. Such insurance shall be not less than ten million (\$10,000,000) dollars inclusive for any one occurrence. This amount can be satisfied by the provision of an umbrella policy. Such policy or policies shall be on an occurrence basis and shall provide coverage for full defence costs, premises liability, non-owned automobile liability, personal injury liability, medical expense, employer's liability, blanket broad form contractual liability coverage, broad form property damage coverage and coverage for products and completed operations. The policy shall contain a cross-liability clause, name Province as an additional insured, contain a waiver of underwriter's rights of subrogation in favour of Province.
- (b) **Errors & Omissions Liability.** The Service Provider shall maintain errors and omissions liability insurance covering liability for Claims arising out of an error, omission or wrongful act by the Service Provider in the rendering of Services in an amount not less than ten million (\$10,000,000) dollars. Such policy shall be on a claims made basis and shall provide coverage for full defence costs.
- (c) **Property Insurance.** The Service Provider shall maintain property insurance covering property on a "blanket basis" for all risks of physical loss or damage including loss as a result of loss or damage to electronic storage media including the corresponding loss of data stored thereon, and any loss in respect of malicious damage or destruction of or the malicious damage to property, or electronic data processing media committed by employees of the Service Provider, with minimum insurance limits equal to the greater of five million (\$5,000,000) dollars and the full replacement cost

value of the property and any data stored thereon. The basis of loss settlement shall be replacement cost with like kind and quality. The policy shall have no coinsurance requirement or penalties and shall provide earthquake, flood, windstorm and hail coverage. The policy shall provide coverage for debris removal, blanket extra expense to conduct business as near as normally practicable, sue and labour expense, and professional fees necessarily incurred in quantifying and proving an insurance claim. Such insurance will include coverage responding to the enactment of any local, provincial, or federal building code, law or ordinance.

- (d) Insurance on Loss or Destruction of Data. To the extent not covered by the property insurance, the Service Provider shall maintain insurance relating to the loss or destruction of Province Data stored, managed or processed by Service Provider in an amount not less than five million (\$5,000,000) dollars.

Each policy required pursuant to this Section 10.17, except professional liability insurance, shall be in a form and with insurers licensed to carry on insurance business in British Columbia acceptable from time to time to the Province, acting reasonably. Each policy of insurance described in this Section 10.17, except professional liability insurance, shall name as an additional insured the Province and its servants, agents and employees. All liability insurance shall contain provisions for cross-liability and severability of interests as between the Province and the Service Provider.

The Service Provider shall not cancel or make a reduction in limits to any of the required insurance policies set out or contemplated above without thirty (30) days prior written notice to the Province. All insurance policies for the above described insurance shall contain a provision for the giving of thirty (30) days notice by the insurer to the Province of cancellation or reduction in limits of any such policy. The Service Provider shall provide the Province with reasonable evidence of all insurance required to be effected by the Service Provider before commencing any Services under this Agreement. Such evidence shall be in the form of a certificate of insurance. Similar evidence shall be provided to the Province within ten (10) days of the end of each Contract Year, and upon the reasonable request of the Province from time to time. The Service Provider shall also, within ten (10) days of the renewal, extension, modification or replacement of any such insurance policies, provide to the Province certificates of insurance evidencing any such renewals, extensions or replacements.

The Service Provider acknowledges that any requirement or advice by the Province as to the amount of coverage under any policy of insurance shall not constitute a representation by the Province that the amount required is adequate and the Service Provider acknowledges and agrees that it is solely responsible for obtaining and maintaining its own policies of insurance in such amounts as the Service Provider shall determine to be appropriate and adequate.

## **ARTICLE 11**

### **PLANNING, REPORTING AND EXCHANGE OF DATA**

#### **11.1 Plans and Reports - General**

At all relevant times during the Term, the Service Provider shall prepare or cause to be prepared and shall provide to the Province in accordance with Schedule H all plans, reports and other deliverables



as contemplated therein. The Service Provider will prepare and provide to the Province updates of such plans and reports at such times as reasonably requested by the Province, from time to time. In addition, the Service Provider will comply with and cause the Service Provider Group to comply with each such plan as applicable, unless otherwise expressly directed by the Province and subject to any amendment or update of or variation to each such plan made pursuant to this Agreement.

## **11.2 Guiding Principle for Plans, Budgets, and Reporting**

As a general principle with respect to reporting, the Parties agree that, to the greatest extent possible, they will use web-enabled reports and direct electronic access to data and query reports from the systems of the Service Provider to meet the reporting and information needs of the Province. The Parties agree to minimize the amount and types of paper-based reporting. The Service Provider acknowledges and agrees that the Province has advised the Service Provider that it expects the reporting and informational requirements of the Province under this Agreement will evolve during the Term, that reporting and informational requirements are intended to achieve the best value for reports to the Province in light of the circumstances applicable from time to time, and that changes to reporting and informational requirements as contemplated in Section 7.1 shall not require Change Requests and shall not increase the Fees.

The Service Provider shall provide reports as reasonably required for the Province to manage its business, evaluate Service Provider performance and provide adequate information to the Province Customers and Stakeholders in respect of the performance of the Services applicable to the Province Customers and Stakeholders. The Parties acknowledge and agree that attached hereto as Schedule H is the initial set of reporting and informational requirements agreed to between the Province and the Service Provider, but that such reporting and informational requirements are expected to evolve over the Term as a result of the Transformation and otherwise to meet the requirements of the Province and of the Province Customers and Stakeholders in respect of the management and expansion of their respective businesses or affairs. The Service Provider will, from time to time, as the circumstances may render necessary or desirable, provide suggestions to the Province as to improvements, enhancements and changes to the reporting and informational requirements, for the Approval of the Province.

The Service Provider acknowledges and agrees that all planning, budgeting and reporting required pursuant to the terms of this Agreement shall be:

- (a) in accordance with any specific requirements as to timing, format and content set out herein;
- (b) timely, comprehensive and, and to the best of the Service Provider's ability, contain accurate and complete information;
- (c) contain such information as is reasonably necessary to allow the Province to fully monitor the Service Levels and the provision of the Services and to further conduct its business in the most efficient and cost-effective manner;
- (d) in accordance with requirements of applicable Province Customers and Stakeholders as to timing of such planning, budgeting and reporting, and consistent with plans and

budgets from time to time adopted by the applicable Province Customers and Stakeholders; and

- (e) updated from time to time, not less frequently than the time periods as set forth in Schedule H.

### **11.3 Annual Review of Reporting Requirements**

The Joint Executive Committee shall conduct an annual review of then current reporting requirements under this Agreement and shall consider any changes to the current reporting requirements as the Joint Executive Committee shall determine to be appropriate or desirable. Changes so agreed to by the Joint Executive Committee shall be governed by Section 11.4.

### **11.4 Changes to Reporting**

The Joint Executive Committee may make any changes to reporting requirements under this Agreement as the Joint Executive Committee shall determine to be appropriate or desirable, and any such change approved by the Joint Executive Committee shall, if it is contemplated by Section 7.1, be governed by that Section and otherwise shall constitute and shall be deemed to be a Change Order for the purposes of this Agreement and shall amend this Agreement in the manner and to the extent contemplated and otherwise be governed by the other provisions of Article 7 hereof.

### **11.5 Exchange of Data**

The Parties will exchange data and information on such periodic basis as the Parties may agree or as otherwise set forth in Schedule E or Schedule H or otherwise in this Agreement and in such formats and levels of detail as set forth in the same, in order to allow the Service Provider to perform the Services and to allow the Province to monitor the provision of the Services by the Service Provider and to satisfy the reporting and other obligations of the Province to the Province Customers, its Stakeholders, and its internal reporting obligations.

### **11.6 Annual Operating Plan**

The Service Provider will, with the co-operation and assistance of the Province, prepare and provide to the Province an annual operating plan (the "**Annual Operating Plan**") which shall be a planning document utilized in the provision of the Services, consisting of:

- (a) a summary of the financial and operational changes, based upon the most current annual estimate available;
- (b) a survey, review and analysis of the systems and resources used to provide the Services;
- (c) strategies to assist in realizing the objectives set forth in Section 1.11 above;
- (d) an analysis by the Service Provider of operations with recommendations for changes to reduce costs, improve efficiencies and improve Province Customer and Stakeholder satisfaction;

- (e) a description of the Services to be provided in the following year, including any planned Changes to the Services;
- (f) notifying the Province of proposed material changes in the way the Service Provider will provide the Services;
- (g) a review and analysis of projects performed over the previous year and summary of recommended projects;
- (h) any planned system or resource acquisitions to provide for additional Service capacity and volume or to otherwise exploit new technological developments;
- (i) a description of the risk profile of the Service Provider including a description of any material risks which could have an impact on the Service Provider's ability to provide the Services in accordance with Service Levels; and
- (j) a budget forecast setting out the estimated financial information in respect of the upcoming fiscal year of the Province, taking into account anticipated changes and information then reasonably available to the Service Provider (which budget shall be consistent with the Economic Model subject to any changes during the Transition Period or Contract Years one and two being governed by the process set forth in Schedule I).

The Annual Operating Plan delivered by the Service Provider to the Province shall further include a confirmation signed by the Service Provider Project Manager stating that a review of the activities of the Service Provider during the preceding year has been made under the supervision of such Person and that, based on that review and to the best of the knowledge of such Person after due inquiry, the Service Provider has fulfilled all of its obligations under this Agreement (including in respect of privacy and security as contemplated in Schedule X), in all material respects and that no Material Breach (or any event which, with notice or lapse of time or both, could reasonably be determined to become a Material Breach) occurred during such year in respect of such obligations, and stating exceptions to any of the forgoing, if applicable.

No later than 120 days prior to the commencement of the Province's fiscal year, the Service Provider shall develop, prepare and provide to the Joint Executive Committee a proposed Annual Operating Plan for the next fiscal year of the Province, with the first Annual Operating Plan being delivered on or before November 30, 2005 with respect to the upcoming fiscal year of the Province. Within 30 days following receipt of the proposed Annual Operating Plan, the Joint Executive Committee will advise the Service Provider as to whether Joint Executive Committee approves such Annual Operating Plan or discuss with the Service Provider any modifications or additions, and the Service Provider shall provide a revised plan incorporating such changes. Any Dispute with respect to approval of the Annual Operating Plan shall be deemed to be an Expedited Dispute.

## **ARTICLE 12 PAYMENT TERMS**

### **12.1 Overview of Fees**

In consideration for the performance of the Services, the Province shall pay to the Service Provider the Fees, net of any amounts as contemplated pursuant to Section 12.6 or as otherwise contemplated in this Agreement. Except as otherwise expressly set forth in this Agreement, the Province shall not be obligated to pay amounts to the Service Provider for its performance of the Services and its other obligations under this Agreement. Expenses that the Service Provider expects to incur in performing the Services are included in the Fees. Accordingly, such Service Provider expenses are not separately reimbursable by the Province.

### **12.2 Payment of Fees**

The Province shall pay the Fees to the Service Provider on the following terms:

- (a) Fees shall be payable monthly, in arrears, prior to the date which is 30 days after receipt by the Province of an invoice from the Service Provider in a form that is in compliance with this Agreement, such invoice not deliverable prior to the end of the Service period in which it relates.
- (b) Notwithstanding the payment date set forth above, interest on any overdue amounts shall only be payable at the rates and in respect of the periods as set forth in the *Interest on Overdue Accounts Payable Regulation* (B.C. Reg. 215/83), as amended or replaced from time to time, and where such regulation has been revoked and not replaced, at the last rate and time period calculated thereunder.
- (c) All Fees calculated or otherwise set forth in this Agreement are inclusive of all applicable Taxes unless otherwise expressly stated herein.

### **12.3 Invoices**

All invoices shall be provided in both hardcopy and electronic format compatible with the Province's financial computer systems and will include such detail as reasonably requested by the Province to satisfy the Province's internal accounting requirements. The Province shall pay all amounts owing in respect of Fees pursuant to Approved invoices in accordance with Section 12.2. Either Party may, upon reasonable prior written notice to the other Party, extend the time for provision, or processing of invoices or summary invoices from time to time due to extraordinary events which delay business transactions such as Christmas and other major holiday seasons, or accounting or computer system upgrades, to such longer period as may be reasonable in the circumstances. Payment by the Province shall not be deemed to be Approval or acceptance of such invoice and no such payment shall preclude the Province from contesting any amount set forth in an invoice at any later date.

### **12.4 Taxes**

The Service Provider shall be responsible for Taxes based on its own capital, net income, employment taxes of its own employees, and for taxes on any property it owns and for arranging to

pay such taxes. The Service Provider shall collect, remit to the appropriate Taxing Authorities and report to the Province on all Taxes related to the Services to the extent that the same are included in the Fees.

#### **12.5 Fee Rebate Credits**

Where the Service Provider Spread is greater than 12.5% calculated pursuant to Schedule I for such Contract Year then the Province shall be entitled to a Fee Rebate Credit calculated in the manner set forth in Schedule I. The Province shall have the right to set such Fee Rebate Credit against up to 25% of Fees payable in respect of any month, until such Fee Rebate Credit is fully set off against Fees. The Service Provider shall deliver financial statements for the Service Provider to the Province within 60 days of the end of each Contract Year in the manner contemplated in Schedule I. Such financial statements shall include a calculation of Service Provider Spread for such Contract Year and shall be used, in part, to determine whether the Province is entitled to Fee Rebate Credits.

#### **12.6 Offsets and Net Payments**

Any amounts owed by MAXIMUS US or MAXIMUS Canada (in each case pursuant to the Guarantees) or in any respect by the Service Provider to the Province under this Agreement or otherwise in respect of the Services, including without limitation Service Level Credits, Hand Over Credits, Transformation Credits, Shared Infrastructure Credits and the Fee Rebate Credits, and any other amounts that the Province otherwise has the right to set-off against the Fees or are otherwise owed to the Province in respect of this Agreement, may be offset by the Province against the Fees, or may be deducted from any sum due or which at any time may become due to the Service Provider under this Agreement. With respect to the Fee Rebate Credit such set off shall be limited as set forth in Section 12.5. To the extent that any amounts are owing by the Service Provider to the Province upon Termination, whether by credits or otherwise, and there are no further Fees to set-off such amounts then the Service Provider shall pay such amounts directly to the Province notwithstanding that this Agreement otherwise contemplates the set-off of such amounts against the Fees.

#### **12.7 Most Favoured Pricing**

The Service Provider hereby represents, warrants and covenants that all Fees and other amounts charged to or payable by the Province resulting from a Change Order that increases the scope of the Services will be at least as low as those charged for equivalent services of equivalent scope and quantity provided by any member of the MAXIMUS Group to any of its other customers as calculated at the time such Change Order was issued ("MFC Pricing"). Any adjustment to Fees to which the Province may be entitled under this Section 12.7, shall be applied exclusively on a prospective basis. The terms of this Section 12.7 shall not apply to any Fees charged for Services already rendered. For greater clarity, there shall be no retroactive adjustment made to the Fees under any circumstances.

#### **12.8 Disputed Payments**

The Province may withhold payment of a particular portion of Fees that the Province disputes in good faith, subject to the following conditions:

- (a) the Province provides to the Service Provider concurrently with the withholding of the disputed Fees, a reasonably detailed explanation of the basis of the dispute; and
- (b) the Parties will promptly pursue any applicable dispute resolution procedures relating to the disputed amount.

Any interest accrued on any amount owed by, or overpaid by, one Party to the other shall be apportioned in the same manner as in the resolution of disputed Fees. Payment disputes will not affect the Service Provider's requirements to provide the Services at agreed Service Levels or any other of the Service Provider's obligations under this Agreement.

## **12.9 Benchmarking of the Service Provider**

Either Party may, from time to time, engage a third party consultant (a "**Benchmarker**") to perform a benchmarking comparison (each a "**Benchmarking**") of the Services, Fees, and Service Levels provided herein with the services, fees and service levels of other North American companies receiving substantially similar services in substantially similar quantities. The Party engaging such Benchmarker will bear the costs of the Benchmarking.

The requesting Party, in consultation with the other Party, will determine the scope, methodology, relative comparisons selected and execution of each Benchmarking. The requesting Party may, at its option, benchmark any portion of the Services provided hereunder. The Service Provider will provide, and ensure that its Subcontractors and Suppliers provide, either directly to the Benchmarker or to the Service Provider, all necessary information, documents and assistance reasonably required to perform the benchmarking. Where the Province is the requesting Party and such assistance from the Service Provider has a material impact on the delivery and performance of the Services then such assistance from the Service Provider shall be governed by Article 7.

Each Party will receive a copy of the Benchmarker's report and will have an opportunity to review same and make submissions with respect to the findings prior to negotiation of any adjustments, including adjustments to Service Levels, Fees or other aspects of this Agreement. If the benchmarking results show that levels of performance reported by the Service Provider are materially different than actual performance, the Benchmarker will use actual performance as the basis of comparison. The Province or the Benchmarker will be provided reasonable access to performance measurement tools to independently verify reported level of performance. The Service Provider will also co-operate with the Province in benchmark studies it participates in including by providing information requested by the Province in relation thereto.

The Service Provider is committed to providing the Services, charging the Fees and achieving the Service Levels in a manner consistent with the top 20% of comparable services provided in North America based upon the Fees that the Province has agreed to pay in this Agreement. If the results of such Benchmarking show that the Fees, Services or Service Levels are not within the top 20% for comparable services after normalization of applicable factors, the Service Provider and the Province agree to consult with an effort to enhancing the applicable aspects that are not in compliance with such objective. Where the Parties cannot agree upon a solution and implementation plan to address such non-compliance then such matter shall be escalated to the Joint Executive Committee but such disagreement shall not be a Dispute and shall not be escalated past the Joint Executive Committee

unless otherwise agreed by the Parties and, for greater certainty, shall not impose any obligation on the Parties to otherwise implement any such proposed solution or implementation plan.

## **ARTICLE 13 GAIN SHARING**

### **13.1 Gain Sharing Principles**

The Parties have agreed that they are committed to the pursuit of future opportunities that bring benefit to all Parties including, without limitation, opportunities to leverage the service platform established for the provision of the Services, gaining economies of scale, taking advantage of the knowledge developed by the Parties in the course of their relationship and otherwise capitalizing on opportunities with third parties to bring benefit to the Parties. In respect of such commitment the Parties have agreed to the following general gainsharing principles:

- (a) Where the MAXIMUS Group uses the infrastructure established in respect of this Agreement for other opportunities, the MAXIMUS Group is committed to structuring such opportunities so that there will be a positive return on investment for the Province which may be structured in any number of ways including by way of redistribution of fixed costs associated with or otherwise attributable to the Services provided in respect of this Agreement. Such process will be managed through the Change Order Process set forth in Article 7 during which the Parties will negotiate a fair distribution of the benefits (subject to a review of all relevant policy, service, and other issues of concern to the Parties), including a reduction of Fees where appropriate in accordance with the provisions set forth in such Article.
- (b) Where an opportunity exists to leverage the relationship between the Province and the MAXIMUS Group to secure additional business for the MAXIMUS Group, the MAXIMUS Group is committed to providing financial gain to the Province consistent with the contribution of the Province to achieving such opportunity.
- (c) Material Changes suggested by or for the Province that will have a material impact on costs for the Service Provider will be managed through the Change Order Process set forth in Article 7 including reduction of Fees in accordance with the provisions set forth therein.
- (d) The MAXIMUS Group or the Province may identify new business opportunities for the MAXIMUS Group in the Canadian market. In such cases, should any member of the MAXIMUS Group decide to pursue the business opportunity and should any member of the MAXIMUS Group make a request to the Province to assist such entity (beyond providing references and reasonable numbers of responses to questions from the prospect), the Parties will sign a teaming agreement clarifying the roles and responsibilities of each Party and a fair allocation of benefits to the Province for its participation.

The details of gain sharing will be determined on a case by case, opportunity by opportunity basis in accordance with the principles set forth above, the provisions on this Agreement applicable thereto, and otherwise as agreed by the Parties, each acting reasonably.

## **ARTICLE 14**

### **MAINTENANCE OF RECORDS AND AUDIT RIGHTS**

#### **14.1 Maintenance of Books and Records**

During the Term and for a period of seven (7) years after the end of the Term (or such longer period as may be required by Applicable Law), the Service Provider shall:

- (a) maintain accurate and complete Records related to this Agreement and to the Services to be provided hereunder, as may be necessary or beneficial to enable the Province to verify compliance by the Service Provider with the terms of this Agreement and that the Services were performed in accordance with the terms of this Agreement and Applicable Laws and to ascertain the accuracy of all financial matters arising hereunder; and
- (b) cause Material Subcontractors and Key Suppliers to maintain complete and accurate Records of the transactions and activities undertaken by such Subcontractors and Suppliers on behalf of or for the benefit of the Service Provider, the Province and the Province Customers and Stakeholders as part of the Services or on behalf of the Service Provider pursuant to the terms of this Agreement, and such Records shall include those necessary or beneficial to enable the Province to verify compliance by such Subcontractors and Suppliers or the Service Provider, as applicable, with the terms of this Agreement and that the Services were performed in accordance with the terms of this Agreement and Applicable Laws and to ascertain the accuracy of all financial matters arising hereunder.

Without limiting the generality of the foregoing the Service Provider shall ensure that all New Records with respect to the performance of the Services shall be in conformity with GAAP, the requirements of Applicable Laws and the existing records management practices of the Province relating to compliance with the Administrative Records Classification System (ARCS) and Operational Records Classification Systems (ORCS), as they may be amended from time to time by notice from the Province to the Service Provider (subject to Article 7).

The Service Provider shall have Custody of Province Records as and from the date that Custody is granted to the Service Provider by the Province or the date of creation or coming into existence thereof, all in accordance with and subject to the provisions of this Agreement; however, the Record Control of all such Province Records shall at all times remain with the Province.

The Province Records shall remain the property of the Province, and accordingly, they shall continue to remain subject to the requirements of the *British Columbia Document Disposal Act*, *Freedom of Information and Protection of Privacy Act* and the *Interpretation Act*, each as amended from time to time, and the Service Provider shall comply with the requirements thereof in respect of the Province



Records as though each such legislation applied to the Service Provider. In addition, the Service Provider shall:

- (c) not sell, transfer to the physical custody of another jurisdiction or Person, destroy or otherwise dispose of the Province Records without the prior written approval and direction of the Province;
- (d) not transfer the Province Records to any Person except as contemplated under this Agreement, and then, only in accordance with the protocols described in Province Policies and the terms of this Agreement including Article 17 and Schedule X;
- (e) not under any circumstances, and without limiting the provisions of Article 17 and Schedule X, use or disclose any Province Records except:
  - (i) on the prior written directions, or with the prior written consent, of the Province (which directions or consent may be given by the Province at any time, in its sole discretion, or in response to a written request from the Service Provider specifying the particulars of proposed use or disclosure of such Province Records); or
  - (ii) through the ordinary course provision of the Services as contemplated under the terms of this Agreement and in accordance with all Policies;
- (f) return the Province Records to the Province on the written instructions of the Province or as may otherwise be required in accordance with the provisions of this Agreement;
- (g) at the request of the Province and at the cost of the Service Provider, provide written or electronic copies of such Province Records for storage on the premises of the Province or of any applicable regulatory body or agency, as the Province may require;
- (h) maintain the safe keeping and integrity of the Province Records in accordance with the records protocols set forth in the Province Policies and with the provisions of Article 17 and Schedule X;
- (i) store all Province Records separately from other records of the Service Provider and identify them as Records of the Province subject to the *British Columbia Document Disposal Act* and the *Freedom of Information and Protection of Privacy Act*; and
- (j) permit the Province to have access to the Province Records, and to review and evaluate the Records on-site for any reason including to ensure compliance with the provisions of this Agreement (and such access will be in accordance with the provisions of Section 14.3).

At any time after the end of the Term the Service Provider shall have the right, at its cost, to deliver all such Records herein referenced to the Province to the location and in the manner as directed by the Province. The Service Provider shall, subject to the terms of Article 17 and Schedule X, maintain

sufficient copies of financial and other Records as it is required to maintain for tax and other statutory reasons.

The Service Provider acknowledges and agrees that all costs of record keeping and of audits contemplated in this Article 14 shall, unless otherwise specifically and expressly provided in this Agreement, be the responsibility of the Service Provider, and that compensation to the Service Provider therefor is included in the Fees. For greater certainty, any Province Records delivered to the Province by the Service Provider at the request of the Province or pursuant to the preceding paragraph shall thereafter be the responsibility (both financially and as to storage obligations) of the Province unless such Province Records are returned to the Service Provider in accordance with the provisions of this Agreement.

The Service Provider will transfer all Province Records identified by the Service Provider for destruction to the Province in accordance with the record protocols more particularly described in the Province Policies. The Province will destroy any such Province Records if the Province determines it to be appropriate to do so. The Province may return any Province Records that it does not so destroy to the Service Provider in accordance with the protocols described in the Policies.

Both Parties acknowledge and agree that nothing herein shall in any way limit or restrict the confidentiality obligations as set forth in Article 17 and Schedule X or as otherwise contemplated by this Agreement.

#### **14.2 Locations of Books and Records**

The Service Provider shall maintain the Province Records contemplated by Section 14.1 in British Columbia at a location disclosed to the Province. The Service Provider shall not relocate any of such Province Records maintained pursuant to Section 14.1 hereof without first notifying the Province and shall not remove any of such Province Records to a location outside of British Columbia except as Approved by the Province. At no time shall any Person have remote access to any Province Data (including any backup data) from any location outside of British Columbia except as expressly Approved by the Province. Any storage agreement with respect to any provisions set forth in this Article 14 shall be deemed to be a Material Subcontract.

The Service Provider shall not, without the Approval of the Province, dispose of any such Province Records. The Service Provider will destroy Province Records identified by the Province upon written direction by the Province.

#### **14.3 Access Rights**

During the Term, and for a period of seven years after the end of the Term, upon reasonable prior written request of the Province, the Service Provider shall provide the Province and its auditors and other authorized representatives of the Province with access including, where applicable and practicable to do so, immediate electronic access, to:

- (a) all the Province Confidential Information and Province Records, wherever maintained, at reasonable times to be agreed between the Province and the Service Provider;

- (b) any system that contains the Province Confidential Information or Province Records, wherever maintained, at reasonable times to be agreed between the Province and the Service Provider; and
- (c) any property or facility at which the Services are being performed, where any Systems are housed or where any Province Confidential Information or Province Records are maintained or stored.

During the Term and for one year thereafter, upon reasonable prior written request of the Province, the Service Provider shall permit the Province and its auditors and their respective other authorized representatives, at such reasonable times to be agreed between the Province and the Service Provider, to examine and make copies of the Records and any computer-stored data, correspondence, accounting procedures and practices, cost analyses and any other supporting financial or operational data, including invoices, payments or claims and receipts, pertaining to the Services or any credits calculated under this Agreement. Both Parties acknowledge and agree that nothing herein shall in any way limit or restrict the confidentiality obligations as set forth in Article 17 and Schedule X or as otherwise contemplated by this Agreement.

#### **14.4 Investigation Rights**

The Province shall have the right, at any time and without prior notice to the Service Provider, to inspect all or any matter in respect of the Services performed by or on behalf of the Service Provider contemplated in this Agreement and to perform investigations in respect of any matter of concern to the Province or any matter which the Province otherwise becomes aware of including, without limitation, matters with respect to any credits calculated under this Agreement. The Province shall make reasonable efforts in exercising such rights so as not to hinder or interfere with the performance of the Services by the Service Provider hereunder. For greater certainty, the Province acknowledges that to the extent any such exercise of rights directly hinders or interferes with the Service Provider's ability to deliver Services hereunder then the Service Provider shall not be responsible for such Service failure. The Service Provider and other members of the MAXIMUS Group shall provide all reasonable assistance with respect to such inspections and investigations.

The Province shall pay the costs and expenses of such investigations, except as otherwise provided in Section 14.8, and the Service Provider shall pay for and shall not seek reimbursement from the Province of all costs incurred by the Service Provider in connection with such investigation, including the cost of the time and effort of the Service Provider and its Personnel and Suppliers and Subcontractors to comply with the requests and requirements of the Province or its representatives thereof.

#### **14.5 Audit Rights**

The Province may appoint an internal or external auditor or other professional advisor at any time and from time to time to review and confirm or verify, in any Contract Year, any aspect of this Agreement including, without limitation:

- (a) any matter related to the operational aspects of this Agreement and the Services including, without limitation, to certify or verify:

- (i) the integrity of the Province Confidential Information or Province Records, including without limitation the completeness, accuracy, timeliness, confidentiality, availability and security in respect thereof;
  - (ii) privacy and security processes of the MAXIMUS Group;
  - (iii) stability and security of the systems and processes utilized by the Service Provider;
  - (iv) the integrity of all reports provided by the Service Provider to the Province (including the raw data from which such reports are compiled);
  - (v) general controls, practices and procedures utilized by the Service Provider; and
  - (vi) that the Services are being provided in accordance with the terms of this Agreement including the Service Levels and in accordance with all Applicable Laws, the Policies of the Province and any applicable requirements of any regulatory body or authority;
- (b) any matter related to the financial or business aspects of this Agreement including verifying the accuracy of all charges to the Province, all Fees paid or payable by the Province, accuracy of financial information provided by the Service Provider in respect of the calculation of Fees or credits or reductions in respect of the same, and the accuracy of reporting by the Service Provider; and
- (c) such other matters as the Province may reasonably require from time to time.

The Province shall pay the costs and expenses of such auditor or other professional advisor retained by the Province to conduct or assist with such review or audit, except as otherwise provided in Section 14.8, and the Service Provider shall pay for and shall not seek reimbursement from the Province of all costs incurred by the Service Provider in connection with such review or audit by the auditor or other professional advisor appointed by the Province, including the cost of the time and effort of the Service Provider and its Personnel and Suppliers and Subcontractors to comply with the requests and requirements of such auditor or other professional advisor in respect of such review or audit.

For greater certainty, the Province may, in connection with the exercise of its audit rights pursuant to this Section 14.5, exercise or cause the Service Provider to exercise rights in respect of agreements with Suppliers and Subcontractors to audit the applicable Suppliers or Subcontractors in the same manner as set forth herein.

In respect of the conduct of any audit by the Province, the Province agrees as follows:

- (d) to the extent reasonably possible the auditors will be qualified and trained to levels appropriate to conduct the audits being conducted;

- (e) where terms of reference are prepared by the Province in respect of an audit, the Service Provider will have an opportunity to review and provide the Province with comments on the same; and
- (f) where reasonably possible and appropriate, the Service Provider will have an opportunity to respond to the audit results before they are finalized.

#### **14.6 SysTrust Report**

The Province shall conduct, on a biannual basis, a SysTrust Principles and Criteria examination as governed by the Canadian Institute of Chartered Accountants (the "SysTrust Report") in respect of the Services provided to the Province pursuant to this Agreement. The SysTrust Report shall report on controls throughout two Contract Years. The SysTrust Report shall be deemed to be an audit for the purposes of this Article 14 with costs, Deficiency correction and all other matters addressed in the manner as set forth in this Article 14 for audits.

#### **14.7 Deficiencies**

Following delivery to the Service Provider of an audit or investigation report that outlines accounting or other Deficiencies of the Service Provider, the Parties shall meet as soon as possible in order to discuss such Deficiencies. Any material Deficiencies shall (unless otherwise restricted in this Agreement, by policy or otherwise) be brought to the attention of the Parties as soon as reasonably possible after the same have been identified. Subject to any alternative agreement reached by the Parties at such meeting, the Service Provider shall as soon as reasonably possible (but in any event not more than 30 days) develop and present a report outlining timely corrective action with respect to such Deficiencies. Such report shall include a sufficient level of detail to allow the Province to assess the appropriateness of the proposed corrective action and plan, including a description of the deficiency, the specific action to be taken and a specific implementation schedule including specific dates and Persons responsible for taking the corrective action.

#### **14.8 Cost of Audits and Investigations**

- (a) Notwithstanding Sections 14.4, where an investigation determines that there has been a Deficiency in any such case as a result of the actions or failure to act of the Service Provider or of those Persons for whom the Service Provider is responsible at law or pursuant to the terms of this Agreement, all costs of such investigation, including the costs of other professional advisors retained by the Province to conduct such investigation, shall be paid by the Service Provider, and shall not be recovered from or reimbursed by the Province, and if any of such costs are paid by the Province, then the Province shall be entitled to reimbursement of such costs from the Service Provider or to set off such amounts against the Fees otherwise payable to the Service Provider. Any such costs payable by the Service Provider shall be payable upon receipt of the Service Provider of an invoice from the Province in respect of such costs. The Service Provider agrees that upon correction of the Deficiencies so identified it shall, if reasonably appropriate, undertake an audit, at its expense, to confirm that such Deficiencies have been fully addressed. The Service Provider shall

promptly provide the results of such audit to the Province upon the Service Provider's receipt of the same.

- (b) With respect to Sections 14.5 and 14.6, where an audit reveals any Deficiency the costs of such audit shall still be borne by the Province. The Service Provider agrees, however, that upon correction of the Deficiencies so identified that, if reasonably appropriate, it shall undertake a new audit, at its expense, to confirm that such Deficiencies have been fully addressed. The Service Provider shall promptly provide the results of such audit to the Province upon the Service Provider's receipt of the same.

#### **14.9 Deficiencies Identified by the Service Provider**

Where the internal or external audit, investigation or other processes of the MAXIMUS Group identify the potential for any Deficiency then the Service Provider shall notify the Province of such Deficiency along with the Service Provider's assessment of the impact of such Deficiency and the Service Provider's proposed resolution of the same. Where the Deficiency is of a material nature then notwithstanding the foregoing, the Service Provider shall immediately advise the Province with respect to such Deficiency so identified notwithstanding that an impact assessment and resolution plan have not yet been completed.

### **ARTICLE 15 OBLIGATIONS AND DUTIES OF THE PROVINCE**

#### **15.1 Obligations of the Province**

The Province covenants and agrees with the Service Provider as follows:

- (a) the Province shall comply with the terms and conditions of this Agreement in every material respect and all Applicable Laws of Canada and the Province of British Columbia with respect to this Agreement;
- (b) the Province shall provide incumbents in Key Positions in accordance with Schedule O;
- (c) the Province shall provide to such Persons duly authorized by the Service Provider such access to properties of the Province as is required for the purpose of providing the Services, provided that the Service Provider shall cause all Persons exercising such rights of access to comply with the authorization and security procedures in the policies of the Province communicated by the Province in writing from time to time to the Service Provider, provided that the Province has the right to exclude any Person from its properties in the event of any actual or threatened breach of such policies and procedures, and provided the Service Provider shall cause all such Persons to exercise such rights of access only for the purpose of providing the Services, and for greater certainty, all such rights of access shall terminate upon the expiration or termination of this Agreement, subject to the provisions in Article 22

hereof dealing with Termination Services during the Termination Assistance Period; and

- (d) advise the Service Provider of any material information that the Province members of the Joint Executive Committee or Joint Steering Committee or Province Key Positions are aware of that could reasonably be determined to materially affect delivery of the Services, subject to: (i) such Persons not being restricted or otherwise prohibited from disclosing such information to the Service Provider; and (ii) failure of the Province to comply with this Subsection using all commercially reasonable efforts not being a basis upon which any action or inaction of the Service Provider (including failure to comply with the terms of this Agreement) is excused.

Failure of the Province to comply with this Article shall be governed by and in accordance with Section 6.18.

## **ARTICLE 16**

### **REPRESENTATIONS AND WARRANTIES**

#### **16.1 Representations and Warranties of the Province**

The Province represents and warrants as follows to the Service Provider, as of the date hereof and (except as otherwise noted) throughout the Term, and acknowledges and confirms that the Service Provider is relying upon such representations and warranties:

- (a) the Province has full power and authority to execute this Agreement and the other Transaction Documents, which have been or will be duly executed and delivered by the Province and each constitutes or will constitute a legal, valid and binding obligation of the Province enforceable against it in accordance with its terms, subject to applicable bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights and to the fact that specific performance and injunction are equitable remedies available only in the discretion of the court;
- (b) neither the execution and delivery of this Agreement or of the other Transaction Documents nor compliance with the terms thereof by the Province (i) has resulted or shall result in a violation of any Applicable Laws, (ii) has resulted or shall result in a breach of, or constitute a default under, any instrument or agreement to which the Province is a party or by which it is bound, or (iii) requires the approval or any consent of any Governmental Authority (other than the Province) except such as has been obtained as of the date hereof or will have been obtained on or before the Hand-Over Date;
- (c) except as disclosed in Schedule T, as of the date of this Agreement, there are no suits, actions, proceedings, judgments, grievances or orders outstanding or, to the knowledge of the HBO Negotiation Team, threatened against or affecting the Province or any of its assets by or before any court, tribunal, board or other Governmental Authority that would, if adversely determined, have a material adverse effect on the Province's ability to perform its duties and obligations hereunder;

- (d) the Province is a provincial government department and the services/goods provided by the Service Provider under this Agreement are acquired with Crown funds;
- (e) members of the HBO Negotiation Team are not aware of any material misrepresentation in the Economic Model that any such member is aware has caused the material numbers in the Economic Model to be materially inaccurate;
- (f) the physical assets transferred by the Province to the Service Provider pursuant to the Asset Conveyance Agreement shall be transferred to the Service Provider free and clear of all liens, charges and encumbrances of every kind and nature whatsoever; and
- (g) the copies of the Assigned Contracts together with any copies of amendments thereto or renewals thereof, provided by the Province to the Service Provider, are true and complete copies of such contracts which have not been amended, terminated or renewed.

## **16.2 Representations and Warranties of the Service Provider**

The MAXIMUS Group represents, warrants and covenants as follows to the Province, as of the date hereof and (except as otherwise noted) throughout the Term, and acknowledges and confirms that the Province is relying upon such representations, warranties and covenants:

- (a) MAXIMUS Prime is a company duly incorporated and validly existing under the laws of the Province of British Columbia and in good standing with respect to the filing of annual reports with the Office of the Registrar of Companies for the Province of British Columbia, and has all necessary corporate power, capacity and legal authority to enter into this Agreement and to perform its obligations hereunder;
- (b) all of the issued and outstanding shares in the capital of MAXIMUS Prime are registered in the name of the Trustee and held for the benefit of MAXIMUS Canada pursuant to the Trust Agreement;
- (c) The Articles of MAXIMUS Prime, as attached hereto as Schedule W, expressly restrict the disclosure of Province Data and MAXIMUS Prime shall not (nor shall any member of the MAXIMUS Group) at any time take any actions to amend, remove or contravene such restriction;
- (d) MAXIMUS Sub is a company duly incorporated and validly existing under the laws of the Province of British Columbia and in good standing with respect to the filing of annual reports with the Office of the Registrar of Companies for the Province of British Columbia, and has all necessary corporate power, capacity and legal authority to enter into this Agreement and to perform its obligations hereunder;
- (e) all of the issued and outstanding shares in the capital of MAXIMUS Sub are registered in the name of and owned beneficially by MAXIMUS Prime;
- (f) The Articles of MAXIMUS Sub, as attached hereto as Schedule W, expressly restrict the disclosure of Province Data and MAXIMUS Sub shall not (nor shall any member



of the MAXIMUS Group) at any time take any actions to amend, remove or contravene such restriction;

- (g) MAXIMUS US is a publicly-held company duly incorporated and validly existing under the laws of the State of Virginia and listed on the New York Stock Exchange;
- (h) MAXIMUS Canada is a wholly owned subsidiary of MAXIMUS US duly incorporated and validly existing under the laws of Nova Scotia;
- (i) MAXIMUS US and MAXIMUS Canada each has all necessary power, capacity and legal authority to enter into this Agreement and the Guarantees and to perform their respective obligations thereunder;
- (j) each Service Provider has filed all tax, corporate information and other returns required to be filed under all Applicable Laws and has complied with all workers compensation legislation and other similar legislation to which it may be subject and has paid all Taxes, fees and assessments calculated to be due by it under those laws as of the date of this Agreement;
- (k) each Service Provider has full power and authority to execute and deliver this Agreement and the other Transaction Documents, and this Agreement and the other Transaction Documents have been or will be duly executed and delivered by such Service Provider and each constitutes or will constitute a legal, valid and binding obligation of such Service Provider enforceable against such Service Provider in accordance with its terms, subject to applicable bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights and to the fact that specific performance and injunction are equitable remedies available only in the discretion of the court;
- (l) neither the execution and delivery of this Agreement or of the other Transaction Documents nor compliance with the terms thereof by the Service Providers (i) has resulted or shall result in a violation of any Applicable Laws, (ii) has resulted or shall result in a breach of, or constitute a default, under the Service Providers' constituting documents, any shareholders agreement or any shareholder or director resolution, (iii) has resulted or shall result in a breach of, or constitute a default under, any instrument or agreement to which the Service Providers are a party or by which either is bound, or (iv) requires the approval or any consent of any Person or any Governmental Authority except such as has been obtained as of the date hereof or as will have been obtained on or before the Hand-Over Date;
- (m) the Service Provider holds all material permits, approvals, authorizations and consents from any Person or Governmental Authority which are required to perform its duties and obligations pursuant to the terms hereof, the Service Provider is in good standing with respect to all such permits, approvals, authorizations and consents and none of the same contains any term, provision, condition or limitation which would have a material adverse effect on or materially adversely restrict the performance by the Service Provider of its duties and obligations pursuant to the terms hereof;

- (n) as of the date of this Agreement, there are no suits, actions, proceedings, judgments or orders outstanding or, to the knowledge of the Service Provider, threatened against or affecting either of the Service Providers or any of their assets by or before any court, tribunal, board or other Governmental Authority that would, if adversely determined, have a material adverse effect on either of the Service Providers or on either of their ability to perform their duties and obligations hereunder;
- (o) as of the date of this Agreement, there are no material labour actions, proceedings, grievances, judgments or orders outstanding or, to the knowledge of either of the Service Providers or members of the MAXIMUS Group negotiation team for this transaction, threatened against or affecting either of the Service Providers or by or before any court, tribunal, board or other Governmental Authority;
- (p) each of the Service Providers has, and throughout the Term shall maintain, their principal place of business within the Province of British Columbia;
- (q) the Service Centre will at all times be located within the Province of British Columbia;
- (r) attached hereto as Schedule U is a list of all of all of the Key Suppliers, Material Subcontractors and Key Providers of the Service Provider with respect to the performance of the Services, as such schedule shall be amended from time to time in order to accurately reflect such Persons during the Term, all of which have been Approved in accordance with the terms of this Agreement and all other actions required to be taken with respect to such Persons have been taken including, without limitation, the incorporation in the agreements with such Persons the required provisions as set forth in Article 10;
- (s) subject to applicable bankruptcy laws, each Service Provider has, and throughout the Term shall maintain, sufficient and appropriate assets and Personnel to enable the Service Providers to perform and fulfill their obligations under this Agreement and to perform the Services in accordance with the applicable Service Levels;
- (t) the performance by the Service Providers of the Services and the performance and satisfaction of the liabilities and obligations of the Service Providers under this Agreement and all of the Systems, Software and other Intellectual Property utilized by the Service Providers in the delivery of the Services (other than Intellectual Property licensed by the Province to the Service Providers pursuant to Section 18.3) does not and will not violate or infringe on or constitute a misappropriation of the Intellectual Property or rights of any Person;
- (u) the Service Providers have, and throughout the Term shall continue to have, the required expertise, skill, Personnel, External Personnel and experience to fulfill their obligations and duties under this Agreement;
- (v) all assets and Intellectual Property including hardware and Software supplied by the Service Providers to the Province at any time during the Term including at the expiry

of the Term shall be transferred, assigned or licensed (as applicable in accordance with the terms of this Agreement) free and clear of all liens and encumbrances at the time of transfer, assignment or license to the Province;

- (w) all hardware used to provide the Services will be approved by the Canadian Standards Association or comparable ULc, cUL or cETL Standards and all Systems will comply with all applicable Canadian and United States regulations including environmental, import and export regulations;
- (x) all Systems will be maintained by the Service Providers or their Subcontractors or Suppliers in good working order, ordinary wear and tear excepted;
- (y) to the extent that Service Provider Intellectual Property or the Province Intellectual Property, developed or created by the Service Providers, or accessed by or delivered to the Province contains protection features designed to prevent copying, or intentionally to prevent the use of such Software or other Software routines or hardware components which are designed to prevent unauthorized access, to disable or erase Software or data, or to perform other like actions, the Service Providers will provide the Province with the necessary key, password or other means such that it will have access and use of same (subject to Article 18);
- (z) all Service Provider hardware, Software and Systems used to perform the Services will meet the Service Providers' published specifications;
- (aa) the Service Providers have, and will have the skills, qualifications, expertise and experience necessary to perform and manage the Services in an efficient, cost-effective manner with a high degree of quality and responsiveness;
- (bb) subject to Section 1.10, all information provided by the MAXIMUS Group to the Province in the course of responding to the JSRFP prior to entering into this Agreement is true and not intentionally misleading in all material respects, and the MAXIMUS Group has not intentionally failed to disclose any further information which failure would make the information disclosed misleading and, without limiting the generality of the foregoing, the representations and warranties made by the MAXIMUS Group in the Proposal as to facts materially related to the Services, including facts pertaining to the Service Providers' and the MAXIMUS Group's corporate structure, organization, operations, general skills and capabilities relevant to the Services, are true and correct in all material respects as of the time made, and the undertakings and promises made by the MAXIMUS Group in the Proposal which are materially related to the Services shall be duly and timely performed by the Service Providers, except as provided for herein;
- (cc) the Service Providers and their Suppliers and Subcontractors shall comply with all policies, plans and procedures that relate to the Services, including the Province Policies, as same are provided to the Service Provider by the Province, subject to Article 7;

- (dd) the Service Providers are under no current obligation or restriction, nor will they knowingly assume any such obligation or restriction that does or would in any way interfere or conflict with, or that does or would present a conflict of interest concerning the performance to be rendered hereunder or the rights and licenses granted herein;
- (ee) there has been no collusion, relationship with, benefit granted to or benefit received from any other Person with respect to the JSRFP, this Agreement, the delivery of the Services or anything related thereto except as expressly disclosed by the Service Providers to the Province in writing;
- (ff) the Service Provider will ensure that all Documentation prepared or delivered under this Agreement or otherwise with respect to the Services is appropriate for the intended recipients for the purposes with which it was prepared; and
- (gg) the MAXIMUS Group has no knowledge of any material fact or matter not disclosed to the Province by the MAXIMUS Group which, if known by the Province, might be reasonably expected to deter the Province from entering into this Agreement or completing the transactions contemplated in this Agreement and in the other Transaction Documents, or that might materially adversely affect the ability of the Service Providers to perform their obligations under this Agreement.

### **16.3 Disclaimer of Warranties**

Other than the representations and warranties expressly set out in this Agreement, in the Proposal or as otherwise referenced herein, neither Party makes any representation or warranty, express or implied, regarding any matter in connection with this Agreement including any representations as to merchantability or fitness for a particular purpose.

## **ARTICLE 17 PRIVACY, SECURITY, CONFIDENTIALITY AND PUBLICITY**

### **17.1 Privacy and Security**

The Service Provider acknowledges that the Services will involve highly confidential and sensitive information, including the Province Data, and, as such, the security, availability, integrity and confidentiality of such information is of paramount importance to the Province. Accordingly, the Service Provider shall at all times comply with and ensure that all of the Service Provider Group comply with the obligations set forth in Schedule X, as such are amended from time to time in accordance with this Agreement (the "**Privacy Obligations**").

### **17.2 Confidentiality.**

The following obligations in this Article 17 are in addition to, and shall in no way derogate from, the Privacy Obligations and, to the extent of any inconsistency between the following terms of this Article 17 and any Privacy Obligations, the Privacy Obligations shall prevail.

### 17.3 Definition of Confidential Information

In this Agreement,

- (a) **"Confidential Information"** of the Province shall mean any technical, business, financial, personal, employee, operational, scientific or other information or data (including, without limitation, the terms of this Agreement) of the Province or of any Person that has disclosed such information to the Province or its agents that, at the time of disclosure (i) is designated as confidential (or like designation) (ii) is disclosed in circumstances of confidence, or (iii) would be understood by a Person exercising reasonable business judgment to be confidential. Province Confidential Information shall include all such information or data in whatsoever form or media, whether in writing, in electronic form or communicated orally or visually. Without limiting the generality of the foregoing, the Province Confidential Information shall include, without limitation, the Province Data, the Province Intellectual Property, the Personal Information, all information or data with respect to Province Records, the Province employee records and information, information regarding the Province's business, plans, operations and markets, and information of or relating to the Province Customers and Stakeholders and, for greater certainty, the Service Provider shall have no right in, and shall have no right to restrict the use or disclosure by the Province of, any Province Confidential Information.
- (b) **"Confidential Information"** of the Service Provider shall mean any technical, business, financial, personal, employee, operational, scientific or other information or data of the Service Provider that is supplied to, obtained by, or that comes to the knowledge of the Province as a result of this Agreement and that is, at the time of disclosure (i) designated as confidential (or like designation) (ii) is disclosed in circumstances of confidence, or (iii) would be understood by a Person exercising reasonable business judgment to be confidential.
- (c) The Economic Model is expressly deemed to be Confidential Information of the Service Provider. The Service Provider expressly advises the Province that the Economic Model contains trade secret, commercial and technical information of a highly sensitive nature, such Economic Model has been supplied to the Province in confidence and the disclosure of the Economic Model would harm significantly the competitive position of MAXIMUS Group, provide an unfair competitive advantage to its competitors and cause financial loss to the MAXIMUS Group.

### 17.4 Safeguarding Confidential Information

Each of the Parties acknowledges and agrees that all Confidential Information of the other Party, whether received or created before or after the Hand-Over Date, will be received in strictest confidence and held in accordance with and subject to the terms of this Agreement. The Party receiving Confidential Information will retain such information in confidence and shall treat it in accordance with the terms of this Agreement (including the Privacy Obligations) and with a degree of care no less than the degree of care that the receiving Party employs for the protection of its own Confidential Information of a similar nature provided that in any event the receiving Party shall use a

reasonable degree of care to protect such Confidential Information appropriate to the nature of the information and in accordance with prudent industry practice for the public health care industry in Canada. Without limiting the generality of the foregoing and subject to Article 7, the Service Provider further agrees to comply with such confidentiality, privacy and security directives and policies as issued by the Province from time to time.

#### **17.5 Permitted Disclosure and Use of Confidential Information**

Subject to the Privacy Obligations, Sections 17.8 and 17.9 and all other obligations set forth in this Agreement including those set forth in Article 10, a Party may use or disclose relevant aspects of another Party's Confidential Information to:

- (a) the extent reasonably necessary to perform its obligations and exercise its rights under this Agreement; and
- (b) its Personnel, Key Suppliers and Material Subcontractors (and in the case of the Province, its employees, subcontractors, professional advisors and agents) employees, subcontractors, professional advisors and agents to the extent such disclosure and use thereof is reasonably necessary for the performance of the receiving Party's rights or obligations under this Agreement and provided that such Persons and their employees have an actual need to know such information and have signed non-disclosure agreements as required by the Privacy Obligations and Article 10.

#### **17.6 Exceptions to Obligation of Confidentiality**

Subject to the Privacy Obligations and Sections 17.8 and 17.9, the obligations of confidentiality contained in this Article 17 shall not apply to any information to the extent a Party can reasonably demonstrate that such information:

- (a) was, at the time of disclosure to the receiving Party, in the public domain;
- (b) after disclosure to the receiving Party, is published or otherwise becomes part of the public domain through no fault of the receiving Party;
- (c) was in the possession of the receiving Party at the time of disclosure to it and was not the subject of a pre-existing confidentiality obligation;
- (d) was disclosed independently to the receiving Party by a third party without any confidentiality obligations, provided such third party, or any other party from whom such third party receives such information, is not in breach of any confidentiality obligations in respect of such information;
- (e) was independently developed by the receiving Party without use of any Confidential Information of the other Party;
- (f) is disclosed with the prior written Approval of the other Party, but only to the extent Approved by the other Party;

- (g) is Province employee records and information and such information is reasonably required to be disclosed in order for the Service Provider to conduct its business;
- (h) is Service Provider Confidential Information and such information is required to be disclosed by the Province under the *Freedom of Information and Protection of Privacy Act* (British Columbia); or
- (i) is Service Provider Confidential Information and such information is required to be disclosed by the Province in order to comply with Policies regarding the disclosure of Project Summary Reports.

#### **17.7 Disclosure Compelled by Law**

Subject to the Privacy Obligations and to Sections 17.8 and 17.9, a Party shall not be considered to have breached its confidentiality obligations under this Article 17 for disclosing any Confidential Information of the other Party to the extent such disclosure is required to satisfy any Applicable Laws provided that the Party requested to make such disclosure (the “Compelled Party”):

- (a) promptly upon receiving any such request and within a reasonable time prior to disclosure notifies the other Party of the terms and circumstances of the requested disclosure;
- (b) consults with the other Party regarding the nature and scope of such request and the response or other position the Compelled Party intends to take with respect to such request;
- (c) does not obstruct or interfere and to the extent practical permits the other Party to obtain a protective order or other remedy to prevent, object to, enjoin, narrow the scope of or otherwise contest the requested disclosure;
- (d) if the other Party is unable to obtain a protective order or other remedy, the Compelled Party shall only disclose such of the Confidential Information that it is legally required to disclose; and
- (e) makes and reasonably pursues a request, that is reasonable and customary in the circumstances, to the applicable Governmental Authority for confidential treatment of the information to be disclosed to such Governmental Authority.

#### **17.8 Disclosure of Province Data**

Notwithstanding Sections 17.5, 17.6, 17.7 and any other term of this Agreement or any other obligation or right of the Service Provider, the Service Provider shall not disclose to any Person or allow any Person to access, and shall ensure that none of the Service Provider Group disclose to any Person or allow any Person to access, any Province Data, except:

- (a) if, and in the manner, expressly permitted pursuant to the Privacy Obligations;
- (b) as Approved by the Province; or

- (c) pursuant to an order of the Supreme Court of British Columbia, the Court of Appeal of British Columbia, or the Supreme Court of Canada (each, a "BC Court") pursuant to Section 17.9.

#### **17.9 Disclosure of Province Data as Required by Applicable Law**

If the Service Provider or any of the Service Provider Group is required, in order to satisfy any Applicable Laws of Canada or British Columbia (and not, for greater certainty, any laws of any other country or jurisdiction), to disclose to any Person or to allow any Person to access any Province Data other than as permitted in Section 17.8(a) or Section 17.8(b), the Service Provider shall not disclose or allow access to the Province Data unless and until (i) the Service Provider has provided the Province with Notice of such requirement, (ii) the Service Provider and the Province have appeared before a BC Court, and (iii) the BC Court has ordered that the Service Provider disclose or allow access to the Province Data.

#### **17.10 No Rights to Confidential Information**

Nothing in this Article 17 shall be construed as obligating a Party to disclose its Confidential Information to the other Party or as granting or conferring on a Party, expressly or impliedly, any right, title or interest or any licence to the Confidential Information of the other Party.

#### **17.11 Notification of Unauthorized Use of Confidential Information**

Each Party shall:

- (a) notify the other Party of any material unauthorized possession, use or knowledge, or attempt to effect the same, of the other Party's Confidential Information by any Person that may be become known to such Party;
- (b) promptly furnish to the other Party details of the unauthorized possession, use or knowledge, or attempt to effect the same, and use reasonable efforts to assist the other Party in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt to effect the same, of the other Party's Confidential Information;
- (c) use reasonable efforts to cooperate with the other Party in any litigation and investigation against third parties deemed necessary by the other Party to protect its proprietary rights and Confidential Information; and
- (d) promptly use reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of the other Party's Confidential Information.

The Party whose Confidential Information is the subject of such activity will reimburse any out-of-pocket expenses reasonably incurred by the other Party as a result of compliance with this Section 17.11.



### **17.12 Breach of Confidentiality**

Subject to Applicable Laws including the *Crown Proceeding Act* (British Columbia), in the event of any breach or anticipated breach of this Article 17, the non-defaulting Party shall be entitled to preliminary and permanent injunctive relief as well as an equitable accounting of all profits and benefits arising out of such violation, which remedy shall be in addition to any other rights or remedies to which such Party may be entitled under this Agreement or otherwise under Applicable Laws.

### **17.13 FOIPPA Inspections**

The Service Provider acknowledges that under the *Freedom of Information and Protection of Privacy Act* (British Columbia), the Commissioner has the power to obtain information and evidence from persons other than the Province in the course of conducting an investigation or an inquiry under that Act. Accordingly, the Service Provider shall provide reasonable cooperation with respect to investigations or inquiries of the Commissioner under that Act regarding Province-related or Personal Information related matters, and in respect of any information to which the Commissioner is entitled to under such Act.

### **17.14 Publicity**

The Service Provider will submit to the Province all advertising, written sales promotion, press releases, public notices and all other publicity matters or materials relating to this Agreement or the transactions contemplated by this Agreement or in which the Province's name or mark is mentioned or language from which the connection of said name or mark may be inferred or implied, and will not publish or use such advertising, written sales promotion, press releases, public notices or any other publicity matters or materials without the prior consultation with and the obtaining of written approval of the Province, which will not be unreasonably withheld. Notwithstanding the foregoing, the Service Provider may include the Province's name and a factual description of the work performed under this Agreement only on employee bulletin boards, in internal business planning documents, whenever otherwise required by reason of legal, accounting or regulatory requirements and in proposals where such proposal language has been Approved by the Province, such Approval not to be unreasonably withheld.

## **ARTICLE 18 PROPRIETARY RIGHTS**

### **18.1 Ownership of Other Assets**

Except as expressly provided in this Agreement or in the Transaction Agreements, the Province shall be and remain the exclusive owner of all rights, title and interest in and to all assets and property provided by the Province to the Service Provider from time to time including any assets to which the Service Provider is given access to from time to time.

### **18.2 Ownership of Province Intellectual Property**

The Province shall be and remain the exclusive owner of all rights, title and interest in and to Province Intellectual Property (including where the same has been incorporated into a product or

solution that is otherwise Service Provider Intellectual Property). Except as expressly provided by this Agreement, nothing in this Agreement or in the relationship of the Parties shall confer any right or license in or upon the Service Provider in respect of the Province Data, Province Records, Confidential Information or Province Intellectual Property. The Service Provider hereby assigns to the Province all right, title, and interest in and to any of the foregoing that the Service Provider or any member of the Service Provider Group may acquire at any time.

### **18.3 License to Service Provider**

The Province hereby grants to the Service Provider a limited, non-exclusive right, subject to any restrictions, license terms, or policies reasonably required by the Province and subject to any third party rights, to use the Province Intellectual Property and the Confidential Information (including Province Data) as reasonably required to provide the Services. For greater certainty, the foregoing license rights shall terminate upon expiry or termination of the Initial or Renewal Term, as applicable (the "**License Termination Date**"), subject to specific rights required with respect to the Termination Assistance Services. Subject to the remedies expressly set forth in Section 6.18, the foregoing rights are granted on an "as is" basis without warranties or conditions of any kind, whether oral or written or express or implied, and the Province specifically disclaims any implied warranties or conditions of merchantability, satisfactory quality, non-infringement and fitness for a particular purpose.

### **18.4 Service Provider Intellectual Property and Service Provider Software**

The Service Provider shall not utilize any Service Provider Intellectual Property or Service Provider Software in providing the Services except to the extent that the Service Provider provides the Province with notification in writing in advance. Where any Service Provider Intellectual Property or Service Provider Software is utilized in providing Services, whether notified or not, the Service Provider hereby grants to the Province a global, perpetual, assignable (for the purposes of delivery of services to the Province), royalty-free, fully-paid up, irrevocable license to the same, effective upon the License Termination Date. Such license includes, without limitation, the right to use, copy, maintain, modify, enhance, sublicense and create derivative works of the same. Further, such license shall include all Source Material and related Intellectual Property upon there being a triggering event under the Source Code Escrow Agreement, all as more particularly set forth therein. Notwithstanding the foregoing, the Service Provider shall be and remain the exclusive owner of all rights, title and interest in and to the Service Provider Intellectual Property (including where the same has been incorporated into a product or solution that is otherwise Province Intellectual Property), but the Province shall be the owner of any modifications, enhancements and derivative works made by or on behalf of the Province.

To the extent that any portion of the Service Provider Intellectual Property or Service Provider Software is owned by any members of the MAXIMUS Group other than the Service Provider, whether as of the Effective Date or at any time thereafter, then MAXIMUS US, on its own behalf and as agent for and on behalf of all other members of the MAXIMUS Group, hereby grants to the Service Provider a global, perpetual, assignable (for the purposes of delivery of services to the Province), royalty-free, fully-paid up, irrevocable license to the same, effective upon the Effective Date and otherwise immediately effective upon the creation of any new Service Provider Intellectual Property or Service Provider Software. Such license includes, without limitation, the right to use,

copy, maintain, modify, enhance, sublicense and create derivative works of the same. Further, such license shall include all Source Material and related Intellectual Property. The MAXIMUS Group acknowledges that the Province has an interest in such license grant in respect of its option to acquire the Service Provider pursuant to the Trust Agreement. The MAXIMUS Group hereby covenants and agrees that it shall not amend, alter or otherwise adversely affect the license herein granted without the express Approval of the Province and further that such license shall survive the termination or expiry of this Agreement and any exercise of rights that the Province has pursuant to the Trust Agreement.

#### **18.5 Assignments and Waivers from Employees and Contractors**

The Service Provider shall ensure that all Personnel and External Personnel of the Service Provider, Suppliers and Subcontractors, and any other individuals who create, invent, or otherwise contribute to the development of any the Province Intellectual Property or any other Intellectual Property that is or may be hereunder licensed or assigned to the Province will (i) assign to the Service Provider or, where applicable, directly to the Province or a party designated by the Province all rights, title, and interest therein and (ii) waive all moral rights and similar rights therein.

#### **18.6 Intellectual Property Related Further Assurances**

The Service Provider shall ensure that its then-current and, to the extent reasonably possible, past Personnel and External Personnel of its Suppliers and Subcontractors will, co-operate fully with the Province and with its Alternative Service Provider and assigns with respect to signing further documents and doing such acts and other things reasonably requested by the Province or its Alternative Service Provider or assigns to confirm or evidence ownership of the Province Intellectual Property and the waiver of moral rights therein, and to obtain, register, defend, or enforce any right in respect of the Province Intellectual Property.

#### **18.7 Third Person Software**

In respect of any license with a third party Person for Software (other than "shrinkwrap" or "clickwrap" Software that is generally commercially available) ("**Dedicated Third Person Software**") that the Service Provider enters into during the Term, the Service Provider shall obtain as a provision of such license and at the time of obtaining such license the right to assign the license to the Province or an Alternative Service Provider without consent from, or a fee payable to, such third party Person, provided that where the inclusion of such provision does increase the cost of obtaining such license the Service Provider shall be relieved of its obligation to obtain such right if it informs the Province of such increased cost and the Province does not agree to be responsible for such increased cost.

#### **18.8 Ownership of Province Confidential Information**

- (a) The Province Confidential Information (including Province Data and Province Records) is and shall remain the property of the Province. Subject to applicable security procedures and system availability, the Province shall have complete and unrestricted control and access at all times of and to the Province Confidential Information and, as part of the Services, the Service Provider shall provide access

thereto as may be requested by the Province including such access as will enable the Province to make complete copies of all Province Confidential Information. Upon the Province's request, the Service Provider shall also make and provide to the Province copies of the Province Confidential Information. Control of the Province Confidential Information is vested solely in the Province and nothing in this Agreement shall in any way be construed to grant Control of the Province Confidential Information to the Service Provider or any other Person. The Service Provider shall at all times adhere to the directions of the Province with respect to Province Confidential Information.

- (b) Subject to applicable operating processes and restrictions, the Service Provider will promptly correct any errors or inaccuracies in the Province Data that are observed by the Service Provider and record such error correction and report the same to the Province on a monthly basis provided that if the Service Provider discovers significant errors or inaccuracies in the Province Data which were caused by systematic data entry errors by the Province prior to the Hand-Over Date, then the Services required to correct such errors or inaccuracies shall, if deemed to be a Material Change, be dealt with as a Permitted Material Change in accordance with Article 7. Upon the Province's request and subject to available resources, the Service Provider will work with the Province to promptly correct any errors or inaccuracies in the Province Data. To the extent the Service Provider has caused the errors or inaccuracies in the Province Data, without prejudice to the Province's rights and remedies under this Agreement, the Service Provider will provide technical resources to assist, correct and/or restore such Province Data using the systems and data (or replacement data) in electronic form in the Service Provider's possession or as provided by the Province.
- (c) Upon the Province's request, at any time during the Term or upon any Termination, the Service Provider will promptly return to the Province, in the format and on the media requested by the Province, all or any part of the Province Confidential Information and erase or destroy all or any part of the Province Confidential Information in the Service Provider's or in any Service Provider Group member's possession, or in each case to the extent so requested by the Province.

## 18.9 Province Marks

In respect of the use or display of any trade-marks, official marks, business names, trade names, domain names, trading styles, logos, or other distinguishing marks, whether registered or unregistered, of the Province, including the Brand (collectively, the "Province Marks"), the Parties agree as follows:

- (a) the Service Provider shall comply, and, where applicable, shall ensure that the MAXIMUS Group complies, with all applicable Province Policies including, without limitation:
  - (i) the "Guidelines for designing screens and dialogs for e-service applications, Release 4.0 – April 22, 2003", and

- (ii) the "Standards for B.C. Government information pages and e-service applications on the Internet, Version 1.0 - April 22, 2003";

as the same are amended and revised from time to time upon notice to the Service Provider;

- (b) the Service Provider shall have the right to use or display Province Marks only if the Province approves the use of the specific Province Mark in writing in advance, the use of the Province Mark is in the manner expressly permitted in writing by the Province and provided that:
  - (i) the character and standards of quality of the wares and services in respect of which the Province Marks may be used are as set out in this Agreement,
  - (ii) the parties acknowledge and agree that any and all goodwill that is or may be acquired from the use of the Province Marks by the Service Provider or any of the MAXIMUS Group shall vest in and be the property of the Province,
  - (iii) the Service Provider may display or use the Province Marks only with the appropriate legends and otherwise in accordance with the Policies and all usage guidelines and restrictions as reasonably prescribed from time to time by the Province,
  - (iv) the Service Provider may not register, or carry on business under, a business name that contains any of the Province Marks, and
  - (v) upon termination or expiry of the Agreement, the Service Provider and the MAXIMUS Group shall immediately cease any and all use of the Province Marks and shall discontinue the provision of all products and services in association with the Province Marks and, following such a termination, the Service Provider shall not, and shall ensure that each of the MAXIMUS Group do not, challenge the validity of the Province Marks or the Province's ownership of the Province Marks, and the Service Provider shall not, and shall ensure that each of the MAXIMUS Group do not, use the Province Marks or any trade-mark or trade name confusingly similar thereto;
- (c) the Service Provider acknowledges and agrees that the Province is and shall remain the owner of the Province Marks and that the Service Provider shall not obtain any rights therein; and
- (d) the Service Provider shall not, and shall ensure that each of the MAXIMUS Group do not, use or register any Province Marks or any marks confusingly similar thereto except as permitted by the Province.

## ARTICLE 19 INDEMNITIES AND LIABILITIES

### 19.1 General Intent

Subject to the limitations set forth below, each Party will be liable to the other for the damages that would be awarded by a court which arise out of or relate to this Agreement. Both Parties agree that monetary damages may not be a sufficient remedy for any breach of this Agreement and each Party will be entitled, subject to Applicable Laws including the *Crown Proceeding Act* (British Columbia) and subject to Article 23, to seek equitable relief, including injunctive relief and specific performance in the event of a breach of this Agreement.

### 19.2 Indemnity by Service Provider

The Service Provider shall indemnify and save harmless the Province and its elected officials, employees, advisors, agents and representatives to the fullest extent permitted by law, from and against any and all Losses suffered or incurred by any of them or by any of the Province Customers or Stakeholders or any employees, advisors, agents, directors, officers or representatives of the same arising or alleged to arise:

- (a) from the default of, or a breach by, the Service Provider in the performance of its obligations under this Agreement or any of the other Transaction Documents or acts taken by the Service Provider in respect of its obligations hereunder or otherwise in respect of the Province, Province Customers or Stakeholders that are outside the scope of authority, rights or mandate contemplated by this Agreement or any of the other Transaction Documents including, without limitation, actions taken by Personnel that are not reasonably contemplated by communication scripts;
- (b) the failure of the Service Provider to perform its obligations under any license, lease or other agreement (i) between the Service Provider and a third party, including Suppliers and Subcontractors (except to the extent that the liability arises out of a failure of the Province to perform its obligations in any material respect under this Agreement); or (ii) assigned by the Service Provider to the Province or Alternative Service Provider in connection with the expiration or termination of this Agreement (except to the extent that the liability arises in respect of obligations arising prior to such license, lease or other agreement being assigned to the Service Provider where such license, lease or agreement was assigned by the Province to the Service Provider on the Hand-Over Date). *By way of example, the Service Provider is not liable hereunder for a breach by the Province prior to the Hand-Over Date under a license that is subsequently assigned by the Province to the Service Provider as of the Hand-Over Date;*
- (c) from any inaccuracy in any material respect of any representation or warranty made by the Service Provider hereunder;
- (d) from any Claim from any third party, including Suppliers or Subcontractors, that has a contractual, statutory or other legal relationship with the Service Provider and that

arises in connection with or as a result of the Province receiving Services under this Agreement (other than those Claims caused by the Province's breach of this Agreement or the negligence or wilful misconduct of the Province and except to the extent that the liability arises in respect of obligations arising prior to such agreement being assigned to the Service Provider where such agreement was assigned by the Province to the Service Provider on the Hand-Over Date), including, without limitation, any Claim from any third party in connection with the failure of the Service Provider to obtain consents to the assignment of any such agreements upon the termination or expiry of the Term;

- (e) from the Service Provider or the Suppliers or Subcontractors infringing any Intellectual Property rights or license rights of a third party (other than Province Intellectual Property which infringes the Intellectual Property rights of a third party to the extent that the same is governed by Section 6.18), provided that this indemnity shall not apply to the extent that such infringement is directly attributable to and caused by non-infringing Service Provider Intellectual Property being combined by the Province with third party Intellectual Property;
- (f) from the breach by any member of the Service Provider Group of the obligations under this Agreement or any of the other Transaction Documents with respect to the Province's Confidential Information including Province Data even where such breach is mandated or required by any non-Canadian law or otherwise;
- (g) from the failure of the Service Provider to comply with all Applicable Laws;
- (h) from the failure of the Service Provider to pay and discharge any Taxes for which the Service Provider is responsible pursuant to this Agreement and all Applicable Laws;
- (i) from the wilful misconduct of the Service Provider or members of the Service Provider Group with respect to the Services or this Agreement;
- (j) from the death of or bodily injury to any third party or to any employee of the Province or its Affiliates to the extent caused by the negligence or wilful misconduct of the Service Provider or members of the Service Provider Group;
- (k) from any theft or other misappropriation of any funds by the Service Provider or members of the Service Provider Group;
- (l) from the loss of or damage to any property of the Province or the property of any third party, to the extent caused by the negligence or wilful misconduct of the Service Providers or members of the Service Provider Group;
- (m) from any breach of fiduciary duty of the Service Provider or members of the Service Provider Group specifically in respect of delivery of the Services where the Service Provider is expressly authorized to act on behalf of the Province;
- (n) from the failure of the Service Provider or members of the Service Provider Group to adhere to Section 10.4 of this Agreement; and

- (o) from any claim or proceeding taken or initiated by any member of the Service Provider Group in any forum other than the Courts of the Province of British Columbia, in breach of the dispute settlement provisions set forth in Section 26.15 or if any member of the Service Provider Group assists any third party in breach of the third party provisions set forth therein, or advances any claim against any third party in breach of the no third-party claim provisions set forth therein.

### 19.3 Third Party Claim Process

- (a) If a Party (the **"Indemnified Party"**) intends to seek indemnification under this Article 19 or Article 25 from the other Party (the **"Indemnifying Party"**) in respect of a third party Claim, the Indemnified Party shall promptly give the Indemnifying Party written notice of such Claim for indemnification, such notice not to exceed ten (10) Business Days following the commencement of any action by a third party; provided, however, that the failure of an Indemnified Party to give the Indemnifying Party notice within such ten (10) Business Day period will not relieve the Indemnifying Party of its obligations hereunder except to the extent that such failure results in prejudice to the Indemnifying Party's defence to such Claim.
- (b) If the Service Provider receives notice of a Claim pursuant to Section 19.3(a), the Service Provider may, at the sole discretion of the Province, assume the defence of such Claim, at the Service Provider's sole cost and expense, with counsel designated by the Service Provider and reasonably satisfactory to the Province; provided, however, that if the Province grants such right to the Service Provider and the defendants in any such action include both the Province and the Service Provider, and the Province reasonably concludes that there may be legal defences available to it which are different from or additional to those available to the Service Provider, the Province shall have the right to retain separate counsel, the reasonable costs of which shall, if selected by the Service Provider, be at the Service Provider's expense, to assert such legal defences and to otherwise participate in the defence of such action on behalf of the Province. For greater certainty, the Province may, in its sole discretion, subject to the rights set forth in Section 19.3(e), completely control the defence of such Claim and any related settlement.
- (c) If the Province receives notice of a Claim pursuant to Section 19.3(a), the Province shall have the right to assume the defence of such Claim, at the Province's sole cost and expense, with counsel designated by the Province and reasonably satisfactory to the Service Provider; provided, however, that if the defendants in any such action include both the Service Provider and the Province, and the Service Provider shall have reasonably concluded that there may be legal defences available to it which are different from or additional to those available to the Province, the Service Provider shall have the right to retain separate counsel, the reasonable costs of which shall, if selected by the Province, be at the the Province's expense, to assert such legal defences and to otherwise participate in the defence of such action on behalf of the Service Provider.



- (d) If the Indemnified Party is entitled to indemnification under this Article 19 or Article 25 as a result of a Claim by a third party, and if the Indemnifying Party fails or chooses not to assume the defence of such Claim, or fails to proceed, the Indemnified Party may, at the expense of the Indemnifying Party, contest (or, with or without the prior consent of the Indemnifying Party, settle) such Claim. The Indemnified Party shall not otherwise settle any Claim with respect to which it has sought or intends to seek indemnification pursuant to this Article 19 or Article 25 without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed.
- (e) Except to the extent expressly provided herein, no Indemnifying Party shall settle any Claim with respect to which it may be liable to provide indemnification pursuant to this Section without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed; provided, however, that if the Indemnifying Party has reached a bona fide settlement agreement with the plaintiff(s) in any such action and the Indemnified Party does not consent to such settlement agreement, then the dollar amount specified in the settlement agreement shall act as an absolute maximum limit on the indemnification obligation of the Indemnifying Party.

#### **19.4 Mitigation**

Each Party has a duty to mitigate the Losses that would otherwise be recoverable from the other Party pursuant to this Agreement by taking appropriate and reasonable actions to reduce or limit the amount of such Losses.

#### **19.5 Province Liability**

The Province shall indemnify and save harmless the Service Provider and its directors, officers, employees, advisors, agents and representatives to the fullest extent permitted by law, from and against any and all Losses suffered or incurred by any of them arising or alleged to arise:

- (a) from the death of or bodily injury to any third party or to any employee of the Service Provider or its Affiliates to the extent caused by the negligence or wilful misconduct of the Province; or
- (b) from any theft or other misappropriation of any funds by the Province, its employees, agents or representatives.

Subject to the foregoing, the remedies set forth in Sections 6.18 and 21.7 and the Province's obligation to pay the Fees or other amounts expressly contemplated in this Agreement including for Termination Services and payment obligations in the Trust Agreement, the Province shall not under any circumstances have any liability to the Service Provider or any member of the Service Provider Group, or any other Persons in respect of this Agreement, the Services or anything directly or indirectly related hereto, whether based upon an action or claim in contract, warranty, equity, negligence, intended conduct or otherwise. Such exclusion of liability applies notwithstanding any

representations, warranties, covenants or other provisions of the Province to the contrary on the basis that the Service Provider remedies in respect thereof are as set forth in Sections 6.18 and 21.7.

#### 19.6 Limitation on Liability

- (a) Subject to the following paragraphs (b) and (c), neither Party, its directors, officers, employees, elected officials or agents shall be liable for any special, incidental, punitive, indirect, or consequential damages arising out of or in connection with the Service provided under this Agreement, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of Software or any portion thereof, even if advised of the possibility of such damages (collectively, "**Consequential Damages**"). Subject to the following paragraphs (b) and (c), this limitation with respect to Consequential Damages will apply to all Claims regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise.
- (b) The liability of the Service Provider (if any) to the Province for any Loss relating to or arising from this Agreement, other than pursuant to the indemnities granted pursuant to Subsections 19.2(b), 19.2(d), 19.2(e), 19.2(f), 19.2(h), 19.2(j), 19.2(k), and 19.2(l) (the "**Excluded Losses**"), will not exceed (a) for the first eighteen (18) months of the Term, the Fees paid or budgeted or scheduled to be paid to the Service Provider in such first eighteen month period of the Term (not taking into account Service Level Credits or other adjustments); and (b) after the first eighteen (18) months of the Term, the aggregate Fees paid to the Service Provider under this Agreement in the eighteen months immediately preceding the event that caused the damages or that is the subject matter of the Claim less any damages paid to date in respect of such Loss (not taking into account Service Level Credits or other adjustments); as such limitation is calculated on a per Loss basis and any Service Level Credits in respect of such Loss shall be excluded from such limit as set forth in Section 8.14 (the "**Direct Damage Cap**"). This Direct Damage Cap will apply (other than with respect to Excluded Losses) irrespective of the nature of the cause of action, demand or action, including but not limited to, breach of contract, negligence, tort or any other legal theory.
- (c) Consequential Damages with respect to any Loss relating to or arising pursuant to the Excluded Losses other than Section 19.2(f) shall be limited to an amount calculated by multiplying the Direct Damage Cap times two, calculated at the time such Loss arises. Other than this express limitation with respect to Consequential Damages for the Excluded Losses other than Section 19.2(f), there shall be no limitation or restriction in this Section or otherwise in this Agreement that in any way limits the Excluded Losses or any Losses related thereto including, without limitation, there being no limitation or restriction on any direct damages in respect of the same.

## **ARTICLE 20 ASSIGNMENT**

### **20.1 Assignment by the Province**

The Province may assign at any time, in its sole discretion, and without the consent of the Service Provider, this Agreement in whole or in part or sublicense any right or benefit set forth herein to any government, public sector or Crown entity, body or authority. The Province may assign this Agreement to any other Person with the prior written consent of the Service Provider, such consent not to be unreasonably withheld unless the assignee is a direct competitor of the Service Provider in which event the Service Provider shall have the right to withhold its consent in its sole discretion. Nothing herein limits any rights granted in this Agreement with respect to Alternative Service Providers.

### **20.2 Assignment by the Service Provider**

The Service Provider will not assign, either directly or indirectly, this Agreement or any right of the Service Provider under this Agreement without the prior written Approval of the Province, which Approval may be given or withheld in the sole and absolute discretion of the Province. For the purposes of this Agreement any transfer of any shares or other interest or right in or to either of the Service Providers or MAXIMUS Canada or agreement granting a Person the right (conditional or absolute) to the same shall be deemed to be an indirect assignment of this Agreement and expressly prohibited by the foregoing provision. Without limiting the generality of the foregoing, at no time shall the Province consent to any assignment where such assignment could in any manner expose the Province Data to any increased risk of disclosure contrary to the terms of this Agreement.

## **ARTICLE 21 DEFAULT AND TERMINATION**

### **21.1 Material Breach by the Service Provider**

The Service Provider shall be in material breach ("Material Breach") of its obligations under this Agreement upon the occurrence of any one or more of the following events:

- (a) an Event of Insolvency in respect of any member of the MAXIMUS Group;
- (b) any direct or indirect assignment of this Agreement by any member of the MAXIMUS Group contrary to Section 20.2;
- (c) any disclosure of Province Data contrary to the terms of this Agreement;
- (d) any failure by the Service Provider to continuously and without interruption perform and provide the Uninterruptible Services (unless otherwise permitted pursuant to Article 24);
- (e) the occurrence of a Consistent Failure; provided that such Consistent Failure is not caused in whole or in part by a failure of the Province to provide any funds required

to be provided by the Province to the Service Provider hereunder in accordance with Article 12 or is not otherwise directly attributable to the Province;

- (f) there is, without the prior Approval of the Province (which response from the Province shall not be more than 90 days), a change of Control of or Material Adverse Change to either of the Service Providers or MAXIMUS Canada, including but not limited to:
  - (i) the sale, transfer, assignment or disposition of all or substantially all of the assets of either of the Service Providers or MAXIMUS Canada or of all or substantially all of the assets relating to the performance of the Services to a third party;
  - (ii) the change of voting control of either of the Service Providers or MAXIMUS Canada; or
  - (iii) the merger or amalgamation of either of the Service Providers or MAXIMUS Canada with another entity;
- (g) there is, without the Approval of the Province (which response from the Province shall not be more than 90 days), a Material Adverse Change to MAXIMUS US;
- (h) there is, without the prior Approval of the Province (which response from the Province shall not be more than 90 days), an internal reorganization of the MAXIMUS Group or any member thereof, except that where such internal reorganization:
  - (i) does not include the Service Providers;
  - (ii) does not adversely affect the Guarantees in any manner; and
  - (iii) the Province does not have any concerns as to privacy, confidentiality or the protection of Province Data (as determined in its sole discretion),then such Approval by the Province to such internal reorganization shall not be unreasonably withheld;
- (i) any member of the MAXIMUS Group ceases or threatens to cease to carry on business;
- (j) any matter described in the Schedules or otherwise in this Agreement as a "Material Breach" including, without limitation, as set forth in Sections 9.4 and 10.10; or
- (k) any member of the MAXIMUS Group breaches or defaults in the performance of any of its material obligations under this Agreement or under any of the other Transaction Agreements, including but not limited to any failure by any member of the MAXIMUS Group or any of its Suppliers or Subcontractors to achieve the Service Levels (other than failures to provide Service Levels which constitute a Material

Breach in respect of other provisions set forth herein) which has a substantial adverse effect upon the Province, the Province Customers or Stakeholders (as determined by the Province, acting reasonably), and (i) the MAXIMUS Group fails to deliver a cure plan within seventy-two (72) hours of its receipt of written notice from the Province of such breach or default, such notice to state the nature of the breach or default and the appropriate remedy to cure such breach or default; or (ii) the MAXIMUS Group fails to rectify such breach or default within 14 days of its receipt of such written notice; provided that such seventy-two (72) hour period or 14 day period, as applicable, may be extended by the Province, in its sole discretion, for such additional period upon written notice of such extension to the MAXIMUS Group if such additional period is reasonably required to cure such default or breach.

The MAXIMUS Group shall provide prompt notice to the Province of any Material Adverse Change with respect to the MAXIMUS Group or of any fact, event or occurrence that is or that reasonably shall, with the giving of notice or lapse of time, result in a Material Breach or a circumstance contemplated by this Section 21.1.

## **21.2 Events of Default by the Service Provider**

An event of default (a "Service Provider Default") shall be deemed to have occurred upon the occurrence of any one or more of the following events:

- (a) a Material Breach;
- (b) any member of the MAXIMUS Group breaches or defaults in the performance of any of its obligations under this Agreement or under any of the other Transaction Documents (other than a Material Breach), including but not limited to any failure by either of the Service Providers or any of its Suppliers or Subcontractors to achieve the Service Levels (other than failures to achieve Service Levels which constitute a Material Breach) and fails to rectify such breach or default within thirty (30) days of its receipt of written notice from the Province of such breach or default, such notice to state the nature of the breach or default and the appropriate remedy to cure such breach or default; provided that such thirty (30) day period may be extended by the Province, in its sole discretion, for such additional period upon written notice of such extension to the member of the MAXIMUS Group in default if such additional period is reasonably required to cure such default or breach;
- (c) the Province determines in its sole and absolute discretion that the actions or omissions of the Service Provider or any member of the Service Provider Group poses or, if carried out or continued, will pose a serious risk of disclosure of Province Data contrary to the terms of this Agreement; or
- (d) the Service Provider or any member of the Service Provider Group engages in any conduct which the Province determines, acting reasonably, to be fraudulent or criminal conduct.

### 21.3 Remedies of the Province

- (a) Without requirement for recourse to legal process and without limiting any other rights or remedies the Province may have at law, in equity, as otherwise set forth in this Agreement or otherwise:
  - (i) upon the occurrence of a Service Provider Default, the Province may:
    - A. require that the Service Provider reimburse the Province for any Losses incurred by the Province in connection with such Service Provider Default, including but not limited to any Losses incurred by the Province in connection with any steps taken by the Province pursuant to paragraph 21.3(a)(i)D below, and the Service Provider hereby agrees to reimburse the Province for any such Losses and, if the Service Provider fails to reimburse the Province for such Losses, to set-off by written notice to the Service Provider the amount of such Losses against any Fees payable to the Service Provider by the Province from time to time;
    - B. not pay any or all of the Fees to the Service Provider in respect of any Service directly related to the Service Provider Default during the period of time such Service Provider Default remains uncured or as otherwise mutually agreed upon by the Province and the Service Provider;
    - C. not pay any or all of the At-Risk Amount in respect of the Contract Year during the Term in which such Service Provider Default occurs;
    - D. take such steps as deemed by the Province, in its sole discretion, to cure such Service Provider Default, including but not limited to performing any Services or procuring or otherwise obtaining Services from any alternative service provider or providers during the period of time such Service Provider Default remains uncured or alternatively directing the Service Provider to terminate or otherwise remove those employees and officers of the Service Provider as designated by the Province and replacing such Persons with individuals designated by the Province (which may include Persons who are employees of the Province), such appointments to be effective until such time as the Service Provider Default is cured and there is no reasonable basis, as determined by the Province, that such Service Provider Default will reoccur in the next twelve months, and in all cases such remedies shall be at the sole cost and expense of the Service Provider and no member of the Service Provider Group shall have any Claims against the Province in respect of any actions or inactions of such designated Persons; and

- E. require that the Service Provider immediately cease using any Supplier or Subcontractor where such Service Provider Default is reasonably attributable in whole or in part to such Person by delivery of a written notice to the Service Provider of such required cessation of use of such Supplier or Subcontractor, with the Service Provider then being required to make its best efforts to replace such Supplier or Subcontractor as soon as possible, subject to the Approval rights with respect to new Suppliers and Subcontractors as set forth in Article 10;

and the Service Provider acknowledges and agrees that, upon such occurrence of a Service Provider Default, the Province may exercise any or all of, or any combination of, the above-listed rights and remedies in this Section 21.3(a)(i);

- (ii) in addition to all other rights and remedies provided for in this Section 21.3, where such Service Provider Default is due to a Material Breach, the Province may immediately terminate this Agreement by delivery of a Termination Notice to the Service Provider or alternatively an Option Exercise Notice to acquire legal and beneficial title to the shares of the Service Provider pursuant to the Trust Agreement; and
- (iii) in addition to all other rights and remedies provided for in this Section 21.3, where:
  - A. such Service Provider Default is due to a Material Breach in respect of any disclosure of Province Data contrary to the terms of this Agreement, and
  - B. such disclosure of Province Data was intentionally undertaken by any member of the MAXIMUS Group as a result of a legal requirement of another country;

then the MAXIMUS Group agrees that at the written request of the Province it shall pay to the Province the sum of \$35,000,000 as liquidated damages in respect of such disclosure of Province Data. In the event of such disclosure the Province shall further have the right to require performance bonding in the amounts and forms determined by the Province in its sole discretion where the Province elects not to terminate this Agreement.

- (b) Any Termination Notice from the Province to the Service Provider under this Section 21.3 shall specify the Termination Date, whether Termination Services shall be required by the Province, the grounds of termination and, if applicable, reasonable particulars of the surrounding circumstances of the grounds of termination.
- (c) Any Option Exercise Notice under this Section 21.3 shall specify the particulars as required pursuant to the terms of the Trust Agreement.
- (d) The Service Provider irrevocably appoints any Person holding a Key Position of the Province to be its attorney, with full power of substitution, and to do on the Service

Provider's behalf anything that the Service Provider lawfully can do by an attorney. Such power of attorney shall be limited to acts that the Service Provider is required to perform pursuant to this Article 21 and pursuant to Article 22 which the Service Provider does not immediately implement in accordance with the terms set out herein. Such power of attorney is acknowledged by the Service Provider to be coupled with an interest, shall not be revoked by the dissolution, winding up, surrender of charter, bankruptcy or insolvency of the Service Provider and may be exercised in the name of and on behalf of the Service Provider.

- (e) Where (i) the Service Provider Default is as a result of a Material Breach pursuant to Section 21.1(c), the Service Provider has demonstrated to the satisfaction of the Province that such disclosure of Province Data was inadvertent and the Province Data has been fully recovered, the Province has not suffered any material Losses with respect to such Disclosure, and the disclosure of Province Data has not become publicly known and likely will not become publicly known, or (ii) where the Province considers all relevant circumstances and determines in its sole discretion that it shall waive its rights hereunder; then the Province agrees that upon either of the foregoing it shall not thereafter exercise remedies under this Section 21.3 with respect to such Service Provider Default other than in good faith based upon concerns regarding such Service Provider Default or other Service Provider Defaults or concerns otherwise with respect to the Services or this Agreement and not, for greater certainty, for reasons outside of this Agreement such as due to political policy changes with respect to the outsourcing of the Services.

#### **21.4 No Fault Termination**

- (a) There shall be deemed to be a no-fault termination trigger (a "No Fault Trigger") in the event of either of the following:
- (i) a Force Majeure event of the Service Provider that continues for more than 30 days or more except for a Labour Dispute in which event such period shall be 60 days or more; or
  - (ii) there is, without the Approval of the Province (which response from the Province shall not be more than 90 days), a change of Control of MAXIMUS US, including but not limited to:
    - A. the sale, transfer, assignment or disposition of all or substantially all of the assets of MAXIMUS US to a third party;
    - B. the change of voting control of MAXIMUS US; or
    - C. the merger or amalgamation of MAXIMUS US with another entity.
- (b) In the event of a No Fault Trigger the Province shall have the right but not the obligation to terminate this Agreement by delivery of a Termination Notice to the Service Provider, such Termination to be effective upon delivery of such notice to the Service Provider. The Termination Services and other provisions set forth in



Article 22 shall apply in the event of a Termination pursuant to this Section 21.4. Termination of the Agreement pursuant to this Section shall further grant to the Province the right to deliver an Option Exercise Notice to acquire title to the shares of MAXIMUS Prime pursuant to the Trust Agreement.

## **21.5 Termination by the Province for Convenience**

- (a) Notwithstanding any other provision of this Agreement, the Province may terminate this Agreement for convenience (for any reason or no reason) on not less than twelve months prior written notice to the Service Provider at any time. The Termination Date shall be the termination date stated in a notice of termination, which date shall not be less than twelve months after the date of receipt of the notice by the Service Provider. Notwithstanding the foregoing, where such notice is delivered prior to the Hand-Over Date then such termination date shall be deemed to be the Hand-Over Date or such earlier date as agreed by the Parties.
- (b) If the Province terminates this Agreement for convenience pursuant to this Section 21.5, the Province shall pay to the Service Provider the Termination for Convenience Fee.
- (c) Except as otherwise set forth in this Section 21.5, the Termination Services and other provisions set forth in Article 22 shall apply in the event of a Termination pursuant to this Section. Termination of the Agreement pursuant to this Section 21.5 shall further grant to the Province the right to deliver an Option Exercise Notice to acquire title to the shares of MAXIMUS Prime pursuant to the Trust Agreement.

## **21.6 Events of Default by the Province**

An event of default by the Province (a "**Province Default**") shall be deemed to have occurred if the Province fails to pay when due, subject to Section 12.8, any material amount payable by the Province to the Service Provider pursuant to this Agreement that is not then subject to a Dispute and the Province fails to rectify such breach or default within sixty (60) days of its receipt of written notice from the Service Provider of such breach or default, such notice to state in reasonable detail the nature of the breach or default and the amount of the required payment; provided that such sixty (60) day period may be extended by the Service Provider, in its sole discretion, for such additional period upon written notice of such extension to the Province if such additional period is reasonably required to cure such default or breach. For greater certainty, nothing herein shall limit the Service Provider's right take legal action to enforce payment of undisputed outstanding Fees.

## **21.7 Remedies of Service Provider**

Upon the occurrence of a Province Default, the Service Provider may suspend the provision of Services (other than Uninterruptible Services) that are of equivalent value (determined on a monthly basis) to the amount that remains unpaid and which is not subject to a Dispute. Subject to Sections 6.19 and 19.5, this Section represents the Service Provider's sole remedy in respect of any default or breach by the Province under this Agreement.

## ARTICLE 22 TERMINATION SERVICES

### 22.1 Termination Services

- (a) In connection with the expiry or the earlier termination of this Agreement, and notwithstanding any such expiry or early termination but subject to payment of all undisputed Fees, the Service Provider shall assist and cooperate fully with the Province and provide continuing Services, if applicable, and such additional services set forth in this Article 22, to facilitate the orderly transition and migration to the Alternative Service Provider of the Services then provided by the Service Provider (the "Termination Services") to allow:
  - (i) the Services to continue without interruption or adverse effect;
  - (ii) the transfer to the Alternative Service Provider those Personnel and External Personnel (in respect of the MAXIMUS Group) including incumbents in Key Roles, then performing the Services who are specifically identified by the Province;
  - (iii) the transfer of all relevant tangible and intangible assets in respect of the provision of the Services; and
  - (iv) the orderly, effective and efficient transfer of the Services from the Service Provider to the Alternative Service Provider.
- (b) Commencing upon delivery of any Termination Notice or twenty-four (24) months before the expiration of the Initial Term or the Renewal Term, whichever shall first occur, and ending upon the earlier of completion of the Termination Services or twelve months after the Termination Date, as such period may be extended pursuant to Section 22.4 (the "Termination Assistance Period"), the Service Provider will provide to the Alternative Service Provider the following in the time frames reasonably requested by the Province:
  - (i) development and delivery of a mutually agreed to Termination Assistance Plan for transition of Services from the Service Provider to the Alternative Service Provider in the manner set forth in paragraph (c) below;
  - (ii) if the Province intends to consider the use of another third party service provider, upon the Province's request, assistance to the Province with respect to its preparation of a request for proposal, bid specification or similar document in respect of the Services to be terminated;
  - (iii) the Service Provider's co-operation with and assistance to the Alternative Service Provider in order to facilitate the transfer of the Services to the Alternative Service Provider;

- (iv) providing answers to all questions from the Alternative Service Provider regarding the Services;
- (v) providing a copy of the Documentation as well as detailed lists and descriptions of all Services then being provided (including volumes, Achieved Service Levels, up-to-date process maps, workflow charts, and other available policy and procedure documentation), technical information and technical descriptive documentation, and documentation of current configurations;
- (vi) providing detailed descriptions of Systems sufficient to permit the Alternative Service Provider to assume control of the provision of Services or to obtain and implement functional replacements;
- (vii) subject to applicable privacy laws, a current listing all Personnel and External Personnel, a description of their roles and specific responsibilities in relation to the Services, whether such employees are on leave or active, their compensation and whether any employees are subject to discipline warning procedures;
- (viii) providing a current listing and copies of all documented operational processes and procedures relating to the provision of Services as outlined in the Documentation;
- (ix) delivery to the Alternative Service Provider of all the Province materials, however recorded, in the Service Provider's or any Subcontractor's or Supplier's possession, including without limitation the Province Confidential Information (including Province Data and Province Records), the Province Intellectual Property, and the Province Software and the Service Provider Intellectual Property in formats reasonably requested by the Province with a full royalty free license to any cryptographic systems used or required in respect of any such materials;
- (x) the Province and the Service Provider shall maintain a copy of such materials thereafter until such time as the Province directs the Service Provider in writing to destroy all remaining copies of such materials and upon receipt of such written direction the Service Provider shall immediately proceed to destroy or delete all copies that it has of such materials in the manner as directed by the Province except any copies that the Service Provider is otherwise required to maintain pursuant to Article 14;
- (xi) provide the Province with a general description of the Owned Software and deliver to the Province on or prior to the Termination Date any and all copies of all Owned Software in the possession of the Service Provider or any Supplier or Subcontractor, or which is used by or licensed to the Service Provider and any Source Materials in respect of such Owned Software and any such license of the Owned Software to the Service Provider or any

Supplier or Subcontractor, as the case may be, will terminate automatically on the License Termination Date and the Service Provider will thereafter remove and will cause all Suppliers and Subcontractors to remove all Owned Software from their computers and premises;

- (xii) provide the Province with a general list of third person Software (including Dedicated Third Person Software) licensed and used by the Service Provider during the ordinary course of performing the Services (the "**Third Person Software**") and the Service Provider shall, on the Termination Date, assign and transfer all rights and obligations of the Service Provider with respect to the Third Person Software to the Province at no additional cost to the Province;
  - (xiii) provide the Province with a general description of the Service Provider Software as of the Termination Date, if any;
  - (xiv) assist the Province in the provision of mutually agreed-upon training for those Persons designated by the Province who shall be assuming responsibility for the Services following the Termination Date;
  - (xv) assist the Province with appropriate testing of the Province's transition and migration procedures;
  - (xvi) provide information to or access to information to the Province as requested by the Province to permit the Province to call for proposals from, negotiate with and hire an Alternative Service Provider in respect of the Services, including but not limited to access to any such information, data, reports, records and employees of the Service Provider as requested by the Province relating to the Services and contemplated to be maintained by the Service Provider hereunder, and the Service Provider shall cause its employees, agents, representatives and Suppliers to be available to the Province or its designate at such times as reasonably requested by the Province or its designate to provide such assistance and information to the Province or its designate; and
  - (xvii) otherwise provide reasonable assistance and information requested by the Alternative Service Provider, in order to enable the smooth transition of management of the applicable Services from the Service Provider to the Alternative Service Provider.
- (c) As part of the Termination Services, immediately upon commencement of the Termination Assistance Period, the Service Provider will, in consultation with the Province and such other persons as the Province may direct, commence in good faith and with all reasonable diligence to develop a termination assistance plan (the "**Termination Assistance Plan**") to facilitate the transition of the Services, as such plan shall be based upon the form of such plan set forth in the Disaster Recovery/Business Continuity Plan. Such plan shall set out in reasonable detail the

specific tasks to be accomplished by each Party and a schedule pursuant to which the tasks are to be completed and shall, at a minimum, provide for:

- (i) a plan relating to the making of offers of employment to Personnel and External Personnel (in respect of the MAXIMUS Group) and the transitioning of employees who accept such offers of employment and related employee benefit arrangements;
- (ii) details of the reversion or transfer of Systems, the Province Data, Province Records, the Province Intellectual Property and other Province Confidential Information and the delivery of the Service Provider Intellectual Property and other materials and information to which the Province is entitled upon a Termination;
- (iii) any modifications to the Services to be provided during the Termination Assistance Period, and the date or dates on which the provision of the Services or portions thereof are to be transferred to the Alternative Service Provider;
- (iv) any modifications to the Fees to take into account the planned reduction in Services and any increased or decreased costs associated with providing reduced Services over time;
- (v) processes, methods and timelines in respect of the delivery of the Termination Services; and
- (vi) the anticipated conclusion date.

The Parties agree to provide to each other reasonably sufficient information to create or update the Termination Assistance Plan. The Parties shall revise and update the Termination Assistance Plan from time to time during the Termination Assistance Period as reasonably necessary.

## **22.2 Quality of Services**

The quality and level of performance of the Services during the Termination Assistance Period will meet or exceed the Service Levels. For greater certainty, the Service Provider will continue to provide the Services unless the Province explicitly requests the permanent or temporary discontinuation thereof (or a portion thereof). Any concerns with respect to the Service Provider's compliance with this Section shall be elevated by any Party that is aware of the same to the Joint Executive Committee.

## **22.3 Charges for Termination Services**

During the Initial Term or Renewal Term, as applicable, the Service Provider shall make reasonable commercial efforts to provide the Termination Services in the course of its ordinary delivery of Services at no additional cost or charge to the Province. Any Termination Services delivered during the Term that have a material impact on the delivery and performance of the other Services shall be

deemed to be a Permitted Material Change and shall be addressed in the manner set forth in Article 7. After the Termination Date all Termination Services shall be provided at the Standard Time and Materials Rates or Cost-Only Time and Material Rates, as applicable, in accordance with a budget jointly prepared by the Parties and forming part of the Transition Assistance Plan. Where the Termination is as a result of the expiry of the Initial or the Renewal Term or pursuant to Sections 21.4 or 21.5 then Standard Time and Material Rates shall apply. In respect of all other Terminations, Cost-Only Time and Material Rates shall apply. All costs, expenses and changes to Fees calculated pursuant to Article 7 shall be calculated based upon such applicable rates and associated margins.

#### **22.4 Temporary Extension of Services**

If the Province is unable to complete the transition of Services by the end of Termination Assistance Period, the Province may elect to extend the Termination Assistance Period for up to six (6) months beyond the then-effective date of the expiration of the Termination Assistance Period by notifying the Service Provider in writing of such election at least 30 days prior to such effective date.

#### **22.5 Provision of Services after the Termination Assistance Period**

After the expiration of the Termination Assistance Period, the Service Provider will provide answers to questions from the Alternative Service Provider regarding the Services, Systems and materials provided by the Service Provider on an "as needed" basis at the Standard Time and Material Rates for a period of six (6) months or such other time period as agreed by the Parties.

#### **22.6 Option to Purchase Shares**

Upon Termination of this Agreement or otherwise in accordance with the Trust Agreement, the Province may exercise its Share Purchase Option. If the Province exercises its Share Purchase Option or advises the Service Provider that it is considering the same, the Service Provider agrees to assist and cooperate fully with the Province to facilitate the share sale and purchase pursuant to the Trust Agreement and to further provide the Province will all assistance and access reasonably required by the Province in order that the Province can conduct all due diligence reasonably required by the Province to determine whether the Province will exercise its Share Purchase Option, and where such services are substantial, then the Parties agree that Article 7 shall apply.

#### **22.7 Transfer of the Personnel and External Personnel**

- (a) Upon Termination, the Alternative Service Provider will have the right to extend offers of employment to all Personnel and External Personnel on such terms and conditions as the Alternative Service Provider, in its sole discretion, will determine. In addition to the information listed as part of the Termination Services, the Service Provider will provide reasonable access to such Personnel and External Personnel and will not interfere with the Alternative Service Provider's recruitment efforts.
- (b) In the event the Province delivers a Termination Notice, or in anticipation of any other Termination of this Agreement or the Service Provider otherwise becomes aware of such intention or in anticipation of any other Termination of this Agreement, the Service Provider shall not move any Personnel in Key Roles to another member of the Service Provider Group or otherwise dedicate such Personnel to another

customer of the MAXIMUS Group except that if the Province does not exercise the Share Purchase Option then the Service Provider may move any Personnel in Key Roles to another member of the Service Provider Group after the Alternative Service Provider's offer of employment thereto where such offer has been rejected by such employee. For greater certainty, the Service Provider shall not at any time subject any Personnel in Key Roles or other Person to any obligation, contractual or otherwise, that would conflict with or would otherwise be inconsistent with the rights of the Alternative Service Provider set out in this Section and, to the extent such obligations exist, the Service Provider will waive any right to enforce them.

- (c) Subject to Sections 22.7(d) and 22.7(e), the Service Provider shall be solely liable for any severance, termination or other payments which the Service Provider or an Affiliate of the Service Provider makes, or is required to make, to any of its employees or contractors who do not accept the Alternative Service Provider's offer of employment, or who do not receive the Alternative Service Provider's offer of employment, whether upon expiration or Termination of this Agreement for any reason.
- (d) With respect to any Personnel of the Service Provider who are full-time employees of the Service Provider as of the Termination Date and who do not receive offers of employment from the Alternative Service Provider (the "**Retained Employees**"), the Service Provider shall have the right to seek reimbursement from the Province of the severance pay paid to any Retained Employees in respect of termination of employment on a without cause basis provided that:
  - (i) such Retained Employees are terminated on a without cause basis within 30 days of the Termination Date;
  - (ii) the Service Provider has given written notice to the Province not less than 15 days in advance of the intended date of termination requesting reimbursement from the Province, such notice including the name of the Retained Employee whose employment will be terminated by the Service Provider, the proposed amount of severance, the position and responsibilities of the Retained Employee and the number of years of employment with the Service Provider (including any continued employment previously with the Province);
  - (iii) the amount of severance pay was reviewed and agreed to by the Province in accordance with this Section 22.7(d);
  - (iv) the Service Provider has terminated the employment of such Retained Employee and has paid the approved amount of severance pay to such terminated Retained within 60 days of the Termination Date;
  - (v) the Service Provider has provided evidence as may be reasonably required by the Province as to such termination and of the payment of the approved amount of severance to such terminated Retained Employee;

- (vi) the Service Provider has provided the Province with a summary statement reflecting all payment requests delivered to the Province in respect of this Section 22.7(d); and
- (vii) the Service Provider has provided to the Province an originally signed release from such terminated Retained Employee releasing all liabilities and obligations of the Province to such terminated Retained Employee.

The Province will pay to the Service Provider within 30 days of the above conditions being satisfied the agreed to severance amounts.

The amount of the proposed severance is subject to the review of the Province. If the Province does not agree with such amount, the Province will forthwith notify the Service Provider and the Service Provider will then consult with the Province and propose an alternate amount of severance acceptable to the Province, acting reasonably. With respect to any Retained Employees involved in the provision of Termination Services, the Province shall have the right to extend any of the dates set forth above by delivery of Notice to the Service Provider.

- (e) With respect to any Personnel of the Service Provider who are full-time employees of the Service Provider as of the Termination Date, who do receive offers of employment from the Alternative Service Provider and who accept such offers (the **"Take Back Employees"**), the Service Provider shall have the right to seek reimbursement from the Province of the severance pay paid to any Take Back Employees in respect of termination of their employment with the Service Provider as part of their acceptance of the offer from the Alternative Service Provider provided that:
  - (i) such severance amounts are required to be paid pursuant to a collective agreement, successorship does not apply with respect to such Take Back Employees and such obligation is not greater than the obligation that is presently imposed upon the Province as of the Effective Date;
  - (ii) the Service Provider has taken all steps to mitigate and reduce any such severance payable to the Take Back Employees including providing appropriate notice and facilitating the transfer of such Take Back Employees to the Alternative Service Provider;
  - (iii) the Service Provider has given written notice to the Province not less than 15 days in advance of the intended date of payment of the severance to the Take Back Employees requesting reimbursement from the Province, such notice including the name of the Take Back Employee whose is owed such severance under the then existing collective agreement, the proposed amount of severance, the position and responsibilities of the Take Back Employee and the number of years of employment with the Service Provider (including any continued employment previously with the Province);



- (iv) the amount of severance pay was reviewed and agreed to by the Province in accordance with this Section 22.7(e);
- (v) the Service Provider has terminated the employment of such Take Back Employee and has paid the approved amount of severance pay to such terminated Take Back Employee within 60 days of the Termination Date;
- (vi) the Service Provider has provided evidence as may be reasonably required by the Province as to such termination and of the payment of the approved amount of severance to such terminated Take Back Employee;
- (vii) the Service Provider has provided the Province with a summary statement reflecting all payment requests delivered to the Province in respect of this Section 22.7(e); and
- (viii) the Service Provider has provided to the Province an originally signed release from such terminated Take Back Employee releasing all liabilities and obligations of the Province to such terminated Take Back Employee.

The Province will pay to the Service Provider within 30 days of the above conditions being satisfied the agreed to severance amounts.

The amount of the proposed severance is subject to the review of the Province. If the Province does not agree with such amount, the Province will forthwith notify the Service Provider and the Service Provider will then consult with the Province and propose an alternate amount of severance acceptable to the Province, acting reasonably.

## 22.8 Transfer of Dedicated Assets and Dedicated Contracts

Provided that the Province does not exercise the Share Purchase Option, upon Termination of this Agreement for any reason:

- (a) The Service Provider will, upon the request of the Province and at the sole expense of the Service Provider, effective on the Termination Date, transfer, sell and assign to the Alternative Service Provider any or all of the assets and equipment of the Service Provider used in connection with the provision of Services hereunder (except for the Service Provider Intellectual Property which is licensed pursuant to the terms of this Agreement and "shrink wrap" and "click wrap" third party Software of the Service Provider) as specifically requested by the Province (collectively, the "**Designated Assets**") and transfer all or part of the Dedicated Contracts as specifically requested by the Province (including office and equipment leases) (the "**Designated Contracts**"). The Service Provider shall be responsible at its own cost and expense for obtaining all necessary consents, approvals, authorizations, notices, requests and acknowledgements necessary to assign, transfer and convey such Designated Assets and Designated Contracts, and all applicable third party and/or the Service Provider warranties associated therewith, to the Alternative Service Provider.

- (b) The Alternative Service Provider, or its respective designees, will have the option to purchase all or part of the Designated Assets at fair market value as agreed by the Parties. Any disagreement by the Parties with respect to determining fair market value in respect of any Designated Assets shall be deemed to be an Expedited Dispute. All Designated Assets transferred to the Alternative Service Provider shall be subject to the Service Provider's representations and warranties regarding title and transferability designed to ensure that the Alternative Service Provider acquires same free of liens, claims and encumbrances of third parties. Except for non-maintainable Designated Assets that may be transferred to the Alternative Service Provider upon Termination, the Designated Assets will be transferred subject to the Service Provider's representations and warranties that the Designated Assets are in good working condition (subject to reasonable wear and tear) and eligible (where applicable) for maintenance and support services as required to perform the replacement services, without payment of additional fees or expenses other than ordinary ongoing maintenance and support charges.
- (c) Any and all transfer and title fees, Taxes and charges in connection with the transfer of assets and equipment under this Section 22.8 shall be borne by the Alternative Service Provider.
- (d) To facilitate the Alternative Service Provider's acquisition of the Designated Assets and Designated Contracts, the Service Provider agrees (where commercially practical and subject to express provisions otherwise set forth in this Agreement) to acquire material assets and rights in a manner which will enable the Service Provider to transfer same without the need for any consent upon the Termination of the Agreement. In the event that the Service Provider is not able to acquire such rights with respect to any material assets or rights (including Software) then the Service Provider agrees to give the Province notice of the same prior to purchasing, licensing or otherwise acquiring such rights. The Service Provider will nevertheless have the responsibility to make commercially reasonable efforts to obtain the consent to the transfer of such material asset to the Alternative Service Provider.

## **22.9 Additional Termination Arrangements**

Without limiting the provisions of this Article 22, including the Termination Services otherwise contemplated herein, if this Agreement expires or is terminated earlier for any reason by any Party, the Service Provider shall, effective on the Termination Date or such other date as may be agreed to with the Province or contemplated herein:

- (a) peacefully leave and cause its Personnel to peacefully leave all facilities assigned or otherwise transferred to the Alternative Service Provider and return to the Province and cause its Personnel to return all keys and access cards to the applicable facilities;
- (b) deliver to the Province all Documentation and all other files, records/drawings and documents relating to the applicable Service (including all the Supplier Contracts, Subcontracts and all Records and ancillary documents in each case relating to the Services) and relating to the Province's Confidential Information and the Province

Intellectual Property in whatever format, form, condition or media which are then in the possession or control of the Service Provider;

- (c) relinquish and cause the Personnel and External Personnel to relinquish any signing authority that the Service Provider or its Personnel and External Personnel may have in respect of any the Province accounts maintained pursuant to this Agreement with respect to the Services;
- (d) provide the Alternative Service Provider with the right to interview employees, agents or representatives of the Service Provider. If the Alternative Service Provider desires to hire an employee, agent or representative of the Service Provider who is bound by any employment agreement or other arrangement precluding or hindering the ability of such employee, agent or representative to be recruited or hired by the Alternative Service Provider, the Service Provider agrees that neither it nor its Affiliates shall seek to enforce such restriction or otherwise preclude or hinder such employee, agent or representative from being recruited or hired by the Alternative Service Provider. The Service Provider shall provide the Alternative Service Provider with reasonable access to such employees (and, as permitted by Applicable Laws, their internal records), agents and representatives for the purposes of interviews, evaluations and recruitments. Without limiting the generality of the foregoing, upon or at any time after the Termination Date, the Alternative Service Provider shall have the right to make offers of employment to the Service Provider's employees then performing the Services; and
- (e) enter into such confidentiality agreements and other assurances as may be acceptable to the Province and the Service Provider, each acting reasonably, with respect to the Province Confidential Information relating to the applicable Service and in the event no such confidentiality agreement is entered into prior to the Termination Date the confidentiality provisions of this Agreement shall continue to apply and bind the Service Provider Group.

#### **22.10 Equitable Remedies of the Province**

The Service Provider acknowledges that the Province would be irreparably harmed if the Service Provider breached (or attempted or threatened to breach) its obligation to provide Termination Services to the Province in accordance with and pursuant to the terms of this Agreement. In such event, the Province may proceed directly to a court of competent jurisdiction without having to exhaust or utilize the dispute resolution procedures set forth in Article 23. If such court should find that the Service Provider has breached (or attempted or threatened to breach) any such obligations, the Service Provider shall not, without any additional findings of irreparable injury or other conditions to injunctive relief, oppose the entry of an appropriate order compelling performance by the Service Provider and restraining it from any further breaches (or attempted or threatened breaches).

## **22.11 Liabilities**

For greater certainty, in no event will the Alternative Service Provider assume or be liable for, and the Service Provider hereby agrees to indemnify the Province and any Alternative Service Provider for any liabilities or obligations of the Service Provider not expressly assumed hereunder.

## **ARTICLE 23 DISPUTE RESOLUTION**

### **23.1 Internal Dispute Resolution**

In the event of any Dispute, the Parties shall use reasonable commercial efforts to settle such Dispute internally and shall consult and negotiate with each other in good faith in an effort to reach a fair and equitable solution satisfactory to the Parties.

### **23.2 Procedure for Internal Dispute Resolution**

If a Dispute arises the Parties shall, unless otherwise set out in this Agreement and except in the case of an Expedited Dispute, follow the step-by-step resolution procedure set out below to the extent necessary to resolve the Dispute:

- (a) the Service Provider Relationship Manager and the Province Relationship Manager shall attempt to resolve any Dispute informally by meeting as often, for a duration and as promptly as those representatives deem necessary to discuss the Dispute and negotiate in good faith in an attempt to resolve the Dispute;
- (b) if such persons are unable to resolve the Dispute within a reasonable period, a meeting of the Joint Executive Committee shall be promptly scheduled and held in an attempt to resolve the Dispute;
- (c) if the Joint Executive Committee is unable to resolve the Dispute, within five Business Days thereafter, a senior officer of the Province designated by the Province and the President of MAXIMUS US, or such other representatives of the Parties as may be acceptable to both Parties, shall meet at a mutually agreeable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the Dispute; and
- (d) if such persons are unable to resolve the Dispute within a reasonable period, either Party may refer the Dispute to arbitration pursuant to Section 23.4.

### **23.3 Expedited Dispute**

Certain Disputes are expressly designated as being Expedited Disputes. All such Expedited Disputes shall follow the step-by-step resolution procedure set out below to the extent necessary to resolve the Expedited Dispute:

- (a) the Service Provider Relationship Manager and the Province Relationship Manager shall attempt to resolve any Dispute informally by meeting as often, for a period not

to exceed 48 hours (including non-Business Days), to discuss the Dispute and negotiate in good faith in an attempt to resolve the Dispute;

- (b) if the Relationship Managers are unable to resolve the Dispute within 48 hours, within 24 hours thereafter, a senior officer of the Province designated by the Province and the President of MAXIMUS US, or such other representatives of the Parties as may be acceptable to both Parties, shall meet by teleconference or video conference at a mutually agreeable time to resolve the Expedited Dispute;
- (c) if such persons are unable to resolve the Dispute within such meeting or such successive meetings as agreed to, either Party may refer the Dispute to the first Designated Expedited Arbitrator who is immediately available, and where no such Designated Expedited Arbitrator is immediately available, the first available Person designated by the British Columbia Arbitration and Mediation Institute or its successor organization in British Columbia. The Expedited Dispute shall be settled by binding arbitration in Victoria, British Columbia in accordance with the *Commercial Arbitration Act* (British Columbia), subject to:
  - (i) submissions being required to be made within 48 hours of the Designated Expedited Arbitrator being appointed;
  - (ii) the Designated Expedited Arbitrator being required to render a decision within 24 hours of submissions; and
  - (iii) each Party shall pay its own costs and expenses and one-half of the Designated Expedited Arbitrator costs, subject to final apportionment by the Designated Expedited Arbitrator; and
- (d) the Parties shall review Schedule Q from time to time and update such list or revise such list as agreed by the Parties.

#### 23.4 Arbitration

Subject to Section 23.7 and similar provisions elsewhere in this Agreement that expressly override this process, any Dispute that is not settled in accordance with Section 23.2 above shall be settled at the request of either Party by binding arbitration in Victoria, British Columbia in accordance with the *Commercial Arbitration Act* (British Columbia). All hearings will be in confidence. Judgement upon the award rendered in any such arbitration may be entered in any court having jurisdiction thereof. Each Party shall pay its own costs and expenses and one-half of the arbitration panel costs, subject to final apportionment by the arbitration panel. The arbitration panel shall be composed of one Person appointed by the Party requesting the arbitration, one Person appointed by the other Party and a third Person to act as chairperson, chosen by the two arbitrators, or if both Parties agree, the arbitration panel will consist of one Person. Subject to agreement of the Parties to the contrary, no person may be appointed as an arbitrator unless he or she is independent of each Party, and each Party (and the two arbitrators selecting the third arbitrator) will use its commercially reasonable efforts to select an arbitrator that has experience in complex, commercial engagements and is skilled in the subject matter of the Dispute. The decision of the arbitration panel shall be made by a majority.

vote, or by the sole arbitrator, as the case may be. In the event of the failure of the arbitration panel to reach a majority decision, the decision of the chairperson shall constitute the decision of the arbitration panel.

### **23.5 Other**

To the extent not prohibited by Applicable Law, the Service Provider and the Province agree that written or oral statements or offers of settlement made in the course of the Dispute Resolution Process will:

- (a) be Confidential Information;
- (b) be on a without prejudice basis and will not be offered into evidence, disclosed, or used for any purpose other than the Dispute Resolution Process; and
- (c) not constitute an admission or waiver of rights.

The Service Provider and the Province will promptly return to the other, upon request, any such written statements or offers of settlement, including all copies thereof.

### **23.6 Continued Performance**

Subject to Section 21.7, under no circumstances, including non-payment of amounts in Dispute, may the Service Provider cease to provide the Services in accordance with the Service Levels or its other obligations under this Agreement, while a Dispute is being resolved. Subject to the foregoing, the Parties agree that with respect to any Dispute that causes it to be commercially difficult for the Service Provider to continue to provide Services then the Parties shall make all reasonable efforts to expedite the Dispute process as set forth in this Article 23.

### **23.7 Irreparable Harm**

The Parties acknowledge that the Province will be irreparably harmed in the event of a breach (or attempted or threatened breach) by the MAXIMUS Group of any of the following provisions:

- (a) obligations under Article 14;
- (b) Confidential Information obligations;
- (c) Schedule X;
- (d) the Transition Services; and
- (e) the Termination Services.

In such event or otherwise where there is substantial harm to the Province, the Province may proceed directly to court without having to exhaust or utilize the dispute resolution or arbitration procedures set forth in this Article. The MAXIMUS Group agrees that without any additional findings of irreparable injury or other conditions to injunctive relief, it will not oppose the making of an

appropriate order compelling performance by such Party and restraining it from any further breaches (or attempted or threatened breaches). Nothing in this Article shall be construed to limit the right of either Party to obtain injunctive relief in any other circumstance in which it may be otherwise entitled (subject in all cases to Applicable Laws including the *Crown Proceeding Act* (British Columbia)).

### **23.8 Confidentiality**

The existence and outcome of any Disputes submitted to arbitration hereunder and all information disclosed by any Party in relation to the resolution of Disputes pursuant to the terms hereof shall be subject to the provisions of Article 17 hereof and such information shall not be used for any purpose other than the resolution of the Dispute pursuant to the terms hereof.

## **ARTICLE 24 UNINTERRUPTIBLE SERVICES AND FORCE MAJEURE**

### **24.1 Uninterrupted Services**

The Service Provider acknowledges and agrees that certain of the Services are critical services that must, subject to Applicable Laws, be provided at all times without breach of the applicable Service Levels, such Services more specifically identified as set forth in Schedule F (the “**Uninterruptible Services**”). The Uninterruptible Services are specifically described as technology services (the “**IT Uninterruptible Services**”) and all other services (the “**Other Uninterruptible Services**”), as specifically set forth in Schedule F.

Except as otherwise explicitly contemplated herein, the Service Provider shall continuously and without interruption (except as expressly contemplated in the applicable Service Level) perform and provide all IT Uninterruptible Services throughout the Term on a 24 hour, seven days a week, 365 days a year basis notwithstanding any Labour Dispute, and acknowledges and agrees that no Labour Dispute shall relieve or excuse the Service Provider from so continuously performing and providing the IT Uninterruptible Services throughout the Term. The Service Provider hereby covenants and agrees to make its best efforts to continuously and without interruption (except as expressly contemplated in the applicable Service Level) perform and provide all Other Uninterruptible Services throughout the Term notwithstanding any Labour Dispute.

The Service Provider acknowledges and agrees that the Province shall be entitled to amend and supplement the Uninterruptible Services listed in Schedule F attached hereto from time to time to reflect changes in policy or requirements of Province Customers or Stakeholders. The Province shall provide prompt written notice to the Service Provider of each change to the Uninterruptible Services set out in Schedule F attached hereto and such schedule shall be amended by each such notice of change given by the Province pursuant to this Section. The Province shall only designate additional Uninterruptible Services hereunder where the Service Provider reasonably determines that it is able to satisfy the obligations with respect to such additional Uninterruptible Services as such obligations are set forth in this Article 24. Where the designation by the Province of Uninterruptible Services has a material impact on the delivery or performance of the Services or on the cost of providing the Services then such additional designation by the Province shall be deemed to be a Permitted Material Change and governed in accordance with Article 7.

In the event of the failure of the Service Provider to meet the Service Levels with respect to the Uninterruptible Services, the Service Provider shall, at its cost, use all necessary efforts and take all necessary or desirable steps to immediately take all necessary steps to correct, rectify and remedy such failure and the consequences to the Province and to the applicable Province Customers and/or Stakeholders of such failure. The Service Provider shall also keep the Province, and the applicable Province Customer or Stakeholder if so requested by the Province, apprised of the status and efficacy of the efforts and steps taken by the Service Provider to correct, rectify and remedy such failure and the resulting consequences.

The Service Provider acknowledges and agrees that a material failure to meet the Service Levels with respect to the Uninterruptible Services may give rise to significant damages or loss suffered by the Province or by the applicable Province Customer and/or Stakeholders and therefore the Service Provider shall immediately give notice to the Province of the occurrence or potential occurrence (to the extent that the Service Provider is aware of such potential occurrence) of any failure to meet the Service Levels with respect to the Uninterruptible Services, such notice to give reasonable detail as to the nature of the failure or potential failure and the actions that the Service Provider has taken or proposes to take to rectify and remedy such failure or potential failure and, where applicable, the recommendation of the Service Provider as to any actions to be undertaken by the Province or the applicable Province Customers and/or Stakeholders to prevent or lessen damage or loss that is likely to arise from such failure. Such notice shall be given only to the Province and not to the applicable Province Customers and/or Stakeholders except with the express Approval of the Province or except as expressly directed by the Province in the particular circumstance or for a particular Province Customer or Stakeholder.

A failure to meet the Service Levels with respect to the IT Uninterruptible Services shall give rise to a Material Breach of this Agreement and the Province shall, in addition to all rights and remedies provided to it in this Agreement in respect of such Material Breach, be entitled to exercise any of the following remedies:

- (a) the taking by the Province of all action necessary or desirable to correct, rectify and remedy such interruption of an Uninterruptible Service and the resulting consequences at the cost of the Service Provider, including assuming responsibility for the provision of such interrupted Uninterruptible Service without prior notice to the Service Provider and at the cost of the Service Provider, and the set-off of the cost of all such action and of the amount of all Losses suffered by the Province or the applicable Province Customers or Stakeholder as a result of such failure to meet the Service Levels with respect to an Uninterruptible Service against the Fees otherwise payable by the Province to the Service Provider; or
- (b) a claim by the Province against the Guarantors under the Guarantees.

Within 60 days of the date of the Effective Date, the Service Provider shall prepare and submit to the Province for its Approval a contingency plan for ensuring all Uninterruptible Services will be continuously performed and provided in accordance with the Service Levels during the Term (the "**Uninterruptible Services Plan**"). If the Uninterruptible Services Plan submitted by the Service Provider is not Approved by the Province, the Service Provider shall act reasonably to incorporate such changes as may be reasonably required by the Province taking into account the nature of the



Uninterruptible Services. From time to time as the Province may reasonably request or as the Service Provider shall determine to be necessary or desirable in light of the circumstances, the Service Provider shall prepare and submit to the Province for its Approval such amendments, modifications and supplements to the Uninterruptible Services Plan as may be appropriate. The Uninterruptible Services Plan shall form part of the Disaster Recovery/Business Continuity Plans.

#### **24.2 Notice of an Event of Force Majeure**

If either Party is prevented from, or delayed in performing any of its obligations under this Agreement by an event of Force Majeure, the Party claiming the event of Force Majeure shall promptly notify the other Party by telephone (which does not include, for greater certainty, leaving a voicemail message), and by follow-up written notice within three (3) Business Days of such Party becoming aware of the potential non-performance or delay, of the particulars of the event of Force Majeure including reasonable details of the nature of the event, its expected duration and the obligations under the Agreement that will be affected by the event. The Party claiming the event of Force Majeure shall continue to furnish reasonable reports with respect thereto to the other Party on a timely basis prior to and during the continuance of the event of Force Majeure.

#### **24.3 Commercially Reasonable Efforts to Prevent or Mitigate Event of Force Majeure**

Prior to claiming an event of Force Majeure, a Party shall use commercially reasonable efforts to prevent or avoid any event, condition or circumstance, which would result in such event of Force Majeure. Failing prevention of the occurrence of such event of Force Majeure by the use of such efforts, the Party claiming the event of Force Majeure shall, during the continuance of such event of Force Majeure, use commercially reasonable efforts to mitigate and minimize the effects of such event of Force Majeure, to reduce and minimize any ensuing delay or interruption in the performance of its obligations hereunder and under the other Transaction Documents, and to recommence performance of its obligations under this Agreement and the other Transaction Documents whenever and to whatever extent possible without delay. For greater certainty, where an event of Force Majeure affects performance of the obligations of both Parties under this Agreement or under the other Transaction Documents, both Parties may claim the same event of Force Majeure for the purpose of this Article 24.

#### **24.4 Consequences of an Event of Force Majeure**

Subject to Section 24.1 and to the limitations set out below, during the occurrence of an event of Force Majeure, the obligations of the Party claiming an event of Force Majeure, to the extent that its obligations cannot be performed or are delayed as a result of such event of Force Majeure, shall be suspended, and such Party shall not be considered to be in breach or default hereunder, for the period of such occurrence. The suspension of performance shall be no greater in scope and of no longer duration than is reasonably required to adjust for the effects of the event of Force Majeure. No obligation of either Party that existed prior to the event of Force Majeure causing the suspension of performance shall be excused as a result of the Force Majeure, unless such obligation is a continuing obligation the performance of which is affected by the event of Force Majeure.

During any event of Force Majeure, the Province may, in its discretion, exercise any one or more of the following remedies:

- (a) not pay any of the Fees in respect of any Service so affected during the period of time such event of Force Majeure remains in effect; and
- (b) procure or otherwise obtain alternative services from any Person in replacement for or substitution of the affected Services during the period of time such event of Force Majeure remains in effect which includes the Province having the right to set off any amounts payable to such other Person against Fees payable hereunder.

Notwithstanding anything to the contrary contained in this Agreement, the existence of an event of Labour Dispute shall not excuse the Service Provider from continuously performing and providing the IT Uninterruptible Services.

#### **24.5 Establishing an Event of Force Majeure**

The Party claiming that an event of Force Majeure has occurred shall bear the burden of proving the existence of such event of Force Majeure and the consequences of the event.

#### **24.6 Labour Dispute**

In the event of an occurrence or potential occurrence of a Labour Dispute preventing or delaying the performance of the obligations of the Service Provider under this Agreement, the Service Provider shall promptly notify the Province by telephone (a voicemail message shall be left if necessary and where no other applicable Persons are available, but such voicemail message shall not be deemed to be notice until actual voice contact is made, and further the Service Provider will follow-up with written notice within three (3) Business Days of any verbal contact) of the particulars of the Labour Dispute including reasonable details of the nature of the Labour Dispute, its expected duration and the obligations of the Service Provider under this Agreement that will be affected by such Labour Dispute, and shall continue to furnish reasonable reports with respect thereto to the Province on a timely basis during the continuance of such Labour Dispute.

Prior to claiming a Labour Dispute, the Service Provider shall use best efforts to prevent or avoid such Labour Dispute, but not to the extent that the Service Provider is compelled to cause substantial harm to its own commercial interests.

Other than with respect to IT Uninterruptible Services, a failure to provide a Service as a result of a Labour Dispute shall not give rise to a Material Breach of this Agreement if the Service Provider has used its best efforts in the case of an Uninterruptible Service and its commercially reasonable efforts in the case of a Service which is not an Uninterruptible Service, to continue to perform and provide such Service as soon as possible and continued to so use such efforts until such affected Service is provided in accordance with this Section.

During a Labour Dispute, the Province may, in its discretion, exercise any one or more of the following remedies:

- (a) not pay the Fees in respect of the Service so affected (other than direct additional costs incurred by the Service Provider related to partial delivery of such Services) during the period of time such Labour Dispute remains in effect and such Service is disrupted; and

- (b) procure or otherwise obtain alternative services from any Person in replacement for or substitution of the affected Services during the period of time such Labour Dispute remains in effect.

Notwithstanding anything to the contrary contained in this Agreement, the existence of a Labour Dispute shall not excuse the Service Provider from continuously providing the IT Uninterruptible Services, from using its best efforts in the case of a Service which is an Other Uninterruptible Service, and its commercially reasonable efforts in the case of a Service which is not an Uninterruptible Service.

During the continuance of a Labour Dispute, the application of the measurements for the purpose of the determination of the At-Risk Fee which are directly affected by the Labour Dispute shall be suspended such that the occurrence of the Labour Dispute will not adversely affect the entitlement of the Service Provider to that portion of the At-Risk Fee unless the Service Provider has failed to comply with this Section including using its best efforts or commercially reasonable efforts as applicable to remedy the failure to perform and provide the Services caused by the Labour Dispute.

## **ARTICLE 25**

### **PROVINCE SHARED INFRASTRUCTURE**

#### **25.1 Nature of Province Shared Infrastructure**

The Parties acknowledge and agree that the Service Provider requires access to and use of the Province Shared Infrastructure to support the delivery and performance of the Services as contemplated herein. The Service Provider acknowledges and agrees that:

- (a) the Province Shared Infrastructure will at all times be owned, operated and maintained by the BC Government or on behalf of the BC Government by third party Persons,
- (b) the Service Provider has and will have no ownership or other interest in the Province Shared Infrastructure other than the rights of access to and use of the Province Shared Infrastructure to deliver and perform the Services in accordance with this Agreement as set out in this Article 25, and
- (c) subject to the rights of the Service Provider specifically set out in this Article 25, the Province shall have sole control of access to and use of the Province Shared Infrastructure and sole control of the operation and maintenance of the Province Shared Infrastructure including changes, modifications and upgrades thereto, without requirement for notice to, consent of or Approval from the Service Provider.

#### **25.2 Use of Province Shared Infrastructure**

The Province will make available to the Service Provider such access to and use of the Province Shared Infrastructure as is required by the Service Provider to deliver and perform the Services in accordance with this Agreement, such access and use to be available for the period commencing on the Hand-Over Date to and including the Termination Date (the "**Shared Infrastructure Use Period**"). Subject to the other provisions of this Article 25, the Province shall make available to the

Service Provider such access to and use of the Province Shared Infrastructure without any fee or payment from the Service Provider. Notwithstanding the foregoing, where the Service Provider is utilizing material portions of the Province Shared Infrastructure then the Province shall advise the Service Provider by written notice of the same and thereafter the Parties shall agree upon a reasonable apportionment of actual costs which the Service Provider shall pay to the Province by way of a credit (the "**Basic Infrastructure Amount**").

Notwithstanding the foregoing, the Service Provider will be responsible for ordering and funding the SPAN/BC connection to its offices and data centres, as applicable.

### **25.3 Restrictions on Access and Use**

The right of the Service Provider to access and use the Province Shared Infrastructure shall be subject to the following limitations and restrictions:

- (a) The Service Provider shall have access to and the use of the Province Shared Infrastructure only during the normal hours of operation of the Province Shared Infrastructure during which the Province Shared Infrastructure is generally available to the users of the Province Shared Infrastructure. The Province may change and modify such hours of operation from time to time in its sole discretion provided that:
  - (i) the Province Shared Infrastructure shall be available for use for a reasonable number of hours during each Business Day and at reasonable hours as may be required to support the delivery and performance of the Services, and
  - (ii) such change or modification of the hours of operation shall apply generally to users of the Province Shared Infrastructure and not apply only or principally to the Service Provider.
- (b) The Service Provider shall cause all Personnel of the Service Provider or External Personnel used by the Service Provider, in accessing or using the Province Shared Infrastructure, to comply with all policies, rules and regulations that the Province or the BC Government may adopt from time to time in respect of the Province Shared Infrastructure. The Service Provider shall cause such Personnel and External Personnel at all times and in all circumstances to identify themselves as employees, agents, contractors or representatives of the Service Provider, as applicable, and not as employees of the Province or of the BC Government.
- (c) In exercising its right of access to or use of the Province Shared Infrastructure, the Service Provider shall not alter, change, damage or remove any furniture, fixtures, equipment, data, information or facilities located at or comprising as part of the Province Shared Infrastructure except with the prior written consent of the Province or as specifically contemplated in this Agreement and, following each exercise of access to or use of the Province Shared Infrastructure, shall leave the Province Shared Infrastructure in substantially the same condition as existed prior to access to or use of the Province Shared Infrastructure by the Service Provider.

- (d) The Service Provider shall access and use the Province Shared Infrastructure only for the purpose of delivering and performing the Services in accordance with this Agreement, and for no additional, ancillary or other purpose unless specifically authorized in writing by the Province.
- (e) In accessing and using the Province Shared Infrastructure, the Service Provider shall observe all of its duties, liabilities and obligations set out in this Agreement including obligations in respect of the Province Confidential Information.
- (f) The Service Provider acknowledges that the BC Government relies upon the Province Shared Infrastructure to deliver a number of critical services. To the extent that the Service Provider has any reason to be concerned that its use of the Province Shared Infrastructure shall adversely affect the general operation of the Province Shared Infrastructure (including, without limitation, due to volume or usages changes) then the Service Provider shall immediately advise the Province of the same and take all reasonable steps as directed by the Province to ensure that any impact on the Province Shared Infrastructure is minimized or eliminated if possible. Without limiting the generality of the foregoing, the Service Provider shall advise the Province of any intended reduction in use of the Province Shared Infrastructure as soon as the Service Provider is reasonably aware of the same including any determination by the Service Provider to discontinue all or partial use of the Province Shared Infrastructure.

#### **25.4 Ordinary Course Changes to the Province Shared Infrastructure**

The Province, in its sole discretion and from time to time, may make changes, modifications or upgrades to the Province Shared Infrastructure or to discontinue use of any portion of the Province Shared Infrastructure in the ordinary course of operations without requirement for the consent or Approval of the Service Provider and without prior notice to the Service Provider, provided such changes do not materially affect the access to and use of the Province Shared Infrastructure by the Service Provider for the delivery and performance of the Services in accordance with this Agreement. If as a result of any such change in the ordinary course of operations, the Service Provider is required to change, modify or upgrade its Systems and operations in order to continue to have access to and use of the Province Shared Infrastructure, the Service Provider shall be solely responsible for making all such changes, modifications or upgrades and for all costs thereof to the Service Provider.

#### **25.5 Material Changes to the Province Shared Infrastructure**

The Service Provider acknowledges and agrees that the Province may make changes, modifications or upgrades to the Province Shared Infrastructure or to discontinue use of any portion of the Province Shared Infrastructure from time to time in the sole discretion of the Province, without requirement for the consent or Approval of the Service Provider notwithstanding that such change may have a material effect or impact on the access to and use of the Province Shared Infrastructure by the Service Provider, provided that:

- (a) subject to the Service Provider implementing any changes, modifications or upgrades to its Systems and operations as contemplated in this Section 25.5, the Service

Provider will continue to have access to and use of the Province Shared Infrastructure to the extent that the Province Shared Infrastructure continues to be operated by the BC Government; and

- (b) the Province shall give reasonable prior written notice to the Service Provider of the details of such material change to the Province Shared Infrastructure including the analysis of the Province as to the effect and impact of such change, modification or upgrade on the access to and use of the Province Shared Infrastructure by the Service Provider in the delivery and performance of the Services pursuant to this Agreement.

Where such material change, modification or upgrade to the Province Shared Infrastructure may be reasonably expected to require the Service Provider to change, modify or upgrade its Systems or operations in order to continue to have access to and use of the Province Shared Infrastructure in the manner contemplated in this Article 25, the Province shall provide the notice of such material change contemplated in Section 25.5(b) to the Service Provider sufficiently in advance of the implementation of such change, modification or upgrade so as to afford the Service Provider a reasonable opportunity to make the required changes, modifications and upgrades to its Systems and operations. The Service Provider shall be solely responsible for making all such required changes, modifications and upgrades and for all costs thereof to the Service Provider.

For greater certainty, the Province may discontinue use of any portion of the Province Shared Infrastructure pursuant to this Section 25.5 where any managed applications of the Service Provider running on the Province Shared Infrastructure adversely impact other users of the Province Shared Infrastructure, including, without limitation, where any managed applications of the Service Provider cause process loops, runaway jobs or other extreme load conditions.

#### **25.6 Changes Required for or Initiated by the Service Provider**

The Parties shall cooperate and shall use reasonable commercial efforts to make and implement any change, modification or upgrade to the Province Shared Infrastructure contemplated in this Article 25, including testing of such change, modification or upgrade.

Where a change as contemplated in Sections 25.4 or 25.5 is a change required to be made for the continued access to and use of the Province Shared Infrastructure by the Service Provider (such as a change to accommodate increased demand or capacity required by the Service Provider or to accommodate a change in the Systems and operations of the Service Provider) or is a change requested or initiated by the Service Provider, all costs of the Province and of the BC Government incurred to review, plan and implement (including testing thereof and development user segregation) such change, including capital costs for new or additional equipment (including special server environments) or facilities and the cost of personnel of the Province or of the BC Government, and all increased operating and maintenance costs of the Province and of the BC Government as applicable resulting from such change, shall be the sole responsibility of the Service Provider and the Service Provider shall pay all such costs to the Province as they are incurred by the Province or the BC Government as applicable and forthwith upon demand or invoice from the Province.

The Province agrees to review and consider any change to the Province Shared Infrastructure as may be reasonably requested by the Service Provider from time to time and to plan and implement such

requested change if the Province determines such requested change is reasonable, such determination of reasonableness to take into account the impact on and the interests of the other entities in the BC Government or other Persons who share the use of the Province Shared Infrastructure with the Service Provider. The Service Provider may request a change to be made to the Province Shared Infrastructure by notice in writing to the Province which notice shall include a detailed description of all business and technical requirements relating to such requested change.

Unless the Service Provider has given notice to the Province that the Service Provider shall prepare the plan for the implementation of any such required or requested change, the Province shall, at the cost of the Service Provider, prepare a plan for such change and shall provide such plan to the Service Provider for its review and consideration. Such plan shall include a reasonably detailed description of each change to the Province Shared Infrastructure proposed to be made, as well as a budget of the capital and personnel costs anticipated to be incurred to effect and implement such change and a forecast of any increase to the operating and maintenance costs of the Province in respect of the Province Shared Infrastructure which will result from such change. The Province shall, acting reasonably, incorporate such comments and suggestions as the Service Provider may provide to the Province in writing provided that, for greater certainty, the Province shall, at all times, have and retain the sole right to determine the appropriate plan and actions to implement such required or requested change. In the event the Service Provider does not agree with the proposed plan or implementation of the change or of the estimate of capital and personnel costs or forecast of increased operating and maintenance costs provided by the Province to the Service Provider, the Service Provider may submit such Dispute for determination pursuant to the Dispute Resolution Process. For greater certainty, the Province shall not require the Approval of the Service Provider to the plan in respect of or the implementation of such required or requested change and may proceed with such plan and the implementation of such change notwithstanding initiation by the Service Provider of a Dispute pursuant to the Dispute Resolution Process in respect thereof.

The Service Provider shall be responsible for all actual costs incurred by the Province in respect of such required or requested change notwithstanding that such costs may exceed any estimate or forecast provided by the Province to the Service Provider.

For greater certainty, if the use of the Province Shared Infrastructure by the Service Provider adversely affects the general operation of the Province Shared Infrastructure due to a material change in volume, any additional infrastructure (including hardware, software and personnel of the Province) required to ensure the availability, capacity and response times of the Province Shared Infrastructure for the benefit of all users thereof shall be deemed to be a change requiring the Service Provider to comply with this Section 25.6.

The change process set forth herein is in lieu of Article 7 in respect of the changes expressly contemplated herein.

#### **25.7 Payments from the Service Provider**

Where the Service Provider is required by this Article 25 to make any payment to the Province including in respect of costs incurred by the Province, the Basic Infrastructure Amount or resulting from indemnification of the Province, the following shall apply:

- (a) The Province may, by written notice to the Service Provider, waive the payment of any amount due and payable to the Province in whole or in part.
- (b) Unless otherwise directed by the Province pursuant to this Section 25.7, the Service Provider shall make such payment by recording, in favour of the Province, a credit (the "**Shared Infrastructure Credit**") against the Fees of the Service Provider hereunder which Shared Infrastructure Credit shall be applied from time to time to reduce the Fees otherwise payable by the Province to the Service Provider. The Service Provider shall indicate on each invoice in respect of Fees issued by the Service Provider to the Province the then current amount of Shared Infrastructure Credit not previously applied against Fees of the Service Provider and shall reduce the Fees payable as shown on such invoice by the amount of such unapplied Shared Infrastructure Credit. For greater certainty, where other credits against Fees provided for in this Agreement have accrued to the account and for the benefit of the Province and have not been applied against the Fees of the Service Provider, the Service Provider shall apply all such other credits against the Fees otherwise payable to the Service Provider in each invoice, until all such other credits have been used and applied against such Fees, prior to applying any available Shared Infrastructure Credit against any remaining Fees payable to the Service Provider.
- (c) The Province may, at any time, direct the Service Provider not to record a Shared Infrastructure Credit in favour of the Province in respect of an amount payable by the Service Provider to the Province pursuant to this Article 25 and instead to pay such amount to such third party as may be designated by the Province, in which event, the Service Provider shall pay such amount to such third party as directed by the Province and shall not record such amount as a Shared Infrastructure Credit in favour of the Province. In such event, receipt of payment of an amount by such third party shall and shall be deemed to be receipt of payment of such amount by the Province for all purposes of this Agreement.
- (d) If the Service Provider fails to comply with the preceding provisions of this Section 25.7 in respect of an amount payable by the Service Provider to the Province, the Province may by notice in writing to the Service Provider set-off such amount payable by the Service Provider against any Fees payable to the Service Provider.

## **25.8 Indemnity from the Service Provider**

Notwithstanding any other provision herein and in addition to any other indemnities provided by the Service Provider to the Province pursuant to this Agreement, the Service Provider hereby indemnifies the Province and the BC Government, and its elected officials, employees, advisors, agents and representatives to the fullest extent permitted by law, from and against any and all Losses suffered or incurred by any of them or by any of the Province Customers and Stakeholders or their respective employees, advisors, agents, directors, officers and representatives arising or resulting from or in any manner relating to the access to and use of the Province Shared Infrastructure by the Service Provider or the breach of or the failure to comply with the obligations of the Service Provider set out in this Article 25.



## **25.9 Failure in Province Shared Infrastructure**

In the event of the failure of the Province Shared Infrastructure or the occurrence of any event or circumstance which prevents the Service Provider from having such access to and use of the Province Shared Infrastructure as is required by the Service Provider for the delivery and performance of the Services pursuant to this Agreement, whether arising from the negligence or fault of the Province or the BC Government or otherwise, the Province and the Service Provider acknowledge and agree that:

- (a) the Province shall have no liability or obligation to the Service Provider in respect thereof other than the obligation to use reasonable commercial efforts and to act with due diligence to correct such failure or to restore such access to and use of the Province Shared Infrastructure as soon as reasonably practicable; and
- (b) to the extent that the Service Provider is not able to deliver or perform a Service in the manner or to the Service Level required under this Agreement as a result of such failure or lack of access to or use of the Province Shared Infrastructure, the Service Provider shall be released of all consequences otherwise provided in this Agreement in respect of such failure to deliver and perform such Service or to meet such applicable Service Level until such failure or lack of access to or use of the Province Shared Infrastructure is rectified or remedied to a degree that the Service Provider is reasonably able to have access to and use of the Province Shared Infrastructure as required to deliver and perform the Services in accordance with this Agreement.

## **25.10 Termination of Rights to Province Shared Infrastructure**

The Service Provider acknowledges and agrees that its rights in respect of the Province Shared Infrastructure under this Article 25 shall cease upon the expiry of the Shared Infrastructure Use Period and that forthwith upon such expiry, the Service Provider shall return to the Province all passwords, access codes, access cards and devices of any kind used to obtain access to and use of the Province Shared Infrastructure. The Service Provider further acknowledges and agrees that the BC Government's right to change the Province Shared Infrastructure pursuant to this Article 25 includes the right of the BC Government to discontinue general use of portions or all of the Province Shared Infrastructure. Upon the BC Government discontinuing all use of the Province Shared Infrastructure then the Service Provider's rights in respect of the Province Shared Infrastructure under this Article 25 shall cease and the Service Provider shall return to the Province all passwords, access codes, access cards and devices of any kind used to obtain access to and use of the Province Shared Infrastructure.

## ARTICLE 26 GENERAL PROVISIONS

### 26.1 Appropriation and Approvals

Notwithstanding any other provision of this Agreement, the payment of money by the Province to the Service Provider under this Agreement is subject to:

- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province, in any fiscal year or part thereof when any payment of money by the Province to the Service Provider falls due under this Agreement, to make that payment; and
- (b) Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited, under the *Financial Administration Act*, expenditure under any appropriation referred to in subsection (a) of this Section.

### 26.2 Notices

Any notice, designation, communication, request, demand, invoice or other document, required or permitted to be given or sent or delivered hereunder to any Party shall be in writing and shall be sufficiently given or sent or delivered if it is given or delivered by personal delivery to such Party, sent to the Party entitled to receive it by registered mail, postage prepaid, mailed in Canada addressed in the manner described below, or sent to the Party entitled to receive it by fax.

Notices shall be sent to the following addresses or fax numbers:

In the case of the Province:

Ministry of Health Services  
2-2 1515 Blanshard St.  
Victoria, British Columbia, V8W 3C8  
Attention: Executive Contract Manager

Fax number: (250) 952-1638

In the case of the MAXIMUS Group or any member thereof:

2<sup>nd</sup> Floor, 609 Broughton Street  
Victoria, British Columbia, V8W 1C8

Attention: Executive Director, BC Health

Fax number: (250) 220 4036

Where such Notices are anything other than Notices in respect of non-material ordinary course activities, then the Parties agree to further provide copies of such Notice to the following:

In the case of the Province:

Ministry of Health Services  
2-2 1515 Blanshard St.  
Victoria, British Columbia  
V8W 3C8

Attention: Deputy Minister, Strategic Initiatives and  
Corporate Services

Fax number: (250) 952-1638

In the case of the MAXIMUS Group or any member thereof:

MAXIMUS, Inc.  
Legal Department  
11419 Sunset Hills Road  
Reston, Virginia  
USA 20190

Attention: General Counsel

Fax number: (703) 564-1170

Failure to appropriately assess whether something is a non-material ordinary course activity shall not be a defect in respect of a Notice. Either Party may change its address or fax number for notices upon giving not less than 20 Business Days' prior written notice to the other Party in the manner provided in this Section 26.2. Any demand, notice or communication shall be deemed to be made or given when actually received by the recipient Party. With respect to the MAXIMUS Group, MAXIMUS Prime is hereby appointed as their agent for the receipt of all notices on their behalf.

### 26.3 Severability

If any provision contained in this Agreement or its application to any Person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such provision to Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected, and each provision of this Agreement shall be separately valid and enforceable to the fullest extent permitted by law. In addition, any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In respect of any provision determined to be unenforceable or invalid in a BC Court, the Parties agree to negotiate in good faith to replace the unenforceable or invalid provision with a new provision that is enforceable and valid in order to give effect to the business intent of the original provision to the extent permitted by British Columbia and Canadian law and in accordance with the intent of this Agreement.

#### **26.4 Entire Agreement**

This Agreement and the Schedules hereto, together with the Transaction Documents and the JSD Agreement and documents incorporated herein by reference, constitute the entire agreement between the Parties with respect to the subject matter hereof and cancels and supersedes any other prior agreements, undertakings, declarations, commitments, representations, warranties, conditions, promises and understandings, whether written or oral, in respect thereof.

#### **26.5 Amendments**

No term or provision of this Agreement may be amended except by written instrument signed by each of the Parties hereto, by a Change Order as contemplated in Article 7, or by a unilateral notice or declaration given or made by one Party pursuant to the terms of this Agreement in respect of a change or amendment that such Party is entitled to make hereunder without requirement for Approval or agreement of the other Party.

#### **26.6 No Liens or Charges Against Provincial Assets**

Except as expressly provided in this Agreement, the Service Provider covenants and agrees to protect and keep free all assets used in the provision of Services and assets of the Province, including, without limitation, all facilities on or in which the Service Provider is performing any portion of the Services and any and all interests and estates therein and all Province Shared Infrastructure, and all improvements and materials now or hereafter placed thereon under the provisions of this Agreement, from any and all liens, claims, liabilities, security interest, encumbrance, pledge, mortgage or charge of any kind. If any such lien is filed, then the Service Provider will immediately notify the Province by providing a copy of the lien claim and cause such lien to be satisfied or otherwise discharged within ten (10) Business Days. If any such lien is filed or otherwise imposed, and the Service Provider does not cause such lien to be released and discharged forthwith, the Province has the right, but not the obligation, to pay all sums necessary to obtain such release and discharge or otherwise cause the lien to be removed to the satisfaction of the Province from funds retained from any payment then due or thereafter to become due to the Service Provider.

#### **26.7 Waivers**

Failure by a Party to insist in any one or more instances upon the strict performance of any one of the terms, provisions or covenants contained in this Agreement shall not be construed as a waiver or relinquishment of such term, provision or covenant. No consent or waiver, express or implied, by a Party to or of any breach or default by another Party in the performance by such other Party of any term, provision or covenant hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default such other Party hereunder.

No waiver of any breach of any term, provision or covenant of this Agreement shall be effective or binding unless made in writing and signed by the waiving Party.

## **26.8 Further Assurances**

Each of the Parties shall, from time to time, execute and deliver all such further documents and instruments and do all such further acts and things as the other Party may reasonably require to carry out or better evidence or perfect the full intent and meaning of this Agreement.

## **26.9 Obligations as Covenants**

Each obligation of a Party in this Agreement, even though not expressed as a covenant, is considered for all purposes to be a covenant.

## **26.10 Joint Drafting**

The Parties have jointly contributed to the drafting of this Agreement, the Schedules attached to this Agreement, the Transaction Documents and all other documents referenced herein or therein. Accordingly, it is the intention of the Parties that the principle of *contra preferentem* shall not apply with respect to interpretation matters.

## **26.11 Transaction Fees and Commissions**

Except as specifically provided otherwise herein, each Party shall be responsible for and pay its respective legal and accounting costs and other expenses incurred in connection with the preparation, execution and delivery of this Agreement (including all prior steps and actions taken in respect of the JSRFP), the Transaction Documents and all other documents and instruments executed pursuant hereto or the transactions contemplated hereunder.

## **26.12 Survival**

Unless otherwise provided in this Agreement, the following provisions, including the obligations of the Service Provider and the Province thereunder shall survive the expiration or termination of this Agreement:

Sections 1.1 to 1.10, 1.12 to 1.13, 2.1, 3.11, 9.1, 9.4, 9.9, 12.3 to 12.6, 12.8 and 25.8 along with Article 14, Article 16, Article 17, Article 18, Article 19, Article 20, Article 21, Article 22, Article 23 and Article 26 and Schedule A and Schedule X and payment of outstanding Fees

In addition, any liabilities or obligations of either Party arising before the expiration or termination of this Agreement or arising out of the events causing such expiration or termination, any damages or other remedies to which a Party may be entitled under this Agreement, whether at law or in equity, arising from any breach of such obligations of a Party and any other provisions herein the nature and intent of which is to survive the termination of this Agreement shall survive and shall not be affected by the expiration or termination of this Agreement.

## **26.13 No Partnership or Joint Venture**

This Agreement establishes and shall only be construed as establishing a contract between unrelated entities for the provision of certain services and does not and shall not be construed or deemed to create or constitute a partnership or joint venture relationship between the Parties and each Party

hereby expressly disclaims any intention to create a partnership or a joint venture or to constitute the other Party as its agent (except as expressly provided in this Agreement) with respect to the subject matter hereof. Each Party shall be independently and solely responsible for all obligations arising in connection with its own employees (including any obligations incumbent upon such Party as an employer such as the payment of benefits and the withholding and remittance of applicable source deductions in respect of its employees).

#### **26.14 Language**

The Parties have agreed that this Agreement and all documents related thereto shall be drafted in the English language. Les parties aux présentes ont convenu que cette convention et tous les documents qui s'y rapportent soient rédigés en langue anglaise.

#### **26.15 Choice of Law and Forum**

This Agreement shall be governed by the laws of the Province of British Columbia and any matter regarding its interpretation and application, and all disputes arising under or in any connection with the Agreement shall, subject to Article 23, be within the exclusive jurisdiction of the Courts of British Columbia as stipulated in the following paragraph. The Service Provider agrees that it shall comply with the terms of this Agreement despite any conflicting laws of any jurisdiction outside of Canada.

Subject to Article 23, the Parties irrevocably agree to and hereby accept and attorn to the exclusive jurisdiction of the Courts of British Columbia for any and all claims that they may have related in any way to this Agreement and its renewal or non-renewal and all Disputes relating hereto or hereunder, and the Parties hereby irrevocably covenant and agree not to commence any action or bring any claim in any other forum whatsoever, be it domestic, foreign or international (including, but not limited to the *North American Free Trade Agreement*), relating in any way to this Agreement, or its renewal or non-renewal, or any Dispute relating hereto or hereunder.

The Parties further agree that, should any third party initiate any action in any forum other than pursuant to Article 23 and the Courts of British Columbia, be it domestic, foreign or international, in any way relating to this Agreement, neither Party will provide any assistance whatsoever (including, without limitation, financial assistance, access to documents and access to personnel) to such third party to pursue any such claim. The Parties will also provide all reasonable assistance, one to the other, to defend against any such third-party claims.

The MAXIMUS Group hereby covenants and agrees that, without the express written consent of the Province, which may be withheld for any cause, or without cause, the MAXIMUS Group will not make any claim or take any proceeding whatsoever concerning or related to any matter arising under or relating to this Agreement against any Person which might result in a claim for contribution, indemnity or otherwise being made against the Province.

The MAXIMUS Group hereby specifically acknowledges that the above provisions are fundamental to this Agreement. The Province has fundamentally relied upon the presence of these provisions and it would not have entered into this Agreement with the MAXIMUS Group without these provisions being included.

#### **26.16 Change of Laws**

The Service Provider hereby acknowledges and affirms that its costs involved in performing its obligations under this Agreement are, in part, based on governmental laws, regulations and policies in force at the time this Agreement was entered into and subsequently, and that such governmental laws, regulations and policies are subject to change without notice. Any such change could result in a material change in the Service Provider's costs of performing its obligations hereunder. The Service Provider specifically acknowledges and affirms that any such change that has the effect of increasing the Service Provider's costs of performing its obligations hereunder will not effect those obligations, nor will such actions constitute expropriation or be tantamount to expropriation at domestic or international law (including, but not limited to the *North American Free Trade Agreement*) and will not constitute grounds for asserting any claim whatsoever under domestic law or any international agreement (including, but not limited to, Chapter Eleven of the *North American Free Trade Agreement* and the *General Agreement on Trade in Services*).

#### **26.17 No Fettering of Legislative Authority**

The Service Provider expressly acknowledges and agrees that nothing in this Agreement shall be construed as an agreement by the Province to restrict, limit or otherwise fetter in any manner the Province's ability to introduce, pass, amend, modify, replace, revoke or otherwise exercise any rights or authority regarding legislation, regulations, policies or any other authority of the Province.

#### **26.18 Procurement**

The Parties hereby acknowledge and affirm that this Agreement constitutes a "procurement" by the Province as that term is utilized in the *North American Free Trade Agreement* and the *General Agreement on Trade in Services*, and, consequently:

- (a) NAFTA Articles 1102, 1103, 1107, 1106(1)(b), (c), (f) and (g), and 1106(3)(a) and (b) do not apply to the Agreement, by virtue of NAFTA Articles 1108(7)(a) and 1108(8)(b);
- (b) NAFTA Chapter Twelve does not apply to the Agreement, by virtue of Article 1201(2)(c);
- (c) The Services being procured are services supplied in the exercise of governmental authority for purposes of the *General Agreement on Trade in Services*; and
- (d) Articles II, XVI and XVII of the *General Agreement on Trade in Services* do not apply the Agreement, because, for purposes of Article XIII of that agreement, this Agreement constitutes a procurement by a governmental agency of services being purchased for governmental purposes and not with a view to commercial resale or with view to use in the supply of services for commercial sale.

#### **26.19 Binding Effect**

This Agreement shall be binding upon and enure to the benefit of the Parties and their respective successors and permitted assigns.

#### **26.20 No Third Party Beneficiaries**

Nothing in this Agreement, express or implied, is intended to confer upon any Person (other than the Parties and their successors and permitted assigns, and the indemnified parties who are expressly indemnified pursuant to the provisions of this Agreement), any rights, benefits or remedies of any kind or character whatsoever and no Person shall otherwise be deemed to be a third-party beneficiary under or by reason of this Agreement.

[Remainder of page intentionally left blank.]



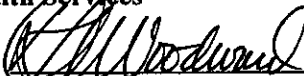
## 26.21 Counterparts

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original. Such counterparts together shall constitute one and the same instrument, notwithstanding that all of the Parties are not signatories to the original or the same counterpart.

IN WITNESS WHEREOF, this Agreement has been duly executed by and on behalf of the Parties hereto as of the date hereof.

**HER MAJESTY THE QUEEN IN RIGHT  
OF THE PROVINCE OF BRITISH  
COLUMBIA, as represented by the Minister  
of Health Services**

By: \_\_\_\_\_

  
David Woodward,  
Deputy Minister, Strategic Initiatives  
and Corporate Services, Ministry of  
Health Services

**MAXIMUS BC HEALTH INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MAXIMUS BC HEALTH BENEFIT  
OPERATIONS, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MAXIMUS, INC.**

By: \_\_\_\_\_

Name: Lynn Davenport  
Title: Chief Executive Officer

**MAXIMUS CANADA INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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By: \_\_\_\_\_  
David Woodward,  
Deputy Minister, Strategic Initiatives  
and Corporate Services, Ministry of  
Health Services

**MAXIMUS BC HEALTH INC.**

By: \_\_\_\_\_  
Name: Brian A. Pollack  
Title: Director

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MAXIMUS BC HEALTH BENEFIT  
OPERATIONS, INC.**

By: \_\_\_\_\_  
Name: Brian A. Pollack  
Title: Director

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**MAXIMUS, INC.**

By: \_\_\_\_\_  
Name: Lynn Davenport  
Title: Chief Executive Officer

**MAXIMUS CANADA INC.**

By: \_\_\_\_\_  
Name: Brian A. Pollack  
Title: Director

By: \_\_\_\_\_  
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**MAXIMUS BC HEALTH INC.**

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Title: \_\_\_\_\_

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Name: Lynn Davenport  
Title: Chief Executive Officer

**MAXIMUS CANADA INC.**

By: \_\_\_\_\_

Name: Lynn Davenport  
Title: Chief Executive Officer

By: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## SCHEDULE A

### DEFINITIONS

In this Agreement, unless something in the subject matter or context is inconsistent therewith, the following capitalized terms shall have the meanings set forth below:

**“Acceptance Date”** shall have the meaning given to it in Section 5.5(f).

**“Acceptance Test”** means a test in respect of a Stage using the procedures set out in Section 5.5 and in the Transformation Plan which is to be used by the Province to determine whether the deliverables for such Stage conform with the Transformation Plan and in particular, the Critical Issues.

**“Acceptance Testing”** means the carrying out of tests in respect of each Stage using the procedures set out in Section 5.5 and in the Transformation Plan in order to satisfy the Province that the deliverables for each Stage conform with the Transformation Plan and in particular, that the Critical Issues are adequately addressed.

**“Achieved Service Levels”** in respect of any Service in any measurement period means the standard and level of performance actually achieved by the Service Provider in the provision of that Service in the measurement period in question as determined in accordance with the process set forth in Schedule F.

**“Affiliate”** has the meaning given to it in the British Columbia *Business Corporations Act* and in addition, when used with respect to the Service Provider, shall include any member of the MAXIMUS Group and any Affiliate of the MAXIMUS Group.

**“Agreement”** means this Master Services Agreement, all Schedules annexed hereto and all documents incorporated by reference herein including the Proposal, the Transaction Documents and the JSD Agreement, together with all amendments or supplements made in accordance with the provisions hereof.

**“Alternative Service Provider”** means the Province or any Person or Persons designated by the Province, from time to time, as an alternative service provider for any or all of the Services.

**“Annual Operating Plan”** has the meaning given to it in Section 11.6.

**“Applicable Laws”** means all applicable laws, including any statute, regulation or by-law, treaty, directive, rule, requirement, policy having the force of law, order, judgment, injunction, award or decree of any Governmental Authority which is binding on either of the Parties and in effect from time to time or which are applicable to the performance of the Services.

**“Approval”** means, with respect to any document, budget or action to be taken, that such document, budget or action has the prior written approval of the Project Director for the Service Provider or the Executive Contract Manager of the Province, as applicable, or of such other representatives of such Party designated by such Party in writing to have such approval power in respect of all or certain matters relating to this Agreement; and “Approved” has a similar meaning.

**“Arm’s Length”** has the meaning given it in the *Income Tax Act* (Canada) and related jurisprudence.

**“Asset Conveyance Agreement”** means the asset conveyance agreement to be entered into between the Parties in accordance with the terms of this Agreement, the current form of which is attached to this Agreement as Schedule L (other than schedules which will be completed during Transition).

**“Assigned Contract”** means a contract entered into between the Province and a third party supplier for the delivery and provision of goods and services in connection with or relating to the Services contemplated in this Agreement and assigned by the Province to the Service Provider pursuant to the Asset Conveyance Agreement, as expressly listed in the Asset Conveyance Agreement, and which Assigned Contract constitutes a Supplier Contract following such assignment.

**“Associated Costs”** means actual direct variable verifiable costs consistent with expense policies approved by the Joint Executive Committee.

**“At Risk Amount”** has the meaning given to it in Schedule F attached hereto.

**“Basic Infrastructure Amount”** has the meaning given to it in Section 25.2.

**“Basic Services”** has the meaning given to it in Section 6.3.

**“BC Court”** has the meaning given to it in Section 17.8.

**“BCGEU”** means the British Columbia Government and Service Employees’ Union.

**“BC Government”** means the government of the Province of British Columbia and all ministries and agents from time to time of the government of the Province of British Columbia.

**“Benchmarker”** has the meaning given to it in Section 12.9.

**“Benchmarking”** has the meaning given to it in Section 12.9.

**“Brand”** means a word, name, group of letters, symbol, or a combination of words, names, letters, or symbols created and owned by the Province and adopted and used by the Parties to identify the Services to the Province Customers and Stakeholders, and to distinguish the Services from similar services provided by other Persons.

**“Business Day”** means a day other than Saturday, Sunday or a statutory holiday in British Columbia.

**“Change”** means an Ordinary Course Change or a Material Change.

**“Change Order”** has the meaning given to it in Section 7.7.

**“Change Request”** has the meaning given it in Section 7.6.

**“Change Request Procedure”** has the meaning given to it in Section 7.7.

**“CITS”** means British Columbia Common IT Services.

**“Claims”** means all losses, damages, expenses, liabilities (whether accrued, actual, contingent, latent or otherwise), claims and demands of whatever nature or kind including, without limitation, all reasonable legal fees and costs.

**“Communications Plan”** means the communications plan attached as Schedule K hereto.

**“Compelled Party”** has the meaning given to it in Section 17.7.

**“Confidential Information”** has the meaning given to it in Section 17.3.

**“Consequential Damages”** has the meaning given to it in Section 19.6.

**“Consistent Failure”** means a continuing failure by the Service Provider to provide the Services to the standards required by the Service Levels, as determined by the Province, acting reasonably (which concept shall, for greater certainty, not apply to the IT Uninterruptible Services for which any failure to provide continuous service shall give rise to a Material Breach by the Service Provider hereunder).

**“Contaminant”** has the meaning given to it in Section 6.7.

**“Contract Year”** means annual periods that correspond with the anniversary dates of the Hand-Over Date, with the first Contract Year commencing on the Hand-Over Date and ending the day immediately prior the first anniversary of the Hand-Over Date.

**“Control”** of a corporation or other entity is held by a Person where securities of the corporation or other entity to which are attached more than 50% of the votes that may be cast to elect directors or persons acting in a similar capacity of the corporation or other entity are held, other than by way of security only, by or for the benefit of such Person; and “Controlled” and “Controlling” have corresponding meanings.

**“Cost-Only Time and Material Rates”** means Labour Costs and Associated Costs.

**“CRA”** means the Canada Revenue Agency.

**“Critical Issues”** has the meaning given to it in Section 5.3.

**“Custody”** means to have physical possession and immediate responsibility for the safe-keeping, preservation and protection of a Record, including, without limitation, responsibility for establishing accession level control, implementing proper storage techniques and environment, providing handling instructions and managing physical access to a Record.

**“Dedicated Contracts”** means contracts of the Service Provider, with third parties, used in connection with the provision of Services.

**“Dedicated Third Person Software”** has the meaning given to it in Section 18.7.

**“Deficiency”** means a material misstatement or misrepresentation by the Service Provider in its reporting or accounting or record keeping pursuant to this Agreement, a material failure to comply with the provisions of this Agreement including the performance of the Services, or where there has

been a material failure to comply with GAAP, the applicable Policies, Applicable Laws or any other applicable requirements of regulatory bodies and authorities, fraud, gross negligence or criminal activity.

**“Designated Assets”** has the meaning given to it in Section 22.8(a).

**“Designated Contracts”** has the meaning given to it in Section 22.8(a).

**“Designated Expedited Arbitrator”** means the arbitrator selected from the list of arbitrators set forth in Schedule Q, selecting from the beginning of the list and moving to the end of the list, as such selection is made pursuant to Section 23.3, and as such list set forth in Schedule Q may be amended or updated from time to time by written agreement of the Parties, and where no Persons are available from the list set forth in Schedule Q and the Parties cannot agree upon a Person, such Person as designated by the British Columbia Arbitration and Mediation Institute or its successor organization in British Columbia.

**“Designated Service”** means a Service designated by the Province as being material.

**“Direct Damages Cap”** has the meaning given to it in Section 19.6.

**“Disaster”** means any event or circumstance that adversely affects (or has the potential to adversely affect) the Services or the ability of the Service Provider, its Subcontractors or Suppliers to otherwise comply with the terms of this Agreement or to otherwise operate their businesses, whether within or outside of the control of the Service Provider, including, without limitation, any Force Majeure event, Labour Dispute, natural disaster, sabotage or equipment failure.

**“Disaster Recovery/Business Continuity Plans”** means the plans set forth in Schedule M, as amended and updated from time to time, which details the back up and recovery procedures in the event of a Disaster, including a Force Majeure or a Labour Dispute and which further includes the Termination Assistance Plan, the Uninterruptible Services Plan and business continuity procedures. For greater certainty, the Disaster Recovery/Business Continuity Plans must include the Province’s disaster recovery plan and its business continuity plan in effect immediately prior to the Hand-Over Date.

**“Disaster Recovery System Test”** has the meaning given to it in Section 6.6(i).

**“Dispute”** means a dispute, claim, questions, difference or disagreement between the Parties arising out of or related to the Services, this Agreement or any breach hereof but expressly excluding disputes under the Trust Agreement which are specifically addressed therein.

**“Dispute Resolution Process”** means the dispute resolution process set out in set forth in Article 23.

**“Documentation”** means the Manual and any other documentation in respect of the Services.

**“DR Unit Test”** has the meaning given to it in Section 6.6(g).

**“Economic Model”** means the specific economic model prepared by MAXIMUS US as part of its preparation for negotiation of this Agreement, the final form of which is represented in electronic

EXCEL format as emailed by David Crane to Keith Spencer on November 4, 2004 at 12:13 a.m. and carbon-copied to Leslie Wolfe, Darlene Letendre, Matthew Peters, Janet Lucas, James Straney, Guy Weeks, Roger Kuypers, Paul Armitage, Jan Ruff, Kathryn JohnBull, Stephen Martin and Andre Powell.

**“Effective Date”** means the date of this Agreement as indicated on page 1 hereof.

**“Employee Transfer Agreement”** means the employee transfer agreement to be entered into between the Parties in accordance with the terms of this Agreement, the current form of which is attached to this Agreement as Schedule L (other than Schedules which will be completed during Transition).

**“Employee Transition Assistance Fund”** has the meaning given to it in the Employee Transfer Agreement (other than schedules which shall be completed during Transition).

**“Event of Insolvency”** means the occurrence of any one of the following events regarding either the Service Provider, any other member of the MAXIMUS Group and of Persons who Control them or are Controlled by them:

- (a) if such Person:
  - (i) other than in connection with a *bona fide* corporate reorganization which does not otherwise contravene this Agreement, is wound up, dissolved, liquidated or has its existence terminated or has any resolution passed therefore or makes a general assignment for the benefit of its creditors or a proposal under *Bankruptcy and Insolvency Act* (Canada);
  - (ii) makes an application to the applicable court for a compromise or arrangement under the *Companies’ Creditors Arrangement Act* (Canada); or
  - (iii) files any written request, application, answer or other document seeking or consenting to any re-organization, arrangement, composition, re-adjustment, liquidation or similar relief for itself under any present or future law relating to bankruptcy, insolvency, or other relief for or against debtors generally, including any notice of intention to make a proposal pursuant to *Bankruptcy and Insolvency Act* (Canada);
- (b) if a court of competent jurisdiction enters an order, judgment, or decree against such Person which approves or provides for any reorganization, arrangement, composition, re-adjustment, liquidation, dissolution, winding up, termination or existence, declaration of bankruptcy or insolvency or similar relief with respect to such Person, under any present or future law relating to bankruptcy, insolvency, or other relief for or against debtors generally and such order, judgment, or decree remains unvacated and unstayed for an aggregate period of 60 days (whether or not consecutive) from the date it is made;
- (c) if any trustee in bankruptcy, receiver, receiver and manager, liquidator or any other officer with similar powers is appointed for or with respect to such Person and that



appointment remains in effect for an aggregate period of 60 days (whether or not consecutive) from the date of the appointment; or

- (d) if an encumbrance or anyone acting on behalf of an encumbrancer takes possession of all or substantially all of the property of such Person and remains in possession for an aggregate period of 60 days (whether or not consecutive) from the first date of the taking of possession.

**“Excluded Losses”** has the meaning given to it in Section 19.6.

**“Expedited Disputes”** means those Disputes which are expressly designated in this Agreement as being Expedited Disputes and therefore resolved in accordance with Section 23.3.

**“Extension”** has the meaning given to it in Section 2.3.

**“External Personnel”** has the meaning given to it in Section 10.6.

**“Fee Rebate Credit”** means the credit to be provided by the Service Provider pursuant to Section 12.5, calculated in accordance with Schedule I.

**“Fees”** means the fees set out in Schedule I payable by the Province to the Service Provider in consideration for the provision of the Services pursuant to the terms of this Agreement.

**“Financial Guarantee”** means an irrevocable and unconditional financial guarantee of the liabilities and obligations of the Service Provider under this Agreement and the Transaction Documents to be provided by MAXIMUS US in the form attached hereto as Schedule L.

**“Force Majeure”** means the occurrence of an event or circumstance beyond the reasonable control of a Party that interferes with, delays or prevents performance of the obligations of a Party hereunder, provided that (i) the non-performing Party is without fault in causing or failing to prevent such occurrence and (ii) such occurrence cannot be circumvented through the use of commercially reasonable alternative sources, workaround plans or other means (including, with respect to the Service Provider, by the Service Provider meeting its disaster recovery obligations described in this Agreement). Subject to the foregoing, an event of Force Majeure shall include, without limitation, (i) explosions, fires, flood, earthquakes, catastrophic weather conditions or other elements of nature or acts of God, (ii) acts of war (declared or undeclared), acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage (iii) acts of federal, provincial (other than the Province of British Columbia), local or foreign governmental authorities or courts, (iv) failures or fluctuations in electrical power or telecommunications service or equipment and (v) delays or failures caused by third-party non-performance (except that the Service Provider shall not be excused for delays caused by its Subcontractors or Suppliers unless the event or circumstance is an event of Force Majeure as to such Subcontractor or Supplier). Notwithstanding the foregoing, in no event will any failure to perform solely as a result of a Party’s lack of funds or financial ability or capacity to carry on business or as a result of a Labour Dispute affecting such Party or its Subcontractors or Suppliers be deemed an event of Force Majeure.

**“GAAP”** has the meaning given to it in Section 1.5.

**“Governmental Authority”** means any court or governmental department, commission, board, bureau, agency, or instrumentality of Canada, or of any province, state, territory, county, municipality, city, town, or other political jurisdiction whether domestic or foreign and whether now or in the future constituted or existing having or purporting to have jurisdictions over the business that is the subject of the Services or over any party to this Agreement.

**“GST”** means the tax imposed under Part IX of the *Excise Tax Act* (Canada) as the same may from time to time be amended or replaced.

**“Guarantees”** means the Performance Guarantee and Financial Guarantee.

**“Guarantor”** means each of MAXIMUS US and MAXIMUS Canada, in their capacity as guarantors of the obligations and liabilities of the Service Provider under the Transaction Documents pursuant to either the Performance Guarantee and Financial Guarantee, as applicable.

**“Hand-Over Closing”** means the closing scheduled for the Hand-Over Date at which the Transaction Documents shall be executed and the matters therein contemplated and as otherwise contemplated in Section 3.14 shall be completed.

**“Hand Over Credits”** has the meaning given to it in Section 3.13.

**“Hand-Over Date”** means April 1, 2005 or such other date as adjusted pursuant to this Agreement.

**“HBO Negotiation Team”** means Steve Martin, Leslie Wolfe, Bill White, Janet Lucas, Darlene Letendre and Guy Weeks.

**“Impact Assessment”** has the meaning given to it in Section 7.3.

**“Indemnified Party”** has the meaning given to it in Section 19.3(a).

**“Indemnifying Party”** has the meaning given to it in Section 19.3(a).

**“Initial Term”** has the meaning given to it in Section 2.1.

**“Intellectual Property”** means intellectual property of whatever nature and kind, including all domestic and foreign trademarks, business names, trade names, domain names, trading styles, logos, patents, trade secrets, industrial designs and copyrights, whether registered or unregistered, and all applications for registration renewals, modifications and extensions thereof, and inventions, formulae, product formulations, processes and processing methods, technology and techniques, know-how, trade secrets, research and technical data, studies, finding, algorithms, instructions, guides, manuals and designs, in all cases whether patented and patentable and whether or not fixed in any medium whatsoever and manuals.

**“IT Uninterruptible Services”** has the meaning given to it in Section 24.1.

**“Joint Executive Committee”** has the meaning given to it in Schedule O.

**“Joint Steering Committee”** has the meaning given to it in Schedule O.

**“JSD Agreement”** means the joint solution definition agreement entered into by the Province and MAXIMUS US as signed by the Province on December 2, 2003.

**“JSRFP”** means the joint solution request for proposal (JSRFP #SATP029) dated July 29, 2003 issued by the Province, a copy of which is attached hereto as Schedule P;

**“Key Position”** means those specific positions designated as such in Schedule O.

**“Key Provider”** has the meaning given to it in Section 10.12.

**“Key Role”** means a key staff position set out in Schedule G attached hereto which is critical to the satisfactory delivery of Services as set out in Section 10.9 and **“Key Roles”** means two or more of such Key Roles or all of such Key Roles, as the context may require.

**“Key Subcontract”** has the meaning given to it in Section 10.12.

**“Key Supplier”** has the meaning given to it in Section 10.14.

**“Key Supplier Contract”** has the meaning given to it in Section 10.14.

**“Labour Costs”** means actual direct verifiable labour costs comprised of salary and direct benefit costs, calculated as a daily rate.

**“Labour Dispute”** means a labour dispute, lockout, strike or other industrial action, whether direct or indirect and whether lawful or unlawful.

**“License Termination Date”** has the meaning given to it in Section 18.3.

**“Losses”** means the aggregate of any and all claims, proceedings, suits, actions, losses, damages, liabilities, assessments, levies, duties, finds, expenses, judgments, and costs (including legal fees and costs) of every kind and nature.

**“Manual”** has the meaning given to it in Section 6.15(a)(ii).

**“Material Adverse Change”** means an event or circumstance that would reasonably be determined to adversely affect a Person’s ability to conduct its business (or conduct material portions of its business) in a manner consistent with the way that it has conducted its business prior to such event or circumstance and with respect to either Service Provider, expressly includes any event or circumstance that would reasonably be determined to adversely affect the ability of such Service Provider to provide any material portion of the Services or to otherwise comply with the terms of this Agreement.

**“Material Breach”** has the meaning given to it in Section 21.1.

**“Material Changes”** has the meaning given to it in Section 7.2.

**“Material Subcontractor”** has the meaning given to it in Section 10.11.

**“Material Subcontract”** has the meaning given to it in Sections 10.11 and 10.12.

**“MAXIMUS Canada”** means MAXIMUS Canada Inc., a corporation incorporated under the laws of Nova Scotia.

**“MAXIMUS Group”** means MAXIMUS US, MAXIMUS Canada, MAXIMUS Prime and MAXIMUS Sub and their respective Affiliates and related entities.

**“MAXIMUS Prime”** means MAXIMUS BC Health Inc., a corporation incorporated under the laws of British Columbia.

**“MAXIMUS Sub”** means MAXIMUS BC Health Benefit Operations, Inc., a corporation incorporated under the laws of British Columbia

**“MAXIMUS Technology”** has the meaning given to it in Section 10.15.

**“MAXIMUS US”** means MAXIMUS, Inc., a corporation incorporated under the laws of the State of Virginia.

**“Medical Services Plan”** means the Medical Services Plan of British Columbia which offers universal medical coverage to British Columbia residents and is administered by the Province.

**“MFC Pricing”** has the meaning given to it in Section 12.7.

**“Ministry of Health Services”** means the Ministry of Health Services of the Province of British Columbia and any successor thereto.

**“New Records”** means any Record created by the Service Provider in the performance of the Services which contains Province Confidential Information, or other similar types of Records relating to the Services performed by the Service Provider for the Province hereunder including, without limitation, those Records referred to in Section 14.1.

**“No-Fault Trigger”** has the meaning given to it in Section 21.4(a).

**“Non-Compliance”** means a deliverable in respect of the Transformation not being in compliance with the Transformation Plan or that Critical Issues in respect of such deliverable are not adequately addressed, as determined by the Province acting reasonably.

**“Option Exercise Notice”** means a written notice of the Province to the Trustee notifying the Trustee that the Province is exercising its option to acquire the beneficial interest of MAXIMUS Canada in the shares of MAXIMUS Prime pursuant to the Trust Agreement.

**“Order”** has the meaning given to it in Section 9.4.

**“Ordinary Course Changes”** has the meaning given to it in Section 7.1.

**“Organizational Structure”** has the meaning given to it in Section 10.7.

**“Other Uninterruptible Services”** has the meaning given to it in Section 24.1.

**“Overhead Margin”** means 10%.

**“Owned Software”** means Software owned or directly licensed by the Province together with all Intellectual Property rights thereto.

**“Performance Guarantee”** means an irrevocable and unconditional guarantee of the performance and satisfaction of all liabilities and obligations of the Service Provider under this Agreement and under the Transaction Documents to be provided by the MAXIMUS Canada in the form attached hereto as Schedule L.

**“Permitted Material Changes”** has the meaning given to it in Section 7.2.

**“Person”** means any natural person, corporation, division of a corporation, partnership, joint venture (which includes a co-ownership), association, company, estate, unincorporated organization, society, trust, government, agency or Governmental Authority.

**“Personal Information”** means:

- (a) all information that:
  - (i) is about an identifiable individual or is defined or deemed as “personal information” pursuant to any laws or regulations related to privacy or data protection that are applicable to the Province or to the Service Provider (including, without limitation, any information that constitutes “personal information” as such term is defined, from time to time, pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia)(“FOIPPA”));
  - (ii) is transferred to, collected or compiled by, or otherwise under the control or custody of the Service Provider; and
  - (iii) is about Province Customers or members of the public or employees of or consultants to the Province or the Stakeholders, (ii) is in the custody or under the control of the Province or of any “public body” (as such term is defined in FOIPPA), or (iii) is otherwise held by the Service Provider on behalf of the Province; and
- (b) all information that is designated by the Province, acting reasonably, as “Personal Information”.

**“Personnel”** has the meaning given to it in Section 10.6.

**“PharmaCare Plan”** means the Fair PharmaCare prescription drug program of the Province of British Columbia administered by the Province.

**“Phase-In Date”** means the implementation date for each Phased SLR as set out in Schedule F attached hereto.

**“Phased SLR”** means a Service Level Requirement that will be performed at the level actually achieved by the Province, as more particularly contemplated in Section 8.3, up to the applicable Phase-In Date, and thereafter shall be performed at the level expressly set forth in Schedule F.

**“Policies”** means the policies of the Province from time to time, including without limitation the Province’s policies relating to reporting or data and record keeping, but excluding policies regarding human resource management.

**“Preferred Proponent”** is defined as set forth in the JSRFP.

**“Privacy Impact Assessment”** means a review of processes, procedures and practices to ensure that Province Data is collected, managed, stored and protected in accordance with the applicable privacy legislation, policies and commitments (including FOIPPA) and that any changes to a process, procedure, practice or system will not adversely impact the protection of Province Data.

**“Privacy Obligations”** has the meaning given to it in Section 17.1.

**“Problem”** has the meaning given to it in Section 8.10.

**“Project”** means any project started or initiated by the Province relating to the Services.

**“Project Director”** has the meaning given to it in Schedule O.

**“Project Summary Reports”** mean the disclosure reports required by Policy to be prepared by the Province in respect of the provision of the Services.

**“Proponent”** is defined as set forth in the JSRFP.

**“Proposal”** means the all written and oral presentations (to the extent such oral presentations have been recorded in electronic or paper format) made by the MAXIMUS Group to the Province in respect of the JSRFP including the presentation made by MAXIMUS US to the Province on March 4, 2004 during Joint Solution Definition Phase (as defined in the JSRFP), together with all supporting documentation delivered to the Province in connection with the JSRFP.

**“Province”** has the meaning given to it in the first paragraph of this Agreement.

**“Province Customers”** means the Persons who utilize any of the Services, including, without limitation, British Columbia residents enrolled in the Medical Services Plan and/or PharmaCare Plan.

**“Province Data”** means:

- (a) all confidential information of or relating to the Province, Province Customers, or Stakeholders other than confidential information that:
  - (i) is, pursuant to Section 17.6, not obligated to be treated by the Service Provider as confidential;
  - (ii) relates solely to the internal business processes of the Medical Services Plan or PharmaCare Plans such as financial reports with respect to the Services

(but that does not, for greater certainty, constitute any Personal Information);  
or

(iii) relates solely to the technical specifications or business processes created solely in connection with the Services (but does not, for greater certainty, contain any Personal Information); and

(b) all Personal Information (regardless of whether the Personal Information is also Confidential Information).

**“Province Default”** has the meaning given to it in Section 21.6.

**“Province Intellectual Property”** means (i) all Intellectual Property owned by the Province prior to the Effective Date; (ii) all Intellectual Property created by or for the Service Provider in connection with or arising out of the Services (other than general upgrades that any member of the Service Provider Group makes to Service Provider Intellectual Property that are not specifically done in contemplation of the Services); (iii) all Intellectual Property created by the Province; and (iv) all Intellectual Property created for the Province other than by the Service Provider or its Subcontractors.

**“Province Marks”** has the meaning given to it in Section 18.9.

**“Province Records”** means all Records of the Province to which the Service Provider is given Custody of during the Term along with all New Records including, without limitation, all drawings, payroll related information and related paper files, contracts, personnel information, records and information of the Province Customers and Stakeholders and all data records relating to any of the above information or records in paper or electronic form relating to the business of the Province relevant to the performance of the Services and other transactions contemplated in this Agreement.

**“Province Shared Infrastructure”** means those parts or components of certain Systems owned and operated by the BC Government or on behalf of the BC Government by third party Persons which are required by the Service Provider to support the delivery and performance of the Services, which Systems are shared resources of the BC Government used to support the delivery and performance of the Services as well as to support other services and for other uses by the BC Government, and includes, in particular, the system of servers and applications used by the Province to enable secured web access to the mainframes and Oracle databases of the Ministry of Health Services, as such Systems are described in Schedule J.

**“Province Supplier Contract”** means a contract entered into between the Province (whether or not executed by the Service Provider as an agent for the Province) and a third party supplier for the delivery and provision of goods and services procured and managed by the Services Provider as agent for the Province pursuant to this Agreement and entered into in the ordinary course of business, but not including any Supplier Contract.

**“PST”** means all applicable provincial sales or service taxes payable pursuant to the *Social Services Tax Act* (British Columbia) as the same may from time to time be amended or replaced.

**“Quality Management Plan”** has the meaning given to it in Section 6.13(d).

**“Record Control”** means the power or authority to manage, restrict, regulate or administer the use or disclosure of a Record.

**“Records”** means books, records, reports, documents, maps, drawings, correspondence, system logs, system development records, accounts, invoices, backup data (including original source documents) and other similar documents, images, writings or information by any means whether graphic, electronic, audio, mechanical or otherwise including, without limitation, Province Data where applicable in the context.

**“Relationship Manager”** has the meaning given to it in Schedule O.

**“Renewal Term”** has the meaning given to it in Section 2.2.

**“Retained Employees”** has the meaning given to it in Section 22.7(d).

**“Risk and Controls Review”** means an independent and objective assessment of a system or other subject matter, the purpose of which, in general, is to determine whether the business/system framework has adequate controls to mitigate business or financial, security and general privacy risks. Such assessment will be based on objectives, criteria and principles defined by generally accepted control frameworks and risk management methodology, including, without limitation, ISO17799 which is intended to be used as the control framework for this Agreement. The resulting report from such assessment is intended to be used to implement additional controls or introduce strategies to manage the remaining risks.

**“Service Centre”** means an operations centre, including call centre, to be established by the Service Provider in Victoria, British Columbia and to be fully operational by the Hand-Over Date from which the Service Provider is to provide all of the Services (subject to written Approval of the Province otherwise) and as more specifically described in Schedule N attached hereto.

**“Service Level Objectives”** means all of the service levels other than the Service Level Requirements as set forth in Schedule E and Schedule F along with service level commitments as otherwise set forth in this Agreement, in any Transaction Agreements, the Proposal and the JSRFP.

**“Service Level Requirements”** means all of the service levels specifically identified as such as set forth in Schedule E and Schedule F.

**“Service Level Credits”** has the meaning given to it in Section 8.14.

**“Service Levels”** means the Service Level Objectives and the Service Level Requirements as may be amended from time to time in accordance with this Agreement.

**“Service Provider”** has the meaning given to it on the first page of this Agreement as further defined in Section 1.12.

**“Service Provider Default”** has the meaning given to it in Section 21.2.

**“Service Provider Group”** has the meaning given to it in Section 10.2.



**“Service Provider Intellectual Property”** means (i) all Intellectual Property owned by the MAXIMUS Group prior to the Effective Date and that is used, or becomes necessary or advisable to use, in connection with the Services; (ii) all Intellectual Property created by or for the MAXIMUS Group other than Province Intellectual Property; and (iii) all Service Provider Software.

**“Service Provider Spread”** means the Spread (as defined in Schedule I) earned by the Service Provider.

**“Service Provider Software”** means Software developed by or for the Service Provider and owned by the MAXIMUS Group which is used by the Service Provider during the course of performing the Services and excluding, for greater certainty, the Owned Software and any Province Intellectual Property.

**“Services”** has the meaning given to it in Section 6.1.

**“Shared Infrastructure Credit”** has the meaning given to it in Section 25.7(b).

**“Shared Infrastructure Use Period”** has the meaning given to it in Section 25.2.

**“Share Purchase Option”** means the option granted by MAXIMUS Canada to the Province pursuant to the Trust Agreement to acquire beneficial ownership of all of the shares in the capital of MAXIMUS Prime from MAXIMUS Canada upon Termination.

**“Software”** means software applications and computer programs, including all versions thereof, and all related documentation, manuals, and program files, data files, computer related data, field and data definitions and relationships, data definition specifications, data models, program and system logic, program modules, routines, sub-routines, algorithms, program architecture, design concepts, system designs, program structure, sequence and organization, screen displays and report layouts, technology and techniques, object code and interfaces, together with the Intellectual Property rights necessary to operate and use such software applications and computer programs.

**“Source Code”** means the human-readable form of a computer instruction, including related system documentation, applicable comments and procedural codes such as job control language.

**“Source Code Escrow Agreement”** means the source code agreement between the Province, MAXIMUS US and a third party escrow provider providing for the obligation to deposit a current copy of the Service Provider Software with such escrow agent, to maintain the currency of such escrow deposit and to permit and facilitate the release of such escrow deposit to the Province in certain circumstances.

**“Source Materials”** means, in relation to items of Software, supporting materials that would enable a reasonable skilled programmer to compile, debug and support and/or make improvements to such software in a commercially reasonable manner including (i) any Source Code related thereto, reasonably annotated, (ii) technical and system documentation including detailed design, functional, operational, and technical documentation, flow charts, diagrams, file layouts, report layouts, screen layouts, business rules, data and database models and structures, working papers and reasonably related notes and memoranda in electronic or written format, which were made or obtained in relation to the design and development of such software and compilation instructions related to such

software, (iii) listing by name, version and vendor of relevant third Persons' compliers, utilities and other software that are necessary for normal operation of such software to which the Source Materials related including sufficient information to procure a license from such vendors, (iv) a reasonably detailed listing of relevant equipment and information necessary for normal operation of such software, and (v) all other information reasonably necessary to rebuild, install, and otherwise implement the Software in the context of the applicable System(s) including, without limitation, all relevant tools, programs, files, encryptions keys, make files, installation instructions, systems settings, and database settings.

**"Spread Margin"** means 7.5%.

**"Stage"** means each stage of the Transformation as set out in the Transformation Plan.

**"Stakeholder"** means any Person that exchanges data with the Province, relies on the Services or has a direct material stake in the delivery of the Services other than Province Customers, including without limitation, group administrators (i.e. employers, unions and pension plans with a minimum of three British Columbia resident members), physicians and other health care practitioners (e.g. pharmacists physician, surgeons, dentists, podiatrists, midwives or veterinarians) practicing in British Columbia, travel assistance program partners, the Medical Services Commission and its advisory committees, the British Columbia Health Authorities, the Medical and Health Care Services Appeal Board; British Columbia School Boards, Immigration Canada, Canada Customs and Revenue Agency, British Columbia Medical Association and other applicable health care provider associations, College of Physicians and Surgeons of British Columbia and College of Dental Surgeons of British Columbia; College of Pharmacists of British Columbia, British Columbia Pharmacy Association, Canadian Association of Chain Drug Stores, Office of the Information and Privacy Commission of British Columbia, The Insurance Corporation of British Columbia and the Workers' Compensation Board of British Columbia.

**"Standard Time and Material Rates"** means Associated Costs, Labour Costs and Overhead Margin and Spread Margin calculated on Labour Costs.

**"Subcontract"** means a contract entered into between the Service Provider and a Subcontractor.

**"Subcontractor"** means any third party Person engaged by the Service Provider to perform any of the Services on behalf of the Service Provider.

**"Successful Proponent"** is defined as set forth in the JSRFP.

**"Supplier"** means a third party supplier for the delivery and provision of goods and services relating to or in connection with the Services contemplated by this Agreement pursuant to a Supplier Contract but expressly excluding Subcontractors, and **"Suppliers"** means two or more of such third party suppliers or all such third party suppliers under all Supplier Contracts collectively, as the context may require.

**"Supplier Contract"** means a contract entered into between the Service Provider and a Supplier.

**"Supplier/Subcontractor Direct Agreement"** means the form of agreement between the Province and Suppliers and Subcontractors as specifically contemplated by Schedule X.

**“Systems”** means the hardware, equipment, software and communications equipment, which is required or otherwise used for the performance of the Services.

**“SysTrust Report”** has the meaning given to it in Section 14.6.

**“Taxes”** mean any and all taxes, fees, levies, or other assessments, including federal, state, local, or foreign income, capital, profits, excise, real or personal property, sales (including PST), withholding, social security, occupation, use, services, value added (and for greater certainty, including GST and PST), license, net worth, payroll, franchise, severance, stamp, transfer, registration, premium, windfall, environmental, customs duties, unemployment, disability, or any similar taxes imposed by any Taxing Authority together with any interest, penalties or additions to tax and additional amounts imposed with respect thereto (including any fee or assessment or other charge in the nature of or in lieu of any tax) in each case, whether imposed by law, contractual agreement or otherwise) and any liability in respect of any tax as a result of being a member of any affiliated, consolidated, combined, unitary or similar group.

**“Taxing Authority”** means any multinational, national, federal, state, provincial, local, municipal or other government (including any governmental agency, branch, department, official, entity, court or other tribunal and any body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory or taxing authority or power of any nature) responsible for the imposition or collection of any Taxes.

**“Term”** has the meaning given to it in Section 2.3.

**“Termination”** means the expiry or earlier termination of this Agreement pursuant to the provisions of this Agreement, including, without limitation, expiry at the end of the Initial Term or the Renewal Term (as applicable) and termination pursuant to Section 3.11, 10.10 or Article 21.

**“Termination Assistance Period”** has the meaning given to it in Section 22.1(b).

**“Termination Assistance Plan”** has the meaning given to it in Section 22.1(c).

**“Termination Date”** means the effective date of the expiration or termination of the Initial Term or the Renewal Term, as applicable.

**“Termination for Convenience Fee”** means the fee payable by the Province if the Province terminates this Agreement for convenience pursuant to Section 21.5 calculated and payable as set forth in Schedule I attached hereto.

**“Termination Notice”** means a written notice of termination given by the Province to the Service Provider.

**“Termination Services”** has the meaning given to it in Section 22.1.

**“Third Person Software”** has the meaning given it in Section 22.1(b)(xii).

**“Transaction Documents”** means collectively the Employee Transfer Agreement, the Asset Conveyance Agreement, the Guarantees, the Trust Agreement, and Source Code Escrow Agreement,

together with all other documents executed and delivered in connection with or ancillary to such agreements.

**“Transferring Employees”** means the employees of the Province hired by the Service Provider pursuant to the Employee Transfer Agreement.

**“Transformation”** means the orderly transition of the Services from the form of Services contemplated on the Hand-Over Date to the form of Services set out in the Transformation Plan.

**“Transformation Credits”** has the meaning given to it in Section 5.6.

**“Transformation Plan”** has the meaning given to it in Section 5.2.

**“Transformation Stage Completion Date”** has the meaning given to it in Section 5.6.

**“Transformed Services”** has the meaning given to it in Section 6.4.

**“Transition”** has the meaning given to it in Section 3.1.

**“Transition Management Team”** has the meaning given to it in Section 3.6.

**“Transition Manager”** has the meaning given to it in Schedule O.

**“Transition Period”** means the period of time from the Effective Date hereof until the Hand-Over Date.

**“Transition Plan”** has the meaning given to it in Section 3.4.

**“Transition Requirements”** has the meaning given to it in Section 3.12.

**“Transition Services”** has the meaning given to it in Section 3.3.

**“Treasury Board”** has the meaning given to it in Section 26.1(b).

**“Trustee”** means Valiant Trust Company, a trust company wholly owned by the Canadian Western Bank and organized under the *Loan and Trust Corporations Act* (Alberta).

**“Trust Agreement”** has the meaning given to it in Recital K.

**“Uninterruptible Services”** means certain Services which must be provided to certain Province Customers and/or Stakeholders continuously and without interruption throughout the Term on a 24 hour, 7 days a week, 365 days a year basis notwithstanding any event of Force Majeure, as more particularly described in Section 24.1.

**“Uninterruptible Services Plan”** has the meaning given to it in Section 24.1.

**“WIP”** has the meaning given to it in Section 3.10.

**“WIP Plan”** means the plan in respect of WIP as described in Section 3.10 and Schedule H, which will be included in the working Transition Plan to be delivered by the Service Provider to Province.

**“Working Groups”** has the meaning given to it in Schedule O.

**SCHEDULE B**  
**TRANSITION AND WIP PLANS**

**SCHEDULE C**  
**TRANSITION MANAGEMENT TEAMS**

**SCHEDULE D**  
**MAXIMUS ORGANIZATIONAL STRUCTURE**



**SCHEDULE E**  
**DESCRIPTION OF SERVICES**

**SCHEDULE F**  
**SERVICE LEVELS**

## **SCHEDULE G**

### **KEY ROLES**

**SCHEDULE H**  
**ONGOING DELIVERABLES**

## **SCHEDULE I**

### **FEEES**

**SCHEDULE J**  
**MAXIMUS TECHNOLOGY**

**SCHEDULE K**  
**COMMUNICATION PLAN AND COMMUNICATION PROCESS**

**SCHEDULE L**  
**TRANSACTION DOCUMENTS**

1. Employee Transfer Agreement
2. Asset Conveyance Agreement
3. Performance Guarantee
4. Financial Guarantee
5. Source Code Escrow Agreement
6. Trust Agreement
7. Economic Model
8. **[IBM Shared Services Agreement]**



**SCHEDULE M**  
**BUSINESS CONTINUITY AND DISASTER RECOVERY**

**SCHEDULE N**  
**LOCATION OF SERVICE CENTRE**

**SCHEDULE O**  
**MANAGEMENT AND GOVERNANCE**

**SCHEDULE P**

**JSRFP**

**SCHEDULE Q**  
**DESIGNATED EXPEDITED ARBITRATOR LIST**

**SCHEDULE R**  
**TRANSFORMATION PLAN**

**SCHEDULE S**  
**MAXIMUS ETHICS POLICY**

**SCHEDULE T**  
**PROVINCE DISCLOSURE SCHEDULE**



## **SCHEDULE U**

### **KEY SUPPLIERS, MATERIAL SUBCONTRACTORS AND KEY PROVIDERS**

**SCHEDULE V**  
**SPECIFIC APPLICABLE LAWS**

**SCHEDULE W**  
**ARTICLES OF THE SERVICE PROVIDERS**

**SCHEDULE X**  
**PRIVACY AND SECURITY OBLIGATIONS**

## **SCHEDULE B**

### **TRANSITION AND WIP PLANS**

#### **1.0 PURPOSE OF THIS SCHEDULE**

This Schedule describes the guiding principles under which the Parties will work to implement a successful transition of the Services from the Province to the Service Provider, as well as the tasks (including, without limitation, the Transition Services to be provided by the Service Provider) and milestones that must be completed prior to the Hand-Over Date. Progress in respect to this Transition Plan shall be monitored in accordance with Schedules K and O. This Transition Plan is provided, shall be governed by and updated in accordance with the Agreement including Article 3.

#### **2.0 GUIDING PRINCIPLES**

2.1 The Parties agree to work collaboratively to:

- (a) Ensure timely completion of the tasks, milestones, and associated reviews, approvals, and decisions, essential to the success of the Transition;
- (b) Establish and maintain effective communication through out the Transition period in accordance with the principles and protocols outlined in Schedule K of this Agreement; and
- (c) Keep each other informed of unanticipated events that may adversely impact the Transition timelines or the Hand-Over Date.

Notwithstanding the foregoing, the Service Provider acknowledges and agrees that it has ultimate responsibility to complete the Transition Services in accordance with and pursuant to the terms of the Agreement including those terms set forth in Article 3.

2.2 The Province agrees to:

- (a) Facilitate communication between the Service Provider and certain third parties including resolution of issues that may arise between the Service Provider and such third parties as those issues may impact the Transition and subsequent hand over of Services. Such third parties include but are not necessarily limited to British Columbia Common IT Services, the British Columbia Public Service Agency and the Ministry of Provincial Revenue;
- (b) Retain primary responsibility for communication with and between all Stakeholders and Province Customers;

- (c) Retain responsibility for established delegations such as payment and existing Stakeholder agreements;
- (d) Facilitate transfer of Transferring Employees pursuant to the Employee Transfer Agreement;
- (e) Assign staff knowledgeable about the current operational and technical environments relating to the delivery of health benefit services by the Province to work collaboratively with the Service Provider to implement a smooth Transition;
- (f) Facilitate initial communications and interactions between the Service Provider and the BCGEU;
- (g) Coordinate transfer, termination or assignment of applicable contracts, memoranda of understanding, or other relevant agreements to the Service Provider pursuant to the Asset Conveyance Agreement; and
- (h) Provide assistance in developing an inventory of any policy gaps and develop plans and processes to close those gaps.
- (i) Conduct a security review, and such security review shall be in a form and have results that are to the satisfaction of the Province;
- (j) Conduct a Privacy Impact Assessment in accordance with Schedule X of this Agreement, and such privacy assessment shall be in a form and have results that are to the satisfaction of the Province.

2.3 The Service Provider agrees to:

- (a) Assume and retain primary responsibility for successful completion of the Transition in accordance with the terms of the Agreement;
- (b) Perform the Transition Services; and
- (c) Develop mechanisms to facilitate retention of appropriate knowledge by the Province.

### 3.0 MAJOR TASKS AND MILESTONES

The table set out below sets out the major tasks (including Transition Services) and milestones that must be met to ensure a successful on-time hand over of the Services to the Service Provider on the Hand-Over Date and the Party with primary responsibility for each major task. Such table forms part of the initial Transition Plan which may be amended, modified or supplemented pursuant to Section 3.5 of this Agreement.

WBS	Task	Duration	Start	End	Resources
1	Project Management	103.5 days	4-Nov-04	4-Apr-05	
1.1	Execute Contract	0 days	4-Nov-04	4-Nov-04	Province, Service Provider
1.2	Execute Transaction Documents	1 day	4-Nov-04	4-Nov-04	Province, Service Provider
1.3	Conduct Kick-off Meeting	2 days	8-Nov-04	8-Nov-04	Service Provider, Province
1.4	Conduct Initial Stakeholder Outreach Meetings	10 days	10-Nov-04	30-Nov-04	Province, Service Provider
1.5	Establish Fee Payment Process	5 days	15-Nov-04	19-Nov-04	Province, Service Provider
1.6	Joint Executive Committee Process	96 days	15-Nov-04	4-Apr-05	Province, Service Provider
1.7	Joint Steering Committee Process	96 days	15-Nov-04	4-Apr-05	Province, Service Provider
1.8	Change Control Board Participation	96 days	15-Nov-04	4-Apr-05	Province, Service Provider
1.9	Project Governance Initiated	0.5 days	15-Nov-04	4-Apr-05	Province, Service Provider
1.10	Finalize Detailed Transition WorkPlan	39 days	4-Nov-04	4-Jan-05	Service Provider
1.11	Complete Risk Management Plan	30 days	15-Nov-04	30-Dec-04	Service Provider
1.12	Complete Quality Management Plan Revisions	30 days	15-Nov-04	30-Dec-04	Service Provider
1.13	Complete Communication Plan	20 days	15-Nov-04	14-Dec-04	Service Provider
1.14	Complete Issues Resolution/Dispute Resolution Plan	15 days	15-Nov-04	7-Dec-04	Service Provider
1.15	Complete Authority Matrix	45 days	8-Dec-04	11-Feb-05	Service Provider
1.16	Complete Business Recovery/Continuity Plan	45 days	12-Jan-05	15-Mar-05	Service Provider
1.17	Complete Termination Services Plan	20 days	5-Jan-05	1-Feb-05	Service Provider
1.18	Complete Paper Record Inventory and Transfer	10 days	5-Jan-05	18-Jan-05	Service Provider
1.19	Turnover Existing Policies, Procedures, and Workflows	10 days	15-Nov-04	30-Nov-04	Province
1.20	Develop/Revise Workflow Designs	45 days	22-Nov-04	28-Jan-05	Service Provider, Province
1.21	Complete Procedures and Training Manuals	40 days	31-Jan-05	25-Mar-05	Service Provider
1.22	Conduct Privacy and Security Impact Assessments	15 days	31-Jan-05	18-Feb-05	Service Provider
1.23	Complete Privacy Management Plan	15 days	21-Feb-05	11-Mar-05	Service Provider
1.24	Complete Training Plan	10 days	14-Mar-05	25-Mar-05	Service Provider

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WBS	Task	Duration	Start	End	Resources
1.25	Required Plans, Documents Complete	1 day	28-Mar-05	28-Mar-05	Province, Service Provider
<b>2</b>	<b>Labour Relations and Human Resources</b>	<b>91 days</b>	<b>15-Nov-04</b>	<b>28-Mar-05</b>	<b>Service Provider, Province</b>
2.1	Labour Relations	41 days	15-Nov-04	17-Jan-05	Service Provider, Province
2.1.1	Initiate Negotiations with BCGEU	30 days	15-Nov-04	30-Dec-04	Service Provider, Province
2.1.2	Map Job Descriptions to Public Service Job Evaluation Plan	10 days	31-Dec-04	14-Jan-05	Service Provider
2.1.3	Confirm Staff To Transition	10 days	31-Dec-04	14-Jan-05	Province
2.1.4	Labour Agreement Completed	1 day	17-Jan-05	17-Jan-05	Service Provider
2.2	Human Resources	91 days	15-Nov-04	28-Mar-05	Service Provider, Province
2.2.1	Conduct Meet Service Provider Event	1 day	15-Nov-04	15-Nov-04	Service Provider
2.2.2	Make Job Offers To Transitioning Province personnel	10 days	17-Jan-05	28-Jan-05	Service Provider
2.2.3	Recruit and Hire Management personnel	60 days	15-Nov-04	11-Feb-05	Service Provider
2.2.4	Recruit and Hire Line personnel for Unfilled Positions	30 days	31-Jan-05	11-Mar-05	Service Provider
2.2.5	Conduct Initial Business Process Change Training	5 days	14-Mar-05	18-Mar-05	Province, Service Provider
2.2.6	Conduct Initial Service Provider Orientation	5 days	21-Mar-05	25-Mar-05	Service Provider, Province
2.2.7	Start-Up Personnel In Place	1 day	28-Mar-05	28-Mar-05	Service Provider
<b>3</b>	<b>Facility Acquisition and Installation</b>	<b>83 days</b>	<b>4-Nov-04</b>	<b>7-Mar-05</b>	<b>Service Provider</b>
3.1	Finalize and Sign Lease	1 day	4-Nov-04	4-Nov-04	Service Provider
3.2	Obtain Necessary Permits	7 days	4-Nov-04	12-Nov-04	Service Provider, Province
3.3	Complete Buildout	80 days	5-Nov-04	3-Mar-05	Service Provider
3.4	Conduct Readiness Review	1 day	4-Mar-05	4-Mar-05	Service Provider, Province
3.5	Facilities Ready	1 day	7-Mar-05	7-Mar-05	Service Provider
<b>4</b>	<b>Technology Transition</b>	<b>102 days</b>	<b>4-Nov-04</b>	<b>1-Apr-05</b>	<b>Service Provider</b>
4.1	Finalize Subcontracts	21 days	4-Nov-04	6-Dec-04	Service Provider
4.1.1	Finalize IBM AM Subcontract	20 days	4-Nov-04	3-Dec-04	Service Provider
4.1.2	Finalize CITS FM Subcontract	20 days	4-Nov-04	3-Dec-04	Service Provider
4.1.3	Finalize SXC AM Subcontract	20 days	4-Nov-04	3-Dec-04	Service Provider

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WBS	Task	Duration	Start	End	Resources
4.1.4	Finalize Telus CSC Subcontract	5 days	4-Nov-04	10-Nov-04	Service Provider
4.1.5	Finalize Emergis CAPS Subcontract	5 days	4-Nov-04	10-Nov-04	Service Provider
4.1.6	Required Subcontracts Executed	1 day	6-Dec-04	6-Dec-04	Service Provider
4.2	Install office, data centre MAN connection	61 days	15-Nov-04	14-Feb-05	Service Provider
4.2.1	Issue CITS workorder for SPAN/BC line(s) and router(s)	20 days	15-Nov-04	14-Dec-04	Service Provider
4.2.2	Issue CITS workorder for firewall/IP address configurations	15 days	24-Jan-05	11-Feb-05	Service Provider
4.2.3	SPAN/BC Connectivity Established	1 day	14-Feb-05	14-Feb-05	Service Provider
4.3	Install Network LAN Environment	32 days	7-Dec-04	24-Jan-05	Service Provider
4.3.1	Complete facility LAN wiring/connectivity	21 days	7-Dec-04	7-Jan-05	Service Provider
4.3.2	Install firewall/switch configuration	10 days	10-Jan-05	21-Jan-05	Service Provider
4.3.3	Network LAN Connectivity Complete	1 day	24-Jan-05	24-Jan-05	Service Provider
4.4	Install File and Print Servers	84 days	15-Nov-04	17-Mar-05	Service Provider
4.4.1	Procure File and Print Servers	15 days	15-Nov-04	7-Dec-04	Service Provider
4.4.2	Install file servers	10 days	8-Dec-04	21-Dec-04	Service Provider
4.4.3	Install print servers	10 days	8-Dec-04	21-Dec-04	Service Provider
4.4.4	Define print servers to UNIX environment	5 days	22-Dec-04	30-Dec-04	Province
4.4.5	Communicate new IP addresses for firewall changes	3 days	31-Dec-04	5-Jan-05	Service Provider
4.4.6	Identify directories/files to move to Service Provider	40 days	15-Nov-04	14-Jan-05	Province
4.4.7	Install transitioned directories and files	5 days	17-Jan-05	21-Jan-05	Service Provider
4.4.8	Remove old IP addresses from HBO firewalls	3 days	1-Mar-05	3-Mar-05	Province
4.4.9	Reconfigure 1515 Blanshard St switches	5 days	4-Mar-05	10-Mar-05	Province
4.4.10	Remove old printer definitions from UNIX servers	5 days	11-Mar-05	17-Mar-05	Province
4.4.11	File/Print Server Environment Complete	1 day	24-Jan-05	24-Jan-05	Service Provider
4.5	Install Desktop Environment	86 days	15-Nov-04	21-Mar-05	Service Provider
4.5.1	Procure desktop/printer equipment	20 days	15-Nov-04	14-Dec-04	Service Provider
4.5.2	Install desktop/printer equipment	12 days	15-Dec-04	4-Jan-05	Service Provider
4.5.3	Install necessary print drivers	5 days	5-Jan-05	11-Jan-05	Service Provider
4.5.4	Install Kofax,connectivity software	5 days	5-Jan-05	11-Jan-05	Service Provider, Province
4.5.5	Conduct Operational Readiness test	5 days	12-Jan-05	18-Jan-05	Province
4.5.6	Decommission 1515 Blanshard St desktops, printers	15 days	1-Mar-05	21-Mar-05	Province

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WBS	Task	Duration	Start	End	Resources
4.5.7	Desktop Environment Complete	1 day	19-Jan-05	19-Jan-05	Service Provider
4.6	Install Email environment	51 days	22-Dec-04	7-Mar-05	Service Provider
4.6.1	Install Lotus Notes servers	20 days	22-Dec-04	21-Jan-05	Service Provider
4.6.2	Setup Lotus user accounts	10 days	24-Jan-05	4-Feb-05	Service Provider
4.6.3	Conduct Lotus training	15 days	7-Feb-05	25-Feb-05	Service Provider
4.6.4	Remove old user accounts from Outlook	5 days	1-Mar-05	7-Mar-05	Province
4.6.5	Email Transition Complete	1 day	28-Feb-05	28-Feb-05	Service Provider
4.7	Transition MSP Claims	95 days	15-Nov-04	1-Apr-05	Service Provider
4.7.1	Finalize CITS mainframe processing agreement	20 days	15-Nov-04	14-Dec-04	Service Provider
4.7.2	Finalize IBM application management agreement	33 days	15-Nov-04	5-Jan-05	Service Provider
4.7.3	Obtain job flows, schedules, run time documentation	40 days	6-Jan-05	2-Mar-05	Service Provider
4.7.4	Obtain on-call and escalation procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.7.5	Obtain foreign tape library listing and procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.7.6	Obtain source code promotion procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.7.7	Obtain application documentation	41 days	6-Jan-05	3-Mar-05	Service Provider
4.7.8	Make necessary RACF security changes	10 days	4-Mar-05	17-Mar-05	Service Provider
4.7.9	Obtain access to source code libraries	10 days	18-Mar-05	31-Mar-05	Service Provider
4.7.10	MSP Claims Transition Complete	1 day	1-Apr-05	1-Apr-05	Service Provider
4.8	Transition Teleplan	95 days	15-Nov-04	1-Apr-05	Service Provider
4.8.1	Finalize IBM application management agreement	33 days	15-Nov-04	5-Jan-05	Service Provider
4.8.2	Obtain job flows, schedules, run time documentation	40 days	6-Jan-05	2-Mar-05	Service Provider
4.8.3	Obtain on-call and escalation procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.8.4	Obtain source code promotion procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.8.5	Obtain application documentation	56 days	6-Jan-05	24-Mar-05	Service Provider
4.8.6	Obtain access to source code libraries	5 days	25-Mar-05	31-Mar-05	Service Provider
4.8.7	Teleplan Transition Complete	1 day	1-Apr-05	1-Apr-05	Service Provider
4.9	HNI and HNWeb	94.5 days	15-Nov-04	1-Apr-05	Service Provider
4.9.1	Determine terms of use for HNI	26 days	15-Nov-04	22-Dec-04	Service Provider, Province
4.9.2	Initiate change orders to split HNWeb code	3 days	23-Dec-04	29-Dec-04	Service Provider, Province

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WBS	Task	Duration	Start	End	Resources
4.9.3	Rework HAS change process and procedures	30 days	23-Dec-04	7-Feb-05	Service Provider, Province
4.9.4	Obtain job flows, schedules, run time documentation	40 days	30-Dec-04	24-Feb-05	Service Provider
4.9.5	Obtain on-call and escalation procedures	40 days	30-Dec-04	24-Feb-05	Service Provider
4.9.6	Obtain source code promotion procedures	40 days	30-Dec-04	24-Feb-05	Service Provider
4.9.7	Obtain application documentation	40 days	30-Dec-04	24-Feb-05	Service Provider
4.9.8	Obtain access to source code libraries	25 days	25-Feb-05	31-Mar-05	Service Provider
4.9.9	HNI/HNWeb Transition Complete	0.5 days	1-Apr-05	1-Apr-05	Service Provider, Province
4.10	Transition R&PB	95 days	15-Nov-04	1-Apr-05	Service Provider
4.10.1	Finalize CITS mainframe processing agreement	26 days	15-Nov-04	22-Dec-04	Service Provider
4.10.2	Finalize IBM application management agreement	33 days	15-Nov-04	5-Jan-05	Service Provider
4.10.3	Obtain job flows, schedules, run time documentation	40 days	6-Jan-05	2-Mar-05	Service Provider
4.10.4	Obtain on-call and escalation procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.10.5	Obtain foreign tape library listing and procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.10.6	Obtain source code promotion procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.10.7	Obtain application documentation	45 days	6-Jan-05	9-Mar-05	Service Provider
4.10.8	Make necessary RACF security changes	15 days	3-Mar-05	23-Mar-05	Service Provider
4.10.9	Obtain access to source code libraries	16 days	10-Mar-05	31-Mar-05	Service Provider
4.10.10	R&PB Transition Complete	1 day	1-Apr-05	1-Apr-05	Service Provider
4.11	E-Correspondence	95 days	15-Nov-04	1-Apr-05	Service Provider
4.11.1	Finalize CITS facilities management agreement	26 days	15-Nov-04	22-Dec-04	Service Provider
4.11.2	Finalize IBM application management agreement	33 days	15-Nov-04	5-Jan-05	Service Provider
4.11.3	Obtain job flows, schedules, run time documentation	40 days	6-Jan-05	2-Mar-05	Service Provider
4.11.4	Obtain on-call and escalation procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.11.5	Obtain source code promotion procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.11.6	Obtain application documentation	15 days	3-Mar-05	23-Mar-05	Service Provider
4.11.7	Obtain access to source code libraries	6 days	24-Mar-05	31-Mar-05	Service Provider
4.11.8	E-Correspondence Transition Complete	1 day	1-Apr-05	1-Apr-05	Service Provider
4.12	IVR System	95 days	15-Nov-04	1-Apr-05	Service Provider
4.12.1	Identify and Assess all IVR's	10 days	15-Nov-04	30-Nov-04	Service Provider

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WBS	Task	Duration	Start	End	Resources
4.12.2	Plan relocation of servers to Service Provider data centre	20 days	1-Dec-04	30-Dec-04	Service Provider
4.12.3	Obtain job flows, schedules, run time documentation	36 days	31-Dec-04	21-Feb-05	Service Provider
4.12.4	Obtain on-call and escalation procedures	40 days	31-Dec-04	25-Feb-05	Service Provider
4.12.5	Obtain source code promotion procedures	40 days	31-Dec-04	25-Feb-05	Service Provider
4.12.6	Obtain application documentation	15 days	22-Feb-05	14-Mar-05	Service Provider
4.12.7	Obtain source code libraries	10 days	15-Mar-05	28-Mar-05	Service Provider
4.12.8	Relocate servers to Service Provider data centre	3 days	29-Mar-05	31-Mar-05	Service Provider
4.12.9	IVR Transition Complete	1 day	1-Apr-05	1-Apr-05	Service Provider
4.13	PharmaNet	95 days	15-Nov-04	1-Apr-05	Service Provider
4.13.1	Finalize CITS facilities management agreement	26 days	15-Nov-04	22-Dec-04	Service Provider
4.13.2	Finalize SXC application management agreement	26 days	15-Nov-04	22-Dec-04	Service Provider
4.13.3	Finalize FDB drug file maintenance agreement	30 days	15-Nov-04	30-Dec-04	Service Provider
4.13.4	Obtain job flows, schedules, run time documentation	40 days	23-Dec-04	21-Feb-05	Service Provider
4.13.5	Obtain on-call and escalation procedures	40 days	23-Dec-04	21-Feb-05	Service Provider
4.13.6	Obtain source code promotion procedures	40 days	23-Dec-04	21-Feb-05	Service Provider
4.13.7	Obtain application documentation	20 days	22-Feb-05	21-Mar-05	Service Provider
4.13.8	Obtain access to source code libraries	8 days	22-Mar-05	31-Mar-05	Service Provider
4.13.9	PharmaNet Transition Complete	1 day	1-Apr-05	1-Apr-05	Service Provider
4.14	Fair PharmaCare	95 days	15-Nov-04	1-Apr-05	Service Provider
4.14.1	Finalize CITS facilities management agreement	26 days	15-Nov-04	22-Dec-04	Service Provider
4.14.2	Finalize IBM application management agreement	33 days	15-Nov-04	5-Jan-05	Service Provider
4.14.3	Obtain job flows, schedules, run time documentation	40 days	6-Jan-05	2-Mar-05	Service Provider
4.14.4	Obtain on-call and escalation procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.14.5	Obtain source code promotion procedures	40 days	6-Jan-05	2-Mar-05	Service Provider
4.14.6	Obtain application documentation	50 days	6-Jan-05	16-Mar-05	Service Provider
4.14.7	Obtain access to source code libraries	11 days	17-Mar-05	31-Mar-05	Service Provider
4.14.8	Fair PharmaCare Transition Complete	1 day	1-Apr-05	1-Apr-05	Service Provider
5	Wire 712 Yates	11.4 Weeks	15-Nov-04	1-Feb-05	
5.1	Select Building Team	3 Weeks	8-Nov-04	26-Nov-04	TELUS

WBS	Task	Duration	Start	End	Resources
5.2	Finalize Facilities Project Plan	5 Weeks	8-Nov-04	10-Dec-04	Service Provider and TELUS FM Team
5.3	Perform Rough-in Cabling	6 Weeks	6-Dec-04	14-Jan-05	TELUS and Service Provider
5.4	All cable pulled to the appropriate drops for telephone sets, and LAN connectivity at individual workstations. Also appropriate drops for printers, conference rooms, hotel workspace etc. Wiring closets will be terminated and labeled appropriately. Work inspected and tested.	3.2 Weeks	14-Jan-05	4-Feb-05	TELUS and Service Provider
<b>6</b>	<b>Network Design and Implementation</b>	<b>11.4 Weeks</b>	<b>1-Nov-04</b>	<b>8-Feb-05</b>	
6.1	Finalize network Plan	5 Weeks	1-Nov-04	3-Dec-04	TELUS and Service Provider
6.2	Order facilities, equipment and software	1.2 Weeks	3-Dec-04	10-Dec-04	TELUS
6.3	Data and telephony networks will be designed and implemented to the right termination points. The LAN equipment (routers and switches) will be installed and connected to the appropriate patch panels in the wiring termination closets. Connection to UPS and authorization passwords and security elements in place. Coordination with IT team and Telephony install teams documented.	8.6 Weeks	10-Dec-04	8-Feb-05	TELUS and Service Provider
<b>7</b>	<b>Implement telephone System</b>	<b>16.4 Weeks</b>	<b>1-Nov-04</b>	<b>22-Feb-05</b>	
7.1	Select Telephone System	4.2 Weeks	1-Nov-04	29-Nov-04	TELUS and Service Provider
7.2	Finalize Telephony System Plan (design, capacity, etc.)	4.2 Weeks	1-Nov-04	29-Nov-04	TELUS and Service Provider
7.3	Order and Schedule Equipment	9 Weeks	30-Nov-04	7-Feb-05	TELUS
7.4	Install and Test Telephony System	2.2 Weeks	8-Feb-05	22-Feb-05	TELUS and Service Provider
<b>8</b>	<b>Implement Integrated Call Center Solution</b>	<b>16.4 Weeks</b>	<b>1-Nov-04</b>	<b>22-Feb-05</b>	
8.1	Perform pre-planning activities and set overall design parameters	1.6 Weeks	28-Oct-04	8-Nov-04	TELUS and Service Provider
8.2	Perform Discovery and Finalize ISSC Project Plan	3.2 Weeks	8-Nov-04	29-Nov-04	TELUS and Service Provider
8.3	Order Components, coordinated with Telephony team	0.6 Weeks	29-Nov-04	1-Dec-04	TELUS

WBS	Task	Duration	Start	End	Resources
8.4	Complete System Design and Functionality, including requirements, skills definitions, workgroup definitions, channel interactions, integrations and workflows	4.6 Weeks	1-Dec-04	31-Dec-04	TELUS and Service Provider
8.5	Develop, implement and test pilot function	2.4 Weeks	31-Dec-04	17-Jan-05	TELUS
8.6	Finalize Plan for Commodity Rollout of all services	2.2 Weeks	17-Jan-05	31-Jan-05	TELUS and Service Provider
8.7	Rollout – includes all activities necessary to support the installation at additional sites and different business units.	4.2 Weeks	31-Jan-05	28-Feb-05	TELUS and Service Provider
<b>9</b>	<b>Implement Voice Recognition</b>	<b>18.4</b>	<b>1-Nov-04</b>	<b>8-Mar-05</b>	
9.1					
9.2	Gather Call Steering Requirements	5.2 Weeks	1-Nov-04	6-Dec-04	Province, Service Provider and TELUS
9.3	Build Plan for Implementing the Phase 1 deliverables	5.2 Weeks	1-Nov-04	6-Dec-04	TELUS
9.4	Complete Development of Call Steering Application	9.2 Weeks	29-Nov-04	31-Jan-05	TELUS
9.5	Test Functionality of Call Steering	2.2 Weeks	31-Jan-05	14-Feb-05	Province, Service Provider and TELUS
9.6	Complete Pilot implementation, Load Test	2.2 Weeks	7-Feb-05	21-Feb-05	TELUS
9.7	Implement Fully Functional Call Steering Application, Front-ending Existing IVR Systems in Place Today.	3.2 Weeks	21-Feb-05	14-Mar-05	TELUS
<b>10</b>	<b>Establish Ongoing Operations</b>	<b>18.4 Weeks</b>	<b>1-Nov-04</b>	<b>8-Mar-05</b>	
10.1	Publish guidelines for Production Turnover for each team	2.2 Weeks	29-Nov-04	13-Dec-04	TELUS
10.2	Review Service Level Documentation and get sign-off	4.2 Weeks	1-Nov-04	29-Nov-04	TELUS
<b>11</b>	<b>Program Management</b>	<b>22 Weeks</b>	<b>25-Oct-04</b>	<b>25-Mar-05</b>	<b>Service Provider and TELUS</b>
11.1	Integrate Project Teams	1.4 Weeks	28-Oct-04	5-Nov-04	Province, Service Provider and TELUS
11.2	Integrate Project Structures and processes	2.4 Weeks	28-Oct-04	12-Nov-04	TELUS and Service Provider
11.3	Integrate Project management Plans	3 Weeks	1-Nov-04	19-Nov-04	TELUS and Service Provider
11.4	Integrate the delivery of major deliverables and ensure they work together	3 Weeks	1-Nov-04	19-Nov-04	TELUS and Service Provider

WBS	Task	Duration	Start	End	Resources
11.5	Integrate components of Overall Project Plan	3 Weeks	22-Nov-04	10-Dec-04	TELUS
11.6	Perform Milestone Reviews as Appropriate	21.4 Weeks	28-Oct-04	25-Mar-05	TELUS
11.7	All Transitioning Applications Transitioned	21.4 Weeks	28-Oct-04	25-Mar-05	TELUS and Service Provider
<b>12</b>	<b>Pre-Handover Due Diligence</b>	<b>20 days</b>	<b>18-Feb-05</b>	<b>17-Mar-05</b>	<b>Province</b>
12.1	Perform Privacy Impact Assessment	15 days	25-Feb-05	17-Mar-05	Province
12.2	Perform Security Audit	20 days	18-Feb-05	17-Mar-05	Province
<b>13</b>	<b>Hand Over</b>	<b>0 days</b>	<b>25-Mar-05</b>	<b>25-Mar-05</b>	<b>Service Provider</b>

\* (Telus) is Telus, Inc , a subcontractor to the Service Provider

#### 4.0 TRANSITION REQUIREMENTS

The Parties agree that the transfer of the provision and performance of the Services from the Province to the Service Provider shall be subject to the satisfaction or waiver by the Province in its sole discretion of each of the following Transition Requirements on or before the Hand-Over Date:

- (a) the Province shall be satisfied, acting reasonably, with all aspects of the business, assets and financial condition of the Service Provider and the MAXIMUS Group;
- (b) the Service Provider shall have completed, to the reasonable satisfaction of the Province, all Transition Services;
- (c) the Service Provider and the Province shall have completed all testing of the delivery of the Services as contemplated in the Transition Plan and such testing provides no reasonable basis to conclude that the Service Provider will not be able to provide the Services required to be provided commencing as of the Hand-Over Date;
- (d) the Province is satisfied, acting reasonably, that the Service Provider will be able to effectively provide all of the Services required to be provided commencing as of the Hand-Over Date;
- (e) the Guarantors shall have executed and delivered to and in favour of the Province the Guarantees;
- (f) the Province shall have approved the transactions contemplated by the Transaction Documents and the schedules attached to the same;
- (g) each of the Transaction Documents shall have been executed by each of the parties to such agreements and delivered to the Province, and the Province shall be satisfied with the form and substance of such Transaction Documents;

- (h) all transactions contemplated in the other Transaction Documents to be completed on or before the Hand-Over Date shall have been completed in a manner satisfactory to the Province or the Province is satisfied that such transactions shall be completed on the Hand-Over Date in conjunction with the occurrence of the Hand-Over Date;
- (i) each incumbent in a Key Role shall have agreed to become Transferring Employees and shall transfer employment to the Service Provider in accordance with the Employee Transfer Agreement;
- (j) the Service Provider has obtained consent from the Board of Trustees of the British Columbia Public Services Pension Plan to admit the Service Provider as a participating employer in respect of pension plan coverage for the Transferring Employees;
- (k) all plans as set forth in Schedule H of this Agreement shall be finalized in a form approved by the Province;
- (l) all policies and procedures intended to be implemented by the Service Provider with respect to the provision of the Services shall be in a form approved by the Province;
- (m) all employees and contractors of the Service Provider and any other Persons who may have access to Province Data shall have signed and delivered to the Province a form of confidentiality agreement in the form approved by the Province in accordance with Schedule X of this Agreement;
- (n) testing of the updated Disaster Recovery/Business Continuity Plans have been completed in accordance with Section 6.6(e) of this Agreement;
- (o) evidence shall be delivered by the Service Provider to the Province demonstrating to the satisfaction of the Province that the Service Provider has been appropriately certified with BCGEU;
- (p) a security review shall have been conducted by the Service Provider and delivered to the Province, and such security review shall be in a form and have results that are to the satisfaction of the Province;
- (q) a security review shall have been conducted by the Province;
- (r) a Privacy Impact Assessment shall have been conducted by the Service Provider and delivered to the Province in accordance with Schedule X of this Agreement, and such privacy assessment shall be in a form and have results that are to the satisfaction of the Province; and
- (s) a Privacy Impact Assessment shall have been conducted by the Province.



## **5.0 WORKING TRANSITION PLAN COMPONENTS**

This initial Transition Plan focuses on the tasks, responsibilities and timelines associated with Transition activities. The working Transition Plan, as described in Section 3.5 of this Agreement, will contain additional provisions intended to gain full agreement from the Service Provider and the Province on how the Transition will be implemented.

The sections of the working Transition Plan will include the following:

### **Transition Overview**

- Purpose, Scope and Objectives
- Assumptions and Constraints
- Risks and Mitigations
- Transition Deliverables
- Acronyms and Definitions

### **Transition Phase Organization**

- External Interfaces and Impacts (Province Customers, Stakeholders)
- Transition Team Structure
- Roles and Responsibilities

### **Managerial Process Plans**

- Start-Up Plan
- Workplan
- Project Tracking Plan
- Risk Management Plan
- Transition Phase Closeout Plan

### **Technical Process Plan**

- Technical Process Model
- Methods, Tools and Techniques
- Development Standards
- Transition Phase Infrastructure
- Workproduct Acceptance Process

### **Supporting Process Plans**

- Configuration Management
- Verification and Validation
- Documentation
- Quality Assurance
- Problem Resolution

- Policy Compliance
- Subcontractor Management
- Facilities Management
- Privacy and Security Management
- Training Management
- Acceptance Criteria
- Test plans

## **6.0 WIP PLAN**

The Service Provider will deliver the WIP Plan to Province together with the working Transition Plan in accordance with Schedule H of this Agreement.

## **SCHEDULE C**

### **TRANSITION MANAGEMENT TEAMS**

#### **1.0 PURPOSE OF THIS SCHEDULE**

This schedule defines and describes the roles and responsibilities of each Party's Transition Management Team.

#### **2.0 GUIDING PRINCIPLES**

The Parties agree that:

- (a) Continuity of Transition Management Team members is a key component of a Transition Period culminating in a successful hand-over of the Services on the Hand Over Date;
- (b) The Parties will use commercially reasonable efforts to ensure that individuals initially assigned to the key roles on the respective Transition Management Teams will remain in their roles through the Transition Period and for at least one month following Hand-Over Date; and
- (c) Either Party may supplement its respective Transition Management Team with independent consultants as the respective Party deems appropriate to acquire specific skill sets reasonably necessary to assist the completion of the Transition.

#### **3.0 SERVICE PROVIDER TRANSITION MANAGEMENT TEAM**

- 3.1 The Service Provider will, subject to the terms of this Agreement including Schedule X, staff its Transition Management Team with MAXIMUS Group employees based in the US or Canada.
- 3.2 The Service Provider Transition Management Team will be composed of the following positions:
  - (a) Relationship Manager (Corporate Officer in Charge);
  - (b) Transition Manager;
  - (c) Assistant Transition Manager;
  - (d) Administrative Assistant;
  - (e) Stakeholder Relations Consultant;
  - (f) Privacy Consultant;

- (g) Systems Advisor;
- (h) Financial Advisor;
- (i) Systems Director;
- (j) Finance and Administration Director;
- (k) Provider Services Director;
- (l) Beneficiary Services Director; and
- (m) Team Leaders for following transition teams;
  - (i) Human Resource Management;
  - (ii) Business Process Reengineering;
  - (iii) Policies and Procedures;
  - (iv) Training; and
  - (v) Quality Assurance.

3.3 The Service Provider will provide the Province with resumes of the staff designated to fill the following important positions on the Service Provider Transition Management Team for review and such positions will only be filled by staff Approved by the Province, such Approval not to be unreasonably withheld:

- (a) Systems Director;
- (b) Finance and Administration Director;
- (c) Provider Services Director; and
- (d) Beneficiary Services Director.

The Service Provider will inform Province as soon as practical of the need to replace staff in any of such positions, and shall only replace such staff in the manner contemplated by this provision.

3.4 Changes to the Transition Manager will be in accordance with Schedule O of this Agreement.

#### **4.0 THE PROVINCE TRANSITION MANAGEMENT TEAM**

- 4.1 The Province will, to the extent reasonably possible, assign staff knowledgeable about the current operational and technical environments relating to the delivery of health benefit services by the Province to work collaboratively with the Service Provider to implement a smooth Transition.
- 4.2 The Province Transition Management Team will consist of the following positions:
- (a) Relationship Manager;
  - (b) Contract Executive Manager/Transition Manager;
  - (c) Transition Analyst/Coordinator (one or two positions - contracted)
  - (d) Administrative Assistant;
  - (e) Operations Lead;
  - (f) Systems Lead;
  - (g) Policy Lead;
  - (h) Human Resources Lead;
  - (i) Privacy Consultant; and
  - (j) Financial Advisor.
- 4.3 The Province agrees to inform the Service Provider as soon as practical of the need to replace members of the Province Transition Management Team.

#### **5.0 MEETINGS**

- 5.1 The members of the Transition Management Teams of each of the Parties shall hold meetings in accordance with Schedule K of this Agreement.

#### **6.0 MONITORING PROCESS AND ESCALATION OF ISSUES**

- 6.1 Each Party's Transition Management Team will monitor the progress of the Transition and identify any issues or circumstances that may impact the schedule set forth in the Transition Plan.
- 6.2 Any issues regarding potential delays or circumstances that may adversely affect the Transition that are identified by a Transition Management Team and cannot be resolved through the Transition Management Team meeting process set out in Schedule K may be escalated to the Joint Steering Committee by the Transition Manager of either Party. Where such an issue cannot be resolved by the Joint

Steering Committee, then it shall be escalated to the Joint Executive Committee in accordance with Schedule O of this Agreement. Such escalation process is for relationship management purposes and creates no obligations outside of the express obligations set forth in this Agreement.

## **7.0 COMMUNICATIONS BETWEEN TRANSITION MANAGEMENT TEAMS**

During the Transition Period, the members of each Party's Transition Management Team will communicate with the members of the other Party's Transition Management Team in accordance with Schedule K attached to this Agreement.

## **SCHEDULE D**

### **MAXIMUS ORGANIZATIONAL STRUCTURE**

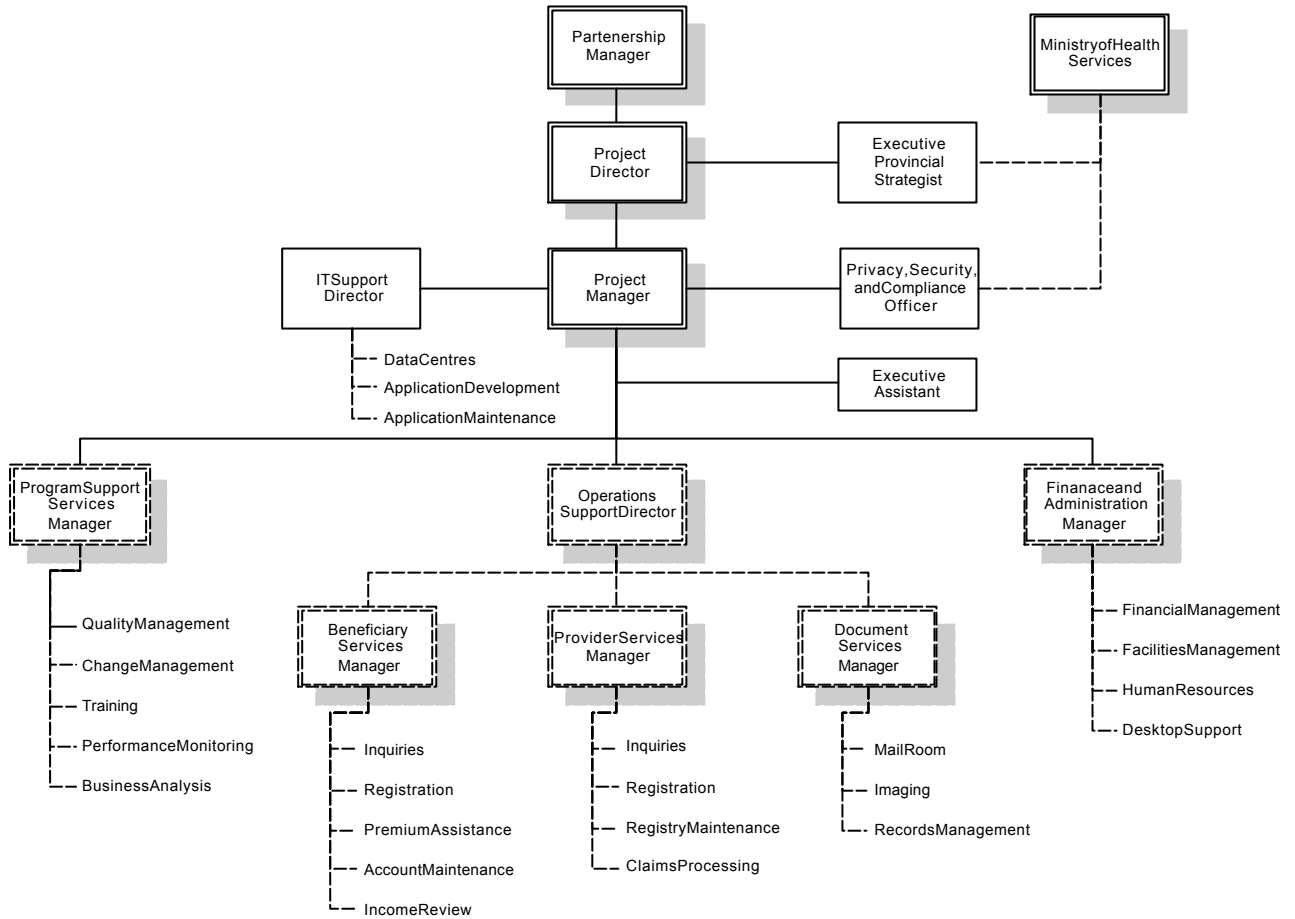
This Schedule defines and describes the Service Provider's initial Organizational Structure for ongoing operations as shown in the initial organization chart attached as Exhibit A to this Schedule. The Province and the Service Provider agree that:

- (a) Service Provider will primarily utilize Personnel to perform the Services.
- (b) Except as otherwise specifically provided in this Agreement, the Service Provider may from time to time, at its discretion, supplement Personnel with External Personnel of the other members of the MAXIMUS Group to obtain specific skill sets for limited periods of time conditional upon such use of External Personnel being in accordance with the terms of this Agreement including, without limitation, Schedule X and all Applicable Laws.
- (c) The initial Organizational Structure is made up of the following positions with associated positions and/or functions reporting to them:
  - Relationship Manager (Corporate Officer in Charge)
  - Project Director
    - Executive Provincial Strategist
  - Project Manager
    - Executive Assistant
    - Privacy, Security, and Compliance Officer
    - IT Support Director
      - Data Centres
      - Application Development
      - Application Maintenance
    - Operations Director
      - Beneficiary Services Manager
        - Inquiries
        - Registration
        - Premium Assistance
        - Account Maintenance
        - Income Review
      - Provider Services Manager
        - Inquiries
        - Registration
        - Registry Maintenance
        - Claims Processing
      - Document Services Manager
        - Mailroom

- Image Assembly
    - Records Management
  - Finance and Administration Manager
    - Financial Management
    - Facilities Management
    - Human Resources Management
    - Desktop Support
  - Program Support Services Manager
    - Quality Management
    - Change Management
    - Training
    - Performance Monitoring
    - Business Analysis
- (d) The Service Provider Project Manager will be responsible for Subcontractors and Suppliers, including, without limitation, Material Subcontractors and Key Suppliers.
- (e) The Service Provider may, at its sole discretion, revise the Organizational Structure to facilitate business operations, efficiency or production.
- (f) The Service Provider will inform the Province of material organizational structure changes using the agreed upon communication protocols as described in Schedule K of this Agreement and will provide the Province with a revised Organization Structure chart reflecting such changes.
- (g) Subject to any applicable restrictions in this Agreement, the Service Provider may, at its discretion, supplement its management team with External Personnel who are independent consultants as the Service Provider deems appropriate to acquire specific skill sets conditional upon the Service Provider complying with the terms of this Agreement including the provisions set forth in Article 10 and Schedule X of this Agreement.
- (h) The Service Provider will provide the Province with resumes of the staff designated to fill the following Key Roles in the Organizational Structure for review and Approval by the Province, such Approval not to be unreasonably withheld:
  - IT Support Director
  - Operations Director
  - Finance and Administration Manager
  - Program Support Services Manager
  - Privacy, Security, and Compliance Officer



## EXHIBIT A



## **SCHEDULE E**

### **DESCRIPTION OF BASIC SERVICES**

#### **Service Deliverables, Roles/Responsibilities, Service Outcomes and Reporting**

##### **GENERAL RESPONSIBILITIES AND PRINCIPLES:**

1. From and after the Hand-Over Date during the Term, the Service Provider will perform the Basic Services described in Sections 1 to 4 of this Schedule. Each Party will be responsible for its designated responsibilities in respect of each Basic Service category as described below (the general description of each Basic Service category being a description of Basic Services as provided by the Province immediately prior to the Hand-Over Date) and for greater certainty, the Service Provider will be responsible for meeting the reporting requirement set out below for each Basic Service category. In respect of the Basic Services described in this Schedule, the Service Provider will meet or exceed the Service Levels referenced in this Schedule and set out in Schedule F to this Agreement.
2. As described in Article 6.2 of this Agreement - Included or Inherent Services of the Master Services Agreement, there are functions or tasks not specifically listed or described in this Schedule that are customarily required for the proper performance and provision of the Basic Services and such functions are inherent or included in the Services. Without limiting the foregoing, such functions or tasks shall be deemed to be implied or included in the scope of the Basic Services to the same extent and in the same manner as if those functions or tasks had been specifically described in this Schedule.

Basic Services to be delivered include all those business processes currently carried out by the Province as a part of HBO that have not been designated as out of scope. The tables below identify core business processes that are material, require specific Service Level Requirements or require specific Service Level Objectives.

3. The Province will provide the Service Provider with all relevant existing Policies and precedents and updates on a timely basis and provide policy clarification or interpretation as required.
4. The Province will Approve and be the contracting party in respect of all data/information-sharing agreements. The Service Provider will processes requests in respect of such agreements in accordance with the provisions of this Agreement.
5. The Service Provider will implement and maintain a Quality Assurance Program and Training Plan to ensure the accuracy and quality of work performed by its Personnel as described in Sections 4.9 and 4.11 of the Proposal and Section 6.13 of this Agreement.

6. The Service Provider will develop and maintain the Manual as described in Section 4.10 of the Proposal and Section 6.15 of this Agreement and obtain the Province's Approval for all material amendments.
7. Without limiting the other obligations in respect of data quality and integrity set forth in this Agreement, the Service Provider will implement and maintain commercially reasonable processes to ensure data quality and integrity.
8. The Service Provider will provide and refresh technology to support the functions outlined in this Schedule in the manner described in this Agreement including as described in Schedule J and Article 5 of this Agreement.
9. Without limiting the notification provisions otherwise set forth in the Agreement, the Service Provider will immediately alert the Province of any material service complaints or interruption of Services and of any caller threatening to go to the media or senior government officials.
10. The Service Provider will implement processes to identify potential fraudulent cases, prepare case files and notify the Province of suspected fraud.
11. The Service Provider will notify the Province of material changes to operational procedures or processes.
12. The Service Provider will refer all Ministers, MLA, ombudsman, other politicians and media inquiries to the Province. The Service Provider will assist the Province in responding to those inquiries.
13. The Service Provider will promote and facilitate self service of information whenever reasonably possible.
14. The Service Provider will implement and maintain a thorough administrative review process to respond to all complaints/disputes arising from its responsibilities under this Agreement. The Service Provider will be immediately refer to the Province appeal requests (in accordance with Schedule K of this Agreement) following an administrative review or receipt of health care practitioner claims beyond its authority as identified in this Schedule E. The Service Provider will subsequently implement the Province's decisions related to the referral of such matters.

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## DEFINITIONS AND INTERPRETATION:

Capitalized terms used in this Schedule will have the meanings set forth below or, where not defined below, as otherwise defined in this Agreement:

**Available Amount**” means the total amount of funding available each fiscal year to the Medical Services Commission for medical practitioner fee-for-service claims.

**“Clinic”** means a physical location at which a group of medical practitioners provide medical services.

**“Eligibility”** means, in respect of a Medical Services Plan beneficiary or a health care provider, meeting the criteria set out in the *Medicare Protection Acts* and regulations, and, in respect of a PharmaCare Plan beneficiary, being a beneficiary of the Medical Services Plan and meeting the criteria set out for both the Medical Services Plan and the PharmaCare Plan.

**“Emergency Payment Program”** means the routine creation every payment period of an emergency payment file that is ready to be executed in the case of system failure resulting in the inability to issue payments to medical practitioners, a Force Majeure or a labour disruption. The details of the program are described in the Medical Services Plan’s Business Continuation Plan.

**“Group Administrators”** means employers or pension plan administrators who have applied and been approved by the Province to receive from their employees or members their MSP premium payments and pay those premiums directly to the Ministry of Provincial Revenue.

**“HBO”** means the Health Benefits Operations of the Province.

**“Health Authority”** means a governing body with responsibilities for the planning, coordination and delivery of regional health services, including hospital, long term care and community services.

**“Medical Advisor”** means a medical practitioner that provides expert advice to the Province on complex medical claims that have been referred by a claims adjudicator. Each such practitioner is paid on a sessional basis and reports to the Medical Consultant for Medical and Pharmaceutical Services, Ministry of Health Services.

**“Medical Advisory Committee”** (MAC) means a Ministry of Health Services committee chaired by the Medical Consultant and attended by the Medical Advisors, the Payment Schedule Administrator and the Service Provider’s Key Role for complex claims adjudication to review and determine payment of complex medical practitioner claims referred by the Service Provider’s claims adjudicators. The committee meets monthly and may, infrequently, be required to meet on an ad hoc basis.

**“Medical Consultant”** means the Medical Practitioner employed by the Ministry of Health Services designated as accountable for issues arising from the Medical Services Commission’s Payment Schedule and its related policies and Out of Country Pre-authorizations.

**“Medical Payment Issues Committee”** (MPIC) means a Ministry of Health Services committee comprised of the Medical Consultant, Payment Schedule Administrator and representatives from the Service Provider with expertise in claims adjudication. The purpose of the committee is to review issues where policies or precedent is weak or non-existent and direction from the Province is required. The committee meets monthly but may meet more frequently, if required.

**“Operational Records Classification System”** (ORCS) means the Province’s records retention, storage and disposal policies and procedures.

**“Payment Cycle”** or **“Payment Period”** means, in respect of pharmacies, the weekly payment cycle used in connection with PharmaCare services, or otherwise, the scheduled MSP monthly payment cycled used in connection with the Services whereby a payment is deposited with the payee on the 15<sup>th</sup> or closest Business Day and the last Business Day of each month.

**“Payment Schedule”** means the tariff for services and related payment policies described in the Medical Services Commission Payment Schedule for medical practitioners or the tariff for services and related payment policies as negotiated with certain other health care practitioners associations.

**“Point Assessment”** means the calculation of points for medical isolation, living factors, designated specialities, and road distance for the purpose of determining the premium fee payable under the Rural Retention Program.

**“Primary Care”** means the alternative payment program for general practitioners as described in Section 2.2 of this schedule.

**“Rural Health Program”** means the program within the Ministry of Health Services dedicated to providing leadership and support for the delivery of health services in BC's rural communities. Rural Health oversees a number of key programs and initiatives for physicians.

**“Rural Retention Program”** means the incentive program that provides fee-for-service and flat sum premiums for eligible physicians living and practicing in certain BC communities. This incentive pays doctors additional funds for providing services in eligible rural communities throughout BC.

**“Service Levels Schedule”** means the schedule describing the Service Levels, attached as Schedule F to the Agreement.

**“Sessional Payment”** means the rate paid to a medical practitioner for each 3.5 hours of work as negotiated between the Province and the British Columbia Medical Association.

**“Special Authority”** means the granting of full benefit status to a medication that would otherwise be a partial or a limited coverage drug under PharmaCare.

**“Specialty Designation”** means that a medical practitioner has received certification by the Royal College of Physician and Surgeons of Canada and is so recognized by the College of Physician and Surgeons of British Columbia in a particular medical specialty.

All times and dates set out in this Schedule shall be determined in accordance with Pacific Standard Time or Pacific Daylight Savings Time, as applicable.



## SECTION 1 – MSP BENEFICIARY SERVICES

### 1.1 MSP Beneficiary Registration and Account Maintenance Services

**General Description:** Includes processing of enrolment applications and issuance of CareCards, updates to beneficiary account information, assistance with benefit inquiries, processing and assistance with premium assistance applications, enrolment, and verification of income and premium assistance eligibility. Enrolment includes a 3-month waiting period to meet the BC residency requirement. Under limited circumstances, the Medical Services Commission may waive the required wait period. While the Medical Services Plan (MSP) determines eligibility for coverage and enrolls individuals, establishes the contract and sets the premium rate, the Ministry of Provincial Revenue is responsible for the billing and collection of premiums and the temporary premium assistance program. This partnership results in a number of dependencies and linkages between the two organizations. There are some shared systems and processes such as the billing component of the R&PB database, document management, bill messages, client services etc. Self-service options are available for Group Administrators permitting them to electronically add new and cancel dependents, address changes, cancel accounts, etc. MSP also exchanges registration information with other provinces and territories on residents that have moved to another province.

#### Responsibilities:

Province	Service Provider
<p>Ministry of Health (MoHS):</p> <ul style="list-style-type: none"><li>• Sets all policies</li><li>• Reviews performance reports</li><li>• Determines eligibility criteria for enrolment and premium rates</li><li>• Advises Service Provider of various policy waivers, e.g. wait periods</li><li>• Manages Memorandum of Understanding (MOU) with Canada Revenue Agency (CRA)</li><li>• Approves any required changes by CRA</li><li>• Adjudicates requests for waivers, e.g. wait periods</li><li>• Conducts residency investigations to ensure beneficiary eligibility</li><li>• Conducts Eligibility Appeals</li><li>• Sets standards, e.g. authentication for self-service options</li><li>• Reviews and investigates suspected fraud cases submitted by the Service Provider</li><li>• Determines and revises data access requirements and provides to the Service Provider within 5 Business Days of completion. The initial data access requirements are attached as Appendix 1 to this</li></ul>	<ul style="list-style-type: none"><li>• Adheres to policies and standards set by the Province</li><li>• Processes enrolment applications and assigns appropriate premium rates</li><li>• Manages the de-enrolment and opting out processes</li><li>• Processes relevant updates to beneficiary account information, e.g. address changes, payer arrangements, additions and deletions for dependents</li><li>• Processes premium assistance applications</li><li>• Administers self service options available to Group Administrators</li><li>• Implements strategies to increase the number of Group Administrators using self service options</li><li>• Identifies and implements self-service options for the general public</li><li>• Follows appropriate authentication guidelines for self-service options</li><li>• Corrects errors and processes exceptions resulting from automated processes</li></ul>

Province	Service Provider
<p>Schedule.</p> <p>Ministry of Provincial Revenue (MPR):</p> <ul style="list-style-type: none"> <li>• Bills and collects premiums</li> <li>• Manages billing component of Registration and Premium billing database</li> </ul>	<ul style="list-style-type: none"> <li>• Prepares supporting case briefs, participates in hearings as required and processes decisions for Eligibility appeals</li> <li>• Prepares and processes inter-provincial reciprocal information exchanges</li> <li>• Produces and issues new and replacement CareCards</li> <li>• Exchanges information with CRA and verifies and/or adjusts that information</li> <li>• Conducts audits as prescribed in the CRA MOU and reports outcomes to Province</li> <li>• Complies with CRA security standards in accordance with memorandum of understanding in respect of security standards between the Service Provider and CRA</li> <li>• Administers interfaces and processes shared with MPR, and other agencies and provincial health care plans related to beneficiary services. For example, as a result of a collections activity, MPR may be advised of an out of province move or a request for premium assistance. The case is referred to Beneficiary Services for processing.</li> <li>• Notifies the Province of material changes to operational procedures or processes</li> <li>• Responds to requests from beneficiaries for Personal Information</li> <li>• Maintains a quality assurance program to ensure document processing accuracy</li> <li>• Administers Group Administrator registration and account update processes</li> <li>• Maintains and regularly updates databases necessary to support beneficiary services functions</li> <li>• Identifies and implements processes to ensure regulation integrity</li> <li>• Prepares case files for suspected fraud cases and forwards file to the Province for investigation</li> <li>• Responds to requests for information from the Province and its designated Stakeholders</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See items 3, 4, 6, 7 and 18 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objective</b></p> <p>See item 1 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on inventory and document processing time by document category for enrolment applications, premium assistance applications, and account maintenance requests.</li> <li>• Reports monthly on number and percentage of total documents received that are incomplete or duplicates</li> <li>• Reports monthly on number of replacement CareCards issued</li> <li>• Reports quarterly on Quality Assurance (QA) reviews</li> </ul>

**1.2 MSP Beneficiary Telephone Inquiry Service**

**General Description:** Includes providing telephone access to the general public and a variety of internal and external Stakeholders.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Reviews performance reports</li> <li>• Provides, as required, information on new policies or legislation and responds to requests for policy interpretation/ clarification in a timely manner</li> </ul>	<ul style="list-style-type: none"> <li>• Staffs a contact/call center providing minimum availability: 8:00 am – 4:30 pm, Monday to Friday to respond to all calls from the general public and provides dedicated high priority telephone support for Group Administrators, the B.C. Ministry of Provincial Revenue and agents of the Province</li> <li>• Maintains a quality assurance program to ensure high quality client service and the accuracy of the responses</li> <li>• Maintains a tracking system for all calls handled</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirement:</b></p> <p>See items 9 and 11 set out in the table in Paragraph 4 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on call volumes, wait times, abandonment rates, busy rate, and average speed to answer</li> <li>• Reports quarterly on QA reviews</li> <li>• Reports quarterly on potential policy improvements identified</li> </ul>

<b>Service Level Objectives:</b>  See item 2 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Tracks and reports semi-annually on potential requirements for multi-language services</li> <li>• Reports on results of periodic client surveys</li> </ul>
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### 1.3 SP Beneficiary Interactive Voice Response Services

**General Description:** A variety of services are made available to callers such as ordering CareCards replacements, account balance, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Reviews and approves scripts</li> <li>• Review performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Maintains or enhances the current suite of services available</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 3 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports monthly on uptake, abandonment and success rates</li> <li>• Reports monthly on number of transfers for information available on IVR</li> <li>• Reports quarterly on numbers of transfers to CSR for reason of language</li> </ul>

### 1.4 MSP Beneficiary Travel Assistance Program Automated IVR Service

**General Description:** Automated service for travel assistance. The Province provides the approval and supporting administration. Private and public travel partners provide travel discounts.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Sets the eligibility criteria</li> <li>• Determines edit rules for automated processing</li> <li>• Manages the relationship with the travel partners</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Administers the automated service in accordance with the criteria established</li> <li>• Conducts annual compliance review using the claims data to validate to travel to obtain medical services</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirement:</b></p> <p>See item 24 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objective:</b></p> <p>See item 4 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on approvals, denials, location of patient, location of service, type of physician seen and mode of travel</li> <li>• Reports on annual compliance review outcomes</li> </ul>

**1.5 MSP Beneficiary Travel Assistance Program – CSR support**

**General Description:** Requests unable to be processed by the automated service are directed to a Client Service Representative for handling.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Sets the eligibility criteria</li> <li>• Manages the relationship with the travel partners</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Processes requests according to established criteria</li> <li>• Responds to general inquiries on the Travel Assistance Program</li> <li>• Maintains a quality assurance program to ensure high quality client service and the accuracy of the decisions</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirement:</b></p> <p>See items 9 and 11 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objective:</b></p> <p>See item 5 set out in the table in Paragraph 4 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on approvals, denials, location of patient, location of service, type of physician seen and mode of travel</li> <li>• Reports quarterly on QA reviews</li> </ul>

**SECTION 2 – MSP PROVIDERS SERVICES****2.1 MSP Provider Registration and maintenance of the Provider Information Database**

**General Description:** Includes registration services for all eligible health care providers, health care facilities, allied health care providers supporting Primary Care, processing a variety of applications forms such as assignment of payment, direct bank deposit, etc. and maintaining the accuracy of practitioners profiles such as specialty designations, practice status, etc. The Province is also legally obligated to process certain third party demands, such as garnishees from the Receiver General of Canada, Family Maintenance Program, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Creates and communicates related policies</li> <li>• Provides, as required, policy interpretations/clarifications</li> <li>• Approves application information kit content within 10 Business Days of receipt from Service Provider</li> <li>• Reviews performance reports</li> <li>• Determines and revises data access requirements and provides to the Service Provider within 5 Business Days of completion. The initial data access requirements are attached as Appendix 1 to this Schedule.</li> </ul>	<ul style="list-style-type: none"> <li>• Processes registration applications</li> <li>• Assigns new registrants practitioner and payments numbers</li> <li>• Processes applications for electronic billing</li> <li>• Provides new applicants with information kits</li> <li>• Attends resident days to provide information workshops for graduating physicians on registration procedures, billing procedures for incentive programs, etc.</li> <li>• Processes all relevant practitioner information updates such as address changes, specialty designation, assignment forms, direct deposit applications, practice status, third party demands, etc.</li> </ul>

Province	Service Provider
	<ul style="list-style-type: none"> <li>Processes requests for additional payments numbers</li> <li>Processes requests to opt out of MSP</li> <li>Maintains an accurate and up to date practitioner information database</li> <li>Manages all information interfaces with internal and external parties to ensure current and accurate practitioner information required for the proper processing of claims</li> <li>Provides information as requested in accordance with data access agreements</li> <li>Maintains a quality assurance program to ensure the accuracy of document processing</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See item 1 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 6 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports monthly volumes, Service Levels and inventories by type of activity.</li> <li>Reports quarterly on QA reviews</li> </ul>

## 2.2 MSP Non-Fee for Service Payments

**General Description:** MSP operational responsibilities include administration of a number of services on behalf of other programs delivered by the Province such as a rural locum program, rural retention program, provides 1<sup>st</sup> level technical support to the Primary Care Program, Northern Isolation and Travel Assistance Outreach Program (NITAOP), etc. The MSP Provider Payment System is also used to process bulk payments to British Columbia Health Authorities.

The Rural GP Locum Program assists General Practitioners (GPs) in small rural communities, with seven or fewer physicians, to obtain locums for up to 28 days per year for vacation relief and Continuing Medical Education (CME) purposes. Locums are paid by the program and receive travel

honorarium and guaranteed daily rate. Host physicians retain 40% of the MSP paid claims to cover overhead. A locum is hired as an independent contractor.

The Northern and Isolation Travel Assistance Outreach Program (NITAOP) provides funding for travel and travel time for visiting specialists, family doctors, and general practitioners who deliver medical services in eligible rural communities. The Joint Standing Committee on Rural Issues determines annually the number of funded visits per community. The NITA component for specialist travel expenses is funded from the Available Amount. BC's regional health authorities submit yearly funding requests to Rural Health . Once approved, visiting physicians are contacted and outreach visits are organized. Visiting physicians are reimbursed directly under this program, upon submitting the application for expenses.

The Rural Retention Program (RRP) provides fee-for-service and flat fee premiums for eligible physicians living and practicing in certain BC communities. This incentive pays doctors additional funds for providing services in eligible rural communities throughout BC.

Primary Health Care Program is an alternative incentive program, where funding is calculated on the Primary Health Care Practice's expected annual funding based on the needs-adjusted classification of its registered patients. The Practice's population-based funding level is re-calculated quarterly to adjust for changes in the size of the patient register, and changes in patient outflows. Fee-for-service payments continue under MSP's current funding rules, and payments, included funding adjustments, are dispersed semi-monthly.

Medical Advisors are hired to assist the Province with complex claims unable to be processed by the Service Provider. The external physicians are paid on a sessional basis (3.5 hours per session) and are compensated for the travel expenses. Invoices are approved by the Province and forwarded to the Service Provider for payment.

#### Responsibilities:

Province	Service Provider
<b>General:</b> <ul style="list-style-type: none"> <li>Overall responsibility for all program administration</li> <li>Primary contact for all inquiries related to these programs</li> <li>Provides policy and interpretation</li> <li>Reviews performance reports</li> </ul> <b>Health Authority Bulk Payments:</b> <ul style="list-style-type: none"> <li>Provides Service Provider with written request of amount of bulk payment or adjustments to be made</li> </ul> <b>Rural Locum Program:</b> <ul style="list-style-type: none"> <li>Manages all locum contracts</li> <li>Manages all aspects of the locum recruitment process including, without limitation, processing locum applications (including</li> </ul>	<b>Health Authority Bulk Payments:</b> <ul style="list-style-type: none"> <li>Processes, tracks and reports on bulk payments to Health Authorities and certain alternative payment functions</li> </ul> <b>Rural Locum Program:</b> <ul style="list-style-type: none"> <li>Informs physicians of billing procedures</li> <li>Processes assignment of payment forms</li> <li>Updates Practitioner Information file with payment adjustments</li> <li>Calculates and processes payment of daily rate and top-up.</li> <li>Processes travel expenses</li> <li>Initiates system recovery of fee for service claims paid in error at 100%</li> <li>Tracks and reports on payments</li> </ul>



Province	Service Provider
<p>arranging interviews, sending out contracts, verifying billing numbers, etc.)</p> <ul style="list-style-type: none"> <li>• Manages the locum coverage request administration, including, without limitation, processing requests for a locum and arranging work assignments (including contacting both the locum and host physician, sending confirmation information, etc.)</li> <li>• Forwards to Service Provider case files and related documents to complete transaction to facilitate payment</li> <li>• Produces the Rural GP and Specialist Locum Program Financial Summary Report</li> </ul> <p><b>NITAOP:</b></p> <ul style="list-style-type: none"> <li>• Provides Service Provider with approved applications for travel expenses</li> </ul> <p><b>Rural Retention Program:</b></p> <ul style="list-style-type: none"> <li>• Coordinates with Health Authorities and Clinics the amount, distribution and calculation of Rural Retention Premium and on call premiums</li> </ul> <p><b>Primary Care Program:</b></p> <ul style="list-style-type: none"> <li>• Provides the necessary data through system interfaces for patient Register maintenance and Primary Health Care payment calculations</li> <li>• Resolves complex technical issues referred by the Service Provider</li> <li>• Approves new sites for registration</li> </ul> <p><b>Medical Advisor Sessional Payments</b></p> <ul style="list-style-type: none"> <li>• Approves on sessional payments and travel expenses and provides invoice to Services Provider</li> </ul>	<p><b>NITAOP:</b></p> <ul style="list-style-type: none"> <li>• Processes approved applications for travel expenses</li> <li>• Maintains and monitors the travel budget for the program</li> <li>• Initiates refusal letters or explanation of payment to providers denied access to the funds</li> <li>• All costs are entered into spreadsheet per Health Authority, Community and Specialty</li> </ul> <p><b>Rural Retention Program:</b></p> <ul style="list-style-type: none"> <li>• Update claims payment system tables, which contain the community Point Assessment.</li> <li>• Processes payment advances, if necessary</li> <li>• Reports on payments to Health Authorities from rural retention premiums</li> </ul> <p><b>Primary Care Program:</b></p> <ul style="list-style-type: none"> <li>• Provides the technical infrastructure for electronic FFS and encounter claim processing</li> <li>• Processes payee status changes</li> <li>• Maintains Primary Care encounter service codes</li> <li>• Registers allied care providers such as nurse practitioners</li> <li>• Provides first level technical help desk support for the Primary Care sites by monitoring refusals, establishing Teleplan web accounts for submission of patient services encounters, assisting providers who bill third party claims such as WCB or ICBC and responding to general inquiries</li> <li>• Refers complex technical issues unable to be resolved by the help desk to the Province for resolution</li> <li>• Processes manual cheque requisitions to providers, whenever there are problems with automated adjustment updates to payment details recorded on the practitioner information file</li> </ul> <p><b>Medical Advisor Sessional Payments</b></p> <ul style="list-style-type: none"> <li>• Process approved sessional payments and travel expenses</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
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<p><b>Service Level Objectives:</b></p> <p>See item 7 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<p><b>Rural G.P. Locum Program</b></p> <ul style="list-style-type: none"> <li>• Reports each payment period on total expenditures by community, by locum practitioner, by host physician, by days</li> <li>• Reports each payment cycle on monies recovered for services provided by locum in host physicians office (60/40 split). Reported by community, by payee, by locum physician and by host physician</li> </ul> <p><b>NITAOP</b></p> <ul style="list-style-type: none"> <li>• Reports each payment cycle the total fiscal expenditures by HA, by community, by specialty, by practitioner to date</li> <li>• Reports each payment cycle the total fiscal expenditures by applicable adjustment codes to date</li> </ul> <p><b>Rural Specialist Locum Program</b></p> <ul style="list-style-type: none"> <li>• Reports each payment cycle on monies recovered at 100 % for fee for service provided by locum physicians for providing on-call in hospital. Reported by community, by payee, by physician, by host physician payee number and name</li> <li>• Reports each payment cycle on monies recovered for services provided by specialty locum in host physicians office (60/40) split. Reported by community, by payee, by locum physician, by host physician</li> </ul> <p><b>Medical Advisor Sessional Payments</b></p> <ul style="list-style-type: none"> <li>• Reports monthly on sessional payments and travel expenses by medical advisor</li> </ul>
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## 2.3 MSP Provider Electronic Claims Submission and Payment System

**General Description:** MSP operational responsibilities include administration of the mandatory electronic claims billing and payment/reconciliation system that links BC's medical and health care practitioners to MSP. There are limited exceptions to electronic claims submission by enrolled health care practitioners requiring the printing, mailing and data entry of card claims. The electronic billing system employs a DOS based (which is being phased out) and a Web based submission channel, program specific authentication process, nightly claims edits, nightly returns claims failing the edits, twice monthly rules based adjudication and payment systems, the fee item utilization program, a remittance and broadcast message program and provides a variety of downloadable electronic files. Many of the subsystems have published software specifications. Payment cycle follows a

specified processing schedule dependent on the Office of Comptroller General and their primary financial institution. In the case of failure to meet the cycle payment, there is an emergency payment program.

The Claims system is also dependent on multiple databases such as the practitioner information file, the diagnostic facility database, the fee schedule master, etc., and has responsibilities to additional systems.

Claims payment policies require 18 months claims history to be available in the adjudication process. In addition, the Province stores a 7 year reduced claim history for information requests made by ICBC or through court orders.

Changes to the electronic claims systems that impact physicians are subject to terms and conditions set out in the negotiated agreement with the British Columbia Medical Association (BCMA) and the Province.

The Claims systems also process third party claims such as WCB, ICBC, Primary Care encounter records, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"><li>• Sets the policies, claims submission format, required claims data elements, and payment schedules</li><li>• Review and approves all remittance broadcast messages</li><li>• Participates on the Medical Software Vendors Association/Ministry (MSVA) Liaison Committee. The purpose of the committee is to deal with operational issues and share information on future changes</li><li>• Approves specifications for printing paper claims</li><li>• Approves potential new third parties interested in using the MSP system</li><li>• Includes the partner in planning of future initiatives</li><li>• Set the criteria for the emergency payment program and approves if implementation is required</li><li>• Approves requirements for material changes to the functionality of the processing system</li><li>• Review performance reports</li></ul>	<ul style="list-style-type: none"><li>• Administers the mandatory electronic claims billing and payment systems and all related sub systems and interfaces</li><li>• Creates and provides the twice monthly data file to be used by the Ministry of Finance to issue payments to physicians, health care practitioners and beneficiaries</li><li>• Administers the inter-provincial reciprocal billing and payment processes</li><li>• Maintains a data entry process for paper claims</li><li>• Prints or subcontracts the printing of contract for paper claims according to the specifications approved by the Province</li><li>• Maintains the electronic billing specifications and ensures all new software vendors are compliant</li><li>• Ensures the accuracy and relevance of all automated business rules</li><li>• Maintains accurate and current system documentation</li><li>• Chairs an annual MSVA meetings (see previous column)</li><li>• Notifies the Province of any material technical problems</li><li>• Seeks approval from the Province if there is a potential</li></ul>

Province	Service Provider
	<p>requirement to implement the emergency payment program</p> <ul style="list-style-type: none"> <li>• Provides the same or similar level of functionality as the current processing system</li> <li>• Seeks approval from the Province if system changes or modification materially alters the functionality of the processing system</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See items 19 and 22 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 8 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on % claims processed through automated rules</li> <li>• Reports on number and type of change requests from Province for payment schedule amendments or business rule changes, and system improvement requests</li> <li>• Reports quarterly on QA reviews</li> </ul>

## 2.4 MSP Automated claims business rules

**General Description:** The claims processing system employs thousands of automated business rules resulting in approximately 98.5% of claims being automatically processed. These business rules represent legislative requirements, conditions set out in negotiated agreements, Payment Schedule policies and precedent established.

The budgets for medical and health care provider claims are capped and operations is responsible to ensure claims are accurately submitted and paid.

Medical providers and when required, software vendors, are provided “advanced notice” when business rules are modified resulting in a change to how a claim is paid or when claim submission requirements change.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Sets the payment policies</li> <li>• Approves all additions and changes to the automated business rules within 10 Business Days of receipt from Service Provider</li> <li>• Provides policy interpretation/ clarification as required</li> <li>• Approves all communications related to business rules changes or claims submission requirements within 3 Business Days of receipt or earlier if urgent</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Routinely analyzes claims requiring manual adjudication for automated rule development and existing rules for efficiency and accuracy</li> <li>• Recommends new automated business rules or modifications to existing rules to the Province and provides a development and implementation plan</li> <li>• Codes, user tests for desired outcome and implements new or modified business rules approved by the Province</li> <li>• Develops communication material to providers on rule changes and issues the notice once Province approval received</li> <li>• Notifies the Province when material complaints are received about the accuracy of the automated rules</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See item 12 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 9 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports quarterly on development of any new or modified automated business rules/edit functions initiated either by the Service Provider or Province</li> <li>• Reports monthly on number of exceptions/rejects from rules by type of claim and reject reason as a percentage of total claims processed. To be combined with reports required for manual adjudication</li> <li>• Reports monthly on total number and value of claims by type of specialty processed through automated system. To be combined with reports required for manual adjudication</li> <li>• Reports quarterly on number of claims paid as billed, partially paid, adjusted or refused by claim type</li> <li>• Reports monthly on payments aged greater than 60 days from date of receipt and number and value of claims pending processing</li> </ul>

## 2.5 MSP Provider Manual In-province claims adjudication – including reciprocal and third party claims

**General Description:** The adjudication program is comprised of several subprograms containing thousands of automated business rules processing approximately 98.5% of all claims. Claims failing those business rules require manual intervention by trained adjudication staff.

Rejections can occur because of the complexity of the claim, discrepancies in practitioner claims, input errors, changes in the Payment Schedule, misunderstanding by practitioner of billing processes, conflict with another insurer claim etc. Independent judgment in decision-making may be required. Requires significant training and expertise.

Disputed payments are entitled to administrative review. Claims can be re-submitted electronically with additional supporting information or a written appeal may be sent.

Payment disputes, issues that are unclear or where no policy interpretation exists are referred to formal advisory committees such as the Medical Advisory Committee (MAC) and the Medical Payment Issues Committee (MPIC). If payment decision is upheld, the physician can appeal to the BCMA Reference Committee. For policy disputes, cases are referred to either the BCMA Tariff Committee or the Medical Services Commission. Interest is payable after 60 days on all correctly submitted claims.

In some cases, the adjudicator may be required to request various reports such as operative and consultation reports from physicians to properly adjudicate a claim.

### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"><li>• Sets the Payment Schedules and associated payment rules</li><li>• Governance responsibility for the relationship with the various Practitioner Associations such as the British Columbia Medical Association (BCMA) with respect to Payment Schedule policy and administration</li><li>• Chairs the formal advisory committees with appropriate Service Provider representation. The purpose of such committees is to provide policy direction and clarification/interpretation on existing business rules</li><li>• Adjudicates claims referred by the Service Provider where no policy exists, billed under miscellaneous fees where no Payment Schedule listing exists or disputes to outcomes of the administrative review process. Develops a mechanism to transfer knowledge of decisions by medical advisors to adjudicators when</li></ul>	<ul style="list-style-type: none"><li>• Adjudicates claims in accordance with established policy or precedent</li><li>• Prepares case files and refers complex claims requiring a clinical assessment to a Province's medical advisor for adjudication</li><li>• Tracks and monitors the appropriateness of claims referred by adjudicators to a medical advisor</li><li>• Makes requests for supporting documentation from practitioners such as operative reports when required to properly adjudicate a complex claim</li><li>• Implements new or amended policies as directed by the Province</li><li>• Implements an administrative review process</li><li>• Prepares necessary documentation and refers all claims where policies or precedent is weak or non-existent including miscellaneous fees to the appropriate advisory committee.</li></ul>

Province	Service Provider
<p>appropriate</p> <ul style="list-style-type: none"> <li>• Approves the content of the adjudication-training program</li> <li>• Approves all communications related to Payment Schedule changes, new or amended policies and educational material</li> <li>• Conducts reviews on decisions on an “as and when required basis” to validate and test the training and quality assurance programs</li> <li>• Reviews performance reports</li> </ul>	<p>Participates on all such committees</p> <ul style="list-style-type: none"> <li>• Conducts regular analysis of claims failing the automated business rules in order to determine opportunities for further automation and/or opportunities to educate practitioners on proper billing practices</li> <li>• Develops and administers an adjudication training program which includes medical terminology, and quality assurance program to ensure claims adjudicators’ decisions are complying with Province Policies and procedures</li> <li>• Prepares background material to support the Province in adjudicating referred claims or disputed payments. Implements Province decisions.</li> <li>• Notifies the Province on emerging trends or suspicious billing practices</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirement:</b></p> <p>See item 26 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 10 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports every payment period on % of manual claims processed by claim type and processing outcome, e.g. paid as billed, refused, partially paid, etc. Report to also include number and type of claims in the backlog and interest payments by payment period</li> <li>• Reports monthly on number of requests for analysis, information from Province</li> <li>• Reports monthly on the number and type of recommendations for automated rule development, cases referred to the Province</li> <li>• Reports monthly on the number of cases referred to the Province’s medical advisors, number of cases pending and average processing time</li> <li>• Reports quarterly on the QA reviews</li> </ul>

## 2.6 MSP Provider Manual Out of Country travel claims adjudication

**General Description:** The Province through the MSP reimburses beneficiaries for insured medical services obtained while temporarily traveling outside of Canada. Reimbursement is made up to the rate that would be payable if services were provided in BC. Hospital per diem is reimbursed at a fixed daily rate set by the Province. Often reimbursement is less than 10% of the total bill. Peak time for claim submission currently is March, April and May of each year.

Although MSP is the primary insurer for medical required physician services, there currently are 21 agreements with extended health insurers. The agreements permit the extend health carrier to reimburse the patient directly and then seek reimbursement from the Province for its portion of the claim.

Claims are adjudicated against BC Physician Payment Schedule and subject to the same payment rules as in province claims.

There is no official appeal process however; there is an administrative review process.

Repeated/frequent requests for reimbursement from individuals or families for services obtained in the same location are monitored as the pattern could flag a residency issue.

### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"><li>• Sets the policy and payment schedules</li><li>• Reviews performance reports</li><li>• Provides policy interpretation/clarification as required</li><li>• Approves changes to the claim form and brochure</li></ul>	<ul style="list-style-type: none"><li>• Processes all claims received directly from beneficiaries or indirectly through extended health insurers</li><li>• Enters claim details into an online system to create payment and update patient claims history record</li><li>• Provides beneficiary with a written notice of payment</li><li>• Implements an administrative review process</li><li>• Responds to general inquiries regarding benefits and claim status</li><li>• Maintains a quality assurance program to ensure claims adjudicators' decisions are complying with Province policies and procedures and to ensure the quality of written responses. Participates, on an as required basis, at external information workshops</li><li>• Prints and makes available the necessary claim forms and brochures</li><li>• Recommends changes to claims forms or brochures</li><li>• Implement mechanism to identify potential fraud cases, prepares</li></ul>



Province	Service Provider
	case files and notifies Province of suspected fraud <ul style="list-style-type: none"> <li>Monitors patterns of claims to identify any potential residency issues and notifies Province of suspected cases</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<b>Service Level Requirement:</b>  See items 14, 15 and 26 set out in the table in Paragraph 4 of the Service Levels Schedule.  <b>Service Level Objectives:</b>  See item 11 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>Reports monthly on number of claims and amounts reimbursed by medical and hospital claim type and location of service</li> <li>Reports monthly detail on individual claims exceeding \$10,000</li> <li>Reports annually on number of suspected fraud or residency cases referred to Province</li> <li>Reports quarterly on QA reviews</li> </ul>

## 2.7 MSP Provider Out of Province/Country Pre-authorizations

**General Description:** Out of Country medical treatment may be a benefit only when appropriate and acceptable services are not available in Canada. Each case is adjudicated on its own merits. Applications are submitted by the specialist involved in the patient's care and adjudicated by the Province's Medical Consultant. Approved requests are paid at the usual and customary rate. Negotiations to obtain a preferred customer rate are usually undertaken by Province staff.

In addition to the usual provision of an administrative review process, applicants of denied requests are provided with an opportunity for their case to be heard before a panel of the Medical Services Commission (MSC).

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Sets the policy and adjudicates all applications</li> <li>Provides direction when additional information is required to make decision</li> </ul>	<ul style="list-style-type: none"> <li>Reviews the request to ensure all required information has been submitted</li> <li>Requests additional information on incomplete applications which</li> </ul>

Province	Service Provider
<ul style="list-style-type: none"> <li>Provides policy interpretation/clarification as required</li> <li>Prepares briefing file and presents file to the panel of the MSC</li> <li>Provide initial approves on the standard referral form and standard response letters or any proposed changes</li> <li>Reviews performance reports</li> <li>Adjudicates and advises the Service Provider of decision within 5 Business Days unless the case urgent then decision made within 2 Business Days</li> </ul>	<p>may include requesting an expert opinion from one of the Province's Centres of Excellence, e.g. Cancer Agency</p> <ul style="list-style-type: none"> <li>Prepares case file for referral to the Province</li> <li>Enters details of request on tracking system and monitors cases</li> <li>Drafts and mails response letter on behalf of the Province</li> <li>Enters decision outcome on tracking system</li> <li>Responds to enquiries on benefit coverage and case status</li> <li>Negotiates a reduced fee on approved cases</li> <li>Processes payments in Canadian funds when claims received and drafts associated letter</li> <li>Prepares all background required for the Province's Medical Consultant to prepare briefing file for hearing or to respond to inquiries from media, politicians etc</li> <li>Attends hearing to provide technical support, if required</li> <li>Providing ad hoc reports as required</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Objectives:</b></p> <p>See item 12 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports monthly on number of applications received, number approved and denied and number of cases pending</li> </ul>

## 2.8 MSP Provider Pre-authorizations

**General Description:** Cosmetic procedures are not benefits under the Medical Services Plan. Occasionally, a cosmetic type procedure is used to remedy a medical condition. This service would be a benefit but requires pre-approval.

Adjudication rules are defined for the majority of procedures. However, due to the complexity of some requests, adjudication may be required by a medical advisor. Individual decisions can set precedent. Infrequently, obtaining pre-approval is not possible. Retroactive approval may be granted under limited circumstances.

There is no formal appeal process but an administrative review process is available on denied applications.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Determines the policy and provides, as required, policy clarification/interpretation</li> <li>• Adjudicates appeals referred by the Service Provider within 15 Business Days of receipt</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Processes routine requests where there are policies or established precedent and advises applicant of decision. Updates the online system with adjudication outcome to enable automated processing</li> <li>• Refers complex requests to a Province medical advisor for adjudication</li> <li>• Provides an administrative review process for appeals on denied claims. Refers appeals on a negative administrative review to the Province</li> <li>• Implements Province decisions on appeals and notifies the applicant</li> <li>• Notifies the Province of repeated suspected inappropriate requests</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See item 26 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 13 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on number and type of requests approved, denied and refer to Province</li> <li>• Reports quarterly on QA reviews</li> </ul>

**2.9 MSP Provider Retroactive Payment Adjustments**

**General Description:** Retroactive payment adjustments are occasionally required when changes to payment rates are negotiated or approved with a retroactive effective date.

Practitioners and when applicable, software vendors, are provided with an advance electronic notice as to when the retroactive adjustment will be issued.

Requires the capability and capacity to extract millions of paid records and calculate and apply a single or variety % increases to specified paid claims.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>Provides direction on the payment rate changes and effective dates</li> <li>Consults with the Service Provider on the implementation strategy and approves the timelines for issuing the payment adjustment</li> <li>Approves the communication regarding the adjustment within 2 Business Days</li> </ul>	<ul style="list-style-type: none"> <li>Analyzes the effort required to implement the adjustment and advises on the implementation strategy</li> <li>Processes the retroactive payment including updating the payment schedule database and all impacted paid claim records with the retroactive amount</li> <li>Validates with the Province the total value of the retroactive adjustment before implementation</li> <li>Drafts the electronic communication to providers and software vendors as required</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Objectives:</b></p> <p>See item 14 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports promptly on the final total adjustment amount of the retroactive payment</li> </ul>

## 2.10 MSP Provider Online Payment Schedule Amendments

**General Description:** Operations is required to implement amendments to the various online practitioner payment schedules used in the processing of claims.

Amendments can range for a payment rate change to a single item, modification of a fee item attribute, implementation of a new fee item to implementing a new payment schedule for a specialty or across the board payment rate changes.

Practitioners and when applicable, software vendors, are provided with an advance electronic notice of amendments.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Advises of amendments in writing</li> <li>• Consults with the Service Provider on medium to large volume and medium to high impact changes to determine implementation strategy and timelines</li> <li>• Provides clarification/interpretation as required</li> </ul>	<ul style="list-style-type: none"> <li>• Updates the online Payment Schedule with amendment(s)</li> <li>• On medium to large volume and medium to high impact changes analyzes the effort required to implement and advises the Province on the implementation strategy and timelines</li> <li>• Drafts the communication (for approval by the Province)</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 15 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports monthly all amendments – by number of changes</li> </ul>

**2.11 MSP Provider Payment Advances**

**General Description:** The Province is contractual obligated, under limited circumstances such material software failures, to provide fee-for-service physicians with an interest free advance payment on future claims. Advances are recovered from future remittances.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Determines the criteria for advances</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Processes requests for advances in accordance with established criteria</li> <li>• Issues advance payments and establishes re-payment plans in accordance with guidelines provided by the Province</li> <li>• Tracks and monitors requests for advances</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objective:</b>  See item 16 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports quarterly on number of requests and value, number granted and denied and outstanding receivables</li> </ul>

**2.12 MSP Provider Overage Claims Requests**

**General Description:** Claims must be submitted within 90 days of service rendered. Exceptions may be granted under limited circumstances.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Determines the exception criteria</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Processes requests for overaged claims and advises client of decision</li> <li>• Provides an administrative review process for appeals on denied claims</li> <li>• Tracks and monitors requests</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 17 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports monthly on volume of requests, number granted and denied</li> </ul>

## 2.13 MSP Provider Inquiry Management – Coverage (interactive voice response)

**General Description:** Provider Services provides a variety of information related to beneficiary coverage services to health care provider offices.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"><li>• Approves scripts</li><li>• Reviews performance reports</li></ul>	<ul style="list-style-type: none"><li>• Administers the automated IVR service</li><li>• Routinely evaluates the effectiveness of scripts and utilization of services available and makes necessary enhancements</li><li>• Implements new IVR replacement technology (see Schedule J of this Agreement)</li></ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See item 10 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 18 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"><li>• Reports monthly on volumes of inquiries by service type</li></ul>

## SCHEDULE 5 SECTION 2 – MSP PROVIDER SERVICES

### 2.14 MSP Teleplan Support Centre

**General Description:** Provides electronic billing registration services and a variety of related client services to over 4,000 medical sites in British Columbia.

Responds to questions/problems regarding:

- Electronic billing;
- Electronic remittance statements/refusal;
- Hardware/software requirements;
- Access issues, passwords/userid, etc.; and

- Network problems.

Teleplan Support Centre staff often liaise between the medical site and the software vendor. Coordinates vendor software testing. Provides first level support for Primary Care sites. Provides quality assurance testing on changes to the electronic billing software.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>• Province sets policy and provides, as required, policy clarification/interpretation</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Staffs a contact/call centre providing minimum availability: 8:00 am – 4:30 pm, Monday to Friday with client service representatives that have the appropriate level of knowledge to provide technical and business support for electronic claims submission including hardware and software problem resolution</li> <li>• Maintains a tracking system including escalation management for all calls handled</li> <li>• Processes applications for electronic claims submission</li> <li>• Maintains a quality assurance program to ensure high quality client service and the accuracy of the responses</li> <li>• Immediately alerts the Province of a major failure of the electronic billing system when downtime is expected to exceed 24 hours</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirement:</b></p> <p>See items 10 and 11 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 19 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on call volumes, wait times, abandonment rates, busy rate, and average speed to answer</li> <li>• Reports quarterly on QA reviews</li> </ul>



## 2.15 MSP Provider Claims Billing Support

**General Description:** Provides claims billing assistance to health care practitioner offices; first level of administrative review for payment disputes; information on benefits and Payment Schedule policies; researches and responds to enquiries and complaints from physicians and supplementary benefits practitioners; provides information, and advice on payments of fee-for-service claims as well as interpretation of the *Medicare Protection Act* (British Columbia), *Freedom of Information and Protection of Privacy Act* (British Columbia) and Medical Services Commission Payment Schedule.

Position acts as a first level of appeal for adjudication disputes.

### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"><li>• Sets policy and provides, as required, policy clarification/interpretation</li><li>• Reviews performance reports</li></ul>	<ul style="list-style-type: none"><li>• Staffs a contact/call center providing minimum availability: 8:00 am – 4:30 pm, Monday to Friday with appropriate client service representatives able to respond to all calls from physicians, health care practitioners and their office staff related to claims billing, claims adjudication policies, legislation, etc.</li><li>• Maintains a quality assurance program to ensure high quality client service and the accuracy of the responses</li><li>• Maintains a tracking system for all calls handled</li><li>• Notifies Province on emerging trends</li><li>• Immediately alerts the Province on any caller seriously threatening to go to the media or senior government officials</li></ul>

### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirement:</b></p> <p>See items 10 and 11 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 20 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"><li>• Reports monthly on call volumes, wait times, abandonment rates, busy rate, and average speed to answer</li><li>• Reports quarterly on QA reviews</li></ul>

## 2.16 MSP Benefit Inquiry Services - General Public

**General Description:** Provides telephone access to the general public on wide variety of topics ranging for inquiries on benefits, information and status on Out of Province and Out of Country claims, requests for information on claims paid on their behalf, policy interpretation, FOI requests, etc.

### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"><li>Province sets policy and provides, as required, policy clarification/interpretation</li><li>Reviews performance reports</li><li>Participates in script review and approval</li></ul>	<ul style="list-style-type: none"><li>Staffs a contact/call center providing minimum availability: 8:00 am – 4:30 pm, Monday to Friday to respond to a wide variety of calls from the general public on MSP benefits, request for Personal Information, complaints etc.</li><li>Maintains a quality assurance program to ensure high quality client service and the accuracy of the responses</li><li>Maintains a tracking system for all calls handled</li><li>Provide and refreshes technology to support beneficiary services as described in Schedule J attached hereto</li></ul>

### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirement:</b></p> <p>See items 9 and 11 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 21 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"><li>Reports monthly on call volumes, wait times, abandonment rates, busy rate, and average speed to answer</li><li>Reports quarterly on QA reviews</li><li>Reports quarterly on the number of FOI requests and the number of requests for claims history listings</li></ul>

## 2.17 MSP Provider General Correspondence

**General Description:** Provider Services receives a wide variety of general correspondence from benefit inquiries, Freedom of Information (FOI) requests, requests for listings of services paid by MSP, complaints or tips on potential fraud, requests for reimbursement, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Sets policy and provides, as required, policy clarification/interpretation</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Responds to or acknowledges receipt of all correspondence</li> <li>• Where appropriate, standard responses are developed and used</li> <li>• Notifies Province of emerging trends and of tips on potential fraud</li> <li>• Maintains a quality assurance program to ensure high quality client service and the accuracy of the responses</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 22 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Report monthly on volumes of correspondence received, number processed, average processing time and inventory of letters including average number of days outstanding</li> <li>• Reports quarterly on the number of FOI requests and the number of requests for claims history listings</li> </ul>

**SECTION 3 – PHARMACARE SERVICES****3.1 PharmaCare Automated Claims Submission**

**General Description:** All prescriptions dispensed at community pharmacies are entered on PharmaNet. Claims are submitted electronically, adjudicated in real time and outcome is automatically returned to transmitting pharmacy. Payment is made weekly. Some designated medical supplies are also processed through PharmaNet.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Determines drug benefits and reimbursement policy for each benefit plan</li> <li>• Determines the claim detail to be submitted</li> <li>• Determines and approves all new or modified business rules</li> <li>• Ensures the necessary spending authority for processing payments</li> </ul>	<ul style="list-style-type: none"> <li>• Maintains the 24/7 operational requirements of PharmaNet</li> <li>• Processes updates to data tables</li> <li>• Creates and provides the weekly data file to be used by the Ministry of Finance to issue payments to pharmacies weekly</li> <li>• Resolves all service interruptions</li> </ul>

Province	Service Provider
<p>is in place</p> <ul style="list-style-type: none"> <li>Determines and revises data access requirements and provides same to the Service Provider within 5 Business Days of completion. The initial data access requirements are attached as Appendix 1 to this Schedule.</li> <li>Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>Issues immediate alerts on service interruptions to pharmacies, the BC College of Pharmacists, the BC Pharmacy Association and the Province of the service interruption when severity level – high, e.g. PharmaNet unavailable for more than 1 hour</li> <li>Codes, user tests for desired outcome and implements new or modified business rules approved by the Province</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See item 19 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 23 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports monthly on volumes and expenditures</li> <li>Reports monthly on number of data table updates</li> <li>Reports monthly on PharmaNet performance including outages/any service interruptions</li> </ul>

### 3.2 PharmaCare Manual Claims Processing (offline)

**General Description:** A small group of providers do not submit claims via PharmaNet. Prescription/Supplies claims are submitted manually by patient or supplier for reimbursement.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Determines benefits and payment policies</li> <li>Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>Processes claims according to payment policies</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 24 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports monthly on volumes and expenditures by claim type</li> <li>• Reports on inventory of aged claims</li> </ul>

**3.3 PharmaNet tables Administration**

**General Description:** Database tables used for system access, adjudication, and payments. This includes the production of PharmaNet, Training PharmaNet, and Excel spreadsheets.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Provides required updates to data tables.</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Processes required updates submitted by Province</li> </ul>

- **Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 25 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports monthly on number of updates by type</li> </ul>

**3.4 PharmaNet External Software Compliance Testing**

**General Description:** Pharmacies, emergency departments and medical offices software must be compliant with standards for connecting to PharmaNet. The standards are published and available from the Province web site. Testing is initiated at the request of the software developer and re-testing is required if the original test finds deficiencies. Random testing may be required to ensure continued compliance.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Determines and approves changes to the PharmaNet compliance rules</li> <li>• Initiates random testing if required</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Performs tests at request of software developer</li> <li>• Conducts spot audits according to established guidelines</li> <li>• Advises software developer of areas of non-compliance</li> <li>• Conducts follow up to ensure corrective action taken</li> <li>• Prepares report on test results and provides copy to software developer and Province</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 26 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports semi annually on number of compliance tests completed</li> </ul>

**3.5 PharmaCare Pre-authorizations**

**General Description:** Pre-authorization for Prosthetics and Orthotics over limits set by the Province and Special Authorities is required. Out of province prescription, under limited situation, can receive pre-approval for coverage (i.e. transplant patients going to out of province for their surgery).

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Sets policy</li> <li>• Processes pre-authorization and Special Authorities applications</li> <li>• Approves out of province coverage for transplant patients</li> <li>• Advises the Service Provider of decision on pre-authorizations and out of country transplant cases within 2 Business Days</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Prepares and mails pre-authorization decision letters</li> <li>• Processes out of province coverage payments</li> <li>• Processes payments for pre-authorized prosthetic and orthotics claims</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 27 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports monthly on volumes pre-authorization letters</li> <li>• Reports monthly on volumes and expenditures for out of country transplant claims</li> </ul>

**3.6 PharmaCare Payments**

**General Description:** PharmaCare payments include automated claims received via PharmaNet, manual claims and payments to pharmacies for the following programs:

- Methadone Program;
- Plan B;
- Emergency Contraceptive Pill Program; and
- Rural Incentive Program.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Provides payment authority to release funds for distribution</li> <li>• Provides report on Rural Incentive Program payments</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Processes automated and manual adjustments</li> <li>• Notifies the Province immediately of any payment process failures</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Requirements:</b>  See item 19 set out in the table in Paragraph 4 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports weekly on volumes and expenditure by automated and manual claims</li> </ul>

### 3.7 PharmaCare Plan Registration Services

**General Description:** PharmaCare administers a number of Drug Benefit Plans. Operations is responsible for the automated and manual beneficiary registration to the appropriate PharmaCare Plan(s) and pharmacy, supplier, emergency department and physician registration/access to PharmaNet. Pharmacy registration is also required for Plan B and the methadone program. PharmaCare plans currently include:

- Fair PharmaCare** - BC families eligible for financial assistance under Fair PharmaCare, based on their net income
- Plan B** - Permanent residents of licensed long-term care facilities. Enrolment is done through the care facility.
- Plan C** - Individuals receiving income assistance through the Ministry of Human Resources The pharmacy is paid for the full prescription cost directly by PharmaCare.
- Plan D** - Individuals registered with a provincial Cystic Fibrosis Clinic
- Plan F** - Children eligible for medical or full financial assistance through the At Home Program of the Ministry for Children and Family Development. Children receive full benefits for eligible prescription drugs and medical supplies at no charge through PharmaCare.
- Plan G** - The No-Charge Psychiatric Medication Program. Low-income Province Customers that qualify for MSP Premium Assistance are eligible for financial assistance through mental health centres. The patient's physician or psychiatrist submits an application to a mental health service centre for approval. In exceptional cases, patients without MSP coverage (i.e., new British Columbia residents) may be able to receive Plan G benefits. In such cases, a mental health practitioner may apply for coverage on an individual, emergency basis.

**Palliative Care Drug Program:**

This plan provides eligible patients with coverage for the costs of medications listed in the *Palliative Care Drug Formulary*.

**B.C. Centre for Excellence in HIV/AIDS:**

The B.C. Centre for Excellence in HIV/AIDS operates from St. Paul's Hospital in Vancouver. Individuals enrolled with the centre receive their antiretroviral drugs free of charge.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"><li>• Determines eligibility criteria and associated policies</li><li>• Reviews performance reports</li></ul>	<ul style="list-style-type: none"><li>• Provides a multi-channel registration process for Fair PharmaCare (FP) including web, phone and paper</li><li>• Processes all FP paper applications and telephone registration requests</li><li>• Issues, processes and stores all FP consent forms</li><li>• Provides real-time registrations interfaces and manual back up process for Plans C, F and G</li><li>• Processes manual registrations for the Palliative Care Drug Plan</li></ul>



Province	Service Provider
	<ul style="list-style-type: none"> <li>Provides multi-language services in Mandarin, Punjabi and Cantonese during the hours of 9:00 a.m. to 3:30 p.m. and any calls received outside of those hours will have call back service within 24 hours of receipt of call with IVR enabling the bilingual message to be left with commitment to return call within 24 hours</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See items 2, 5 and 23 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 28 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports monthly on volume by type and average processing time of registrations</li> <li>Reports monthly on inventory of registrations</li> </ul>

### 3.8 Fair PharmaCare (FP) Administrative Review Processes

**General Description:** Provides support to the registration process of families and individuals, resolve eligibility issues, handle specific requests for income review, revocation of CRA consent, retroactive payments, and handle general FP correspondence.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Determines policies</li> <li>Provides policy interpretation/clarification</li> <li>Adjudicates formal appeals on administrative review decisions and advises the Service Provider of decision within 10 Business Days</li> <li>Approves system generated letters</li> <li>Manages Memorandum of Understanding (MOU) with Canada Revenue Agency (CRA)</li> </ul>	<ul style="list-style-type: none"> <li>Processes incomplete and non-standard Fair PharmaCare (FP) registrations and consent forms</li> <li>Processes errors and exceptions resulting from automated processes such as the automated MSP Beneficiary Services matching process</li> <li>Actions eligibility problems resulting from family changes, failure of family to return consent form, or file with CRA</li> <li>Processes CRA consent revocations</li> </ul>

Province	Service Provider
<ul style="list-style-type: none"> <li>Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>Complies with CRA security standards in accordance with memorandum of understanding in respect of security standards between the Service Provider and CRA</li> <li>Processes requests for income reviews where family income has changed or for new residents</li> <li>Process requests for early retroactive payments</li> <li>Processes informal appeals (i.e. complaints) of earlier administrative review decisions</li> <li>Prepares case files for formal appeal requests and forwards to the Province</li> <li>Responds to general FP correspondence and telephone inquiries</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 29 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>Reports monthly on number and types of reviews, aged inventory, and number of first time appeals and number of second time appeals forwarded to the Province</li> <li>Reports quarterly on QA reviews</li> </ul>

### 3.9 Fair PharmaCare Income Verification Process

**General Description:** The Fair PharmaCare Plan is based on an individual's or family's net income. Net income is self-reported during the initial registration process and verified with the Canada Revenue Agency (CRA) at the time of registration and annually thereafter. In order for CRA to provide an individual's or family's net income PharmaCare must obtain a signed consent. The automated verification process is weekly via FTP. The electronic response from CRA updates the system and generates correspondence.

Exceptions are manually processed according to established policy.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Determines criteria for income verification and appropriate supporting documentation (e.g. consent form)</li> <li>Provides policy interpretation/clarification</li> </ul>	<ul style="list-style-type: none"> <li>Administers the income verification process with CRA and makes any necessary adjustments resulting from the verification process. Maintains a contact with the local CRA office for verification as required (for prior tax years)</li> </ul>

Province	Service Provider
<ul style="list-style-type: none"> <li>Manages the MOU with the Canada Revenue Agency and reports to CRA outcome of audits</li> <li>Approves any required changes issued by CRA</li> <li>Approves system-generated letters</li> </ul>	<ul style="list-style-type: none"> <li>Conducts audits on the income verification process as prescribed in the CRA MOU and reports outcome to the Province</li> <li>Refers any required changes by CRA to the Province</li> <li>Maintains and updates system generated letters</li> <li>Complies with CRA security standards in accordance with memorandum of understanding in respect of security standards between the Service Provider and CRA</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 30 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>Reports monthly on volumes, number of adjustments and letters generated</li> </ul>

### 3.10 PharmaCare Restricted Claimant Program

**General Description:** Program assists in reducing misuse of PharmaCare benefits by limiting coverage for certain patients to medications prescribed or pharmacies which prescriptions drugs may be obtained.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Determines the program policies and approves restrictions</li> <li>Manages all appeals</li> <li>Reviews patient profiles and approves restriction or removal of restrictions within 5 days of request from the Service Provider</li> <li>Provides pharmacist support during business hours to review urgent requests</li> </ul>	<ul style="list-style-type: none"> <li>Processes approved restrictions and advises patient</li> <li>Provides business hour program coverage for routine processes</li> <li>Provide 24x7 coverage for emergency changes to restriction</li> <li>Alerts Province of potential misuse by patient</li> <li>Provide routine pharmacy and physician changes during business hours – 8:00 a.m. – 4:30 p.m.</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>	<ul style="list-style-type: none"> <li>Reports monthly on number and type of restrictions</li> </ul>

See item 31 set out in the table in Paragraph 5 of the Service Levels Schedule.	
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### 3.11 PharmaCare Adjudication Rule Changes

**General Description:** Apply changes in benefits, deductibles, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>Initiates and approves all adjudication rules changes</li> <li>Provides policy interpretations/clarifications</li> <li>Review performance reports</li> </ul>	<ul style="list-style-type: none"> <li>Processes updates to online tables, as required</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Objectives:</b></p> <p>See item 32 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports monthly on the number and type of adjudication rules changes</li> </ul>

### 3.12 PharmaCare General Correspondence

**General Description:** PharmaCare receives a wide variety of general correspondence from benefit inquiries, confirmation of Special Authority by third party insurers, blood glucose strip certificates, requests for listing of drugs paid on their behalf, complaints or tips on potential fraud, requests for reimbursement, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>Sets policy and provides, as required, policy clarification/interpretation</li> <li>Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>Responds to inquiries in most appropriate manner</li> <li>Manages a quality assurance program to ensure high quality client service and the accuracy of the responses</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 33 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>• Reports monthly on volumes, type and inventory of written inquiries</li> <li>• Reports quarterly on QA reviews</li> </ul>

**3.13 PharmaCare Help Desk – Pharmacists and other Service Providers**

**General Description:** The PharmaCare Help Desk is available 24 hours, 7 days per week. The Help Desk responds to a wide variety of calls from Pharmacies regarding patient benefit eligibility, questions about adjudication results, status of Special Authorities requests, restricted claimants, general inquiries on benefit plans, etc. The Help Desk also provides troubleshooting for system problems such as pharmacy network connection problems, slow response times, gateways down, resetting passwords, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>• Sets policy and provides, as required, policy clarification/interpretation</li> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Staffs a contact/call centre providing 24/7 availability with client service representatives that have the appropriate level of knowledge to provide technical and business support for PharmaNet system including network and software problem resolution and the PharmaCare Program</li> <li>• Monitors open network incidents and response times and escalates problems</li> <li>• Maintains a call tracking system including escalation management for all calls handled</li> <li>• Maintains a quality assurance program to ensure high quality client service and the accuracy of the responses</li> <li>• Immediately alerts the Province of a major failure of the PharmaNet system when downtime is expected to exceed 4 hours</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<b>Service Level Requirements:</b>	<ul style="list-style-type: none"> <li>• Reports monthly on call volumes, wait times, abandonment rates,</li> </ul>

<p>See items 10, 11 and [20] set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 34 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<p>busy rate, and average speed to answer</p> <ul style="list-style-type: none"> <li>• Reports quarterly on QA reviews</li> </ul>
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### 3.14 PharmaCare General Public Inquiry Services

**General Description:** Handles inquiries about eligibility, drugs, benefits, special authorities, etc., provides telephone Fair PharmaCare registration, and specific inquiries around income reviews, retroactive payments, changes to Personal Information, requests for claim information, etc.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>• Reviews performance reports</li> </ul>	<ul style="list-style-type: none"> <li>• Staffs a contact/call center 8:00 am – 8:00 pm, Monday to Friday, 8:00 am – 4:00 pm Saturdays to respond to all calls from the general public related to PharmaCare including providing phone registration service</li> <li>• Manages a quality assurance program to ensure high quality client service and the accuracy of the responses</li> <li>• Maintains a call tracking system</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See items 9 and 11 set out in the table in Paragraph 4 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See item 35 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on call volumes, wait times, abandonment rates, busy rate, average speed to answer and types of calls including Fair PharmaCare phones registration</li> <li>• Reports quarterly on QA reviews</li> </ul>

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## SECTION 4 – COMMON PROCESSES

### 4.1 Province initiated registrations and payments

**General Description:** Periodically the Province may initiate a registration, an amendment to a registration such as waiving the wait period, a provider or beneficiary payment, an adjustment to a payment, a recovery or approve a service as a benefit as a result of an appeal, functions remaining the responsibility of the Province, medical provider or beneficiary audit/investigation or non-precedent setting circumstances.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Provides sufficient written instruction to enable the Service Provider to accurately complete the necessary transactions</li> <li>Where appropriate, provides reasonable timelines for the completion of the request</li> <li>Completes the necessary written correspondence to the Province Customer or provides the Service Provider with the approved content to for any written correspondence</li> <li>Responds to all requests for clarification, as necessary</li> <li>Responds to referred inquiries related to the decision</li> </ul>	<ul style="list-style-type: none"> <li>Processes the request according to the instructions and timelines provided</li> <li>Records the appropriate details of the request</li> <li>Retains and stores all requests for future retrieval by the Province</li> <li>Completes and mails any written correspondence as approved by the Province</li> <li>Confirms any discrepancies with the Province before processing the request</li> <li>Where appropriate, handles any general inquiries on a Province initiated request and refers inquirer to Province on queries related to the decision</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Objective:</b></p> <p>See item 36 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports monthly on the number and type of Province initiated requests.</li> </ul>

## 4.2 Province Customers and Stakeholders Communications

**General Description:** MSP and PharmaCare Operations communicates to beneficiaries and medical providers through multiple channels including: Premium bill messages, Group Administrators, brochures, forms, Province website, bulletins, newsletters, fan-out notices, email, electronic broadcast messages, resource manuals, etc. See Schedule K of this Agreement for the Communication Plan and Communication Process.

### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"><li>Responsible for organized public communications regarding the outsourcing agreement and any changes to business.</li><li>Consults with the Service Provider in advance of any public communications that could impact business operations.</li><li>Responds to all media calls</li><li>Approves mechanisms and processes for communications</li><li>Approves all materials published and posted to web prior to issuance/launch</li></ul>	<ul style="list-style-type: none"><li>Drafts and/or proposes content, prints, distributes, tracks and reports.</li><li>Responds to written inquiries, as per agreed upon protocols, refers to the Province issues requiring escalation, tracks and reports.</li><li>Responds in real time to verbal inquiries, refers to Province per agreed upon protocols.</li><li>Drafts scripted messages where appropriate.</li><li>Refers all media calls to the designated Province contact.</li></ul>

### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Objectives:</b></p> <p>See item 37 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"><li>Reports quarterly on communication activities by channel</li><li>Reports on any complaints or issues</li></ul>

## 4.3 Document Inventory

**General Description:** Maintains a Document Inventory (including applications, address changes, inquiries, etc.)

### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"><li>Reviews monthly performance reports</li></ul>	<ul style="list-style-type: none"><li>Digitizes all incoming documents requiring processing</li><li>Stores and destructs all images in accordance with the Province's</li></ul>



Province	Service Provider
	Operational Records Classification system (ORCS) and policies <ul style="list-style-type: none"> <li>Archives all applicable paper documents in accordance with ORCS</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<b>Service Level Objectives:</b>  See item 38 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>Reports monthly on number of incoming documents processed by type and number unsuitable for digitizing</li> <li>Report monthly on number of copies of documents retrieved at the request of the Province</li> </ul>

## 4.4 Document Scanning

**General Description:** Scanning of all relevant MSP and PharmaCare incoming documents

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Review performance reports</li> </ul>	<ul style="list-style-type: none"> <li>Prepares, catalogs, scans and stores all documents requiring processing</li> <li>Returns originals to submitter, where required or requested</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<b>Service Level Objective:</b>  See item 39 set out in the table in Paragraph 5 of the Service Levels Schedule.	<ul style="list-style-type: none"> <li>Report monthly on number of document scanned by type – consolidate with report provided pursuant to Section 4.3 of this Schedule</li> </ul>

## 4.5 Province Access and Reports

**General Description:** Provision of access to required systems/applications and all operational data to enable the Province to carry out functions remaining with the Province. Provision and support of a reporting tool to enable the Province to ‘pull’ reports and query the data. Periodically, the

production of AD Hoc reports related operational data is required to respond to potential policy changes, analysis on existing policies, Minister inquiries, etc. These reports are varied. Examples are: information on the % of BC residents covered by MSP, number of individuals/families whose premiums are paid through group administrators, number of Fair PharmaCare beneficiaries within certain income bands, number of claims outstanding for a particular provider or reason, number of claims and dollars paid for Out of Country/Province services, etc.

**Responsibilities:**

Province	Service Provider
<ul style="list-style-type: none"> <li>Defines systems and data access requirements, acting reasonably. The initial data access requirements are attached as Appendix 1 to this Schedule.</li> <li>Approves requests for individual access and advises when access to be terminated</li> <li>Defines standard and ad hoc reports required, acting reasonably</li> </ul>	<ul style="list-style-type: none"> <li>Provides access to Province staff to required operational systems/applications</li> <li>Provides access to all operational data/information through a reporting tool or operational data repository</li> <li>Assists the Province with interpretation of the data</li> <li>Produces standard reports as required by the Province</li> <li>Provides access to subject matter experts, as required</li> </ul>

**Service Level and Reporting Requirements:**

Service Levels and Outcomes	Reporting
<p><b>Service Level Objectives:</b></p> <p>See item 40 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports quarterly on Personnel with access to operational systems/applications</li> <li>Reports quarterly on number and types of standard and ad hoc reports produced and the time involved to generate</li> </ul>

**4.6 Information Requests: Personal claims history, information requests from third parties, Freedom of Information Requests, Court Orders**

**General Description:** These include requests from patients for their own MSP claim and PharmaNet claims history and/or other documents relating to them, requests for claims history from the Ministry of Children and Families on their client/family, court order requesting claim history and documents on individuals or medical providers, information requests from third parties such as ICBC or WCB, Ombudsman, Coroner's office, Office of the Public Trustee, information requests under the *Freedom of Information and Privacy Act*, information requests from other Province programs, etc.

**Responsibilities:**

Province	Service Provider
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Province	Service Provider
<ul style="list-style-type: none"> <li>• Approves and manages all Information Sharing agreements with Third Parties</li> <li>• Approves and manages all information requests submitted under the <i>Freedom of Information and Privacy Act</i> or by the Ombudsman</li> <li>• Approves and manages all information requests submitted by the RCMP, Canadian Security and Investigations Service, court orders, other provincial jurisdictions, etc.</li> <li>• Provides the Service Provider with written instructions, supporting documentation and timelines for the release information to individuals, government Ministries, external agencies and organizations or other provincial or federal jurisdictions</li> <li>• Approves any charges to applicants proposed by the Service Provider for preparing information requests</li> <li>• Approves the data elements maintained in the tracking system</li> </ul>	<ul style="list-style-type: none"> <li>• Processes individual's requests for their own MSP claim and PharmaNet claims history and/or other documents relating to them subject to confirmation of the identity of the individual</li> <li>• Processes requests from ICBC for patient history listings subject to receipt of patient consent and where no revocation exists</li> <li>• Processes requests approved by the Province for release</li> <li>• Maintains a tracking system for all requests and monitors for repeat requests</li> <li>• Retains all individual consents and Province requests and supporting documentation in accordance with ORCS</li> <li>• Promptly notifies the Province if any request appears suspicious</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Objectives:</b></p> <p>See item 41 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>• Reports monthly on the volumes and types of requests processed and the number outstanding</li> </ul>

#### 4.7 Policy and Procedures (Operational) Manuals

Manuals describe the policies, procedures and practices undertaken to deliver the business functions described in this Schedule. The Manuals also describe the methods of operations and procedures use to perform the Services such as, network topologies, security administration, system configurations, call centre processes, human resource functions, business processes and associated documentation. The manuals serve as training and reference tools for both Operations and Province staff.

Province	Service Provider
<ul style="list-style-type: none"> <li>• Provides copies of all Medical Services Commission minutes,</li> </ul>	<ul style="list-style-type: none"> <li>• Maintains current and comprehensive operational manuals</li> </ul>

Province	Service Provider
<p>policy updates and interpretations to the Service Provider to ensure procedures/practices align with current requirements</p> <ul style="list-style-type: none"> <li>Approves all changes to manuals within 10 Business Days of receiving amendments</li> </ul>	<ul style="list-style-type: none"> <li>Updates manuals when advised of policy, legislative or procedural changes</li> <li>Provide draft changes to the Province for approval prior to publishing any material changes to manuals</li> <li>Tracks all changes to ensure there is an historical record</li> <li>Provides Province with all finalized updates</li> </ul> <p>(Note that these obligations are in addition to the documentation requirements in the Agreement).</p>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Objectives:</b></p> <p>See item 42 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports annually on manuals' most current version date</li> </ul>

#### 4.8 Third-Party Processing Agent

**General Description:** The Province has agreements with ICBC and WCB whereby MSP acts as a processing agent for these agencies. Services provided include: claims processing for physician, certain health care providers and hospital services, Province Customer services and communications related to claims processing and developing adjudication business rules and explanatory codes specific to ICBC and WCB claims. Physician claims designated as the responsibility of ICBC are processed without charge.

The Service Provider on behalf of WCB and ICBC may perform additional processing activities unrelated to the core services. The Service Provider will consult with and obtain the Province's approval/support before agreeing to take on additional services.

The Province is a party to a processing services agreement with WCB. In addition, to ICBC, the Province has a Memorandum of Understanding with the Ministry of Human Resources to process physician form fees on their behalf.

#### Responsibilities:

Province	Service Provider
<ul style="list-style-type: none"> <li>Liaise with WCB and ICBC to determine governance requirements</li> <li>Manages the Agreements with WCB and ICBC respectively</li> </ul>	<ul style="list-style-type: none"> <li>Acts as sub-contracted processing agent for the Province for physician and certain other health care provider WCB and ICBC claims</li> </ul>

Province	Service Provider
<ul style="list-style-type: none"> <li>Recovers funds from WCB for administration of claims processing</li> </ul>	<ul style="list-style-type: none"> <li>Provides client services to physicians, certain other health care provider, labs, hospitals, etc., related to the submission and payment of ICBC and WCB claims</li> <li>Makes any necessary claims adjustments to reflect the correct insurer designation</li> <li>Develops/modifies and implements new routine non-complex adjudication business rules that can be easily accommodated</li> <li>Adds, amends or deletes fee item listings specific to ICBC or WCB</li> <li>Amends WCB premium payment as required</li> <li>Provides bi-weekly electronic files on Payment Schedule fee item information, explanatory code information, specialty code information, demographic information on practitioner and payee numbers</li> <li>Provides various reports as requested by WCB including (aged invoices/forms; available payee (account/billing) codes;</li> <li>Provides electronic communications to physicians on behalf of ICBC and WCB</li> <li>Works with WCB and ICBC to identify business and system requirements</li> <li>Seeks the Province's Approval on any changes initiated by ICBC or WCB</li> </ul>

#### Service Level and Reporting Requirements:

Service Levels and Outcomes	Reporting
<p><b>Service Level Requirements:</b></p> <p>See items 10, 11, 12, 13, 19, 22 and 26 set out in the table in Paragraph 5 of the Service Levels Schedule.</p> <p><b>Service Level Objectives:</b></p> <p>See items 8,9, 10, 14, 15, 17, 18, 19, 20, 21 and 22 set out in the table in Paragraph 5 of the Service Levels Schedule.</p>	<ul style="list-style-type: none"> <li>Reports every payment cycle on number of claims and dollar value and number of claims requiring manual adjudication by insurer type</li> <li>Reports on number and value of adjustments to correct insurer designation</li> <li>Reports on the number and type of changes implemented for WCB and ICBC</li> <li>Identifies potential improvements for WCB and ICBC</li> </ul>

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## APPENDIX 1

### DATA ACCESS REQUIREMENTS

#### 1. Purpose of this Appendix

This Appendix 1 to Schedule E of the Agreement summarizes the third parties that currently require direct or indirect access to the Province's Health Benefit Operations (HBO) databases. The Service Provider shall maintain such required access, as may be revised by the Province from time to time in accordance with Schedule E of the Agreement, as part of the Basic Services.

#### 2. External Parties with Direct Access to HBO databases

The parties listed in the table below access HBO databases either via their own or MSP supplied transactions. Ministry of Provincial Revenue will require direct access until their Service Provider has implemented their new systems. Beneficiary Services is aggressively working to remove direct access for other parties with current access but not listed in this table (e.g. Public Service Agency (PSA)). These parties will be transferred to MSP Direct during the Transition Period and prior to the Hand-Over Date.

Party	Access Type	Data	Purpose
Ministry of Health Services (MoHS)– Medical and Pharmaceutical Services (MPS) <sup>1</sup> , Billing Integrity Program and PharmaCare Audit Staff	Update <sup>1</sup>	All HBO Data	Data Owners
MoHS- Continuing Care & Mental Health staff	Read	Coverage & Premium Assistance Levels	To determine assistance levels for their clients
Ministry of Provincial Revenue (MPR)- Collections & Loan Management Branch	Update	Account, Coverage & Address	To collect on overdue accounts
MPR – Revenue & Billing Branch	Update	Account, Coverage & Address	To manage billing, revenue and accounts receivables
Government Agents	Update	Account, Coverage & Person Demographics	Process select client requests on behalf of MSP.
Ministry of Human Resources	Update	Coverage & their own Group Account	To manage coverage for their clients
Ministry of Children & Family Development	Update	Coverage & their own Group Account	To manage coverage for their clients
College of Physicians & Surgeons of BC	Read	PharmaNet Medication Drug History	Monitoring and analysis of drug prescriptions.

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<sup>1</sup> MoHS MPS staff will require read access to all data but may only require update to some data. The details are still to be determined.

Party	Access Type	Data	Purpose
BC College of Pharmacists	Update	All PharmaNet data	Custodian of PharmaNet database <sup>2</sup> Corrections to Medication History Producing Patient Profiles

### 3. Third Parties with Indirect Access to HBO Databases

MSP Direct and PharmaNet provide on-line indirect access to view and update HBO databases.

#### (a) MSP Direct

Employer groups and other registered MSP groups use MSP Direct to manage coverage, on behalf of their employees or group members. MSP Direct is also used by health care practitioners and hospitals to perform coverage/eligibility inquiries on their patients. All parties accessing MSP Direct are required to sign a data access agreement. MSP Direct offers the following Coverage Maintenance processes

- Enrollment & Re-enrollment in MSP (limited to certain groups based on the schedule in their data access agreement)
- Addition and Cancellation of MSP beneficiaries from the group account
- Update Name and Address of Beneficiaries
- Coverage Eligibility Enquiry

#### (b) PharmaNet

Pharmacies are legislated to use PharmaNet in the dispensing of drugs in order to maintain a drug profile on all individuals dispensed medications in British Columbia. Community Pharmacies, Emergency Departments, Hospital Out-Patient Pharmacies and Physicians participating in the Medical Practice Access to PharmaNet pilot all have update access to PharmaNet. Inpatient Hospital Pharmacies have read access. Pharmacies accessing PharmaNet are required to sign a Pharmacy Participation Agreement and are subject to auditing. PharmaNet offers the following services

- Drug Interaction Monitoring
- PharmaNet Claims Processing
- Update (via claims submitted) and/or View Patient Drug History

Other parties have indirect access to PharmaNet via system interfaces, as summarized in the table below.

<sup>1</sup> MoHS MPS staff will require read access to all data but may only require update to some data. The details are still to be determined.

<sup>2</sup> There is legislation underway to transfer the custodianship of PharmaNet to the MoHS. However, this will probably not be enacted until spring of 2005 and the College of Pharmacists will still require some access.



<b>Party</b>	<b>Access Type</b>	<b>Data</b>	<b>Purpose</b>
Health Authorities Mental Health Centres	Update, via the MoHS CPIM system	Patient eligibility for PharmaCare Plan G	Provide financial assistance to low income patients with psychiatric medication needs
Ministry of Human Resources	Update, via an interfacing mainframe system	Patient eligibility for PharmaCare Plan C	Provide full coverage to MHR clients for prescription drugs and medical supplies that are PharmaCare benefits
Ministry of Children & Family Development	Update, via an interfacing mainframe system	Patient eligibility for PharmaCare Plan F	Provide drug coverage under the Children at Home program
College of Physicians & Surgeons of BC	Update, via a batch interface	Physician demographics and prescribing restrictions	Maintain current list of prescribers
BC College of Pharmacists	Update, via a batch interface	Pharmacist demographics and dispensing restrictions	Maintain current list of dispensing pharmacists

## **SCHEDULE F**

### **SERVICE LEVELS**

#### **1. General Principles**

The Parties agree as follows:

- (a) This Schedule defines and describes the Service Levels, being comprised of Service Level Requirements and Service Level Objectives, which have been mutually developed and agreed to by the Province and the Service Provider.
- (b) Service Level Requirements have been established between the Service Provider and the Province with respect to the certain Services set out in Paragraph 4 below.
- (c) Service Level Objectives have been established between the Service Provider and the Province with respect to all other Services for which Service Level Requirements have not been established.
- (d) Subject to Paragraph 1(e) below, commencing on the Hand-Over Date and during the Term, the Service Provider will meet or exceed the Service Level Requirements and the Service Level Objectives.
- (e) Each Service Level Requirement is to be measured as described in Paragraph 4 below. Certain Service Level Requirements will only be in effect during certain periods of the Term specified in Paragraph 4. The Service Provider will not be required to meet or exceed a Service Level Requirement which is designated as a Phased SLR until the Phase-In Date for such Service Level Requirement. From the Hand-Over Date until the applicable Phase-In Date, the Service Provider will perform each Service having a Phase SLR at or above the Service Level Requirement expressly specified for such period or where no Service Level Requirement is specified then at the standard and level which was actually achieved by the Province in the performance of such Service to the applicable Province Customers or Stakeholders immediately prior to the Hand-Over Date with such level being deemed to be a Service Level Requirement. The Service Provider agrees that such performance standard and level shall be determined by the Province to the extent reasonably reliable data is available with respect thereto including, without limitation, Province Customer and Stakeholder feedback received by the Province, complaint logs, or similar information.
- (f) Measurements of Service Levels will take effect on the Hand-Over Date and continue for the duration of the Term.
- (g) The Service Provider will provide Service Level Credits against Fees payable by the Province if the Service Provider fails to meet or exceed Service Level Requirements. Commencing on the Hand-Over Date and subject to the At Risk Amount limit and Paragraph 1(e) above, the Service Provider will credit the

Province with Service Level Credits for SLR Failures in accordance with Paragraph 8 below and Articles 8 and 12 of the Agreement.

- (h) Subject to Paragraph 1(i), the At Risk Amount will be adjusted within 30 days of the end of each Contract Year such that the At Risk Amount for the then current Contract Year equals 17.5% of the Average Annual Fee as of the end of the prior Contract Year, divided by 12.
- (i) The At Risk Amount will only be adjusted pursuant to Paragraph 1(h) where the Average Annual Fee increases or decreases by at least 10% in aggregate as compared to the Average Annual Fee last used to calculate the At Risk Amount (or, if it has not yet been adjusted, as compared against the Fee initially calculated to be payable in the first Contract Year).
- (j) The total Service Level Credits set out in the far right column of the table in Paragraph 4 shall not exceed three times the At Risk Amount. Each time the At Risk Amount is adjusted pursuant to Paragraph 1(h) above, such Service Level Credits shall be automatically adjusted on a pro rata basis in order that the ratio of such Service Level Credits to the At Risk Amount is not changed by such adjustment.
- (k) The Uninterruptible Services shall consist of the Services designated as either an IT Uninterruptible Service or Other Uninterruptible Service in the far left column of the table in Paragraph 4.

## **2. Definitions**

Capitalized terms used in this Schedule will have the meanings set forth in this Paragraph 2. Capitalized terms not defined in this Schedule shall have the meanings set forth in Schedule A or otherwise in this Agreement.

- (a) “**Average Annual Fee**” means the average aggregate annual Fees payable under this Agreement, calculated at the end of each Contract Year based upon the Fees payable during such Contract Year, including Inflation, taking into account any and all adjustment to the Fees made pursuant to Change Orders but excluding credits granted by the Service Provider to the Province during such Contract Year.
- (b) “**At Risk Amount**” means \$350,000, as adjusted pursuant to Paragraph 1(h) above.
- (c) “**Critical Items**” mean any incident or situation that could lead to service level failure, be harmful to the Province’s or the Service Provider’s reputation or have material importance to any of the Province Customers or Stakeholders.
- (d) “**Full Service State**” means that the system is capable of and achieving all Service Level Requirements in respect of it.

- (e) **“Health Authorities”** mean the governing bodies with responsibilities for the planning, coordination and delivery of regional health services, including hospital, long term care and community services.
- (f) **“IVR”** means interactive voice response.
- (g) **“MSP Payment Cycle”** means the scheduled monthly payment cycle used in connection with the Services whereby a payment is deposited with the payee on the 15<sup>th</sup> or closest proceeding Business Day and the last Business Day of each month.
- (h) **“Payment Period”** means, in respect of the Medical Services Plan, a MSP Payment Cycle period, or, in respect of pharmacies, the weekly payment cycle period used in connection with PharmaCare services.
- (i) **“PharmaNet Professional and Software Compliance Standards Library”** means the reference material for all connections to the PharmaNet system, which is housed on the Province’s website.
- (j) **“Primary Care”** means the alternative payment program for general practitioners as described in Section 2.2 of the Services Schedule.
- (k) **“Quality Adjudication”** refers to the level of accuracy in manual claims adjudication and pre-authorizations processing. The results are measured through the Service Provider's quality assurance testing methodology.
- (l) **“SLR Failure”** means any failure of the Service Provider to meet or exceed a Service Level Requirement.
- (m) **“Service Level Report”** means a monthly report to be provided by the Service Provider to the Province in accordance with Schedule H which:
  - (i) communicates the results of each Achieved Service Level and any and all failures of the Service Provider to meet or exceed Service Levels (including, for greater certainty, SLR Failures) during the past six months;
  - (ii) provides a detailed explanation for each such failure, if any; and
  - (iii) allows the Province to verify the Service Provider's performance and compliance with the Service Levels and to identify trends.

The Service Level Report shall be in the form as the Province may reasonably require from time to time.

- (n) **“Services Schedule”** means the schedule describing the Services attached to the Agreement as Schedule E.

### **3. Interpretation**

References to Paragraphs in this Schedule shall refer to the paragraphs of this Schedule. All times and dates set out in this Schedule shall be determined in accordance with Pacific Standard Time or Pacific Daylight Savings Time, as applicable.

### **4. Service Level Requirements**

The Parties agree that the following principles shall apply in respect of Service Level Requirements:

- (a) Only completed, submitted documents will be measured when determining Achieved Service Levels;
- (b) The Service Level Requirements for processes, namely the service functions numbered 1 to 6 in the table below, shall only be amended by mutual agreement of the Parties as a result of Transformation or as otherwise contemplated in respect of Service Level amendments in the Agreement;
- (c) The Service Level Requirement for service function number 19 in the table below excludes downtime due to scheduled maintenance as mutually agreed by the Parties and outages due to a Force Majeure;
- (d) The Service Level Requirements for systems, namely the service functions numbered 20 to 25 in the table below, exclude downtime due to scheduled maintenance (i.e. maintenance windows) as mutually agreed by the Parties and outages due to a Force Majeure;
- (e) The Service Level Requirements for each of service functions for systems, namely the service functions numbered 20 to 25 in the table below, are to be measured on a Contract Year basis and a SLR Failure will occur each time a system outage exceeds four hours or eight hours, as applicable, during the Contract Year provided that:
  - (i) for service function 20 the Service Provider must first incur a SLR Failure for exceeding the 8.76 hours (in aggregate) of permitted system downtime during the Contract Year; and
  - (ii) for service functions 23, 24 and 25 the Service Provider must first incur a SLR Failure for exceeding the 43.8 hours (in aggregate) of permitted system downtime during the Contract Year; and
- (f) Any Phase-In Date set out for a service function in the table below will apply to each Service Level Requirement in respect of such service function which makes reference to a Phase-In Date.

The following table sets out the Service Level Requirements and their corresponding Service Level Credits for certain Services:

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES	PHASE-IN DATE	SERVICE LEVEL CREDITS (INITIAL)
<b><u>Registration:</u></b>				
1. Medical Providers	Section 2.1	99% within 2 Business Days	N/A	\$23,500
2. Pharmacies	Section 3.7	99% within 2 Business Days	N/A	\$23,500
3. MSP Enrolment – OTHER UNINTERRUPTIBLE SERVICE	Section 1.1	70% within 20 Business Days prior to the Phase-In Date, 80% within 10 Business Days as of the Phase-In Date  96% within 40 Business Days prior to the Phase-In Date, 99% within 20 Business Days as of the Phase-In Date	3 calendar months after the Hand-Over Date	\$23,500  \$47,500
4. MSP Premium Assistance	Section 1.1	60% within 20 Business Days prior to the Phase-In Date, 80% within 10 Business Days as of the Phase-In Date  90% within 40 Business Days prior to the Phase-In Date, 99% within 20 Business Days as of the Phase-In Date	3 calendar months after the Hand-Over Date	\$23,500  \$47,500
5. Fair PharmaCare Paper Registration	Section 3.7	80% within 2 Business Days 99% within 5 Business Days	N/A	\$23,500 \$47,500
6. Beneficiary Account Maintenance	Section 1.1	40% within 40 Business Days prior to the Phase-In Date, 80% within 10 Business Days as of the Phase-In Date  75% within 180 Business Days prior to the Phase-In Date, 99% within 20 Business Days as of the Phase-In Date	3 calendar months after the Hand-Over Date	\$47,500  \$47,500

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES	PHASE-IN DATE	SERVICE LEVEL CREDITS (INITIAL)
7. Non-imaged (documents that do not require permanent retention or paper size not compatible with imaging system – high volume/low complexity)	Section 1.1	90% within 20 Business Days prior to the Phase-In Date, 80% within 10 Business Days as of the Phase-In Date  99% within 30 Business Days prior to the Phase-In Date, 99% within 20 Business Days as of the Phase-In Date	3 calendar months after the Hand-Over Date	\$23,500  \$47,500
8. Provider Account Maintenance	Section 2.1	80% within 5 Business Days; 99% within 10 Business Days	N/A	\$23,500 \$47,500
<b><u>Telephone Inquiry Services (average queue time to a Customer Service Representative (CSR))</u></b>				
9. Beneficiaries	Sections 1.2, 1.5, 2.15, 2.16 and 3.14	Less than 3 minutes (during 8:00 am – 4:30 pm, averaged monthly)	N/A	\$47,500
10. Provider	Section 2.13, 2.14, 3.13 and 4.8	Less than 1 minute (during 8:00 am – 4:30 pm), averaged monthly	N/A	\$23,500
11. Busy rate	Sections 1.2, 1.5, 2.14, 2.15, 2.16, 3.13, 3.14 and 4.8	Less than or equal to 2% (during 8:00 a.m. – 4:30 p.m. averaged monthly)	N/A	\$23,500
12. In-province auto adjudicated claims	Sections 2.4 and 4.8	96.5% within the next MSP Payment Cycle prior to CAPS implementation 98.5% within 2 <sup>nd</sup> MSP Payment Cycle prior to CAPS implementation 99% within the next MSP Payment Cycle after the implementation of CAPS	N/A	\$23,500 \$47,500 \$47,500

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES	PHASE-IN DATE	SERVICE LEVEL CREDITS (INITIAL)
13. In-province manually	Section 4.8	<p>23% within 4 Payment Periods and 80% within 8 Payment Periods prior to the Phase-In Date, 50% within 4 Payment Periods from the Phase-In Date until the implementation of CAPS, 90% within 2<sup>nd</sup> scheduled Payment Cycle after the implementation of CAPS</p> <p>99% within 14 Payment Periods prior to the Phase-In Date, 90% within 8 Payment Periods from the Phase-In Date until the implementation of CAPS, 99.5% within 60 calendar days from date of receipt after the implementation of CAPS</p>	3 calendar months after the Hand-Over Date	<p>\$23,500</p> <p>\$47,500</p>
14. Out-of-country claims (non peak)	Section 2.6	<p>95% within 7 Payment Periods prior to the Phase-In Date, 80% within 4 Payment Periods from the Phase-In Date until the implementation of CAPS, 90% within 2 Payment Cycles after the implementation of CAPS</p> <p>95% within 6 Payment Periods from the Phase-In Date until the implementation of CAPS, 99% within 4 Payment Cycles after the implementation of CAPS</p>	3 calendar months after the Hand-Over Date	<p>\$47,500</p> <p>\$47,500</p>



SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES	PHASE-IN DATE	SERVICE LEVEL CREDITS (INITIAL)
15. Out-of-country claims (peak – March, April & May)	Section 2.6	95% within 7 Payment Periods prior to the Phase-In Date, 70% within 4 Payment Periods from the Phase-In Date until the implementation of CAPS, 90% within 3 Payment Cycles after the implementation of CAPS  90% within 6 Payment Periods from the Phase-In Date until the implementation of CAPS, 99% within 4 Payment Cycles after the implementation of CAPS	3 calendar months after the Hand-Over Date	\$23,500  \$47,500
<b><u>MSP Provider Pre-authorizations including notification:</u></b>				
16. Routine	Section 2.8	Within 5 Business Days	N/A	\$23,500
17. Complicated	Section 2.8	Within 10 Business Days	N/A	\$23,500
18. New Care Card issuance	Section 1.1	99% sent prior to eligibility of benefits	N/A	\$47,500
19. Health Care Practitioner and Pharmacy payments – Data files transmitted by the Service Provider to the Province to approve and distribute payments (excluding specific situations where Office of the Controller General (British Columbia) is not available to receive the transmission of the file)	Sections 2.3, 3.1, 3.6 and 4.8	MSP claims payments: mid and end of month – 100% on time issued. Pharmacy: weekly - 100% issued on time.	N/A	\$71,500
<b><u>Systems availability:</u></b>		<b><u>These measures are per Contract Year:</u></b>		
20. PharmaNet Helpdesk – OTHER UNINTERRUPTIBLE SERVICE	Section 3.13	24/7 99.9% of the Contract Year (i.e. 8.76 hours of downtime permitted per Contract Year) with no single outage > 4 hours after total downtime > .1% during the Contract Year	N/A	\$47,500

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES	PHASE-IN DATE	SERVICE LEVEL CREDITS (INITIAL)
21. PharmaNet Systems – IT UNINTERRUPTIBLE SERVICE	Section 3.1	24/7 - No single outage > 4 hours.	N/A	\$47,500
22. Teleplan Applications accepting claims –IT UNINTERRUPTIBLE SERVICE	Sections 2.3 and 4.8	24/7 - No single outage > 4 hours.	N/A	\$47,500
23. Fair PharmaCare IVR Application and Web Registration – IT UNINTERRUPTIBLE SERVICE	Section 3.7	24/7 99.5% per Contract Year (i.e. 43.8 hours of downtime permitted per Contract Year) with no outage greater than 4 hours of provided that such 4 hour standard is realized through system recovery testing during Transition, but if not realized upon reasonable commercial efforts made to do the same, then with no outage greater than 8 hours.	N/A	\$23,500
24. IVR Travel Assistance Program Application – IT UNINTERRUPTIBLE SERVICE	Section 1.4.	24/7 99.5% per Contract Year (i.e. 43.8 hours of downtime permitted per Contract Year) with no outage greater than 4 hours of provided that such 4 hour standard is realized through system recovery testing during Transition, but if not realized upon reasonable commercial efforts made to do the same, then with no outage greater than 8 hours.	N/A	\$23,500
25. Self service options (web) and other IVR Applications	Item #13 in General Responsibilities and Principles and Section 1.1	24/7 99.5% per Contract Year (i.e. 43.8 hours of downtime permitted per Contract Year) with no outage greater than 8 hours of total downtime.	N/A	\$23,500
26. Quality Adjudication	Sections 2.5, 2.6, 2.8 and 4.8	Minimum of 98% accuracy	N/A	\$47,500
27. Notification of Critical Items (i.e. information breaches)	Item #9 in General Responsibilities and Principles	2 hours (for initial unconfirmed notice)	N/A	\$47,500

## 5. Service Level Objectives

The Parties agree that the following principles shall apply in respect of Service Level Objectives:

- (a) Only completed, submitted documents will be measured when determining Achieved Service Levels;
- (b) All references to abandonment rate and the average speed of answer will be based on a monthly average; and
- (c) All Service Level Objectives in respect of documents will be measured from the date of receipt by the Service Provider.

The following table sets out the Service Level Objectives for certain Services:

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
<b><u>Registration:</u></b>		
1. MSP Beneficiary Registration and Account Maintenance Services	Section 1.1	95% of replacement CareCards will mailed within 10 Business Days
2. MSP Beneficiary Telephone Inquiry Service	Section 1.2	Abandonment rate < 5% when abandoned after 30 seconds Average speed of answer – 90% four rings 100% 6 rings
3. SP Beneficiary IVR Services	Section 1.3	24/7 availability 99.5% per Contract Year (i.e. 43.8 hours of downtime permitted per Contract Year) with no outage greater than 4 hours (excludes downtime due to scheduled maintenance as mutually agreed by the Parties and outages due to a Force Majeure)
4. MSP Beneficiary Travel Assistance Program Automated IVR Service	Section 1.4	24/7 availability 99.5% per Contract Year (i.e. 43.8 hours of downtime permitted per Contract Year) with no outage greater than 4 hours (excludes downtime due to scheduled maintenance as mutually agreed by the Parties and outages due to a Force Majeure)

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
5. MSP Beneficiary Travel Assistance Program – CSR support	Section 1.5	Abandonment rate < 5% when abandoned after 30 seconds Average speed of answer – 90% four rings 100% 6 rings Requests are processed within one Business Day
6. MSP Provider Registration and maintenance of the Provider Information Database	Section 2.1	Information kits are mailed within 2 Business Days following application processing
7. MSP Non-Fee for Service Payments	Section 2.2	Applications and assignment forms are processed within 5 Business Days Payment requests from the Ministry to Health Authorities and Primary Care sites are processed within one Business Day Medical Advisor Sessional and travel expenses are paid within one Payment Cycle
8. MSP Provider Electronic Claims Submission and Payment System	Sections 2.3 and 4.8	Annual availability 99.9% (excludes downtime due to scheduled maintenance as mutually agreed by the Parties and outages due to a Force Majeure) If primary site failure requires a fail over to the BCP site, the system files and data must be restored to a point that processing can resume within 12 hours and to Full Service State within 48 hours Service interruption must be restored within one Business Day The Payment Cycle is mid and end of month – 100% on time Paper claims are processed within 10 Business Days of receipt by the Service Provider
9. MSP Automated claims business rules	Sections 2.4 and 4.8	Continuous development and implementation of appropriate automated rules

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
10. MSP Provider Manual In-province claims adjudication – including reciprocal and third party claims	Sections 2.5 and 4.8	Decisions on disputed claims are implemented within 10 Business Days of receipt by the Service Provider
11. MSP Provider Manual Out of Country travel claims adjudication	Section 2.6	Reimbursement to Extended Health Insurers – processed within 4 Payment Cycles Processes outcomes of appeals within 10 Business Days of receipt from Province
12. MSP Provider Out of Province/Country Pre-authorizations	Section 2.7	Routine completed applications are prepared and referred to Province within 5 Business Days Complex completed applications are prepared and referred to Province within 10 Business Days Requests for additional information is processed within 3 Business Days Payments and notification letter are processed within 10 Business Days of receipt of completed claim
13. MSP Provider Pre-authorizations	Section 2.8	Processes outcomes of appeals within 10 Business Days of receipt from Province
14. MSP Provider Retroactive Payment Adjustments	Sections 2.9 and 4.8	Retroactive payment adjustments processed within 6 weeks of notice from Province to proceed

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
15. MSP Provider Online Payment Schedule Amendments	Sections 2.10 and 4.8	Low volume/low impact – one Business Day (not including any effort to implement automated adjudication business rules if required) Medium volume/medium impact - 5 Business Days (not including any effort to implement automated adjudication business rules if required) Large volume/high impact – 20 Business Days (not including any effort to implement automated adjudication business rules if required)
16. MSP Provider Payment Advances	Sections 2.11 and 4.8	Advances are processed within the current payment cycle and usually recovered within two payment cycles
17. MSP Provider Overage Claims Requests	Sections 2.12 and 4.8	Routine requests are processed within 20 Business Days
18. MSP Provider Inquiry Management Coverage (IVR)	Sections 2.13 and 4.8	24/7 availability 99.5% per Contract Year (i.e. 43.8 hours of downtime permitted per Contract Year) with no outage greater than 4 hours (excludes downtime due to scheduled maintenance as mutually agreed by the Parties and outages due to a Force Majeure)
19. MSP Teleplan Support Centre	Sections 2.14 and 4.8	Abandonment rate < 5% when abandoned after 30 seconds Average speed of answer – 90% @ four rings 100% @ 6 rings
20. MSP Provider Claims Billing Support	Sections 2.15 and 4.8	Abandonment rate < 5% when abandoned after 30 seconds Average speed of answer – 90% @ four rings 100% @ 6 rings

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
21. MSP Provider General Public Inquiry Support	Sections 2.16 and 4.8	Abandonment rate < 5% when abandoned after 30 seconds Average speed of answer – 90% @ four rings 100% @ 6 rings
22. MSP Provider General Correspondence	Sections 2.17 and 4.8	90% of all general correspondence is processed within 20 Business Days from receipt 99% of all general correspondence is processed within 40 Business Days from receipt
23. PharmaCare Automated Claims Submission	Section 3.1	Annual availability 99.9% (excludes downtime due to scheduled maintenance as mutually agreed by the Parties and outages due to a Force Majeure) System response time (to process a transaction) less than 2.5 seconds 97% of the time Network response time less than 2.5 seconds on the Province's standard 19.2 network (e.g. the total transaction time from the time a client submits a request to the time it is processed and the appropriate acknowledgement is visible to the client is 5 seconds)
24. PharmaCare Manual Claims Processing (offline)	Section 3.2	Adjudication – 90% within 2 weeks – 99% within 4 weeks
25. PharmaNet Tables Administration	Section 3.3	Drug prices, Low Cost Alternatives shortages – real time Production tables updated within 1 Business Day Other updates processed within 10 Business Days
26. PharmaNet External Software Compliance Testing	Section 3.4	Complies with the Pharma Net Professional and Software Compliance Standards Library

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
27. PharamaCare Pre-authorizations	Section 3.5	<p>Pre-authorization letters prepared and mailed within 7 Business Days</p> <p>Creates and forwards the data file to be used by the Ministry of Finance to issue payments within 7 Business Days of receiving Province Approval</p>
28. PharmaCare Plan Registration Services	Section 3.7	<p>Palliative Care registrations processed within 1 Business Day</p> <p>Consent forms processed within 2 Business Days</p> <p>Pharmacy registrations – 99% within 2 Business Days</p> <p>Process Emergency Department and Medical Practice access to PharmaNet within 2 Business Days of receiving the request</p> <p>Process Pharmacy Access request received from the College of Pharmacist within 1 Business Day to initiate work orders for connection site</p> <p>Complete work orders for the date service requested providing 20 Business Days notice</p> <p>Multi-language services in Mandarin, Punjabi and Cantonese during the hours of 9:00 a.m. to 3:30 p.m. and any calls received outside of those hours will have call back service within 24 hours of receipt of call with IVR enabling the bilingual message to be left with commitment to return call within 24 hours</p>



SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
29. Fair PharmaCare (FP) Administrative Review Process	Section 3.8	<p>Urgent cases are handled in real time</p> <p>Incomplete registrations, errors and exceptions are processed within 2 Business Days when patient access to medication is impacted. All others are processed within 10 Business Days</p> <p>Eligibility problems are processed within 2 Business Days. Urgent cases are handled in real time</p> <p>Consent revocations are processed within 10 Business Days</p> <p>Annual automated retroactive payments are processed by end of May each year</p> <p>Individual requests for early retroactive payments are processed within 10 Business Days</p> <p>Appeals processed within 5 Business Days</p> <p>Follow up with client on incomplete appeals within 5 Business Days</p> <p>Second time appeal requests are forwarded to the Province with case background within 10 Business Days of receipt</p>
30. Fair PharmaCare Income Verification Process	Section 3.9	<p>Automated income verification process is scheduled weekly. Prior to annual renewal the process is scheduled more frequently</p>
31. PharmaCare Restricted Claimant Program	Section 3.10	<p>Approved restriction and notification letter processed within 5 Business Days</p> <p>Temporary restriction change processed in real time</p> <p>Changes to approved restriction processed in real time</p>
32. PharmaCare Adjudication Rule Changes	Section 3.11	<p>Processes routine updates within 2 Business Days</p>

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
33. PharmaCare General Correspondence	Section 3.12	<p>Blood glucose strip certificates processed within 1 Business Day</p> <p>Third Party Insurer requests processed within 5 Business Days</p> <p>Out of Province requests processed with 5 Business Days unless required sooner</p> <p>90% of all general correspondence is processed within 20 Business Days from receipt</p> <p>99% of all general correspondence is processed within 40 Business Days from receipt</p>
34. PharmaCare Help Desk – Pharmacists and other Service Providers	Section 3.13	<p>Average speed of answer – 90% @ four rings 100% @ 6 rings</p>
35. PharmaCare General Public Inquiry Services	Section 3.14	<p>Abandonment rate &lt; 5% when abandoned after 30 seconds</p> <p>Average speed of answer – 90% @ four rings 100% @ 6 rings</p>
36. Province initiated registrations and payments	Section 4.1	<p>Processes all requests within the timelines provided by the Province. If no, timelines provided, processes the request within the Service Level Objectives stated in this Schedule for the type of transaction.</p>
37. Province Customers and Stakeholders Communications	Section 4.2	<p>Improved understanding of program</p> <p>Minimal repeat requests for information</p> <p>Fewer individuals require information – more uptake from group administrators for self service options enable reduced reliance on personal services from the Service Provider</p>
38. Document Inventory	Section 4.3	<p>No unprocessed inventory older than 30 Business Days, excluding any aged inventory transferred from the Province to the Service Provider on the Hand-Over Date which is older than 30 Business Days as of the Hand-Over Date</p> <p>All applicable documents are archived on schedule per ORCS</p>

SERVICE FUNCTION	SERVICE SCHEDULE REFERENCE	MEASURES
39. Document Scanning	Section 4.4	Within 3 Business Days of receipt
40. Province Access and Reports	Section 4.5	Provides access to required systems/applications within 2 Business Days of request Withdraws access within 1 Business Day of request Produces standard and ad hoc reports within timeline requested
41. Information Requests	Section 4.6	95% of Personal Information requests are processed within 20 Business Days 95% ICBC requested listings are processed within 20 Business Days All Province requests are processed within the time period required
42. Policy and Procedures (Operations) Manuals	Section 4.7	Procedures manuals are comprehensive and in a current state Updates as a result of policy changes are made within 5 Business Days of receiving approval

For greater certainty, other Service Level Objectives may exist from time to time pursuant to the Agreement including, without limitation, pursuant to Section 8.5 of the Agreement.

## **6. Monitoring and Reporting**

Unless otherwise specified in this Agreement, each Service Level will be measured by the Service Provider on a monthly basis. Without limiting more immediate reporting requirements, the Service Provider will provide to the Province, as part of the Service Provider's monthly deliverables in accordance with Schedule H, a Service Level Report. The Service Provider will provide the Province with direct data access to all Service Level Reports produced by the Service Provider and all of the raw data and detailed supporting information for each Service Level Report. For greater certainty, the Service Provider shall provide sufficient access and system resources to the Province to allow the Province to generate its own reports from such data.

No less frequently than once in each Contract Year nor more frequently than twice in each Contract Year, the Province and the Service Provider will review the Service Levels to ensure they continue to remain appropriate. Such review shall be conducted by the Joint Steering Committee and shall be approved by the Joint Executive Committee upon completion.

## **7. Service Level Failures**

If the Service Provider fails to meet a Service Level in respect of the performance of a Service, the Province shall be entitled to exercise all its rights and remedies provided to it in this Agreement, including, without limitation, the particular remedies set out in this Schedule and in Articles 8 and 21 of this Agreement.

## **8. Service Level Credits**

The Service Provider will issue a Service Level Credit to the Province for every SLR Failure that occurs in a particular month of the Term on the basis set forth below.

- (a) For each SLR Failure occurring in a particular month, the Service Provider will credit the Province the corresponding Service Level Credit for the Service Level Requirement in respect of which the SLR Failure occurred set out in the table in Paragraph 4.
- (b) The Service Level Credits will be aggregated for all missed Service Levels Requirements in the applicable month and credited to Province, provided such Service Level Credits shall not exceed the At Risk Amount in such month.
- (c) If a SLR Failure in respect of a particular Service Level Requirement occurs in consecutive months, the Service Level Credit for such Service Level Requirement will be multiplied by one and half (1.5) times, on a cumulative basis, when calculating the Service Level Credit resulting from such SLR Failure for each consecutive month.
- (d) On the occurrence of three or more SLR Failures in respect of a particular Service Level Requirement within a six month period of the Term, the Service Level Credit for such Service Level Requirement will be multiplied by one and half (1.5) times, on a non-cumulative basis, when calculating the Service Level Credit that results from each such SLR Failure that occurs after the second SLR Failure within such six month period.
- (e) In no event will the amount of Service Level Credits credited to the Province with respect to all SLR Failures occurring in a single month of the Term exceed, in total, the At Risk Amount.
- (f) If one event causes SLR Failures in respect of multiple Service Level Requirements in a particular month of the Term, only the largest Service Level Credit among the Service Level Credits for the Service Level Requirements in respect of which the SLR Failures occurred will be credited to the Province in such month.
- (g) In event that 25% of the total possible Service Level Credits for a month are calculated for three months out of any six month period during the Term, such failure shall be deemed to be a Material Breach for the purposes of this Agreement.

- (h) The Province will have the right, on 90 days notice, but no more than twice each Contract Year to adjust the Service Level Credits amounts set out in the far right column of the table in Paragraph 4 as long as the aggregate monthly Service Level Credits to which Province is eligible hereunder do not exceed three times the At Risk Amount. For greater certainty, any such adjustment will not be subject to the Change Request Process in Article 7 of this Agreement.
- (i) The total amount of Service Level Credits that the Service Provider will be obligated to credit against Fees payable by the Province to the Service Provider, with respect to SLR Failures occurring each month shall be reflected on monthly invoices issued by the Service Provider to the Province. Each Service Level Credit will be reflected on the invoice for the second subsequent month after the month in which the SLR Failure giving rise to such Service Level Credit occurred unless such SLR Failure becomes subject to the review process set out in Paragraph 10(b), in which case, the Service Level Credit will be reflected on the next monthly invoice issued by the Service Provider after the Province makes its decision whether or not to waive any of its rights based on the recommendations of the Joint Steering Committee.

## **9. Service Level Adjustments**

The Province may issue a Change Request to:

- (a) add to, delete or change the Services to be measured and/or the corresponding Service Levels for such Services, as the case may be, to reflect changes in Service delivery operations; and
- (b) increase the existing Service Levels, where warranted, to reflect operational or technical improvement in delivery of the Services;

in accordance with the Change process set out in Article 7 of this Agreement. The Service Provider will use reasonable commercial efforts to implement any changes to the Services to be measured or the Service Levels which result from such process, in a diligent and expeditious manner in accordance with Article 7 of this Agreement.

## **10. Excused Performance**

- (a) The Service Provider shall not be responsible for a failure to meet one or more Service Levels, and shall not be required to pay Service Level Credits or be subject to any remedy by the Province under this Agreement including any right to terminate this Agreement, to the extent and only to the extent such failure is directly attributable to any of the following and not due to a failure of the Service Provider to perform its obligations under this Agreement:
  - (i) the actions or acquiescence of the Province;
  - (ii) the actions or acquiescence of the Service Provider, where such actions or acquiescence were expressly directed by the Province and the Service

Provider had provided prior notice in writing to the Province that such actions or acquiescence could result in such failure; or

- (iii) an event of Force Majeure provided that the Service Provider complies with its obligations in Article 24 of this Agreement.
- (b) If a Service Level Report shows an unusual circumstance occurred in connection with a SLR Failure, the Service Provider may require that the Joint Steering Committee consider the unusual circumstance and recommend whether or not the Service Provider should be relieved of its obligations arising from the SLR Failure because of the unusual circumstance. Based on the review of the unusual circumstance conducted by the Joint Steering Committee and its recommendations in respect thereof, the Province may, in its sole discretion, waive the Service Provider's obligation to provide Service Level Credits in respect of such SLR Failure or any other of the Province's rights pursuant to this Agreement.
- (c) If a failure to meet one or more Service Levels is directly attributable to the termination of this Agreement where such termination is a result of termination by the Province for convenience or results from no fault of the Service Provider, the Service Provider may require that the Joint Steering Committee consider such failure and recommend whether the Service Provider should be relieved of its obligations arising from the SLR Failure. Based on the review of the failure conducted by the Joint Steering Committee and its recommendations in respect thereof, the Province may, in its sole discretion, waive the Service Provider's obligation to provide Service Level Credits in respect of such failure or any other of the Province's rights pursuant to this Agreement.

## **11. Cooperation**

The achievement of the Service Levels by the Service Provider may require the coordinated, collaborative effort of the Service Provider with its Subcontractors and Suppliers. The Service Provider will provide a single point of contact for the prompt resolution of all Service Level failures and all failures to provide high quality Services to the Province, regardless of whether the reason for such Service Level failures, or failure to provide high quality Services to Province, was caused by a Subcontractor or Supplier.

## **SCHEDULE G**

### **KEY ROLES**

1. The Parties agree that the following staff positions shall be Key Roles:
  - (a) General Manager of the Service Provider – an individual responsible for overall management of the health benefit operations project;
  - (b) Disaster Recovery Manager - an individual responsible for leading Disaster/Recovery/Business Continuity activities;
  - (c) Complex Claims Lead/Supervisor – an individual responsible for overseeing all manual claims processing and ensuring that business and technology meet policy and legislative requirements and for being also the point person for hand-offs to the Province or inquiries from the Province regarding manual claims;
  - (d) Quality Assurance Supervisor – an individual responsible for taking the lead on the development and coordination of quality management/quality assurance activities;
  - (e) Privacy, Security and Compliance Officer – an individual responsible for ensuring that privacy and security issues are in compliance with this Agreement, Applicable Laws and Policies;
  - (f) Data Guardian – an individual responsible for electronic data management including data bases, security, data access, collection and release;
  - (g) WCB/ICBC Liaison Manager – an individual responsible for liaison with WCB and ICBC for the provision of Services;
  - (h) Policy Liaison – an individual responsible for ensuring services and technology (e.g. business edits) are compliant with Applicable Laws and Policies and changes to technology and business processes continue to meet requirements and for being the key contact for data analysis requests (e.g. policy impact analyses);
  - (i) IT Support Director – an individual responsible for management and oversight of data centres, application development and application maintenance;
  - (j) Operations Director – an individual responsible for management and oversight of beneficiary and provider services, and document services;
  - (k) Finance and Administration Manager – an individual responsible for financial management, facilities management, human resources support and desktop support; and

- (l) Program Support Services Manager – an individual responsible for quality management, change management, training, performance monitoring and business analysis.
2. The Service Provider will provide as a Transaction Document a list of the names and telephone numbers for each incumbent in a Key Role.
3. The Service Provider will notify the Province prior to changing any of the incumbents in Key Roles. For greater certainty, the Service Provider shall make all changes to incumbents in Key Roles in accordance with Article 10.9 of this Agreement.



## SCHEDULE H

### ONGOING DELIVERABLES

#### 1.0 PLANS AND REPORTS DUE FROM THE SERVICE PROVIDER

The following table sets out plans, reports and other deliverables to be prepared or caused to be prepared by the Service Provider pursuant to this Agreement (as such plans, reports and other deliverables are modified in accordance with Article 11 of the Agreement):

Item	Description	Frequency
<b>Plans</b>		
Transition Plan	<ul style="list-style-type: none"> <li>The Initial Transition Plan will be attached to this Agreement as Schedule B and will be as described in Article 3 of this Agreement.</li> <li>The Working Transition Plan will be as described in Article 3 of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>Initial Transaction Plan due on the Effective Date.</li> <li>Working Transaction Plan is due 60 days after the Effective Date.</li> </ul>
Communication Plan	<ul style="list-style-type: none"> <li>This plan will be attached to this Agreement as Schedule K and will outline protocols for communication for various types/reasons of communication including internal, external, <i>Freedom of Information and Privacy Act</i> (FOI) requests, brochures, Interactive Voice Response scripts, Service Provider broadcast messages, media releases and Ministerial inquiries.</li> </ul>	<ul style="list-style-type: none"> <li>The Communication Plan is due on the Effective Date, and shall be updated in the manner contemplated therein.</li> </ul>
Disaster Recovery/Business Continuity Plan	<ul style="list-style-type: none"> <li>This plan will provide a detailed back up and recovery plan in the event of a major problem or disaster to ensure minimal interruption to the Services and will expressly address all Force Majeure events and Labour Disputes.</li> <li>This plan will be an update of the Province's existing Disaster Recovery/Business Continuity</li> </ul>	<ul style="list-style-type: none"> <li>On or before the Hand-Over Date as part of the Transition Services, the Service Provider will review the Province's existing Disaster Recovery/Business Continuity Plans as set forth in Schedule M attached to this</li> </ul>

	<p>Plans as set forth in Schedule M attached to this Agreement.</p> <ul style="list-style-type: none"> <li>• This plan will include a business continuity plan for the purpose of mitigating any undue exposure to the Service Provider's ability to continue conducting its business and providing the Services in the normal course in the event of any emergency, crisis, Labour Dispute or Force Majeure event and, within 12 months of the Hand-Over Date, a form of Termination Assistance Plan that could reasonably be used as a basis for developing a more complete version of such plan in the manner contemplated in Article 22.</li> <li>• This plan will also incorporate all reasonable suggestions provided by the Province in respect of such plan.</li> </ul>	<p>Agreement and will update such plans as reasonably determined by the Service Provider and Approved by the Province.</p> <ul style="list-style-type: none"> <li>• This plan is to be tested by the Service Provider within six months of the Hand-Over Date and to be reviewed on a annual basis in accordance with Section 6.6 of this Agreement.</li> <li>• This plan may be revised pursuant to Section 6.6 of this Agreement.</li> </ul>
Risk Management Plan	<ul style="list-style-type: none"> <li>• This plan will document the activities and procedures used to manage risk throughout the Term and identify who is responsible for managing various areas of risk, how risks will be tracked throughout the Term, how contingency plans will be implemented and where applicable, how financial reserves will be allocated to handle risk.</li> <li>• This plan will incorporate operational and financial risks and mitigation plans.</li> <li>• This plan will updated and maintained by the Service Provider.</li> </ul>	<ul style="list-style-type: none"> <li>• Due 14 days after the Effective Date.</li> <li>• Modified as required.</li> </ul>

Training Plan	<ul style="list-style-type: none"> <li>• This plan describes the training budget, plans, certification programs, orientation procedures for Service Provider Personnel.</li> <li>• This plan is to ensure achievement of privacy, business, service and quality objectives.</li> </ul>	<ul style="list-style-type: none"> <li>• Due prior to the Hand-Over Date.</li> <li>• Modified as required – e.g. as new systems are implemented or as processes are modified.</li> </ul>
Procedures and Training Manuals	<ul style="list-style-type: none"> <li>• The operational procedures Manual is as described in Section 6.15 of this Agreement.</li> <li>• Training manuals are reference materials used for training and reference by MAXIMUS Group staff. Such training manuals shall form part of the Manual.</li> </ul>	<ul style="list-style-type: none"> <li>• An interim operational procedures manual, subject in form and substance to the Province's Approval, is due no later than four months after the Effective Date.</li> <li>• The Manual is due no later than the end of the Transition Period.</li> <li>• The Manual is to be updated to reflect changes in the operations or procedures.</li> <li>• The training manuals are due prior to the Hand-Over Date.</li> <li>• The training manuals are to be updated as required.</li> </ul>
WIP Plan	<ul style="list-style-type: none"> <li>• This plan will be included in the working Transition Plan to be within 60 days of the Effective Date.</li> <li>• This Plan will contain a list of all of the WIP as determined by the Province and the Service Provider plan for transferring, financing and completing all of such WIP. It will be based on list of WIP to be provided by the Province to the Service Provider.</li> </ul>	<ul style="list-style-type: none"> <li>• Due 60 days after the Effective Date.</li> </ul>

Annual Operating Plan	<ul style="list-style-type: none"> <li>This plan will be as described in Section 11.6 of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>The first Annual Operating Plan is due on or before November 30, 2005.</li> <li>Thereafter, the Service Provider's proposed Annual Operating Plan (subject to approval of the Joint Executive Committee in accordance with Section 11.6) is due no later than 90 days prior to the commencement of the Province's annual planning cycle.</li> </ul>
Quality Management Plan	<ul style="list-style-type: none"> <li>This plan is as described in Section 6.13(d) of this Agreement and will identify procedures and methods to ensure all Services are delivered in accordance with the Agreement and all Service Levels are satisfied and continually improved upon.</li> </ul>	<ul style="list-style-type: none"> <li>Due prior to the Hand-Over Date.</li> <li>Updated as changed.</li> </ul>
Termination Assistance Plan	<ul style="list-style-type: none"> <li>This plan will be as described in Section 21.1(c) of this Agreement.</li> <li>This plan will be based on the form preliminary termination services plan included in the Disaster Recovery/Business Continuity Plan.</li> </ul>	<ul style="list-style-type: none"> <li>Form of this plan to be prepared within 12 months of the Hand-Over Date pursuant to Section 6.6(m).</li> <li>Such plan to be kept current during the Term.</li> <li>Immediately upon commencement of the Termination Assistance Period the Service Provider will develop a full and complete version of this plan in accordance with Section 21.1(c) of this Agreement, based upon form of plan in the Disaster Recovery/Business</li> </ul>

Transformation Plan	<ul style="list-style-type: none"> <li>This plan will be as described in Section 5.2 of this Agreement.</li> </ul>	<b>Continuity Plan</b> <ul style="list-style-type: none"> <li>The initial Transformation Plan is due on the Effective Date.</li> <li>The working Transformation Plan is due on or before sixty (60) days after the Hand-Over Date in accordance with Section 5.3 of this Agreement.</li> </ul>
<b>Reports and Other Documents</b>		
Financial Reports	<ul style="list-style-type: none"> <li>These reports consist of the unaudited reports described in Section 12.5 and Schedule I of this Agreement together with the audited annual financial statements of the Service Provider and MAXIMUS Canada (based on their fiscal year), including without limitation the CFO certificate described in Schedule I.</li> <li>Accounting for Profit in these reports will be in accordance with Schedule I and independent of any transfer pricing<sup>1</sup> or other profit relocation strategies.</li> </ul>	<ul style="list-style-type: none"> <li>The reports described in Section 12.5 and Schedule I of this Agreement will be provided annually within 60 days of the end of each Contract Year.</li> <li>The audited annual financial statements of the Service Provider and MAXIMUS Canada will be provided annually within 90 days of the fiscal year end of the MAXIMUS Group.</li> <li>The CFO certificate described in Schedule I will be provided within 90 days of the fiscal year end of the MAXIMUS Group.</li> </ul>

<sup>1</sup> Transfer pricing and other profit relocation strategies which shift profit from relatively high tax to relatively to low tax jurisdictions.

Service Reports	<ul style="list-style-type: none"> <li>Operational performance reports will be as described in Section 8.9 and Schedule E and Schedule F of this Agreement, including metrics, complaints, number of non-English speaking calls that could not be resolved routinely.</li> </ul>	<ul style="list-style-type: none"> <li>Subject to Section 2.0 of this Schedule, provided on a monthly basis in accordance with Section 8.9 of this Agreement or such other frequency as contemplated in this Agreement.</li> </ul>
Invoices	<ul style="list-style-type: none"> <li>Invoices will be as described in Schedule I of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>Monthly.</li> </ul>
Technology Reports	<ul style="list-style-type: none"> <li>This report is as described in Schedule J of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>As set out Schedule J of this Agreement.</li> </ul>
Change Register	<ul style="list-style-type: none"> <li>A accurate and complete record of all changes to the Services (including costs) pursuant to Article 7 of this Agreement , as described in Section 7.13 of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>Maintained by the Parties on an on-going</li> <li>The Service Provider is to make such corrections to this register as the Province may reasonably request to ensure the register is accurate and complete, in all material respects, at all times throughout the Term.</li> </ul>
Summary of all Gainsharing Activities	<ul style="list-style-type: none"> <li>Prepared by both the Service Provider and the Province independently.</li> <li>Lists all activities related to finding gainsharing or revenue opportunities for both Parties.</li> </ul>	<ul style="list-style-type: none"> <li>Annually.</li> </ul>
Inventory of Hardware/Software and Other Assets	<ul style="list-style-type: none"> <li>This report will provide an updated (valued) inventory of Designated Assets, including the capitalized amount of the hardware, software and other Dedicated Assets at the time of acquisition, as well as the unamortized amount remaining.</li> </ul>	<ul style="list-style-type: none"> <li>Inventory will be kept current by the Service Provider throughout Term.</li> <li>Inventory report is due 30 days prior to end of Termination Services Period or otherwise upon the request of the Province.</li> </ul>
Organization Structure and Key Positions	<ul style="list-style-type: none"> <li>This document will be as described in Section 10.7.</li> <li>The initial Organization Structure will be attached as</li> </ul>	<ul style="list-style-type: none"> <li>The initial Organization Structure is due on the Effective Date.</li> </ul>

	Schedule D to this Agreement.	<ul style="list-style-type: none"> <li>• Thereafter as required in accordance with Section 10.7.</li> </ul>
Quality Assurance Activities	<ul style="list-style-type: none"> <li>• These reports will provide results of all quality assurance activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Annually.</li> </ul>
Security and Privacy Incident Reports	<ul style="list-style-type: none"> <li>• These reports will detail any security and privacy breaches in accordance with Schedule X of this Agreement, including causal factors for breaches and near-breaches and the steps that were considered and steps taken to mitigate against future occurrences and risks.</li> </ul>	<ul style="list-style-type: none"> <li>• As set out in Schedule X of this Agreement.</li> </ul>
List of Key Supplier, Material Subcontractors and Key Providers	<ul style="list-style-type: none"> <li>• This list is as described in Section 16.2(r) of this Agreement.</li> <li>• The initial list is attached as Schedule U to this Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• To be updated from time to time as contemplated in Section 16.2(r) of this Agreement.</li> </ul>
Benchmarking Reports	<ul style="list-style-type: none"> <li>• These reports are as described in Section 12.9 of this Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• To be delivered upon the request of the Province as contemplated in Section 12.9 of this Agreement.</li> </ul>
Customer Satisfaction Reports	<ul style="list-style-type: none"> <li>• These reports are described in Section 8.15 of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• On or before the first anniversary of the Hand-Over Date, the Province and the Service Provider shall prepare or cause to be prepared a customer satisfaction report based on a survey of then current Province Customers and Stakeholders as contemplated in Section 8.15 of this Agreement</li> <li>• The Service Provider may prepare or cause to be prepared additional customer satisfaction survey</li> </ul>

		reports in accordance with Section 8.15 of this Agreement.
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## 2.0 TRANSITION/INITIAL REPORTING

During the initial period of the Term from the Effective Date to the date which is five months after the Hand-Over Date, the Service Provider will provide reports on the performance of the Services and of its obligations under this Agreement to the Province in substantially the same form, content and timing as the current internal reports of the Province as of the Hand-Over Date, subject to implementation of a different reporting system agreed to by the Parties pursuant to this Agreement.

## 3.0 PLANS AND REPORTS DUE FROM THE PROVINCE

The following table sets out plans, reports and other deliverables to be prepared or caused to be prepared by the Province pursuant to this Agreement:

Item	Description	Frequency
<b>Plans</b>		
Disaster Recovery/Business Continuity Plans of the Province	<ul style="list-style-type: none"> <li>These plans are the Province's current disaster recovery/business continuity plans.</li> <li>These plans will be attached to this Agreement as Schedule M.</li> </ul>	<ul style="list-style-type: none"> <li>Due on the Effective Date.</li> </ul>
<b>Reports and Other Documents</b>		
List of WIP	<ul style="list-style-type: none"> <li>List of WIP determined by the Province which is to be provided to the Service Provider for purposes of preparing the WIP Plan.</li> </ul>	<ul style="list-style-type: none"> <li>Due within 30 days of the Effective Date.</li> </ul>
Change Register	<ul style="list-style-type: none"> <li>A accurate and complete record of all changes to the Services (including costs) pursuant to Article 7 of this Agreement , as described in Section 7.13 of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>Maintained by the Parties on an on-going basis.</li> <li>The Province is to make such corrections to this register as the Service Provider may reasonably request to ensure the register is accurate and complete, in all material respects, at all times throughout the Term.</li> </ul>



Benchmarking Reports	<ul style="list-style-type: none"> <li>• These reports are as described in Section 12.9 of this Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• To be delivered upon the request of the Service Provider as contemplated in Section 12.9 of this Agreement.</li> </ul>
Customer Satisfaction Reports	<ul style="list-style-type: none"> <li>• These reports is described in Section 8.15 of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• On or before the first anniversary of the Hand-Over Date, the Province and the Service Provider shall prepare or cause to be prepared a customer satisfaction report based on a survey of then current Province Customers and Stakeholders as contemplated in Section 8.15 of this Agreement</li> <li>• The Province may prepare or cause to be prepared additional customer satisfaction survey reports in accordance with Section 8.15 of this Agreement.</li> </ul>
Systrust Reports	<ul style="list-style-type: none"> <li>• These reports are as described in Section 14.6 of this Agreement.</li> </ul>	<ul style="list-style-type: none"> <li>• Annually (for each Contract Year) as contemplated in Section 14.6 of this Agreement.</li> </ul>

## SCHEDULE I

### FEES

#### 1. General Principles

The Parties agree to the following:

- (a) This Schedule defines and describes the Fees and deal structure including the amount and timing of the payment of Fees.
- (b) The Fees are subject to possible adjustment to address Cost Overages and Cost Underages. The treatment of Costs Overages and Cost Underages is dependent on when they occur. The mechanisms for addressing these items are outlined in this Schedule.
- (c) The Province may be issued credits against Fees by the Service Provider including, without limitation, Fee Rebate Credits. If the Service Provider earns Excess Spread, the Service Provider will issue Fee Rebate Credits to the Province in accordance with a mechanism outlined in this Schedule.
- (d) This Schedule will determine the reporting elements that will be required for the calculation of adjustments to Fees.
- (e) This Schedule will determine the monthly payments to be made by the Province to the Service Provider.
- (f) This Schedule also addresses the following:
  - (i) audits with respect to Fees;
  - (ii) Termination fees; and
  - (iii) gainsharing.

#### 2. Definitions and Interpretation

Capitalized terms used in this Schedule will have the meanings set forth in this Section 2. Capitalized terms not defined in this Schedule shall have the meanings set forth in Schedule A or otherwise in this Agreement.

- (a) “**Actual Costs**” mean the actual Costs incurred by the Service Provider during the Period, reflecting any Cost Overages and Cost Underages.
- (b) “**Basic Infrastructure Fee**” means an amount that is added to the monthly Fees payable by the Province to the Service Provider in every month of the Term in which a credit is issued by the Service Provider in respect of

the Basic Infrastructure Amount. Any such amount added to the Fees for a particular month of the Term shall be equal to the amount credited by the Service Provider in respect of the Basic Infrastructure Amount for such same month.

- (c) **“Benefits”** means vacation, leave, sick leave, statutory time, medical insurance, disability insurance, pension, or other similar economic benefits directly payable with respect to and on behalf of employees.
- (d) **“Costs”** mean all Direct Costs, Overhead and G&A.
- (e) **“Cost Overages”** mean the Actual Costs that are above the Planned Amount for the applicable Period, that apply to the normal course of business and which are approved by the Joint Executive Committee.
- (f) **“Cost Underages”** mean the Actual Costs that are below the Planned Amount for the applicable Period and apply to the normal course of business.
- (g) **“Direct Costs”** mean the costs directly attributable to the provision of the Services by the Service Provider and directly incurred by the Service Provider, being the following specific costs as more particularly described in the Economic Model:
  - (i) Direct Labour Costs
  - (ii) Benefits;
  - (iii) direct out-of-pocket travel costs;
  - (iv) technology buyout costs;
  - (v) hardware and software costs;
  - (vi) Subcontractor costs;
  - (vii) miscellaneous/other costs;
  - (viii) Systems Subcontractor costs;
  - (ix) telephone usage cost;
  - (x) office copiers;
  - (xi) postage;
  - (xii) rent;
  - (xiii) tenant improvements; and

- (xiv) amortization.
- (h) **“Direct Labour Costs”** mean the salary and wages of Personnel and Non-Dedicated Staff except only to the extent of the actual portion of the salary and wages directly relating to the provision of Services under this Agreement in the case of Non-Dedicated Staff.
- (i) **“Excess Spread”** refers to Spread that is above 12.5% of Actual Costs.
- (j) **“G&A”** means the amount in respect of general and administrative expenses calculated at the fixed rate of 5% of all Direct Labour Costs, Benefits and Overhead.
- (k) **“Inflation”** means the increase in Fees other than Fees in respect of the Transformation, beginning in Contract Year 2 at the rate of 1.25% per Contract Year, compounded annually, to account for the Province’s share of the increases in Actual Costs due to inflation.
- (l) **“Interest”** means interest on any overdue amounts calculated in accordance with Section 12.2(b) of this Agreement.
- (m) **“Material Cost Overages”** means Cost Overages that are above the Planned Amount for the applicable Period by 5% or more.
- (n) **“Material Cost Underages”** mean Costs Underages that are below the Planned Amount for the applicable Period by 5% or more.
- (o) **“Non-Dedicated Staff”** means employees of MAXIMUS Group entities other than the Service Provider.
- (p) **“Overhead”** means the amount in respect of overhead calculated at the fixed rate of 10% of all Direct Labour Costs and Benefits.
- (q) **“Period”** refers to the major time intervals of the Agreement, being the Transition Period and each Contract Year during the Term.
- (r) **“Planned Amount”** means the planned fixed amount of Costs for each Period as set out in the Economic Model.
- (s) **“Special Infrastructure”** has the meaning given to it in Section 16 of this Schedule.
- (t) **“Spread”** means Fees that are in excess of Costs and where referenced as a percentage, shall be calculated as a percentage of Actual Costs, with Spread being deemed to be 7.5% of Actual Costs during the Transition Period and Years 1 and 2 for the purposes of Cost Overages and Cost Underages as more specifically set forth in this Schedule.

- (u) **“Transition Fees”** means the Fees to be paid by the Province to the Service Provider for the performance of Transition related Services, including, without limitation, the Transition Services. Subject to adjustment pursuant to Section 4 of this Schedule, such Fees shall equal \$9,140,919 in aggregate.
- (v) **“Year”** means Contract Year.

### 3. **Payment Terms**

The Parties agree to the following:

- (a) The Fees to be paid by the Province to the Service Provider pursuant to this Agreement shall, subject to adjustments and credits so contemplated in this Agreement and any Changes, be paid in accordance with Section 9 of this Schedule. During the Transition Period and Year 1 until March 31, 2005, Transition Fees shall be paid in accordance with Sections 9(b) of this Schedule. All other Fees shall be paid during each Contract Year and shall be fixed at the monthly amounts set forth in Table 1 in Section 9 of this Schedule plus the following amounts, if applicable:
  - A. the Basic Infrastructure Fee; and
  - B. reimbursable costs for Special Infrastructure as described in Section 16 below.
- (b) Fees shall be payable by the Province on a monthly basis and the amount of the Fees for a particular month will be the monthly amount for the applicable Year, as described in Sections 3(a) and 9 of this Schedule.
- (c) Any adjustments to the Fees will be subject to the provisions in this Agreement (including this Schedule)
- (d) Change Orders shall be separately priced, based on negotiated values in accordance with Article 7 of this Agreement.
- (e) Unless otherwise specifically provided in this Agreement, where amounts are credited against Fees pursuant to this Agreement they shall be offset against Fees in accordance with Section 12.6 of this Agreement.
- (f) Any unused credits, including, without limitation, Service Level Credits, owed to the Province by the Service Provider pursuant to this Agreement will be paid to the Province in accordance with Section 12.6 of this Agreement within 30 days after the expiration or termination of this Agreement.

#### **4. Adjustments to Fees For Cost Overages and Underages**

- (a) The Parties agree that the Fees shall be adjusted for Cost Overages or Cost Underages occurring in the Transition Period and Years 1 and 2 provided that:
  - (i) the Cost Overages or Cost Underages are Material Cost Overages or Material Cost Underages, as applicable;
  - (ii) the Service Provider provides written notice to the Province of such Material Cost Overages or Material Cost Underages, as applicable, as soon as reasonably possible and the same are approved by the Joint Executive Committee, with notice of the same setting forth a description and the amount of the proposed adjustment and is accompanied by the supporting information required pursuant to Section 7 of this Schedule;
  - (iii) the Service Provider's proposed adjustment to the Fees is based on Actual Costs and is calculated in a manner consistent with the determination of amounts as set forth in the Economic Model; and
  - (iv) such proposed adjustment to the Fees is approved by the Joint Executive Committee, in its sole discretion.

If the Joint Executive Committee approves a proposed adjustment to the Fees pursuant to this Section 4(a), such proposed adjustment shall be deemed to be a Change Order. For greater certainty, any decision made by the Joint Executive Committee pursuant to this Section 4(a) of this Schedule shall not be subject to the dispute resolution procedure set out in this Agreement.

- (b) An adjustment to Fees pursuant to Section 4(a) of this Schedule will be reflected on the next invoice issued by the Service Provider to the Province after the adjustment is Approved by the Joint Executive Committee. Any such adjustment shall be pursuant to this Section 4.
- (c) Transition Period, Year 1 and Year 2 Cost Overages and Cost Underages approved pursuant to Section 4(a) of this Schedule will be shared between the Parties according to the following principles and formulas, as applicable:
  - (i) Transition Period Cost Overages will be shared between the Parties, with 50% attributed to each of the Parties and Cost Underages will be shared between the Parties, with 50% credited to the Province and 50% retained by the Service Provider.

*For example if Actual Costs in the Transition Period exceed the Planned Costs for the Transition Period by \$100,000, each party will be responsible to fund the Cost Overage by \$50,000.*

- (ii) Year 1 Cost Overages will be shared between the Parties, with 40% attributed to the Province and 60% to the Service Provider and Cost Underages will be shared between the Parties, with 40% credited to the Province and 60% retained by the Service Provider.
- (iii) Year 2 Cost Overages will be shared between the Parties, with 25% attributed to the Province and 75% to the Service Provider and Cost Underages will be shared between the Parties, with 25% credited to the Province and 75% retained by the Service Provider.
- (iv) In the Transition Period, Year 1 and Year 2, the Spread will be fixed at 7.5% of the Costs budgeted in the Economic Model and Spread will not be applied to Cost Overages and will not be reduced against Cost Underages.
- (v) In the Transition Period, Year 1 and Year 2, Overhead and G&A will be applied as a fixed percentage of applicable direct Actual Costs.

## **5. Adjustment to Fees for Credits**

Fees shall in all cases be adjusted for credits in the manner contemplated in Section 12.6 of the Agreement.

## **6. Fee Rebate Credits**

If the Service Provider earns Excess Spread in Year 3 and forward during the Term calculated based upon prior Contract Years, the Service Provider will grant a rebate of future Fees to the Province according to the following principles and formulas, as applicable:

- (a) If Spread is less than or equal to 12.5%, no rebate of Fees will be granted by the Service Provider.
- (b) If Spread is greater than 12.5% and less than or equal to 15% for a Period, the Service Provider will issue to the Province a Fee Rebate Credit calculated as follow:

$$\text{Fee Rebate Credit} = 25\% \times \text{Excess Spread}$$

- (c) If Spread is greater than 15% and less than or equal to 17.5%, the Service Provider will issue to the Province a Fee Rebate Credit calculated as follow:

$$\text{Fee Rebate Credit} = (25\% \times (\text{Spread greater than 12.5\% and less than or equal to 15\%})) + (50\% \times (\text{Spread greater than 15\% and less than or equal to 17.5\%}))$$

- (d) If Spread is greater than 17.5%, the Service Provider will issue to the Province a Fee Rebate Credit calculated as follow:

$$\text{Fee Rebate Credit} = (25\% \times (\text{Spread greater than 12.5\% and less than or equal to 15\%})) + (50\% \times (\text{Spread greater than 15\% and less than or equal to 17.5\%})) + (75\% \times (\text{Spread greater than 17.5\%}))$$

- (e) For the purpose of calculating Fee Rebate Credits, Spread will be determined as the Spread of the deal to date (excluding the Transition Period, Year 1 and Year 2).

*By way of example, if a Fee Rebate Credit is payable in Year 4, the amount of such credit will be determined based on Spread earned in Year 3 calculated based upon Fees and Actual Costs for Year 3. If a Fee Rebate Credit is payable in Year 5, the amount of such credit will be determined based on Spread for Years 3 and 4 net of Actual Costs for such same Years.*

- (f) Fee Rebate Credits, if payable, will be issued to the Province by the Service Provider on a Contract Year basis commencing in Year 4 and any Fee Rebate Credit issued by the Service Provider shall be calculated based on Spread earned prior to its Year of issuance. Notwithstanding the foregoing, if this Agreement is terminated or expires and the Service Provider earns Excess Spread in the final Year or portion thereof of the Term, as applicable, the Service Provider will issue a Fee Rebate Credit to the Province in the Termination Assistance Period calculated in accordance with this Section 6 and such credit will be set off against charges for Termination Services as described in Section 22.3 of this Agreement and any other future amounts payable by the Province to the Service Provider pursuant to this Agreement.
- (g) Fee Rebate Credits will be calculated based on the Spread earned by the Service Provider to date after Year 2, net of any previous Fee Rebate Credit adjustments under this Section 6, and will be credited to the Province in accordance with Sections 12.5 and 12.6 of this Agreement.



For greater certainty, any Fee Rebate Credits issue by the Service Provider shall be set off against future Fees payable by the Province.

**7. Reporting for the Purposes of Calculating Spread, Cost Overages and Underages**

- (a) The Parties agree that during the Transition Period, Year 1 and Year 2, there will be two different levels of requirements for reporting for the purposes of determining Fees, Cost Overages and Cost Underages, as follows:
  - (i) Provided that there are no Material Cost Overages or Material Cost Underages in the applicable Period, the Service Provider will report to the Province on the following items on a Period/annual basis:
    - A. total Direct Labour Costs;
    - B. total Benefits;
    - C. travel;
    - D. Subcontractors (Key Subcontractors and other);
    - E. postage;
    - F. rent;
    - G. amortization;
    - H. all other costs;
    - I. Overhead;
    - J. G&A;
    - K. Spread; and
    - L. total Fees.
  - (ii) In the event that there are Material Cost Overages or Material Cost Underages in the applicable Period, the Service Provider will report to the Province on the following items on an annual (Contract Year) basis:
    - A. total operational FTEs;
    - B. total IT FTEs;

- C. total Transition and Transformation FTEs;
- D. total Direct Labour Costs;
- E. total Benefits;
- F. travel costs;
- G. technology buyout costs;
- H. computers cost;
- I. consultants and Subcontractors;
- J. miscellaneous/other;
- K. key (systems) Subcontractors;
- L. telephone usage cost;
- M. office copiers;
- N. postage;
- O. rent;
- P. tenant improvements;
- Q. amortization;
- R. all other costs;
- S. Overhead;
- T. G&A; and
- U. Fees.

(b) During Year 3 to Year 10 (and beyond during a Renewal Term), inclusive, the Service Provider will report to the Province on the following items on an annual (Contract Year) basis:

- (i) Direct Labour Costs and Benefits;
- (ii) Key Subcontractors;
- (iii) other Subcontractors
- (iv) amortization;

- (v) all other Direct Costs;
- (vi) Overhead;
- (vii) G&A;
- (viii) Spread; and
- (ix) Total Fees.

For greater certainty, the financial statements to be delivered pursuant to Section 12.5 of this Agreement shall be in accordance with the reporting requirements set out in this Section 7.

#### **8. Audit and CFO Certificate**

On an annual basis, based on the Service Provider's regular fiscal year, the Service Provider will cause its accounting for Spread to be financially audited by an independent, accredited auditor with copies promptly provided to the Province. Within 90 days of the end of the fiscal year end of the Service Provider the Chief Financial Officer of MAXIMUS US will provide an officer's certificate to the Province certifying that the Spread reported in the most recent financial statements delivered pursuant to Section 12.5 of this Agreement in accordance with GAAP, as adjusted in accordance with this Agreement, for the applicable Contract Year. For greater certainty, such letter shall be delivered by the Service Provider together with the regular audited annual financial statements of the Service Provider and MAXIMUS Canada in accordance with Schedule H attached to this Agreement.

#### **9. Monthly Fee Amounts**

The Parties agree as follows:

- (a) Monthly Fee payments will commence at the end of the first full month after the Effective Date.
- (b) During the period commencing on the Effective Date and ending on March 31, 2005 the Province will pay Transition Fees to the Service Provider on a monthly basis as invoiced by the Service Provider but limited in each month of such period to not more than 30% of such amount. For greater certainty, Transition Fees may be payable by the Province after such period if adjusted pursuant to Section 4 of this Schedule.

- (c) Table 1 set out below details the monthly Fee payment amounts for each Contract Year, as may be adjusted pursuant to this Schedule and generally pursuant to this Agreement from time to time.
- (d) Table 1 set out below reflects all payments to be made by the Province to the Service Provider from Year 1 to Year 10 of the Term, inclusive, pursuant to this Agreement including adjustments for Inflation, but excluding the Basic Infrastructure Fee, if applicable, and any reimbursable costs for Special Infrastructure as described in Section 16 below and any Transition Fees payable by the Province pursuant to Section 9(b) above.
- (e) Any changes to the monthly payment amounts set out below in Table 1 shall be made pursuant to the applicable mechanisms set out in this Agreement and shall be made based on such amounts adjusted to exclude Inflation.

**Table 1: Monthly Fee Amount per Contract Year**

<b>Year</b>	<b>Monthly Payment* (\$)</b>
Year 1	2,486,540
Year 2	2,516,511
Year 3	2,527,547
Year 4	2,578,140
Year 5	2,597,709
Year 6	2,645,842
Year 7	2,677,740
Year 8	2,710,037
Year 9	2,742,737
Year 10	2,775,846

\* Sum of payments for each month of the Period excluding any Basic Infrastructure Fee, reimbursable costs for Special Infrastructure and Transition Fees payable by the Province pursuant to Section 9(b) of this Schedule.

## **10. Termination for Convenience**

If the Province terminates this Agreement for convenience pursuant to Section 21.5 of this Agreement, in addition to any other amounts owing by the Province to the Service Provider pursuant to the terms of this Agreement up to the Termination Date, the Province will pay to the Service Provider the Termination for Convenience Fee, calculated as set out below based on the time of Termination.

### **(a) Termination Pre Hand-over**

If the Province terminates this Agreement for convenience with the effective date of Termination being on or prior to the Hand-Over Date, the Termination for Convenience Fee will be the total of the following amounts:

- (i) \$1,000,000.00;

- (ii) the actual direct costs payable by the Service Provider to the landlord to terminate the lease in respect of the Service Centre; and
- (iii) four (4) Years of Spread based on 7.5% of total Costs (based on the Planned Amount), discounted to present value at the rate of 5.23%.

(b) Termination Post Hand-Over Date

(i) *Termination during Year 1 to Year 3*

If the Province terminates this Agreement for convenience where such Termination is effective during Contract Year 1 to Contract Year 3, inclusive, the Termination for Convenience Fee will be the total of the following amounts:

- A. an amount equal to X as calculated in accordance to following formula:  
  

$$X = \$12,293,995 - ( \text{number of full months elapsed from Hand-Over Date} \times (\$102,450) )$$
- B. \$100,000.00 per outstanding Contract Year (pro-rated for partial years) not completed (i.e. after the Termination Date); and
- C. four (4) Years of Spread based on 7.5% of total Costs (based on the Planned Amount), discounted to present value at the rate of 5.23%.

(ii) *Termination during Year 4 to Year 6 of the Term*

If the Province terminates this Agreement for convenience where such Termination is effective during Year 4 to Year 6 of the Term, inclusive, the Termination for Convenience Fee will be the total of the following amounts:

- A. an amount equal to X as calculated in accordance to following formula:  
  

$$X = \$12,293,995 - ( \text{number of full months elapsed from Hand-Over Date} \times (\$102,450) )$$

- B. \$100,000.00 per outstanding Contract Year (pro-rated for partial years) not completed (i.e. after the Termination Date); and
- C. two (2) Years of Spread based on 7.5% of total Costs (based on the Planned Amount), discounted to present value at the rate of 5.23%.

(iii) *Termination After Year 6*

If the Province terminates this Agreement for convenience after Year 6 of the Term, the Termination for Convenience Fee will be the total of the following amounts:

- A. an amount equal to X as calculated in accordance to following formula:

$$X = \$12,293,995 - ( \text{number of full months elapsed from Hand-Over Date} \times (\$102,450) )$$

- B. \$100,000.00 per outstanding Contract Year (pro-rated for partial years) not completed (i.e. after the Termination Date).

## 11. **No Fault Termination After Year 1**

If the Province terminates this Agreement as a result of a No Fault Trigger pursuant to Section 21.4 of this Agreement after Year 1 of the Term, in addition to any other amounts owing by the Province to the Service Provider pursuant to the terms of this Agreement up to the Termination Date, the Province will pay to the Service Provider the No Fault Termination Fee, calculated in accordance to the following formula and based on the time of Termination:

$$\text{No Fault Termination Fee} = \$12,293,995 - ( \text{number of full months elapsed from Hand-Over Date} \times (\$102,450) )$$

The Parties acknowledge and agree that the risk of not earning Spread will decrease over the course of the relationship between the Parties and that the No Fault Termination Fee will decrease over the Term to reflect such decreasing risk.

## 12. **Termination for Cause During the Transition Period**

If the Province terminates this Agreement for cause pursuant to Section 21.3 of this Agreement during the Transition Period, in addition to any other amounts owing by the Service Provider to the Province pursuant to the terms of this

Agreement the Service Provider will pay to the Province an amount equal to all the Transition Fees paid by the Province to the Service Provider as of the Termination Date as a credit against charges for Termination Services as described in Section 22.3 of this Agreement and any other amounts payable by the Province pursuant to this Agreement with any unused portion of such credit being payable by the Service Provider to the Province in cash.

**13. Changes in Scope of Services (Pre and Post Hand-over)**

At any time during the Term, the Province will have the right to make a Material Change to the scope of Services pursuant to Article 7 of this Agreement and the impact to the Fees resulting from exercise of such right will be assessed through the process described in Article 7 of this Agreement. Where a Material Change to the Fees is made as a result of such process (i.e. Change Request process), upon the approval of the Joint Executive Committee the Parties will adjust the monthly Fee amounts set out in Table 1 in Section 9 of this Schedule to reflect such change in Fees.

**14. Gainsharing**

Gain sharing will be determined on a case by case, opportunity by opportunity basis in accordance with the principles set forth in Section 13.1 of this Agreement, the provisions on this Agreement applicable thereto, and otherwise as agreed by the Parties, each acting reasonably.

**15. IBM Related Adjustments**

The Parties acknowledge and agree that the Fee amounts set out in Section 9 of this Schedule (including, without limitation, the total amount of Transition Fees set out in Section 2(u) of this Schedule) and the Planned Amounts have been set based in part on the assumption that the Service Provider will purchase certain tangible assets from the Province pursuant to the Asset Conveyance Agreement. If the Service Provider enters into an agreement with IBM Canada Ltd. that changes the tangible assets required to be transferred by the Province in respect of the provision of the Services, then the Fee amounts set out in Section 9 of this Schedule (including, without limitation, the total amount of Transition Fees set out in Section 2(u) of this Schedule) and the Planned Amounts shall be adjusted accordingly in a manner consistent with the determination of amounts as set forth in the Economic Model in order to reflect such change.

**16. Special Infrastructure**

The Province will be entitled to acquire or direct the Service Provider to acquire on the Province's behalf any hardware, equipment, software and communications equipment that will be used in connection with the performance of the Services, including, without limitation, any MAXIMUS Technology, provided that the Province provides prior written notice of its intention to acquire such technology infrastructure to the Service Provider. If the Province provides any such notice to the Service Provider, the following provisions

shall apply in respect of the technology infrastructure described in such notice (the “Special Infrastructure”):

- (a) if the Special Infrastructure is included in the MAXIMUS Technology and the Province acquires the Special Infrastructure on its own, then the Service Provider will not be obligated to obtain such Special Infrastructure to deliver and perform the Services in accordance with this Agreement, but, for greater certainty, shall continue to be obligated to set-up, implement, operate, maintain and upgrade the Special Infrastructure in accordance with Section 10.15 of this Agreement;
- (b) the Infrastructure will at all times be owned by the Province, but the Service Provider will operate and maintain the Special Infrastructure on behalf of the Province,
- (c) the Service Provider has and will have no ownership or other interest in the Special Infrastructure other than the rights of access to and use of the Special Infrastructure to deliver and perform the Services in accordance with this Agreement;
- (d) the Province will make available to the Service Provider such access to and use of the Special Infrastructure as is required by the Service Provider to deliver and perform the Services in accordance with this Agreement;
- (e) the Service Provider will pay all costs for the Special Infrastructure, including, without limitation, any acquisition, licensing, maintenance and renewal costs, any where such costs are initially paid by the Province then the Service Provider will provide the Province with a credit against Fees in respect of the same; and
- (f) notwithstanding paragraph (e) above, the Province will reimburse the Service Provider for any costs, without profit or markup, for any Special Infrastructure that is not in respect of the MAXIMUS Technology and is not otherwise covered by the Fees payable by the Province and is otherwise not required in respect of the provision of the Services and any such reimbursable costs shall be added to the Fees payable by the Province.

Notwithstanding the foregoing, the Parties agree that this Section 16 shall not apply to Province Shared Infrastructure. This Section 16 is subject to Article 7 of this Agreement, which shall be applicable in respect of any changes having a material impact on the cost of providing the Services that result from the Service Provider complying with this Section.



## **SCHEDULE K**

### **COMMUNICATION PLAN AND COMMUNICATIONS PROCESS**

#### **1.0 PURPOSE OF THIS SCHEDULE**

This Schedule defines and describes the approach the Parties will use to facilitate the effective communications necessary to the success of this Agreement. The Communication Plan will address communications during the Transition Period and following the Hand-Over Date during the Term between and among:

- The Province and the Service Provider;
- The Province, the Public Affairs Bureau, and the Service Provider;
- The Service Provider and Stakeholders;
- The Province, the Service Provider and Stakeholders;
- The Service Provider and Province Customers;
- The Service Provider, the Province and Province Customers
- The Province, the Service Provider and the public;
- The Province, the Service Provider and the media; and
- The Province, the Service Provider, and staff.

#### **2.0 GUIDING PRINCIPLES**

2.1 The Parties agree that effective communications are a key component to the success of the alternative services delivery arrangement with respect to health benefits operations. The communications approach will:

- (a) Provide clear direction to the Parties as to the responsibilities and key processes for comprehensive communications;
- (b) Outline the communication activities that will occur during both the Transition Period and operations phases of the Term of this Agreement;
- (c) Identify the respective Parties responsible for each type of communication;
- (d) Recognize the importance of mutual understanding and respect for the lines of authority of each Party;
- (e) Adhere to the management and governance structure described in Schedule O of this Agreement; and
- (f) be consistent with the terms of this Agreement.

2.2 Communication between the Parties will take place at various levels within the respective organizations through formal, informal, and ad hoc arrangements and will:

- (a) Ensure knowledge of activities, issues, and problems is shared by both Parties;
  - (b) Ensure proper escalation of issues;
  - (c) Provide for a mutually responsive environment;
  - (d) Facilitate retention of operational knowledge by the Province; and
  - (e) Facilitate issue resolution at the lowest appropriate level of the governance model.
- 2.3 The Province will retain control of policy decisions related to all communication mechanisms.
- 2.4 The Parties agree that, at a minimum, those communications that have the potential to result in changes related to policy, scope, contract terms, and/or approvals should be in writing and otherwise be in accordance with the terms of this Agreement.
- 2.5 The Province will retain control over communication with Stakeholders and with Province Customers. To ensure mutual understanding, during the Transition Period, the Parties will jointly develop a matrix that clearly defines the roles and responsibilities of each Party as it relates to each Stakeholder and further develop detailed scripts, policies and processes regarding communications with Province Customers, all as Approved by the Province.
- 2.6 The Service Provider will follow Province prescribed policies and direction, if applicable, regarding development, content, and distribution, of verbal and written communications, including with respect to Province Customers, Stakeholders, the public, media and staff in accordance with this Agreement (including this Schedule).
- 2.7 The Parties will provide the appropriate staff resources necessary to communicate on a regular basis through routine meetings and written documentation of meeting outcomes.
- 2.8 To further facilitate communications at all levels, the Service Provider will:
  - (a) Document meeting outcomes;
  - (b) Solicit input from the Province to develop agendas for upcoming meetings;
  - (c) Set up and maintain an Intranet site that can be accessed by both the Province and the Service Provider;

- (d) Maintain within the Intranet site, and/or other appropriate electronic media locations, a document library to ensure retention and access to historical communication between and among the Parties, the Stakeholders, Province Customers, the public, and the media; and
  - (e) Keep the Province informed and make recommendations for revisions, additions to, and deletions from existing communications.
- 2.9 All uses of the Brand shall be governed by Section 18.9 of this Agreement and the terms set forth in this Schedule K.
- 2.10 Subject to the terms of the Agreement, the Parties will work collaboratively to ensure that any review and approval processes do not unduly delay development, completion or distribution of communications.
- 2.11 The Brand will be developed by the Province. The Province shall be the sole and exclusive owner of the Brand in accordance with Section 18.9 of this Agreement. The Service Provider will incorporate the Brand into its materials, websites, and any other published materials related to the Services in the manner directed by the Province and at all time in accordance with Section 18.9 of this Agreement. The Service Provider name will not appear in the Brands or logos or otherwise in any communications or documentation in order to ensure that there is no public evidence or reference to the fact that the Services are being delivered by a private sector partner.

### **3.0 COMMUNICATION BETWEEN THE PROVINCE AND THE SERVICE PROVIDER**

#### **3.1 Transition and Transformation Communications**

- (a) During the Transition Period the Parties will meet at least weekly to discuss the progress of the Transition, the status of key deliverables, the status of action items agreed to at previous meetings, any issues requiring joint resolution, and any other issues of interest to either Party (the “Weekly Progress Report Meetings”). The Province Executive Contract Manager will chair the Weekly Progress Report Meeting and represent the Province at such meetings. The Service Provider Transition Manager will represent the Service Provider at the Weekly Progress Report Meetings. Other members of the Transition Management Teams of each of the Parties may attend Weekly Progress Report Meetings, as appropriate. Whenever possible these meetings will be face-to-face, understanding that various individuals from either Party may from time to time participate by telephone conference call.
- (b) To further facilitate the transition communication process, the Service Provider will document the Weekly Progress Report Meetings and their outcomes through several key reports, as follows:

- (i) Weekly Progress Report. A weekly progress report that will document the status of the Transition for the previous week and will be submitted by the Service Provider at least one Business Day before the scheduled weekly meeting (the “Weekly Progress Report”).
  - (ii) Weekly Progress Report Meeting Agenda. A weekly progress report meeting agenda prepared by the Service Provider based on input solicited from the Province and which will be distributed by the Service Provider at least one Business Day before each meeting.
  - (iii) Weekly Project Status Report Meeting Minutes. A written summary of the discussion during the Weekly Progress Report Meetings, which the Service Provider will distribute at least one Business Day before the next scheduled weekly meeting (the “Weekly Project Status Report Meeting Minutes”).
  - (iv) Action Items Report. An action items report that will include the status, assigned parties, and due dates of action items agreed to during previous Weekly Progress Report Meetings, which the Service Provider will distribute with the Weekly Project Status Report Meeting Minutes.
  - (v) Weekly Deliverable Status Report. A weekly deliverable status report that will include the status of deliverables and which the Service Provider will distribute during the Weekly Progress Report Meeting.
- (c) In addition to the regularly scheduled Weekly Progress Report Meeting, throughout the Transition Period the Parties expect to engage in ongoing communication through face-to-face meetings, telephone conversations, and e-mail. The Parties will establish Working Groups to support specific Transition Services related to:
- (i) Administration Working Group. The Service Provider Transition Management Team Finance and Administration Director and Province Policy and Finance Lead will co-lead an administration Working Group, which will focus on Transition Services related to human resources and labour relations (the “Administration Working Group”).
  - (ii) Systems Working Group. The Service Transition Management Team Systems Director and Province Technology Lead will co-lead a systems Working Group, which will focus on all information technology related, telecommunications, and support service tasks and activities. This Working Group will work

collaboratively with the Administration Working Group regarding technical skill staffing requirements.

- (iii) Operations Working Group. The Service Provider Transition Management Team Provider Services Director and Beneficiary Services Director will co-lead an operations Working Group, which will focus on Transition Services related to beneficiary and provider services, customer service center, and other related operations functions. The Province Operations Lead will represent the Province on this Working Group.

The authority, role, function and process relating to these Working Groups shall otherwise be governed in accordance with the terms set forth in Schedule O of this Agreement.

- (d) Key members of the Service Provider Transition Management Team will work in tandem with members of the Service Provider ongoing operations team for a minimum of one month following Hand-Over Date to facilitate smooth transition of all tasks and functions to the ongoing operations management team.
- (e) To the extent that there is any conflict between this Section 3.1 and Schedule O, Schedule O shall prevail.

### **3.2 Ongoing Communication**

Following the hand-over of operations to the Service Provider on the Hand-Over Date, communication between the Parties will be in accordance with the Management and Governance structures described in Schedule O.

## **4.0 COMMUNICATIONS WITH PROVINCE CUSTOMERS**

- 4.1 The Service Provider will prepared a detailed plan, including detailed scripts, policies and processes, for communications with Province Customers and such plan will be Approved by the Province. The Service Provider will only communicate with Province Customers in accordance with such plan. To the extent that there are other modes of communication not contemplated by such plan, the Service Provider will obtain direction from the Province before proceeding.
- 4.2 The Service Provider will advise the Province of all Province Customer complaints made to the Service Provider in respect of or in connection with the Services.

## **5.0 COMMUNICATIONS WITH STAKEHOLDERS**

The Parties agree that the list below is intended to be representative of the types of communications that may occur during the Term with Stakeholders. This list is not all

inclusive. To the extent that there are other modes of communication, the Service Provider will obtain direction from the Province before proceeding.

<b>Mode</b>	<b>Province Responsibilities</b>	<b>Service Provider Responsibilities</b>
Written (outgoing; includes Websites)	Reviews and approves	Drafts and/or proposes content, prints, distributes, tracks and reports.
Written Inquiry	Responds to inquiries referred from the Service Provider	Responds per agreed upon protocols, refers to the Province issues requiring escalation, tracks and reports.
Verbal Inquiry	Responds to inquiries referred from the Service Provider  Approves scripted messages and provides direction regarding referral of inquiries about the Agreement.	Responds in real time, refers to Province per agreed upon protocols, tracks, and reports. Drafts scripted messages for inquiries related to this Agreement between the Parties, and refers those inquiries elsewhere per agreed upon protocols.
IVR	Approves material script changes and new scripts	Drafts and/or proposed content, records, maintains, tracks, reports
Complaints	Reviews and approves procedures, reviews written responses per agreed upon protocols	Responds, resolves issue as appropriate, escalates to Province per Province protocols, tracks, and reports
Freedom of Information and Privacy Act (FOI) Requests	Responds to FOI requests	Provides information required for the Province to respond to FOI requests
Publications/Brochures (Includes forms and all other published program materials regardless of the publishing mechanism)	Reviews and approves	Drafts and/or proposes content, prints, distributes

## **6.0 PUBLIC COMMUNICATIONS**

- 6.1 The Province will retain primary responsibility for public communications regarding this Agreement and any changes to the Services.
- 6.2 No disclosure, including press releases, will be made by the Service Provider or any member of the MAXIMUS Group regarding any aspect of the Services or the Province without the Approval of the Province. Notwithstanding any other provision in this Agreement, in the event of potentially negative publicity or other potential adverse effects upon the Province in connection with any member of the MAXIMUS Group or in connection with the Service Provider's failure to meet Service Levels or other breach of this Agreement, the Service Provider shall

immediately advise the Province of the same and the Province will have the right to, in its sole discretion, disclose the Service Provider's failures or breach.

- 6.3 The Province acknowledges the importance of the Service Provider being aware of any publicity that identifies MAXIMUS Prime, MAXIMUS Sub or any member of the MAXIMUS Group and agrees to inform the Service Provider, where reasonably possible, in advance of release of Province generated communications that will include the name of a MAXIMUS Group entity. The Province will make every reasonable effort where permitted by policy and law to consult with the Service Provider and consider input from the Service Provider when drafting such communications.
- 6.4 The Service Provider agrees to refer any inquiries related to this Agreement to a Province designated contact.
- 6.5 The Service Provider agrees to assist the Province with any cross-government marketing initiatives (e.g. elections ads).

## **7.0 MEDIA CONTACT**

The Service Provider will neither initiate nor respond to calls from the media concerning its operations of the health benefit operations, unless specifically authorized by the Province in writing to do so. The Service Provider will immediately refer any calls from the media to the designated Province contact.

## **8.0 STAFF COMMUNICATIONS**

### **8.1 Transition Communications**

The Province will retain control of all communication with the regular and auxiliary staff that will ultimately be eligible for offers of employment by the Service Provider as a result of, and in accordance with, this Agreement and in accordance with the Master Agreement and the Memorandum of Agreement between the Province and the BCGEU (including the offers themselves). The Parties agree to work collaboratively to:

- (a) Develop clear, concise communications designed to inform, and to minimize concerns of the Province employees related to Transition tasks and activities, and the impending hand-over of Services;
- (b) Provide opportunities for Province employees to meet and interact with the Service Provider Transition Management Team members in a positive, non-threatening environment at the earliest practical time following execution of this Agreement;
- (c) Develop mechanisms to respond timely to questions and concerns raised by the Province employees;

- (d) Develop mutually acceptable protocols and schedules to facilitate the Service Provider interactions with staff for activities such as interviews, orientation, and training;
  - (e) Develop mutually acceptable protocols for Province review and comment on Service Provider communications to Province staff related to employment offers; and
  - (f) Develop mutually acceptable protocols for how the Service Provider will appropriately keep the Province informed of employee related issues that might adversely impact public opinion or the Province.
- 8.2 The Province agrees, subject to the terms of this Agreement, including confidentiality and privacy provisions, and to the Transaction Documents, including the Employee Transfer Agreement, to:
- (a) provide Service Provider staff with reasonable access to Province staff to facilitate review of operational processes;
  - (b) provide reasonable access to Province staff to facilitate Service Provider interactions with Province staff for activities such as interviews, orientation, training,
  - (c) provide space for orientation, training, and other appropriate meetings with Province staff;
  - (d) assist the Service Provider in initial discussions with the BCGEU that may result in communication from the BCGEU to Province staff; and
  - (e) timely review and comment on Service Provider communications to Province staff related to employment offers.
- 8.3 The Service Provider agrees to:
- (a) make every effort to minimize any disruption to ongoing provision of the Services;
  - (b) keep the Province aware of the outcomes of Service Provider interactions with Province staff;
  - (c) inform the Province immediately of any feedback from Province staff that indicates staff concerns or might precipitate issues with the BCGEU;
  - (d) assist the Province to develop the messages for and content of communications to BCGEU and/or staff related to Transition activities and/or the impending hand-over of Services; and



- (e) provide Province copies of communications related to employment offers for review, comment and Approval in advance of distribution.

#### **8.4 Ongoing Communication**

The Service Provider will assume responsibility for the communication to Personnel effective as of the Hand-Over Date.

#### **9.0 ANNUAL COMMUNICATIONS PLAN**

The Service Provider will incorporate chapter specific ongoing communication in the Annual Operating Plan described in Section 11.6 of this Agreement.

## SCHEDULE N

### LOCATION OF SERVICE CENTRE

1. This Schedule, in conjunction with the Agreement (including Section 6.8 and Schedule X) describes the principles the Service Provider will use to secure the facilities for the Service Centre, being the only location from which Services pursuant to this Agreement shall be provided except as otherwise specifically contemplated in this Agreement, and certain other permitted facilities contemplated in this Agreement.
2. The Service Provider will secure such appropriate facilities for the Service Centre and other facilities in connection with this Agreement (as contemplated below) in accordance with the following principles:
  - (a) The Service Provider will provide the Services from the Service Centre, which shall be located in Victoria, British Columbia;
  - (b) The Service Provider will ensure that the Service Centre meets the relevant Victoria, British Columbia, and/or Canadian regulations, laws, and requirements for safe business operations occupancy;
  - (c) Subject to the prior Approval of the Province, the Service Provider may provide select technical services comprising the Services from a location in another province or provinces in Canada conditional upon compliance with all other provisions in this Agreement in respect of the same including those provisions set forth in Schedule X; and
  - (d) The Service Provider will retain secure appropriate Key Suppliers and/or off-site locations for the storage of paper records, electronic data, including data back-ups, in British Columbia or another suitable location within Canada provided that:
    - (i) storage locations outside of British Columbia will be subject to prior Approval by the Province; and
    - (ii) the Service Provider complies with this Agreement including compliance with Schedule X, Section 6.8, Section 10.14 and Article 14.
3. Subject to Section 6.8 of this Agreement and to the other provisions of this Agreement, the Province agrees to reasonably Approve Canadian locations for select technical services and/or storage outside of British Columbia.
4. Upon determination of the Service Centre location, the Service Provider shall immediately notify the Province and this Schedule shall, upon delivery of such notice, immediately be deemed to be amended to include such location.

5. Set out below are locations/facilities contemplated in this Agreement:

**Transition Office**

609 Broughton St, 2nd floor,  
Victoria, BC V8W, 1C8

**Service Centre**

To Be Determined  
Victoria, BC

**HBO Data Centre**

4000 Seymour Place,  
Victoria, BC

**HBO Backup Data Centre**

To Be Determined,  
Canada

**CSC Data Centre**

To Be Determined  
Victoria, BC

**CSC Backup Data Centre**

To Be Determined  
Vancouver, BC

## SCHEDULE O

### MANAGEMENT AND GOVERNANCE

#### 1.0 PRINCIPLES

- 1.1 The Parties agree that the governance structure and processes will align with and enable “best practices” for sustaining large alternative service delivery agreements, namely:
- (a) The Parties will proactively identify sources of disagreement and discord and take timely action before they become matters of dispute;
  - (b) The Parties will understand clearly where the control lies with any issue or decision, but will think and behave as equal parties;
  - (c) Issues will be resolved through a process of cooperative and amicable negotiations;
  - (d) More specifically, the governance model will enable the Parties to:
    - (i) Clearly understand and execute their responsibilities and accountabilities under their agreements with one another;
    - (ii) Work co-operatively together over the entire Term of this Agreement;
    - (iii) Define the structural relationships among the Province, the Service Provider, its Subcontractors, the Province Customers and Stakeholders;
    - (iv) Have full access to the information necessary to fulfill their obligations to the other subject to the specific restrictions set out in this Agreement;
    - (v) Develop and maintain high quality relationships;
    - (vi) Effectively identify and resolve difficult issues;
    - (vii) Ensure that the Province’s intellectual capital and detailed knowledge about the Services is retained; and
    - (viii) End the relationship responsibly when appropriate;
  - (e) The governance structure will be flexible, and in particular will:

- (i) Accommodate the lifecycle of this Agreement: Incoming transition, regular operations, Transformation, periods of unplanned significant change or crisis, and outgoing transition; and
  - (ii) Allow the Parties to acknowledge and act in ways that are consistent with their complex and varied roles and responsibilities pursuant to this Agreement;
  - (f) Clarify and facilitate ongoing relationships with Province Customers and Stakeholders (e.g. Ministry of Provincial Revenue, College of Pharmacists, ICBC, WCB, Medical and Pharmacy practitioners, the BCMA); and
  - (g) Subject to the specific decision-making rights of either Party set out in this Agreement, decisions will be guided by what is best for the on-going management and delivery of the Services.
- 1.2 This Schedule will set out governance and management systems for the following key relationships:
- (a) The Province and the Service Provider;
  - (b) The Service Provider and its Key Providers; and
  - (c) The Province, the Service Provider and Stakeholders.

## 2.0 **GOVERNANCE OF THE RELATIONSHIP BETWEEN THE PROVINCE AND THE SERVICE PROVIDER**

### 2.1 **Key Positions**

During the Term (except as otherwise provided below), the Parties will assign individuals to certain key positions (the “**Key Positions**”) as follows:

- (a) a transition manager (the “**Transition Manager**”) assigned by each Party who will:
  - (i) have overall managerial responsibility on behalf of such Party for the Transition;
  - (ii) attend all executive level transition meetings and planning sessions requested by the Province in connection with the Transition;
  - (iii) be a full-time employee of such Party unless otherwise mutually agreed by the Parties;
  - (iv) act as such Party’s primary liaison with the executive staff of the other Party with respect to the Transition;

- (v) the working time of which will be primarily dedicated to the tasks set forth in the Transition Plan (and with respect to the Service Provider Transition Manager, to the provision of the Transition Services) during the Transition Period;
  - (vi) have a term commencing on the Effective Date and ending one month after the Hand Over Date (as may be delayed pursuant to Article 3 of this Agreement); and
  - (vii) otherwise act in accordance with any responsibilities as set forth in the Transition Plan, this Schedule, Schedule C or otherwise in this Agreement.
- (b) an overall executive sponsor (the “**Executive Sponsor**”) assigned by each Party who will:
- (i) be a senior executive of the applicable Party who is ultimately responsible for the Services;
  - (ii) has sufficient authority to make binding decisions on behalf of the Party so represented by such Executive Sponsor; and
  - (iii) otherwise act in accordance with any responsibilities as set forth in this Schedule or otherwise in this Agreement.
- (c) an overall relationship manager ( the “**Relationship Manager**”) assigned by each Party who will:
- (i) have overall managerial responsibility for the day-to-day delivery or oversight of delivery of the Services, as appropriate, and the relationship between the Parties;
  - (ii) attend all the Province executive meetings and planning sessions requested by the Province;
  - (iii) act as the primary liaison with the executive staff of the other Party with respect to the Services;
  - (iv) coordinate, oversee, and monitor the performance of the Services by the Service Provider, with the applicable Project Director and Transition Manager of such Party;
  - (v) be familiar with the principles and practices of interest-based negotiations; and
  - (vi) otherwise act in accordance with any responsibilities as set forth in this Schedule or otherwise in this Agreement.

- (d) a Project Director (the “**Project Director**”) assigned by the Service Provider who will:
  - (i) communicate directly with the Executive Contract Manager;
  - (ii) be familiar with this Agreement and related documentation, and will be responsible for overseeing the management thereof by the Project Manager;
  - (iii) be a full-time employee of the MAXIMUS Group;
  - (iv) will not be replaced or reassigned by the Service Provider for two years from the date of appointment without the prior Approval of the Province unless such replacement or reassignment is beyond the reasonable control of the Service Provider such as is initiated by the Project Director himself or herself;
  - (v) be an important point of contact between the Parties and shall meet or communicate as reasonably required to administer the Services; and
  - (vi) otherwise act in accordance with any responsibilities as set forth in this Schedule or otherwise in this Agreement.
- (e) an Executive Contract Manager (the “**Executive Contract Manager**”) assigned by the Province who will:
  - (i) communicate with the Project Director and Project Manager;
  - (ii) be familiar with Agreements and related documentation, and will be responsible for the ongoing management thereof in accordance with his or her functional role, including invoicing activities;
  - (iii) be exclusively assigned on a full-time basis to this Agreement and the Services provided therewith;
  - (iv) be a full-time employee of the Province;
  - (v) will not be replaced or reassigned by the Province for two years from the date of appointment without the prior Approval of the Service Provider unless such replacement or reassignment is beyond the reasonable control of the Province such as is initiated by the Executive Contract Manager himself or herself;
  - (vi) be the primary point of contact between the Parties and shall meet or communicate daily or as reasonably required to administer the Services; and

- (vii) otherwise act in accordance with any responsibilities as set forth in this Schedule or otherwise in this Agreement.
- (f) a Project Manager (the “**Project Manager**”) assigned by the Service Provider who will:
- (i) communicate with the Executive Contract Manager Project Manager;
  - (ii) be familiar with Agreements and related documentation, and will be responsible for the ongoing management thereof in accordance with his or her functional role, including invoicing activities;
  - (iii) be exclusively assigned on a full-time basis to this Agreement and the Services provided therewith;
  - (iv) be a full-time employee of the Service Provider;
  - (v) will not be replaced or reassigned by the Service Provider for two years from the date of appointment without the prior Approval of the Province unless such replacement or reassignment is beyond the reasonable control of the Service Provider such as is initiated by the Project Manager himself or herself;
  - (vi) be the primary point of contact between the Parties and shall meet or communicate daily or as reasonably required to administer the Services; and
  - (vii) otherwise act in accordance with any responsibilities as set forth in this Schedule or otherwise in this Agreement.

## **2.2 Initial Incumbents in Key Positions**

Certain initial incumbents in the Key Positions designated by the Parties are set forth below:

- (a) The Executive Sponsor for the Province will be the Deputy Minister of Health Services (or on mutual agreement an executive at an equivalent or higher level).
- (b) The Executive Sponsor for the Service Provider will be the President, Health Services Strategic Business Unit of MAXIMUS US (or on mutual agreement of the Parties an executive at an equivalent or higher level).
- (c) The initial Relationship Manager for the Service Provider will be the President, Central Division, Health Services of MAXIMUS US (or on mutual agreement an executive at an equivalent or higher level).



- (d) The Relationship Manager for the Province will be the ADM, Medical and Pharmaceutical Services (or on mutual agreement of the Parties an executive at an equivalent or higher level).

Promptly after the Effective Date, the Province shall notify, in writing, the Service Provider of the full name of every individual who is to be an initial incumbent in a Province Key Position, and the Service Provider shall notify, in writing, the Province of the full name of every individual who is proposed to be or is to be an initial incumbent in a Service Provider Key Position.

Prior to appointing any person to be the initial incumbent in a Service Provider Key Position other than Project Director position the Service Provider shall notify the Province in writing of the proposed appointment and shall provide the Province with relevant information regarding the Person as the Province may reasonably request. If the Province reasonably objects to the proposed appointment, the Service Provider shall not appoint such Person to a Key Position and shall promptly propose an alternate Person for such Key Position in accordance with the procedure set out in this Section 2.2.

The Service Provider and the Province acknowledge and agree that it is their mutual intent to maintain continuity of the personnel supervising or providing Services hereunder and shall, in addition to the obligations set forth in Section 2.1 of this Schedule, each use commercially reasonable efforts to minimize turnover of personnel related to this Agreement and the performance of the Services.

### **2.3 Changes to Key Positions**

Notwithstanding the provisions of Section 2.2 of this Schedule, the Service Provider may replace a Key Position or appoint a new incumbent to fill a vacancy caused by the resignation of a Key Position, provided it has obtained the prior Approval of the Province to such replacement or appointment, such Approval not to be unreasonably withheld and, if replacing the Executive Sponsor or Relationship Manager, the new incumbent is an equivalent or higher level executive to the Person being replaced. Prior to appointing any person to be Service Provider Key Position, whether as a subsequent appointment or replacement, the Service Provider shall notify the Province in writing of the proposed appointment and shall provide the Province with relevant information regarding the Person as the Province may reasonably request. If the Province reasonably objects to the proposed appointment, the Service Provider shall not appoint such Person to a Key Position and shall promptly propose an alternate Person for such Key Position in accordance with the procedure set out in this Section 2.3. At any time and from time to time during the Term, the Province may by written notice to the Service Provider declare that an incumbent in a Key Position of the Service Provider has failed to perform the duties of such position satisfactorily or is otherwise not in the best interest of the Province and the Province Customers and Stakeholders with respect to the performance of the Services operating in a satisfactory manner. The Service Provider agrees to promptly discuss such concerns with the Province and where the Parties cannot agree, such issue shall be elevated to the Joint Steering Committee for consideration. Where the issue is not promptly resolved to the reasonable satisfaction of the Province then the Province

shall have the right to require the Service Provider to remove such Person as a Key Position. In such event, the Service Provider shall promptly remove such Person from such Key Position and appoint an alternate Person for such vacated Key Position in accordance with the procedure set out in this Section 2.3.

#### **2.4 Transition Management Teams**

Forthwith upon execution of this Agreement, the Province and the Service Provider shall each establish a Transition Management Team as described in Schedule C attached to this Agreement.

#### **2.5 Joint Committees**

The Parties agree that there will be three levels of joint committees, as follows:

- (a) the Joint Executive Committee;
- (b) the Joint Steering Committee, and
- (c) Working Groups.

#### **2.6 Joint Executive Committee**

- (a) Forthwith upon execution of this Agreement, the Province and the Service Provider shall establish a joint executive committee (the “**Joint Executive Committee**”), initially comprised of the following members:
  - (i) for the Service Provider: Relationship Manager, Project Director, and Technology Advisor; and
  - (ii) for the Province: ADM, Medical and Pharmaceutical Services, Assistant Deputy Minister, Knowledge Management and Technology, and Executive Contract Manager.
- (b) Each of the Province and the Service Provider may from time to time change its respective representatives on the Joint Executive Committee by providing written notice to the other Party of such change.
- (c) The Joint Executive Committee will:
  - (i) provide executive level governance of the relationship; and
  - (ii) provide leadership by:
    - A. Periodically reconfirming the strategy and the outsourcing relationship;
    - B. Clarifying accountabilities; and

- C. Visibly addressing barriers and cultural issues that are beyond the ability of the Joint Steering Committee to resolve.
- (d) The activities of the Joint Executive Committee will include, without limitation:
  - (i) Identifying changes on the horizon that will need to be managed and reviewing and refreshing the strategic goals for the outsourcing relationship consistent with those changes;
  - (ii) Reviewing performance (business, project and relationship) against plans;
  - (iii) Ensuring that there is sufficient transparency of the financials to ensure that the actuals are aligned with the principles and requirements of this Agreement;
  - (iv) Ratifying and sometimes recommending changes to this Agreement (including the schedules) and how it is being managed (subject to any such amendments only being made in accordance with this Agreement);
  - (v) Reviewing and approving Joint Steering Committee recommendations including the Annual Operating Plan;
  - (vi) Addressing matters that were escalated by the Joint Steering Committee within 10 Business Days (or as otherwise escalated pursuant to Article 23 of this Agreement);
  - (vii) Reviewing the highlights of reports to the Joint Steering Committee including Service Levels, Service delivery, and Annual Operating Plan status;
  - (viii) Reviewing and approving Joint Steering Committee action plans regarding corrective action for failures to meet Service Levels or service delivery deficiencies;
  - (ix) Reviewing and approving changes to the Service Levels (subject to the Change processes otherwise contemplated in the Agreement); and
  - (x) Discussing strategies to leverage the relationship of the Parties to provide increased value and to solve new business problems.
- (e) Other employees, consultants, advisors or agents of the Service Provider and the Province may attend meetings of the Joint Executive Committee at the invitation of either Party to the extent reasonably necessary to

sufficiently address matters for discussion on the agenda of a committee meeting.

- (f) The Joint Executive Committee may also invite industry and government leaders to participate in such meetings to facilitate the information exchange and increase the value of the strategies discussed.
- (g) The Joint Executive Committee shall hold meetings or telephone or video conferences quarterly, at least two of such meetings being face-to-face each Contract Year, but the Joint Executive Committee may meet more frequently, as the members of such committee may determine in their reasonable discretion.
- (h) Notwithstanding the foregoing, either co-chair of the Joint Executive Committee may call a special meeting of such committee to consider any relevant issue upon reasonable prior notice to the other members of such committee. Such notice shall set forth the matters to be discussed or determined at such special meeting. A special meeting of the Joint Executive Committee, once called, shall be convened as soon as reasonably practical.
- (i) A quorum for any meeting of the Joint Executive Committee shall be two members comprising at least one representative of each Party. Approvals shall be by majority vote. Neither co-chair shall have a casting vote. All decisions made by the Joint Executive Committee shall require the Approval of each of the Parties.
- (j) For each meeting, the Service Provider Project Director and Province Executive Contract Manager will prepare a joint agenda sufficiently in advance of the meeting to allow meeting participants a reasonable opportunity to prepare for such meeting.
- (k) The Joint Executive Committee shall have the discretion to form Working Groups for any purpose it deems appropriate, taking into consideration its mandate and any applicable terms, conditions or restrictions set out in this Agreement, including, without limitation, to review the results of due diligence or audits, consistent with the terms of this Agreement (including this Schedule), to ensure objective review of areas of specific concern.
- (l) A representative of each of the Service Provider and the Province shall co-chair each meeting, and either chair has the right to call a meeting of the Joint Executive Committee.
- (m) A representative of the Service Provider shall prepare and circulate in a timely manner minutes of each meeting and shall incorporate any corrections to such minutes as the Province may reasonably request.

- (n) Subject to the provisions of the Agreement including those set forth in this Schedule, the Joint Executive Committee may develop its own rules of procedures and protocol.
- (o) The Joint Executive Committee shall operate subject to and in accordance with the terms of this Agreement.

## **2.7 Joint Steering Committee**

- (a) Forthwith upon execution of this Agreement, the Province and the Service Provider shall establish a Joint Steering Committee (the “**Joint Steering Committee**”), initially comprised of the members as follows:
  - (i) for the Service Provider: Project Manager, Operations Support Director, and IT Support Director; and
  - (ii) for the Province: Executive Contract Manager, Policy and Finance Lead, Operations Lead and Technology Lead.
- (b) Each of the Province and the Service Provider may from time to time change its respective representatives on the Joint Steering Committee by providing written notice to the other Party of such change.
- (c) The Joint Steering Committee will provide the detailed management of the relationship and address matters escalated by any of its Working Groups or delegated by the Joint Executive Committee.
- (d) The activities of the Joint Steering Committee will include, without limitation:
  - (i) Developing plans to meet the goals set by this Agreement and the Joint Executive Committee;
  - (ii) Proactively making recommendations to the Joint Executive Committee and escalating issues that cannot be solved within current administrative practice;
  - (iii) Providing leadership by championing the objectives of the venture, and identifying any systemic contractual or management problems;
  - (iv) Preparing the Annual Operating Plan;
  - (v) Reviewing the current status of the Annual Operating Plan;
  - (vi) Managing the Change Process (subject to the terms of Article 7);
  - (vii) On an annual basis proposing improvements and additions to the Service Levels;

- (viii) Reviewing the findings of benchmark or other studies as may be agreed to from time to time;
  - (ix) Summarizing and presenting findings to the Joint Executive Committee;
  - (x) Reviewing performance against set metrics (e.g. monthly volumes and Service Levels, monthly invoice, etc.);
  - (xi) Making recommendations to the Joint Executive Committee on any large changes that need to be made to objectives, strategy, this Agreement, or the relationship between the Parties;
  - (xii) Identifying risks and barriers to success and ensures there are plans to mitigate;
  - (xiii) Identifying and addressing conflict on the horizon; resolving any conflicts escalated to them;
  - (xiv) Identifying and managing impending change;
  - (xv) Continuously assessing how the Parties are working together, and planning steps to improve the relationship between the Parties;
  - (xvi) Continuously looking for new places/ways to deliver business value; and
  - (xvii) Proactively seeking advice on and sharing “best practices”.
- (e) In the event issues are raised which either or both Parties do not consider have been appropriately addressed after reasonable efforts by the Joint Steering Committee, such issues may be escalated and will be addressed by the Joint Executive Committee no later than 10 Business Days after such escalation.
- (f) The Joint Steering Committee shall hold meetings or telephone or video conferences at least monthly, but the Joint Steering Committee may meet more frequently, as the members of such committee may determine in their reasonable discretion.
- (g) Notwithstanding the foregoing, either co-chair of the Joint Steering Committee may call a special meeting of such committee to consider any relevant issue upon reasonable prior notice to the other members of such committee. Such notice shall set forth the matters to be discussed or determined at such special meeting. A special meeting of the Joint Steering Committee, once called, shall be convened as soon as reasonably practical.

- (h) A representative of each of the Parties shall co-chair each meeting of the Joint Steering Committee.
- (i) A quorum for any meeting of the Joint Steering Committee shall be two members comprising at least one representative of each Party. Approvals shall be by majority vote. Neither co-chair shall have a casting vote. All decisions made by the Joint Steering Committee shall require the Approval of each of the Parties.
- (j) The Parties acknowledge that individual members of the Joint Steering Committee may not be able to attend all meetings, however, it is the intent of the parties that the monthly meeting is an important part of managing their relationship and as such meeting attendance has priority and that repeated failure to participate by an individual committee member should be a matter for discussion and escalation to the Joint Executive Committee.
- (k) At either Party's request, the other Party shall publish its proposed agenda for any meeting sufficiently in advance of the meeting to allow meeting participants a reasonable opportunity to prepare for such meeting.
- (l) A representative of the Service Provider shall prepare and circulate in a timely manner minutes of each meeting and shall incorporate any corrections to such minutes as the Province may reasonably request.
- (m) Other employees, consultants, advisors or agents of the Service Provider and the Province may attend meetings of the Joint Steering Committee at the invitation of either Party to the extent reasonably necessary to sufficiently address matters for discussion on the agenda of a committee meeting.
- (n) Subject to the provisions of the Agreement including those set forth in this Schedule, the Joint Steering Committee may develop its own rules of procedures and protocol.
- (o) The Joint Steering Committee shall operate subject to and in accordance with:
  - (i) the terms of this Agreement; and
  - (ii) the decisions and the direction of the Joint Executive Committee.

## **2.8 Working Groups**

- (a) The Joint Executive Committee or the Joint Steering Committee may from time to time form working groups ("**Working Groups**") as required and appropriate to address specific requirements in respect of this Agreement,

the Services, the day-to-day operations, the relationship of the Parties or otherwise as determined by either such committee.

- (b) Working Groups shall be comprised of the Persons as determined by the committee so forming such Working Group. The Committee so forming such Working Group may from time to time change Persons or replace Persons in a Working Group.
- (c) The responsibilities, authority and decision and meeting process of a Working Group shall be as determined by the applicable committee, as set forth in this Schedule and as otherwise set forth in this Agreement.
- (d) Working Groups shall operate subject to and in accordance with:
  - (i) the terms of this Agreement; and
  - (ii) the decisions and the direction of the committee so forming such Working Group.
- (e) The Working Groups will meet as needed and will document their actions and decisions.
- (f) The Joint Steering Committee will form Working Groups as required to support the Transition, including without limitation, an employee transition communication Working Group.
- (g) The Joint Steering Committee will form the following Working Groups, which shall remain in place throughout the Term:
  - (i) Administration;
  - (ii) Policy;
  - (iii) Systems; and
  - (iv) Operations.
- (h) The Policy Working Group that will meet as required to discuss new or emerging policy issues, plan for implementation of new policy, review benchmark cases and complex claims, etc.
- (i) For each Working Group a representative of each Party shall co-chair each meeting, and either chair has the right to call a meeting.
- (j) In the event that issues are raised which either or both of the Parties do not consider have been appropriately addressed after reasonable efforts by the Working Group, such issues may be escalated and will be addressed by



referral to the Committee that established such Working Group in a prompt manner and no later than their next meeting.

### **3.0 GOVERNANCE OF THE RELATIONSHIP BETWEEN THE SERVICE PROVIDER AND ITS KEY PROVIDERS**

The Service Provider acknowledges that it will be necessary for it to govern and manage relationships with its Key Providers according to principles similar to the ones outlined above.

Further, the Service Provider agrees that it will cause the following to occur:

- (a) There are rigorous agreements in place between the parties that ensure stability, performance and accountability;
- (b) The commercial health of any of the Key Providers does not put the delivery of the Services at risk;
- (c) The Service Provider will monitor its Key Providers performance and promptly address any performance issues;
- (d) Disputes between the parties will be resolved in a way that has no impact on the delivery of Services;
- (e) The Service Provider will advise the Province if there is the possibility of a material change in the relationship between the Service Provider and the Province, what the risks and risk mitigation strategies are, and obtain Approval from the Province for any material changes; and
- (f) Contingency plans are in place to assure alternate approaches should any Key Providers fail to perform, need to be replaced, or terminates their agreement with the Service Provider.

### **4.0 GOVERNANCE OF THE RELATIONSHIP BETWEEN THE PROVINCE, THE SERVICE PROVIDERS AND STAKEHOLDERS**

The Province will retain the prime responsibility for the relationship with Stakeholders with which the Province has formal agreements, including control over communication with such Stakeholders in accordance with Schedule K of this Agreement. Current examples of such Stakeholders are MPR, ICBC, WCB, BCMA, and the College of Pharmacists.

In its role as the direct provider of the Services, the Service Provider may meet with Stakeholders to discuss opportunities and problems. The Service Provider will inform the Province prior to any such meetings. The Province will have the option to have one of its employees attend the meeting.

The Service Provider will immediately report all Stakeholder complaints, and its plans to resolve them, to the Province.

The Province and the Service Provider will sponsor meetings no less than twice per Contract Year with the Stakeholders for the purpose of maintaining and improving relationships, introducing new services, growing the volume of work, training and receiving Stakeholder feedback on the quality of service.

In all cases, the Province and the Service Provider will work together diligently to ensure that they demonstrate to the Stakeholders that the alternative service delivery relationship between the Parties is professional, responsive and willing, to the extent that it is commercially reasonable and cost effective, to make changes to meet Stakeholder needs.

Notwithstanding the foregoing, the Service Provider will ensure that all of its communications with Stakeholders are made in accordance with Schedule K of this Agreement.



July 29, 2003

To All Proponents

**Subject: Ministry of Health Services – Health Benefits Operations Alternative Service Delivery**

I am pleased to be able to provide the private sector with the opportunity to work with my ministry on a very important priority for the Government of British Columbia.

We are requesting solutions from an outside partner, to improve our health business services to the public. Over the past three decades, technology and business processes used to serve the public have been developed on an ad hoc basis and are now ineffective in meeting the growing needs of British Columbians. Unfortunately, too many British Columbians associate MSP with unanswered mail and endless busy signals. We need a long-term solution to turn that around.

Our goal is to modernize and improve MSP services to the public, and maintain the quality of our MSP and PharmaCare business services to physicians and other health care professionals. That is why we are releasing this request for joint solutions – JSRFP document. In this process, we will select a suitable vendor to lead our business transformation process. The JSRFP process will allow flexibility and innovation as we work towards a solution that will hopefully become an example for other governments.

When the JSRFP process is completed and these services are delivered by an outside partner, it is important to note that our Government will continue to be accountable for all information and services, and ensure British Columbians' personal privacy is protected. The protection of privacy is fundamental to having a trusted and effective health system. The Ministry of Health views the protection of personal information very seriously and builds privacy protection into new systems and initiatives, such as this one.

I am offering my personal commitment to this outcome. This project will be high on my list of priorities as we proceed. I welcome your proposals and thank you in advance for the time and effort you will contribute during the procurement process.

Good luck to all of you. I know there are many who could step up to our challenge and that we will only be able to select one of you on this particular project. For the selected vendor, the work will be just beginning. For the others, I encourage you to participate in future opportunities as the Province moves forward with other exciting initiatives.

[Original signed by]

Hon. Colin Hansen  
Minister of Health



## Ministry of Health Services

### Joint Solutions Procurement For The Health Benefits Operations Project

#### Government Contact:

All enquires related to this Joint Solution Request for Proposal, **JSRFP# SATP029** are to be directed in writing to the person set forth below, who will respond to all inquiries if time permits. Information obtained from any other source is not official and should not be relied upon. Inquiries and any responses will be recorded and may be distributed to all Proponents at the Province's discretion.

Patrick Ngo  
Manager, Commercial Services  
Strategic Acquisitions and Technology Procurement Branch  
Common Business Services, Solutions B.C.  
email: [pcadmin@gems2.gov.bc.ca](mailto:pcadmin@gems2.gov.bc.ca)  
Facsimile: (250) 387-1399

#### Delivery of Proposals:

Proposals must not be sent by mail, facsimile or email. Proposals and their envelopes should be clearly marked with the name and address of the Proponent, the JSRFP number, and the program title. Four (4) complete hard-copies and one electronic copy on diskette or CD must be delivered by hand or courier, and must be received prior to **2:00 pm, Pacific Time on, September 8, 2003 at:**

Procurement Services – Ministry of Management Services  
102 – 3350 Douglas Street  
Victoria, B.C., V8Z 7X9  
Attention: Patrick Ngo

#### Proponent Information Session

A Proponents' information session will be held on:

Monday, August 11<sup>th</sup> 2003 at 2:00 pm  
Ministry of Management Services  
Presentation Room, E155  
4000 Seymour Street  
Victoria, BC, V8W 9V1

Please note that this meeting is an information session to announce the Health Benefits Operations Project. This meeting will be recorded. Attendance is optional. Dial-in phone access will be provided.

Please refer to section 1.2.2.4 for instructions on making enquiries or asking questions on this JSRFP. Please refer to sections 1.2.2.5 to 1.2.2.8 for details on Proposal submission and related information.

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# 1 JOINT SOLUTION REQUEST FOR PROPOSAL INTRODUCTION

## 1.1 PURPOSE OF THE JSRFP AND JSP

The purpose of this Joint Solution Request for proposal is to identify Proponents with the optimum combination of the capacity, capability and commitment to guide the Ministry in formulating a Solution for Health Benefits Operations that meets the business objectives of the Ministry.

The strategic goals for seeking an alternative service delivery arrangement is to:

- i) improve service to the Public while protecting privacy and personal information;
- ii) maintain or improve service to health care professionals;
- iii) permit the Ministry to focus on its core business – stewardship and leadership for the health system in British Columbia;
- iv) increase operational flexibility;
- v) avoid capital costs associated with upgrades/replacement of existing systems; and,
- v) manage costs within the context of the Ministry Service Plan.

In general, for services to the Public, goals for improved service delivery include: a better ability to meet peak demands for service; quicker response times when clients call; the ability to provide service 24 hours per day, 7 days a week through self-service options; and the ability to provide service in multiple languages. Due to the importance and sensitivity of health related information, Proponents must demonstrate an understanding of the importance of privacy and their ability to protect personal information. As well, in order to ensure successful transition of staff and continued successful operations, Proponents must describe their understanding and experience related to workforce transition and successorship rights. Details on the British Columbia Labour Relations Code, collective agreements, and related issues can be accessed via the Labour Relations Board – British Columbia website<sup>1</sup>.

Proponents should understand that this Project represents a business solution with supporting technology. In order to ensure a smooth transition of operations, the Ministry is seeking a Partner to “run then build then run” business operations, including all in-scope business processes and technology. This means the Ministry is looking for a Partner to assume the business operations for the length of time necessary to design and implement business re-engineering and technological improvements. Following the transition to the new environment, the Partner would be expected to continue to run operations and the supporting technology for the remaining contract period (anticipated to be 7-10 years in total). A successful Partner will demonstrate excellent ability to deliver business process, related technology operations and transformation aspects of this Project while meeting the goals of this Health Benefits Operations Project.

The JSP process is a multi-stage business solution procurement process comprised of two major parts. The first part is the JSRFP process designed to qualify and short-list Proponents primarily on capacity, capability and commitment to provide services to the Ministry. As part of the qualifying process, the Ministry will be looking at initial written Proposals and Proponent presentations in an effort to align a Proponent’s capacity, capability and commitment with the Ministry’s expected vision of an eventual Partner’s ability to deliver the Ministry’s expected business outcomes. The second part of the JSP process involves distinct phases including a

<sup>1</sup> The Labour Relations Board British Columbia website is: <http://www.lrb.bc.ca>.

Joint Solution Definition Phase, a Due Diligence & Negotiations Phase and a Contract Negotiations Phase and will culminate in a jointly developed business Solution.

The Ministry will approach the Project with no pre-conceived notion of how the services should best be delivered and will work closely with the Preferred Proponents, through the Joint Solution Definition Phase, in determining how to best meet the service requirements. The Ministry expects that the process will follow the JSP approach described in this JSRFP and that two Preferred Proponents will be identified and invited to enter into Joint Solution Definition activities with the Ministry. The form of deal structure (e.g. joint venture, transitional joint venture or outsource) will depend on the outcome of these discussions. It is expected that the commercial arrangement resulting from JSP process will range between 7 and 10 years in duration.

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## 1.2 DEFINITIONS AND ADMINISTRATIVE REQUIREMENTS

### 1.2.1 Definitions

Throughout this JSP, the following definitions will apply:

- a) “3C’s” means, capacity, capability, and commitment to jointly achieve the best business outcomes for the Health Benefits Operations Project, and are the key attributes that will be assessed during the JSP process;
- b) “Beneficiary” means a resident of British Columbia who is eligible for enrolment with MSP and therefore entitled to publicly funded healthcare;
- c) “Business Alliance” means a mutually beneficial relationship between the Ministry and the Partner;
- d) “Concept” means the high level concept relating to the Project presented orally and in writing by a Proponent to the Province during Stage 3 of the Proponent Qualification Phase;
- e) “Contract Negotiation Phase” means Phase 4 of this JSP which commences upon the Province indicating that it is prepared to start negotiation of the Final Contract with the Successful Proponent and ends upon the execution of the Final Contract;
- f) “Due Diligence & Negotiation Phase” means Phase 3 of this JSP which commences upon an invitation being extended by the Province to the Successful Proponent to enter into Phase 3 of this JSP and ends upon the Province indicating that it is prepared to start negotiation of the Final Contract with the Successful Proponent;
- g) “Final Contract” means the written agreement executed by the Province and the Successful Proponent resulting from completion of the Contract Negotiation Phase and which shall include the Privacy Schedule attached at Appendix D of this JSRFP;
- h) “IBM” means International Business Machines Corporation and all of its affiliates and related entities;
- i) “Joint Solution Definition Agreement” means the agreement that will be entered into by the Province and each Preferred Proponent prior to the Joint Solution Definition Phase which will include the provisions described in Appendix C;
- j) “Joint Solution Definition Phase” means Phase 2 of this JSP which commences upon invitations being extended to Preferred Proponents to enter into Phase 2 of this JSP and ends upon an invitation being extended by the Province to one of the Preferred Proponents to become the Successful Proponent;
- k) “JSP” means the Joint Solution Procurement Process for the Project;
- l) “JSRFP” means this document;
- m) “Letter of Intent” means the letter of intent that will be entered into by the Successful Proponent prior to the Due Diligence & Negotiation Phase;
- n) “Ministry” means the Ministry of Health Services;
- o) “MSP” means Medical Services Plan as administered by Health Benefits Operations;
- p) “must”, or “mandatory” in respect of evaluation criteria means a requirement that must be met in order for a Proposal to receive consideration;
- q) “Partner” means the Successful Proponent who enters into the Final Contract with the Province and works with the Ministry in a strategic relationship, but not necessarily a legal partnership, in achieving the Ministry’s goals for the Project;
- r) “Preferred Proponents” means the Proponents who are invited by the Province to advance to the Joint Solution Definition Phase and who sign the Joint Solution Definition Agreement;
- s) “Project” means the Health Benefits Operations Project;
- t) “Proponent” means the entity that submits, or intends to submit, a Proposal in response to this JSRFP, and where the Proposal consists of a joint submission or contemplates the use of subcontractors, then the Proponent will be the individual entity that acts as the lead entity responsible for the Proposal, as more particularly described in paragraph 1.2.2.25;
- u) “Proponent Qualification Phase” means Phase 1 of this JSRFP which commences upon the release of this JSRFP and ends upon invitations being extended by the Province to Preferred Proponents to enter into the Joint Solution Definition Phase;
- v) “Proposal” means the written submission required for Stage 1 of the Proponent Qualification Phase;
- w) “Province” means Her Majesty the Queen in Right of the Province of British Columbia as represented by the Ministry;

- x) “Public” means the general populace who may or may not be Beneficiaries;
- y) “should” or “desirable” in respect of evaluation criteria means a requirement having a significant degree of importance to the objectives of the JSRFP
- z) “Solution” means the Project solution and framework that is developed during the Joint Solution Definition Phase in response to the Ministry’s business goals and desired outcomes for the Project;
- aa) “Stage 1” means the initial stage of the Proponent Qualification Phase during which Proposals will be created by Proponents and evaluated by the Province;
- bb) “Stage 2” means the second stage of the Proponent Qualification Phase during which up to four Proponents will be asked to participate in separate Workshops with the Province;
- cc) “Stage 3” means the final stage of the Proponent Qualification Phase during which the Proponents who participated in the Workshops will present their Concepts to the Province, both orally and in writing;
- dd) “Subcontractors” mean entities retained by the Partner to perform certain services in respect of the Final Contract;
- ee) “Successful Proponent” means the Preferred Proponent who is invited by the Province to advance to the Due Diligence & Negotiation Phase and who signs a Letter of Intent;
- ff) “Workshops” means the working sessions between a Proponent and the Ministry during Stage 2, as more particularly described in section 4.1.5;

## 1.2.2 Joint Solution Request for Proposal Process – Proponent Qualification Phase

### 1.2.2.1 Terms of the Proponent Qualification Phase

This JSP will consist of four phases: the Proponent Qualification Phase, the Joint Solution Definition Phase, the Due Diligence & Negotiation Phase and the Contract Negotiation Phase. The following terms apply to the Proponent Qualification Phase of this JSRFP. In consideration of the Province’s preparation of this JSRFP document, in conducting the JSRFP and the Proponents’ opportunity to submit a Proposal, each Proponent hereby acknowledges and agrees by submitting a Proposal in response to this JSRFP that the Proponent is accepting and agreeing to be bound by the terms of this JSRFP. Provisions in a Proposal that conflict or are

inconsistent with any of the terms of this JSRFP shall be of no force or effect.

### 1.2.2.2 Proponent Qualification Phase Process

The Proponent Qualification Phase will consist of three stages:

- (a) Stage 1 – During this stage Proponents will submit Proposals in accordance with the terms of this JSRFP. Each Proposal will be evaluated by the Province. The Province will select up to four Proponents to advance to Stage 2 of the Proponent Qualification Phase based upon the Province’s evaluation of the Proposals;
- (b) Stage 2 – During this stage Workshops will be held with up to four Proponents that have advanced from Stage 1. Subject to the terms of this JSRFP, each of the Proponents from Stage 2 will advance to the Stage 3 of the Proponent Qualification Phase; and
- (c) Stage 3 - During this stage each of the Proponents who have advanced from Stage 2 will present their Concepts to the Province. The Province will initially select up to two Proponents who will become Preferred Proponents and will advance to the Joint Solution Definition Phase.

Neither the acceptance by the Province of any Proposal, the conducting of any Workshop nor the receipt by the Province of any Concept in any format whatsoever shall under any circumstances cause any express or implied commitment or undertaking on the part of the Province to advance any Proponent to the next Stage or Phase, to receive any presentation from a Proponent, to acquire services, to undertake any form of transaction or to continue the JSRFP process.

### 1.2.2.3 Receipt Confirmation Form

Proponents are advised to fill out and return the attached Receipt Confirmation Form to the Province immediately. Only those Proponents who return a fully completed Receipt Confirmation Form will be notified of any subsequent information relating to this JSRFP, including any changes made to this document. Subsequent information will be distributed by the Province to a Proponent in accordance with the method authorized on the Proponent’s Receipt Confirmation Form.

Notwithstanding the foregoing, Proponents who have returned the Receipt Confirmation Form to the Province may be notified that certain additional information will only be made available to Proponents who return to the Province a signed Confidentiality Form (which will be

provided by the Province). Where such notification is given to the Proponents, then only those Proponents who return a fully signed Confidentiality Form will be provided with the additional information. It is intended that any such additional documents will be made available for courier pickup or for viewing in a restricted documents room that may be established by the Province in Victoria. The responses to any enquiries regarding such additional information will be provided by email, facsimile, or courier at the Province's discretion

#### 1.2.2.4 Enquiries

All enquiries related to this JSRFP are to be directed, in writing, to the person set forth below. Information about this JSRFP obtained from any other source is not official and should not be relied upon. Enquiries and responses will be recorded and may be distributed to all Proponents at the Province's option.

**Patrick Ngo**

E-Mail: [pcadmin@gems2.gov.bc.ca](mailto:pcadmin@gems2.gov.bc.ca)

Tel: (250) 387-1430

Fax: (250) 387-1399

The Province has no obligation to ensure consistency between each of the Workshops or each of the Concept presentations. Accordingly, during Stages 2 and 3, questions and responses exchanged between the Province and one Proponent may differ from questions and responses exchanged between the Province and any other Proponent. The Province does not intend to share the questions or answers that are exchanged with a Proponent during Stages 2 and 3 with any other Proponents; however, if a Proponent makes a request for information during a Workshop that the Province determines to be a request for basic information that should be made available to all Proponents, then the Province, in its sole discretion, may distribute that basic information to all Proponents participating in the Workshops.

#### 1.2.2.5. Closing Date and Time

Four complete hard copies of the Proposal and one electronic copy on diskette or CD must be delivered by hand or courier, and received prior to 2:00 PM, Pacific Time, on September 8, 2003 at:

Procurement Services  
Ministry of Management Services  
102 – 3350 Douglas Street  
Victoria, B.C., V8Z 7X9

**Attention: Patrick Ngo**

Proposals must not be sent by mail, facsimile or email. Proposals and their envelopes should be clearly marked with the name and address of the

Proponent, the JSRFP number, and the program title.

#### 1.2.2.6 Late Proposals

Proposals will be marked with their receipt time at the closing location described in section 1.2.2.5 above. Late Proposals will not be accepted and will be returned to the Proponent. In the event of a dispute, the Proposal receipt time as recorded at the closing location will prevail whether accurate or not.

#### 1.2.2.7 Signed Proposals

The Proposal must be signed by a person authorized to sign on behalf of the Proponent and to bind the Proponent to the terms of this JSRFP and any statements made in response to this JSRFP. The Proponent must ensure that its Proposal includes a letter or statement(s) substantially similar in content to the sample Proposal Covering Letter provided in Appendix A.

#### 1.2.2.8 Changes to Proposals

By submission of a clear and detailed written notice, the Proponent may amend or withdraw its Proposal prior to the closing date and time. The Proponent cannot change the wording of its Proposal after closing and no words or comments will be added to the Proposal after closing unless requested by the Province for purposes of clarification, or to correct minor defects pursuant to section 1.2.2.16 below.

#### 1.2.2.9 Eligibility

A Proposal will not be evaluated if the Proponent's current or past corporate or other interests may, in the Province's opinion, give rise to a conflict of interest in connection with the Project. Subcontracting to any firm or individual whose current or past corporate or other interests may, in the Province's opinion, give rise to a conflict of interest in connection with the Project, will not be permitted. The Province may also remove a Proponent from any later stage of the Proponent Qualification Phase where the Province determines, in its opinion, that such Proponent's current or past corporate or other interests may give rise to a conflict of interest in connection with the Project. Any such determination by the Province of a conflict of interest shall be final and shall be based upon such information as the Province in its sole discretion determines to be relevant.

#### 1.2.2.10 Evaluation Committee

The evaluation of Proposals will be undertaken by a committee formed by the Province, which committee may include employees and contractors. The evaluation committee may consult with such technical advisors, including financial, legal, operating, marketing and other experts, as the evaluation committee may, in its discretion, determine to be necessary. The evaluation committee may be expanded by the

Province in its sole discretion during Stages 2 and 3.

#### **1.2.2.11 Evaluation**

The evaluation committee will check Proposals against the mandatory criteria. Proposals that do not meet all of the mandatory criteria will be rejected without further consideration. Proposals that do meet all of the mandatory criteria will also be evaluated against the desirable criteria. The Workshops and Concepts will be evaluated against the criteria described in this JSRFP.

#### **1.2.2.12 Debriefing**

At the conclusion of Stage 1, Proponents who are not invited to advance to Stages 2 and 3 of the Proponent Qualification Phase will be so notified in writing, and may then request a debriefing meeting with the Province, which will be scheduled by the Province after the Preferred Proponents have been announced. Proponents who will not be invited to participate in the Joint Solution Definition Phase will be so notified in writing at the end of the Proponent Qualification Phase, and may then request a debriefing meeting, which will be scheduled by the Province following the conclusion of the Contract Negotiation Phase.

#### **1.2.2.13 Proponent Expenses**

Proponents are solely responsible for their own expenses in preparing a Proposal and for participating in any or all Stages of the Proponent Qualification Phase including, without limitation, if the Province elects to reject all Proposals or to not ask any Proponents to advance to the Joint Solution Definition Phase. In no event will the Province or any of its employees, representatives or contractors be liable to any Proponent for any claims, whether for costs or damages incurred by the Proponent in preparing the Proposal, or in preparing for or participating in Stages 1, 2 or 3, or any Phase of this JSP, or for any loss of opportunity, loss of anticipated profit in connection with any Final Contract (whether or not the Final Contract is awarded to the Proponent or at all), or for any other loss, damage or claim of any kind whatsoever relating in any way to all or any portion of the JSRFP or the JSP.

#### **1.2.2.14 Limitations of Damage**

Further to the preceding paragraph, the Proponent, by submitting a Proposal, agrees that it will not claim for any loss, costs or damages, for whatever reason, relating to the Final Contract (whether or not the Final Contract is awarded to the Proponent or at all) or in respect of the Proponent's preparation for or participation in, or failure to be invited to participate in, any one or more Stage or Phase of this JSRFP or JSP. If, contrary to the terms of this JSRFP the Province should be held liable for any reason

whatsoever (whether in contract or in tort) for any of the foregoing losses, costs or damages, then such losses, costs or damages shall not, in any circumstances, exceed an amount equivalent to the reasonable costs incurred by the Proponent in preparing its Proposal.

#### **1.2.2.15 Right of the Province to Check References**

The Province reserves the right to verify a Proponent's references at any Stage in the Proponent Qualification Phase. Effort will be made to notify Proponents in advance of reference checks.

#### **1.2.2.16 Correction of Minor Defects**

The Province reserves the right, in its sole discretion, to correct minor defects in the Proposals or Concepts.

#### **1.2.2.17 Acceptance of Proposals**

This JSRFP should not be construed as an agreement to purchase goods or services. The Province is not bound to enter into any contract with any Proponent including, without limitation, any Proponent who submits the lowest priced Proposal or Concept. Proposals and Concepts will be assessed in light of the evaluation criteria described or referenced in this JSRFP. The Province will be under no obligation to receive further information, whether written, oral, or otherwise, from any Proponent at any Stage in the Proponent Qualification Phase.

#### **1.2.2.18 Restriction on Contact/No Lobbying**

Proponents must not attempt to communicate directly or indirectly with any employee, contractor or representative of the Province, including the evaluation committee or with members of the public or the press, about the Project described in this JSRFP, during the Proponent Qualification Phase, other than as expressly directed or permitted by the Province.

#### **1.2.2.19 No Contract**

By submission of a Proposal, Proponents agree that no Proponent will acquire any legal or equitable rights or privileges relative to the Project described in this JSRFP prior to the full execution of a Final Contract. Further, the Province reserves the right not to enter into a Final Contract with any of the Proponents.

#### **1.2.2.20 Liability for Errors**

While the Province has used considerable efforts to ensure an accurate representation of information in this JSRFP, and provided pursuant to this JSP, the information is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the Province, nor is it necessarily comprehensive or exhaustive. Nothing in this JSRFP is intended to relieve Proponents from forming their own

opinions and conclusions with respect to the matters addressed in this JSRFP.

#### **1.2.2.21 Modification of Process or Project**

The Province reserves the right to modify the JSP, this JSRFP or the Project at any time in its sole discretion. This includes, but is not limited to, the right to cancel this JSRFP at any time, to extend the closing time, change the number of Proponents asked to advance to any Stage of this JSRFP or any Phase of this JSP, re-commence a Stage or Phase of this JSRFP or JSP, alter the Project requirements or make other changes to the process or to a term set out in this JSRFP. If a modification is communicated to the Proponents prior to closing time, it is the Proponents' sole responsibility to ensure that they make appropriate use of that information.

#### **1.2.2.22 Ownership of Proposals**

All documents, and electronic media, including the Proposals and Concepts, submitted to the Province become the property of the Province. The Province may make such copies as the Province may require for evaluation purposes. All Proposals and Concepts will be received and held in confidence by the Province, subject to the provisions of the *Freedom of Information and Protection of Privacy Act* and this JSRFP.

#### **1.2.2.23 Use of JSRFP Document**

No portion of this document, nor any information supplied by the Province in relation to this JSRFP, may be used or disclosed by a Proponent in any manner other than for the sole purpose of submitting a Proposal and participating in the JSP.

#### **1.2.2.24 Working Language of the Province**

The working language of the Province of British Columbia is English and all responses to this JSRFP must be in English.

#### **1.2.2.25 Proposals with Joint Submissions or Subcontractors**

A Proponent may submit a Proposal consisting of a joint submission by the Proponent together with one or more other entities, or which proposes the use of Subcontractors in the Final Contract. In either case, the Proponent will be the only party responsible to the Province for the Proposal, will act as the liaison and main contact with the Province in respect of the Proposal, this JSRFP and the JSP, and will take overall responsibility for the successful inter-relationship among the Proponent and the other entities involved in the joint submission, or contemplated as Subcontractors, as the case may be. The Province will have no obligations with respect to those other entities or Subcontractors under this JSRFP, the JSP, the Final Contract or otherwise.

### **1.2.3 JSRFP Process – Joint Solution Definition Phase**

Prior to participation in the Joint Solution Definition Phase, the Province will enter into a Joint Solution Definition Agreement with each of the Preferred Proponents, which will include the provisions described in Appendix C as well as such other provisions as may be determined by the Province, in its discretion, to be necessary, desirable or useful.

### **1.2.4 JSP Process – Due Diligence & Negotiation Phase**

The Due Diligence & Negotiation Phase will substantially follow the process described in section 4.3 below.

### **1.2.5 JSP Process – Contract Negotiation Phase**

The Contract Negotiation Phase will substantially follow the process described in section 4.4 below.



## 1.3 MINISTRY OVERVIEW

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The Ministry of Health Services is responsible for implementing performance expectations and monitoring results for health authorities, and planning and administering MSP, PharmaCare and the British Columbia Ambulance Service.

### 1.3.1 Background

Since 2001, major strategic shifts in health services have been undertaken to meet the government's New Era goals to provide high quality, patient-centred care, improve the health and wellness of British Columbians and create an affordable, sustainable health services system.

An aging population and increase in chronic diseases have put new demands on our system. We are now focused on creating a flexible, adaptable health care system that does not remain static but has the capacity to meet the needs of our population as it grows and changes.

As part of its Service Plan<sup>2</sup>, the Ministry identified a number of key goals and strategies to better manage health care for the residents of British Columbia. Amongst the challenges identified was managing the restructuring of the Ministry and health care service delivery within fixed health system budgets. Within that context, the Ministry is closely examining how to maintain high quality health care while providing more effective, efficient service delivery.

### 1.3.2 Ministry Vision for this Project

The Ministry's vision for the Project is to achieve an integrated, streamlined business and systems environment that:

- improves service to the Public;
- ensures continued high service to health care professionals;
- maintains strong protection of individuals' personal information; and
- is affordable and not exceeding current budget allocations.

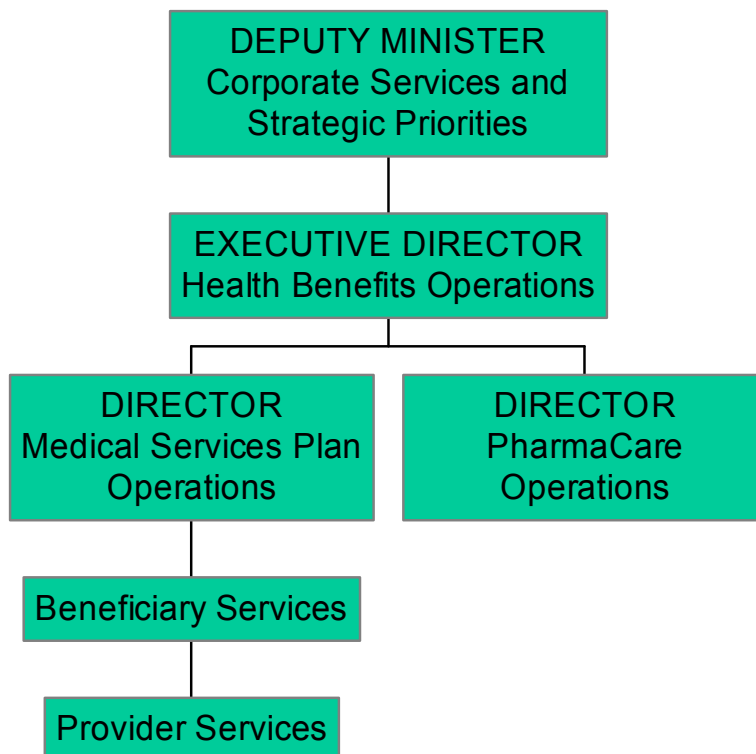
This needs to be done within a quality assured framework that protects privacy and complies with all applicable laws, regulations, policies and agreements.

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<sup>2</sup> Details about the Ministry and its Service Plan are available at [www.gov.bc.ca/healthservices](http://www.gov.bc.ca/healthservices)

### 1.3.3 Overview of the Health Benefits Operations

Health Benefits Operations is the functional area of the Ministry responsible for administering MSP and PharmaCare<sup>3</sup>.



MSP was established in 1965 and operates in accordance with the Medicare Protection Act and its supporting regulations under the direction of the Medical Services Commission. The Medical Services Commission is a statutory body, established under the Medicare Protection Act.<sup>4</sup> The Medical Services Commission operates independently of the Ministry and reports directly to the Minister of Health Services. MSP Operations acts as a functional delegate of the Medical Services Commission in carrying out many of its statutory responsibilities. However, the staff of MSP Operations are employees of the Ministry and not the Medical Services Commission. In addition, MSP Operations is required to operate according to the terms and conditions of a number of negotiated agreements with health care practitioners, an inter-provincial agreement and a number of memoranda of understanding.

Enrolment in MSP is mandatory for all eligible British Columbia residents. Through its enrolment and adjudication processes MSP provides eligible residents with access to publicly funded health care and medical practitioners receive payments for services provided. MSP is comprised of two main Branches – Beneficiary Services and Provider Services.

PharmaCare was established in 1974 and operates in accordance with the Pharmacists, Pharmacy Operations and Drug Scheduling Act, Continuing Care Act and Ministry

<sup>3</sup> Additional Information available at [www.gov.bc.ca/healthservices](http://www.gov.bc.ca/healthservices)

<sup>4</sup> Additional Information available at [www.healthservices.gov.bc.ca/msp/legislation/msc.html](http://www.healthservices.gov.bc.ca/msp/legislation/msc.html)

policies. It is the Province's drug benefits program that assists British Columbia residents in paying for eligible drugs and designated medical supplies. PharmaCare Operations provide services to pharmacists for enrolment and processing via PharmaNet (the electronic system that connects pharmacies to PharmaCare) and the general Public under the Fair PharmaCare Plan and other PharmaCare Plans.

The majority of the information technology supporting all Health Benefits Operations business functions is currently outsourced to the Ministry of Management Services or IBM. Both MSP and PharmaCare have dedicated quality assurance teams that provide user acceptance testing for all system changes.

### 1.3.4 Beneficiary Services

Beneficiary Services is responsible for:

- enrolling eligible British Columbia residents for publicly funded health care;
- determining the MSP premium rates for individuals and families;
- administering premium subsidies for low income individuals/families (approximately 1.2 million residents receive subsidy);
- managing registration maintenance activities; and,
- handling Public enquiries through correspondence and telephone calls.

In September 2002, the responsibility for the billing and collection of MSP premiums was transferred to the Ministry of Provincial Revenue. This transfer has resulted in the sharing of business processes, computer applications, interactive voice response and document management systems.

The Beneficiary Services' operational database and the Ministry's corporate Client Registry contain the Beneficiaries' demographic information and are updated daily. The Client Registry has an application that issues the lifetime Personal Health Number. The Personal Health Number is the unique number assigned to individuals for use and reference in all health related transactions.

Government Agents – small government offices located throughout the province – provide a variety of services to residents on behalf of MSP, such as ordering replacement CareCards, address changes, assistance and submission of premium assistance applications, and answering general inquiries.

Technology support for Beneficiary Services is mainly outsourced. The only business process currently outsourced for Beneficiary Services is the first level call center that is responsible for answering general inquiries and assisting and processing address changes.

#### Key Stakeholders:

- The Public
- MSP Beneficiaries
- Medical Services Commission and advisory committees
- Other Ministry Programs and Ministries
- Group Administrators
- Government Agents
- Office of the Information and Privacy Commissioner of British Columbia



**Other Stakeholders:**

- Health Authorities
- Canada Customs and Revenue Agency
- Immigration Canada
- School Boards
- Medical and Health Care Services Appeal Board

**1.3.5 Provider Services**

Provider Services is responsible for:

- enrolling eligible health care practitioners;
- adjudication and payment of claims for insured services;
- managing the electronic billing system; and,
- providing a wide variety of technical and business support services.

In addition, Provider Services is a processing agent for the Workers Compensation Board of British Columbia, the Insurance Corporation of British Columbia and the Ministry of Human Resources. It also provides support for several programs within the Ministry.

Enrolment with the MSP is optional for eligible health care providers. The majority of licensed physicians and health care practitioners do enrol so that their services are publicly funded. Provider Services works with the various professional and regulatory bodies to ensure only appropriately licensed health care providers are eligible for payment for their services. A central repository contains all health care practitioners' demographic information.

Electronic claim submission is mandatory. Less than 1 per cent of claims are paper (for out of country claims and special exceptions). Currently 58 per cent of all claims are received via the web and it is anticipated that this will increase substantially by the Fall of 2003. The electronic claims system functions 24 hours per day, 7 days per week, and performs all necessary checks or information requests automatically. Of the approximately 67 million claims received and paid per year, an estimated 98 per cent of claims are processed automatically using a complex array of automated business rules. Technical and business support is provided by an in-house help desk.

In addition to medical services obtained in British Columbia, MSP covers the cost of medically necessary services not available in British Columbia or Canada and reimburses residents for medical and hospital services obtained while temporarily out of the country. These claims are usually submitted directly by the client in paper format.

In addition to being a processing agent, Provider Services operates as a corporate service and provides administration for other Ministry programs such as the Rural Locum Program, primary care Project, and the Travel Assistance Program. It is also the payment agent for the Physician Recruitment and Retention Program and the Urban Specialist Availability Program<sup>5</sup>.

While Provider Services is largely automated and provides timely service, the ongoing challenge is to maintain sufficient flexibility to be able to operate and respond to changes quickly in a changing environment (i.e. changes such as the recently negotiated agreements with health care providers and technology changes).

<sup>5</sup> Additional information is available at [www.gov.bc.ca/healthservices](http://www.gov.bc.ca/healthservices)

The majority of technology support for Provider Services is currently outsourced. All business functions within Provider Services are currently performed in-house.

#### **Key Stakeholders:**

- MSP Beneficiaries
- Physicians and other health care practitioners
- Medical Services Commission and advisory committees
- British Columbia Medical Association and other health care provider associations
- Other Provincial Health Programs
- College of Physicians and Surgeons of British Columbia and College of Dental Surgeons of British Columbia
- Office of the Information and Privacy Commissioner of British Columbia
- The Insurance Corporation of British Columbia and the Workers' Compensation Board of British Columbia
- Health Authorities
- Travel assistance program partners

### **1.3.6 PharmaCare Operations**

PharmaCare provides assistance to eligible British Columbia residents for the purchase of eligible prescription drugs, prosthetic appliances and medical supplies through 8 separate plans.

Effective May 1, 2003, the PharmaCare program replaced the separate seniors and universal plans with a single, active registration, income-based program available to all residents. The new Fair PharmaCare Plan provides financial assistance based on family income and at a much higher degree of specificity than the previous plans. A number of registration channels were developed including a web, interactive voice response, phone and paper applications. These services will form part of the scope of this Project. Development is still underway in order to complete the implementation phase. It is anticipated that this will stabilize after the first year of operation.

This Branch administers PharmaNet, the secure computer-based system that connects British Columbia's community and hospital pharmacies to automate billing and payment processing to pharmacists. PharmaNet supports enrolment services to pharmacists, and provides information only as needed, in a private and secure environment. In addition to claims processing, PharmaNet provides comprehensive drug use evaluation and is a valuable tool in preventing the misuse of prescribed medication.

Subsequent projects connecting hospital emergency departments and medical practices on a voluntary basis have been in place since 1997. Enrolment in PharmaCare is voluntary for community pharmacies. To hospital pharmacies dispensing to outpatients, enrolment is mandatory.

The Ministry shares custodial responsibility for the data collected on PharmaNet with the College of Pharmacists of British Columbia. However, the government is in the process of amending the legislation to transfer responsibility to a stewardship committee within the Ministry.

Technology supporting this area currently is primarily outsourced. All business functions for PharmaCare are performed in-house with the exception of a temporary registration

desk established to handle the initial high volume of registrations required for the recently implemented Fair PharmaCare Plan. This temporary registration desk function is outsourced. The PharmaCare Operations area is largely automated and provides services in a timely manner.

**Key Stakeholders:**

- The Public
- College of Pharmacists of British Columbia
- College of Physicians and Surgeons of British Columbia
- British Columbia Pharmacy Association
- British Columbia Medical Association
- Canadian Association of Chain Drug Stores
- Pharmacists across British Columbia
- Medical Practitioners across British Columbia
- Office of the Information and Privacy Commissioner of British Columbia
- Other Ministry Programs and Ministries

### 1.3.7 Existing Ministry Contracts

The Ministry currently holds contracts for delivery of call centre operations as well as systems support for Health Benefits Operations. Those services currently delivered under contract will be included in the Project as the contracts for those services expire or otherwise terminate in accordance with their terms. The services being considered for alternative service delivery outlined within this document greatly exceed the services currently delivered through contract. Moreover, the Ministry is seeking a different contracting relationship and the goals of this Project differ from those of the current arrangements.

### 1.3.8 Ministry Commitment

The Health Benefits Operations Project is focused primarily on improving service to the Public, ensuring strong privacy protection, and maintaining good service to medical practitioners and PharmaCare related services. It plans on achieving these goals through a controlled and phased approach that evaluates opportunities for alternative service delivery.

The Ministry has assembled a core team of experts that are dedicated to this project. This team is supported by the Deputy Minister of Health Services (Project Sponsor)

External expert assistance was provided to the Province to ensure that a consistent and comprehensive approach is taken for alternative service delivery initiatives in the future. The same consulting team was engaged by the Ministry to ensure the Project is equipped to manage this special process. External expert assistance will continue to be employed to ensure the process is fair and leads to selection of the most qualified proponent to build the best Solution for Health Benefits Operations.

Through this process, the Ministry will endeavour to identify a Partner with whom to negotiate a long term, mutually beneficial, risk-sharing contract.

The Ministry will provide a level playing field for all Proponents. A number of steps have been taken to provide a fair process so the Ministry can find the best Solution and the best Partner. Some of these steps are briefly described below:

- **Procurement Process.** The Joint Solutions Procurement Process was selected to ensure fairness, innovation and success. It provides an opportunity for Proponents to meet one on one with Ministry experts to attain knowledge of the problems/issues/constraints and goals of the program. This opportunity is not available in a traditional procurement process.
- **Scope of Project.** As noted above, the scope of services will include those services currently provided under contract and will include a broader range of business functions. The current service providers do not provide the full range of business services being considered for alternative service delivery.
- **Licensing Arrangements.** The Ministry has embarked on discussions with software owners for permission to assign software licenses to a Partner. The Ministry is confident that this will be accomplished.
- **Evaluation Criteria.** Selection does not favour companies that have British Columbia experience. The Ministry is seeking Proponents who have experience with similar clients and scope of work. Moreover, this JSP process requires minimal initial investment.
- **Transition Costs.** The costs for the incumbent to move to a new model of delivery may be lower than a competing Partner. Accordingly, during the Joint Solutions Definition and Due Diligence & Negotiations Phases, the selection criteria for costs will specifically require all bidders to break out the costs associated with transition.
- **Collection and Organization of Metrics.** The Project team, supported by experts in specialized fields, will identify, collect and organize technical and business data, business maps and metrics and make this information available to the Preferred Proponents.
- **System and Business Process Specific Information.** The Project team will provide necessary system documentation, operational procedures and descriptions (held by both the Ministry and the current service providers) to the Preferred Proponents. A restricted documents room will be maintained storing relevant information. Access will be controlled and monitored to ensure equal access for the Preferred Proponents.
- **Proponents' Access to Management/Staff and Current Service Providers.** Proponents will be given controlled access to certain specified management, operational staff and existing partners during stages of the process. The current contract service providers will be required to support this procurement process and disclose information as required.
- **Controlled and Equal Access to the Minister of Health and Ministry Executive Staff.** A process will be established to ensure that no single Proponent will have unequal opportunity for audience with the Minister of Health or the Ministry's Executive Staff. Those individuals will not entertain meetings related to the JSP outside of the controlled process.
- **Controlled Interaction Between Incumbent Partner and Ministry of Health Staff.** Strict rules will be established, communicated and enforced that restrict Ministry personnel and current service providers' personnel and sub-contractors from communicating on any subject other than operational activities.

- **Stability.** It is the Ministry's intention not to undertake any new discretionary development Projects within Health Benefits Operations of a material size until the procurement process is completed.
- **Process Monitor.** The Project team will engage the services of a Process Monitor to oversee the procurement process.

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## 2 DEFINING THE OPPORTUNITY

### 2.1 OVERVIEW, BUSINESS ISSUES AND OBJECTIVES

The Ministry is seeking a Partner to improve services and find efficiencies within allowable funding limits. These efficiencies will likely be achieved through automation and business process transformation. The Ministry has not done this on its own in the past because of the lack of resources and capital. The Ministry is now looking for the opportunity to partner with the private sector to achieve these goals.

#### 2.1.1 Overview

The ministry's strategic goals for seeking an alternative service delivery arrangement are to

- i) improve service to the Public while continuing to protect personal privacy;
- ii) maintain or improve service to health care professionals
- iii) permit the Ministry to focus on core business;
- iv) increase operational flexibility;
- v) avoid capital costs associated with upgrades/replacement of existing systems; and
- vi) manage costs within the context of the Ministry's Service Plan.

The projected annual budget for the components proposed for alternative service delivery, including in-house information technology support and currently outsourced services, will be between \$21 million and \$25 million. The Ministry's assumptions indicate that the stated objectives could be achieved within the projected budget level through increased automation and technological and business process transformation.

Health Benefits Operations represents a complex array of programs, activities, and services, and involves the management of the Public's sensitive personal information. The diversity of programs and activities and the nature of its work create challenges in ensuring Proponents have sufficient knowledge to offer competitive and integrated Solutions. Through the JSP process, it is anticipated that the Ministry will work jointly with two Preferred Proponents to develop two separate Solutions that will improve services to the Public and maintain services to medical and healthcare practitioners and pharmacists in a cost effective manner. Ultimately, the Ministry intends to select one Successful Proponent to negotiate a long term Final Contract that meets the goals of the Ministry.

As noted previously, Proponents should understand that this Project represents a business Solution that includes the supporting technology. In order to ensure a smooth transition of operations, the Ministry is seeking a Partner to "run then build then run". This means the Ministry is looking for a Partner to assume the business operations as is for the length of time necessary to design and implement business re-engineering and technological improvements. Following the transition to the new environment, the Partner would be expected to continue to run operations and the supporting technology for the remaining contract period (anticipated to be 7-10 years in total). A successful Partner will demonstrate excellent ability to deliver on the business process, technology and transformation aspects of this Project.

### 2.1.2 Business Issues

As with all government operations, the Ministry operates within a dynamic environment that is subject to factors such as legislative and policy changes as well as budgetary constraints. Accordingly, operations and supporting technology need to be sufficiently flexible and robust to respond to changes and meet ongoing demands. This environment represents an ongoing challenge for the Health Benefits Operations program but also affords future opportunities for development and improvement.

Other challenges exist for all three programs within the Health Benefits Operations business areas and will be discussed in detail in the text that follows. Volume and utilization metrics for the three program areas are also provided below. Further information will be made available to Preferred Proponents during the Joint Solution Definition Phase.

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## 2.2 MEDICAL SERVICES PLAN OPERATIONS

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### 2.2.1 Overview

As described above, the MSP is made up of Beneficiary Services – services to the Public, and Provider Services – services to medical and healthcare practitioners. These areas and their respective challenges and opportunities for improvement are described below.

A common challenge for all areas is the need for integration and/or communication with other ministries and agencies. This requirement imposes additional steps for development or changes to business processes or technology including needs identification, testing, privacy, and quality assurance. For example, the billing and collection of MSP premiums is performed by the Ministry of Provincial Revenue. In order for the Ministry of Provincial Revenue to perform these functions, access is required to the Ministry of Health Services registries and related data. Because the functions of both MPR and Health Benefits Operations relate to the same client groups, there is often overlap in queries and requirements requiring additional communication and liaison.

### 2.2.2 Beneficiary Services – Services to the Public

Beneficiary Services is an area of significant concern. Beneficiaries experience lengthy turnaround times for information, document processing and telephone service.

- **Lengthy Turnaround Times.** The current paper-based system, with staff handling 800,000 documents annually, is labour intensive and processing delays are common. This creates a cascade effect, as delays in document processing lead to increased public telephone inquiries, which then causes higher rates of busy signals, unanswered mail, inability to address routine daily business issues and frustration for the general public. These wait times and busy signals in the public telephone queue are unacceptable, as is document-processing time. The public confidence in service levels offered through Beneficiary Services is low.
- **Limited Internet Access.** The public can access extensive information on MSP via the web, but may only perform limited business transactions, such as address changes. The public is not tolerant of lengthy telephone waits, busy signals and process delays to initiate transactions they could perform themselves as web transactions.
- **Inadequate Service Availability.** The most common complaint regarding MSP client services is telephone access during regular business hours.
- **Limited Self Service Options.** MSP does not currently offer a wide range of self-service options. Although some routine business can be conducted via e-mail, forms by fax and Internet services, public demand for greater self-service options is increasing.
- **Limited Access For Some Beneficiaries.** The diverse population of British Columbia expects ready access to government services, regardless of language limitations or disabilities. MSP Beneficiary Services does not offer in person service to clients and all business is conducted in English. (Government Agents outside the Greater Vancouver and Victoria areas do offer in person services to MSP beneficiaries.)



- **Limited 3<sup>rd</sup> Party Services.** Trusted third parties, such as employer groups, can provide limited services directly to their own employees on behalf of MSP. These trusted third parties are requesting the ability to provide the full range of MSP services.
- **Shared Client Base.** The Ministry of Provincial Revenue is responsible for the billing and collection of MSP premiums but the Ministry of Health Services is responsible for determining eligibility and establishing the premium rate. The client base for these services is shared between the two ministries and this creates challenges when priorities and service issues differ.

The following table summarizes service level targets and current performance levels in Beneficiary Services:

	Performance Target	Actual (Apr. 03)
Enrolment applications	Less than 4 weeks	16 weeks
Registration maintenance	Less than 4 weeks	Up to 24 weeks
Premium assistance transactions	Less than 4 weeks	12 weeks

### 2.2.3 Provider Services – Services to Medical and Healthcare Practitioners

Provider Services supports medical and healthcare practitioners as well as other Ministry programs, the Workers' Compensation Board of British Columbia and the Insurance Corporation of British Columbia. These latter agencies have specialized needs and have had some customization of services provided in the past. As such, if the business functions and supporting technology are currently outsourced, support for customization and other needs for the agencies may be negotiated directly between the Partner and those agencies.

As previously stated, Provider Services is largely automated and provides services to client groups in a satisfactory manner. However, there are challenges, both over the short and long term, which may impact the effectiveness of service delivery.

The following table summarizes service level targets and current performance levels in Provider Services:

	Performance Target	Actual (Apr. 03)
Enrollment applications	Less than 7 days	Less than 7 days
Account maintenance	Less than 24 hours	Less than 7 days
Claim adjudication and payment - first level automated	96.5 per cent within 2 weeks	96.5 per cent within 2 weeks
Claim adjudication and payment - second level automated	98.5 per cent within 4 weeks	98 per cent within 4 weeks
Claim adjudication and payment - manual complex adjudication	100 per cent within 4 weeks	100 per cent within 12 weeks

## 2.2.4 Provider Services – Short term Challenges (1-2 years)

### **Meeting Fixed Budget Appropriations:**

Transaction levels have historically increased by 1 to 2 per cent each year. While the system is currently capable of handling this increase, all other administrative costs associated with the increase must be dealt within fixed budgets.

## 2.2.5 Provider Services – Longer Term Challenges (3-5 years)

### **Implementing an Electronic National Health Claims Standard:**

A National Standard is under development, and it is anticipated that current technology will need to be modified to ensure system compatibility. System upgrades and training costs are unknown. Implementation of a national electronic claims standard would enable national health reporting on a consistent basis. The Ministry has traditionally played a leading role in the development and implementation of electronic standards in the Canadian health sector. Its business Partner will be expected to actively support and enable that continued leadership role.

### **Responding to Changes in Medical Practitioners' Payment Mechanisms:**

Over the past few years there has been a gradual shift to a greater number of physicians on contract, and a reduction in the number of fee-for-service providers. If this shift continues, transaction volumes on the automated payment system will decrease. However, details about services delivered (i.e. patient encounter reporting) by physicians under service contracts may continue to be required (as is available with the fee for service system currently in place) for performance monitoring purposes. Therefore, a secondary reporting system similar to the existing model may continue to be required, increasing input for physicians and the complexity of the system.

### **System Enhancements:**

Over time, system enhancements will be required to meet new demands (e.g. providing physicians with on-line access to their own information and self-service profile management). With increased automation comes the demand for improved monitoring and accountability tools. As well, recent technological advances should be used to flag any occurrence of frequent or unusual physician practices. The Ministry and the professional associations traditionally collaborate on practice monitoring and improvement initiatives, usually resulting in system changes.

## 2.3 PHARMACare OPERATIONS

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### 2.3.1 Overview

PharmaCare Operations provides services to medical and healthcare practitioners, pharmacists and the general Public. As well, PharmaCare manages the Triplicate Reporting System for the College of Physicians and Surgeons Triplicate Prescription Program.

### 2.3.2 PharmaCare Short-term Challenges (1-2 years)

#### **Streamlining Processes Impacted by Fair PharmaCare:**

The implementation of the PharmaNet system eliminated most of the requirement for paper handling in PharmaCare operations. However, the recently implemented Fair PharmaCare plan has increased some of the manual processes. The Fair PharmaCare plan modified the previous PharmaCare plans such that eligibility for financial assistance for drugs and medical supplies is now income-based to ensure continued coverage. Paper consent forms are required by the Canada Customs and Revenue Agency for release of income data. There are some automated tools in place to manage the paper flow. Notwithstanding, the new plans have increased volumes of transactions, queries and processing time but it is anticipated that the increase will abate to some degree after the initial registration volumes subside.

The adjudication of and entry of approved Special Authority requests on PharmaNet is not the responsibility of PharmaCare Operations. The current process, using a LAN/fax system, is labour intensive and requires some dual entry. As the number of requests continues to increase, technical solutions need to be found. These solutions will require development of, or integration with PharmaNet.

Increases in the number of hospital emergency departments and medical practices accessing PharmaNet will increase the number of transactions processed by PharmaNet. It is expected that approximately 2000 physicians will attempt to connect to PharmaNet in the next one to two years.

#### **Maintaining Current Service Levels within Budget Constraints:**

As a result of British Columbia's aging population, the volume of PharmaNet transactions in British Columbia has increased by approximately 10 per cent each year for the past 6 years. Administrative costs for this volume increase must be addressed within significantly reduced budget allocations.

The following table summarizes service level targets and current performance levels in PharmaCare:

	Performance Target	Actual (Apr. 03)
Public Enrollment applications (Fair PharmaCare)	Less than 4 weeks	N/a
Pharmacy Enrollment applications	Less than 1 week	Less than 1 week
Claims payment - Online	Less than 2 weeks	Less than 2 weeks
Claim payment - Manual	Less than 3 weeks	Less than 3 weeks

N/A = not available yet, registration process initiated in March, 2003.

### 2.3.3 PharmaCare Long-term Challenges (3-5 years)

#### **Adding PharmaNet Functionality Based on Changing Practices:**

It is expected that electronic prescribing will be approved by Federal authorities within the next 3 years. For ease of use by pharmacists in accessing electronic prescriptions, some form of PharmaNet development or integration will be required.

As we move towards more chronic disease management initiatives in the Ministry, an increased role for PharmaNet (e.g. as a patient outreach tool) will likely be necessary.

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## 2.4 MSP AND PHARMA CARE OPERATIONS – HIGH LEVEL PROGRAM METRICS

The following table provides some baseline data on clients and transactions. All values are current to the 2002/03 fiscal year (April 1, 2002 to March 31, 2003) unless otherwise indicated. Additional details regarding variations and trends will be provided to Preferred Proponents during the Workshops.

Item	Approximate Annual volume/value	Highest (values are per month, unless otherwise specified)	Lowest (values are per month, unless otherwise specified)
Residents in scope – MSP and PharmaCare	4.1 million (est.)	-	-
MSP web site: forms/document requests	15,000 per day	N/A	N/A
MSP web site data transferred/day	325 Mbytes	N/A	N/A
<b>MSP Services to Providers</b>			
Physicians and Health Care Providers in scope	11,000	N/A	N/A
Medical (billing) sites supported	4,000	N/A	N/A
Total Fee-for-service claims from healthcare providers	67 million	6.2 million	5.1 million
Manually entered claims	132,000	12,188	10,801
Value of claims paid	\$2,232 million	\$325 million	\$144 million
Teleplan claims processed automatically	98 per cent	98 per cent	98 per cent
Teleplan claims requiring manual adjudication	2 per cent	2 per cent	2 per cent
Telephone calls from providers – IVR	1,344,923	121,962	102,201
Telephone calls from providers – Staff	149,948	19,774	10,135
Correspondence received	54,000	4,500	4,500
<b>MSP Services to Beneficiaries</b>			
<b>By Ministry</b>			
Beneficiaries enrolled total	4,017,912	-	-
System Updates (automated)	2,084,717	N/A	N/A
System Updates (manual)	1,819,087	N/A	N/A
Group Pay clients	1,863,402	N/A	N/A
No. of groups	15,001	N/A	N/A
Group employer applications	276	206	0
Group enrollment applications (manual)	56,653	8,639	1,629
Group account changes (manual)	149,136	12,614	12,242
Groups on-line with MSP Direct (connected/active)	Approx. 3,100	-	-
MSP Direct (web-based) system group transactions	604,458	66,813	36,267
Direct Pay clients	1,811,786	-	-

Item	Approximate Annual volume/value	Highest (values are per month, unless otherwise specified)	Lowest (values are per month, unless otherwise specified)
Direct Pay enrollment applications (manual)	153,000	21,821	10,563
Direct Pay account changes (manual)	18,000	3,037	1,267
Applications for premium assistance benefits	131,521	14,358	2,657
Telephone call attempts*	380,000	56,872	32,092
Calls abandoned*	100,000	13,497	287
Calls handled – IVR*	1,321,773	155,536	77,854
Calls handled – Staff*	256,710	34,247	15,547
Average wait time*	4.45 minutes	8.6 minutes	1.4 minutes
Per cent busy signals*	35 per cent	79 per cent	24 per cent
Public E-mail received	40,000	N/A	N/A
<b>By Contracted Call Centre**</b>			
Call attempts	1,000,000 (est.)	164,000	74,411
Calls abandoned	60,000 (est.)	8,632	2,458
Calls handled	360,000 per year (est.)	51,328	18,855
Call Wait Times (monthly avg.)	3.8 minutes	4.7 minutes	1.8 minutes
Per cent busy signals	60 per cent	68 per cent	26 per cent
E-mail sent to MSP	70,000	8,185	5,024
<b>PharmaCare</b>			
Prescription drug claims	26,132,000	N/A	N/A
Value of claims paid	\$728 million	\$90.5 million	\$43.9 million
Help Desk calls	278,785	29,987	22,044
Web site visits	757,900	N/A	N/A
System Availability	99.9 per cent	100 per cent	99.9 per cent
Help Desk availability	7x24 hours		
Help Desk calls answered within first 45 secs.	95 per cent	86%	81%

\* These telephone statistics should not be regarded as measures of total demand. The figures indicate the number of customers that were able to connect to the government router. An unknown number of other customers would have been unable to connect to the router due to limitations on the system capacity, and are not reflected in the totals.

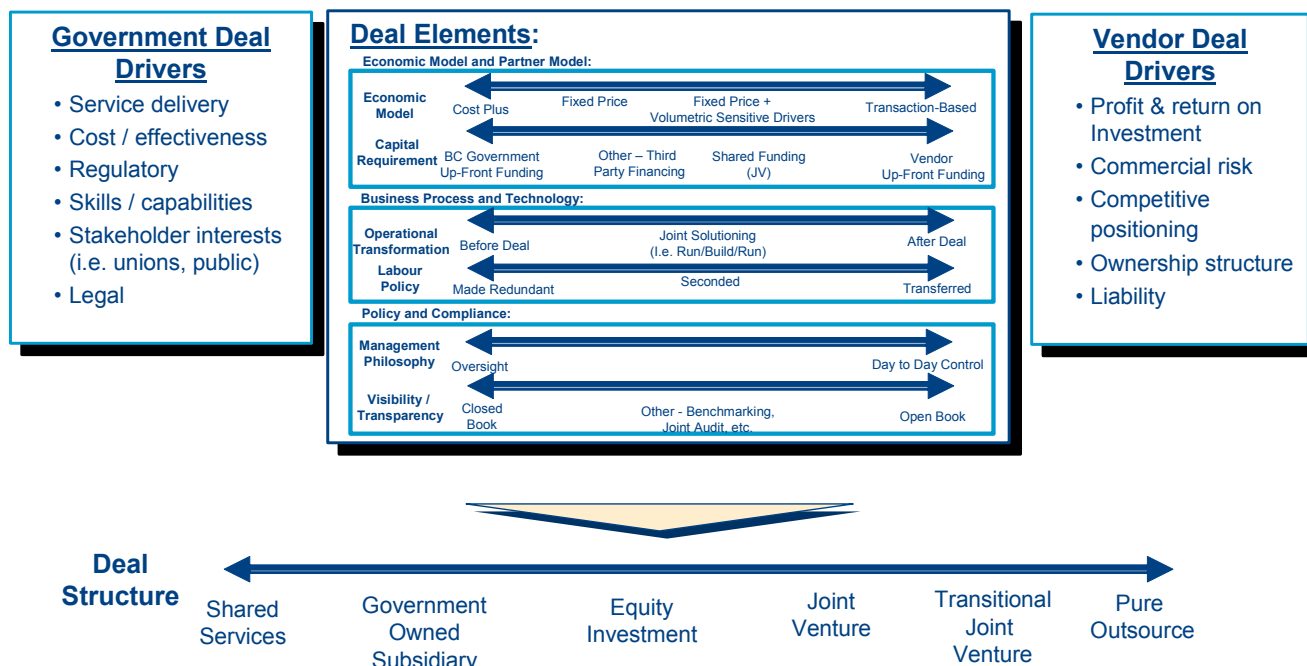
\*\* Data from operational period August 1, 2002 to May 31, 2003.

## 2.5 ECONOMIC MODEL AND DEAL STRUCTURE

### 2.5.1 Deal Structure

Proponents should understand the significant business transformation and outsourcing opportunities that will exist as the business relationship evolves. The extent of the business transformation and alternative service delivery and the associated deal structure will depend on the solution possibilities arising out of the Joint Solution Definition Phase of the JSP process.

The diagram shown below describes some potential commercial arrangements.



### 2.5.2 Economic Model

There are a variety of possible economic models that can arise from the Joint Solution Definition Phase of the JSP process. Proponents will be asked to describe past alternative services delivery projects and demonstrate to the Province their in-depth knowledge and experience in conceptualizing, designing, developing and operating economic models that are true to the spirit of the type of deal structures contemplated for the Health Benefits Operations Project. This could range from a cost-plus model to a transaction based model or be a combination of several models depending upon the various business processes under consideration and the type of deal structure contemplated by the Proponent.

The allocation of risks and rewards between the Partner and the Province should be balanced for the commercial arrangement to be successful over the long term.

## 2.6 BUSINESS PROCESSES AND TECHNOLOGY

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The Joint Solution Definition Phase of the JSP process will allow both the Ministry and Preferred Proponents to explore prospective business transformation and alternative service delivery opportunities.

The Ministry will be inviting Preferred Proponents to table innovative ideas and demonstrate their capability to formulate business cases for alternative service delivery components of the business processes as the relationship evolves. As well, Preferred Proponents will be asked to identify any potential short term improvements and/or other related functions where alternative service delivery could be beneficially applied. Examples of past accomplishments in this area and explanations of how they could be applied to the Project will aid the Province in properly assessing the Proponent's capability. The critical need is to acquire a Partner who will utilize leading practices and transformational capability to help the Ministry realize its service goals.

The Ministry is open to ideas which will support the goal of achieving maximum business results. Further, the Ministry is seeking a Partner who can scale rapidly and extensively as the Ministry's business transformation evolves and who is committed to a strategic relationship with the Ministry over the long term.

This section describes both business processes as well as technology that is either in scope for immediate alternate service delivery or is to be the subject for exploration during the Joint Solutions Definition Phase or which is entirely out of scope of the Project.

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### 2.6.1 Project Implementation Plan

The Ministry's plan for transitioning the services to an alternative service delivery Partner includes the following. All services and technology in scope for the Project are expected to go through the following lifecycle with the new Partner.

<b>Run = Transition</b>	<b>Build = Transformation</b>	<b>Run = Operate and Continually Improve</b>
The Partner will assume responsibility for all in scope business processes and technology and operate them for the length of time necessary to design and implement business re-engineering and technological improvements. The Partner will be given the incentive to find opportunities to improve service levels in the short term.	The Partner will develop/re-engineer business processes and/or develop technology improvements or Solutions to improve service levels and meet other long term goals. This "build" will be based on the jointly developed Solution. The Partner will be responsible for transitioning to the new environment.	The Partner will operate services and technology ensuring service levels are maintained or exceeded and systems/processes are continuously improved.

### 2.6.2 Scope

Business processes that are of strategic importance to the Ministry (e.g. core business processes) are out of scope for the Project. Some examples are:

- strategy and policy development;
- government reporting and communication; and
- contract management.

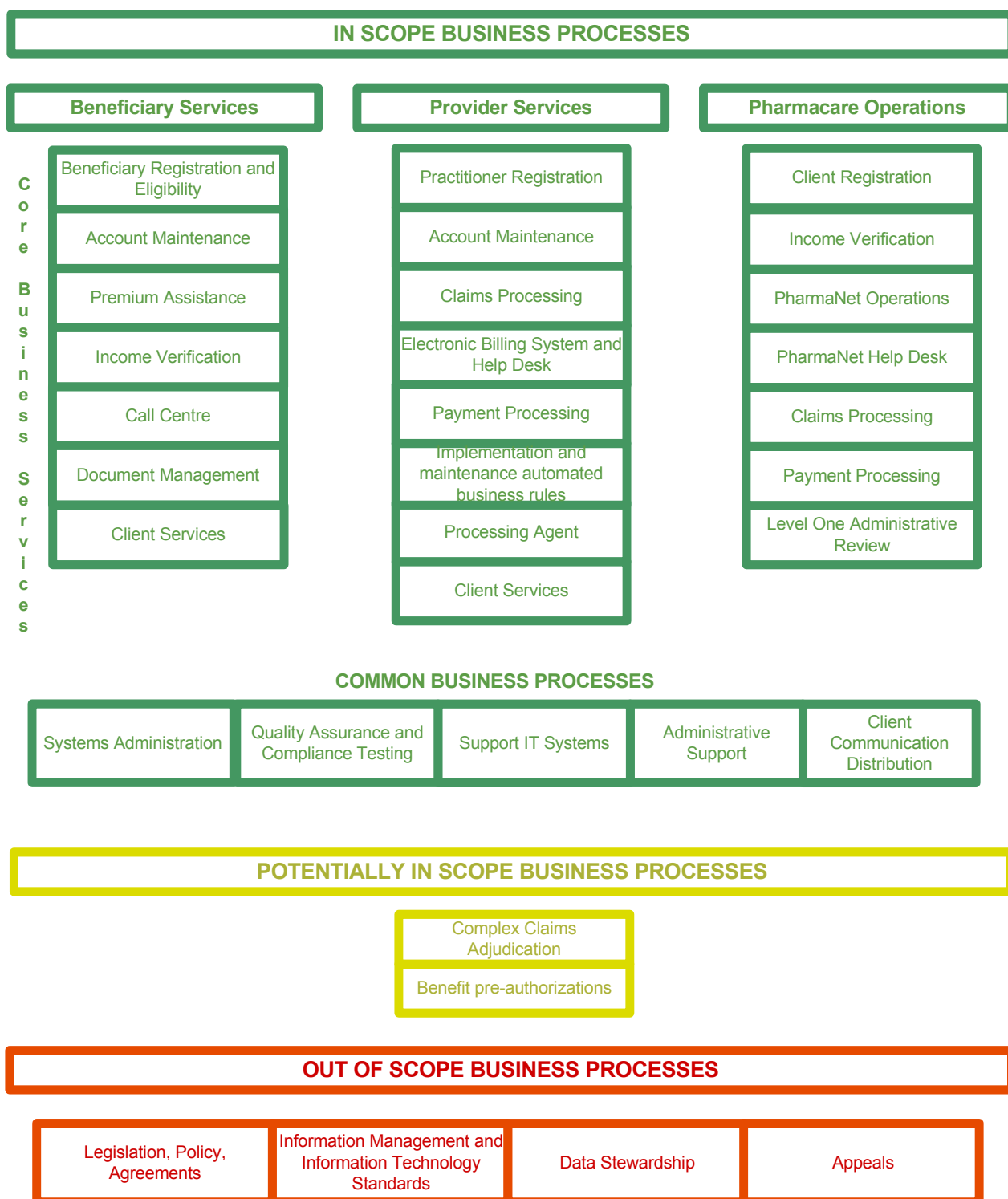
The Preferred Proponents are invited to comment on what these core business processes should be, and to demonstrate how they are planning to interface with these core business processes.

All business operations that support Health Benefits Operations are included as potentially in-scope for this Project unless identified below.

It is the intent of the Ministry to establish a long term business relationship with a Partner to deliver the services and technology described below. The Business Alliance will focus on desired outcomes and not preconceived solutions. In order to facilitate the effectiveness of the Business Alliance and the outcomes, the Ministry will have the option of directly negotiating additional business opportunities not specifically identified in this JSRFP with the Partner. It is expected that the Business Alliance will result in additional contracted

services which might include other information technology and business processes of the Ministry or other organizations closely associated with the Ministry.

## Health Benefits Operation



The above functions include approximately 175-200 Full Time Equivalents (FTEs). The numbers of affected FTEs will not be known until closer to the transfer of operations. The FTEs are divided approximately equally across the three areas of MSP Beneficiary Services, MSP Provider Services and PharmaCare Services. It would also include all business operations and technology currently outsourced.

## **2.6.3 Technology Supporting Health Benefits Operations**

### **2.6.3.1 Background**

The Ministry utilizes a centralized group called the Information Management Group (IMG) to coordinate and manage the delivery of Information Management and Information Technology (IM/IT) services for all of its departments. IMG's responsibilities include planning, policy, protection of privacy and security, client services, regional co-ordination, coordination of electronic government initiatives, business analysis, health information and technology standards and architecture, and budget development, analysis and control. IMG is accountable to Health Benefits Operations for IM/IT service delivery and manages associated contracts and service level agreements on their behalf.

IMG utilizes a blend of internal Ministry resources, other BC government resources, and external contracted resources to deliver services to Health Benefits Operations. The three primary technology delivery organizations providing services to Health Benefits Operations are the:

- (i) The Ministry of Health Information Management Group (IMG);
- (ii) International Business Machines (IBM); and
- (iii) The Ministry of Management Services, Common IT Services division (CITS).

### **2.6.3.2 Overview**

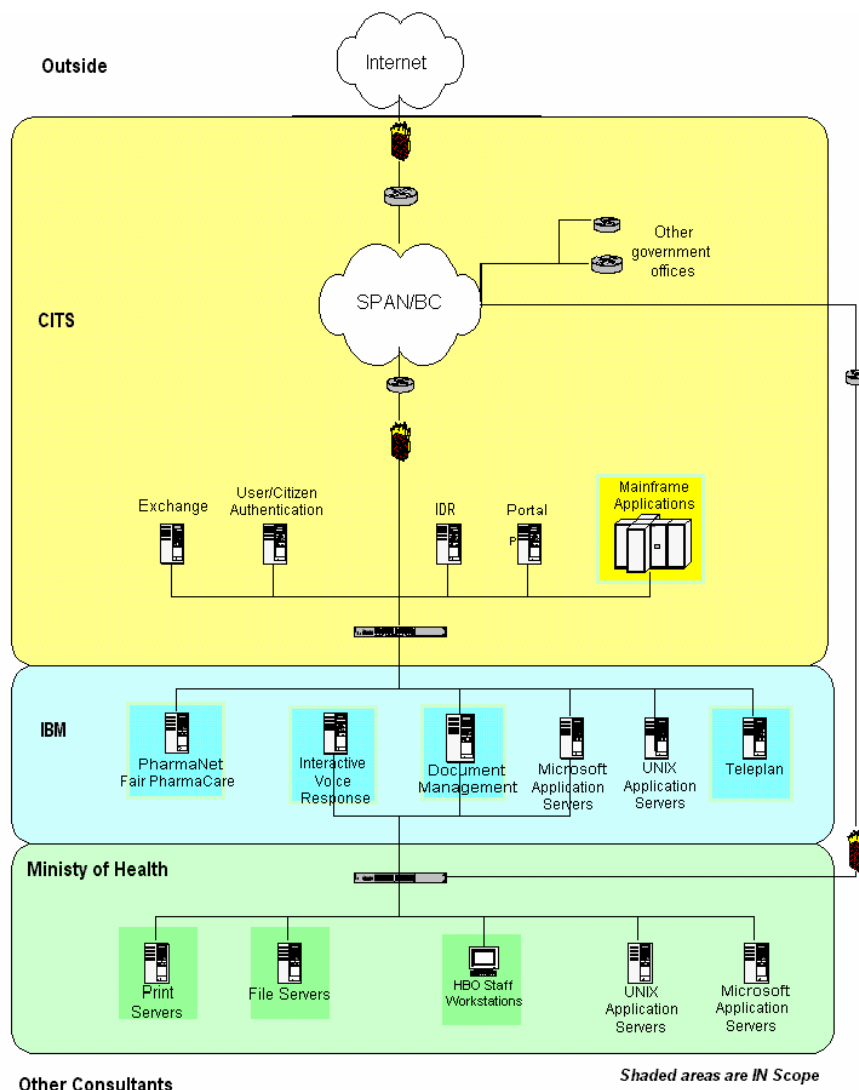
Support of the Health Benefits Operations servers and associated applications is complex. The objective of this JSRFP document is to provide only a high level understanding of the systems. More detailed systems information will be provided throughout the process.

It is anticipated that most, if not all technology services currently provided for Health Benefits Operations will be in scope, and that the use of shared government resources such as the mainframe and data network can be negotiated if the Successful Proponent should choose to use them. The Successful Proponent will facilitate the development, support and ongoing operations of the technology Solution.

The Successful Proponent will have to demonstrate the capacity, capability and commitment to manage new technology, existing government and Ministry technology (where appropriate), and integrate the components into a manageable, adaptable, scalable and stable Solution. Health Benefits Operations provides business services to thousands of organizations in the Province; therefore a key component in the final Solution will be the ability to integrate effectively with the program area, with the Ministry, and with external stakeholders. The final Solution should be an innovative approach combining new and existing technology elements to support the Health Benefits Operations business outcomes while respecting the existing contractual agreements, policy and legislation.

### 2.6.3.3 Current Technology

The following diagram outlines various components of the Ministry's technical infrastructure. The business drivers (e.g. legislation, agreements, the Ministry's Service Plan) are on the left of the diagram. Those drivers determine Health Benefits Operations business and resulting workload. Health Benefits Operations then communicates the business requirements to IMG, who translates them into technical specifications. IMG then refers the work to the three primary delivery organizations and other consultants as required. The thick blue lines show the high level boundaries of responsibilities between the organizations and the green boxes indicate the services that are in scope.



- **SPAN/BC.** The Shared Provincial Access Network (SPAN/BC) provides high-speed data connections to government offices and stakeholders, which in turn connects to the Public internet. Management of this private data network is the responsibility of the Ministry of Management Services – Common IT Services (CITS).
- **Data Centres.** Equipment is located at three locations, two production facilities in Victoria and a disaster recovery facility in Vancouver.

- **Mainframe.** The systems in support of MSP are largely resident on IBM mainframes, running Multiple Virtual System (operating system for the IBM mainframe computers), Customer Information Control System (IBM software developed to translate processes for mainframes), DB2 (a database application) and an IBM Information Management System. The Ministry purchases processing time on the IBM mainframe which is managed by CITS.
- **PharmaNet.** The PharmaNet system runs on IBM RS/6000 Unix (AIX) processors, using Oracle. This environment is currently managed by IBM who sub-contracts with CITS for some support elements. UNIX stands for Universal Information Exchange – an operating system developed by Bell Laboratories and AIX is the Advanced Interactive Executive which is IBM's version of the UNIX computer operating system.
- **Web Applications.** Web applications (e.g. Teleplan, Fair PharmaCare) run on shared infrastructure, which includes Oracle Application servers, IBM WebSphere, iPlanet LDAP, HL7 Messaging. This environment is currently managed by IBM who sub-contracts with CITS for some support elements. These applications are program specific. Further information will be provided during the JSP Process.
- **Interactive Voice Response (IVR).** The IVR system is currently run on shared infrastructure, however, Health Benefits Operations is the primary user. The system is currently configured with 120 lines connected to Dialogic cards and WebSphere Voice Response and IBM Personal Communications and runs on Windows 2000 servers. This environment is currently managed by IBM who sub-contracts with CITS and IMG for some support elements.
- **Electronic Document Management.** The Ministry document management and imaging infrastructure is based on IBM's Content Manager and runs on a combination of Microsoft Windows 2000 and IBM AIX servers. This environment is currently managed by IBM who sub-contracts with CITS and IMG for some support elements.
- **Operating Systems.** The Ministry supports a number of operating systems for database and application servers including MVS, UNIX variants and Windows 2000. Recent deployments for database and application servers have been on IBM's version of UNIX (AIX) and SUN Microsystems' version of UNIX (Solaris).
- **Application Development Environment.** The Ministry's standard is J2EE.
- **Web Server.** The Ministry supports a number of web server products; these are normally tuned to the underlying operating platform. The Ministry standards are IBM HTTP Server and iPlanet Web server.
- **Database.** The Ministry fully supports Oracle and DB2 (MVS) and provides limited support where solutions involving commercially off the shelf components require the use of Microsoft's SQL Server.
- **Portal.** BC Connects is the province of British Columbia's Internet portal that provides interactive services and information online to help meet the needs of the citizens and businesses of British Columbia, as well as visitors. It is expected that citizens will continue to access the Health Benefits Operations services through the enterprise portal.
- **IDIR** is the core Government directory consisting of approximately 40,000 members in Government Ministries, Crown Corporations and Agencies, their printers and computers.
- **BCeID** is the non-core directory and consists of 'Government Business Partners' and other sponsored users of Government business applications. The potential population consists of over 100,000 users in private sector companies, members of the Public, other governments and agencies that have information access agreements with the BC Government.

## 2.7 POLICY AND COMPLIANCE

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### 2.7.1 Procurement Policy

The JSP process is a recognized approach described in the government's Core Policy Manual<sup>6</sup>.

### 2.7.2 Privacy Policy

The Ministry is responsible for managing some of the Public's most sensitive personal information. Strong protection of personal privacy is vital to Public confidence in the health system. The Ministry is committed to keeping the Office of the Information and Privacy Commissioner of British Columbia informed throughout the JSP process to ensure that Provincial privacy legislation and policies are met or exceeded in all solutions.

Privacy and security of personal information will be a key element in the design of any Solution. Protection of privacy must be integrated into project design and resource allocation. Successful Proponents will be required to meet or exceed the privacy requirements of the *Freedom of Information and Protection of Privacy Act*, the *Medicare Protection Act*, the *Personal Information Protection Act (Bill 38)*, and other applicable legislation and obligations.

Proponents must show experience in the management of sensitive personal information. Further, Proponents must demonstrate knowledge of the *Freedom of Information and Protection of Privacy Act*, the *Medicare Protection Act* and related policies and guidelines<sup>7</sup>.

The Partner will also be required to, at a minimum, adhere to the Privacy Protection Schedule attached (Appendix D). Proponents should familiarize themselves with the relevant recommendations of the Office of the Information and Privacy Commissioner for British Columbia in its "Guidelines for Data Services Contracts" (Guideline 01-02)<sup>8</sup>.

Proponents should also be aware that procedures must be put in place to allow the Ministry to comply with requests from the Public for access to information under the *Freedom of Information and Protection of Privacy Act*, and to ensure that the Office of the Information and Privacy Commissioner will have full access to the operational site for oversight and investigation purposes.

The Ministry commissioned a privacy assessment of this proposal by former British Columbia Information and Privacy Commissioner and active consultant on privacy and information policy issues David Flaherty. Proponents should familiarize themselves with the recommendations in this review<sup>9</sup>.

Issues related to privacy will be assessed during the Solution compliance activity of the Joint Solution Definition Phase as described in section 4.2.4.

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<sup>7</sup> The URL is [http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06\\_Procurement.htm#632](http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm#632).

<sup>7</sup> Information on these policies is available at <http://www.cio.gov.bc.ca/prgs/policies.htm> and <http://www.cio.gov.bc.ca/prgs/Standards.htm>

<sup>8</sup> Data service contract guidelines can be found at [http://www.oipcbc.org/advice/Guidelines-Data\\_services.pdf](http://www.oipcbc.org/advice/Guidelines-Data_services.pdf).

<sup>9</sup> The document can be found at <http://www.healthservices.gov.bc.ca/msp/>.

### 2.7.3 Labour Relations

The Province estimates that 175 to 200 staff will be impacted by this Project.

As part of the qualifying process, the Ministry will be evaluating the Proponent's ability to manage any labour relations aspects of business transformation and related alternative service delivery methods to ensure a smooth transition for affected staff and operations. Experience with similar transfer situations, including change management, will add to the capability assessment of the Proponent. Information on the British Columbia Labour Relations Code, collective agreements, and other related issues can be accessed through the Labour Relations Board – British Columbia website<sup>10</sup>. Proponents are asked to detail their labour relations strategy and their anticipated implications resulting from it.

Issues related to labour relations will be assessed during the Solution compliance activity of the Joint Solution Definition Phase as described in section 4.2.4.

The British Columbia Public Service Agency has announced a general offering of a voluntary exit program which includes an Early Retirement Incentive Plan (ERIP) and Voluntary Departure Plan (VDP). A separate version of these plans will be offered to employees directly impacted by this Project, subject to negotiation with the British Columbia Government and Service Employees Union (BCGEU). Employee applications would be subject to management approval. Management approvals would be made in the context of maintaining business continuity.

### 2.7.4 Other Policies and/or Regulations that may Impact the Solution

As part of the Joint Solution Definition Phase it is possible that specific legislation, policies and/or regulations that may be inconsistent with a preferred Solution. The Ministry may seek legislative approval to change or create the legislation, policies and/or regulations to effectively support the business case for the final Solution and facilitate execution of a Final Contract. Proponents are encouraged to identify potential legislative or policy changes early in the process to enable their review.

Issues related to government policy, legislation or other related regulations, if applicable, will be assessed during the Solution compliance activity of the Joint Solution Definition Phase as described in section 4.2.4. Knowledge of this area, and experience in this or other similar Public jurisdictions, will add to the assessment of Proponent capability during the Proponent Qualification Phase.

<sup>10</sup> The website is located at <http://www.lrb.bc.ca>.

### 2.7.5 Some Relevant Legislation and/or Regulations (Note: list not exhaustive)

- *Medicare Protection Act*
- *Canada Health Act*
- *Ministry of Health Act*
- *Medical Practitioners Act*
- *Medical and Health Care Services Regulation*
- *Health Professions Act*
- *Chiropractors Act*
- *Naturopaths Act*
- *Dentists Act*
- *Optometrists Act*
- *Podiatrists Act*
- *Continuing Care Act Regulations pertaining to PharmaCare*
- *Pharmacists, Pharmacy Operations and Drug Scheduling Act*
- *Freedom of Information and Protection of Privacy Act*
- *Personal Information Protection Act (Bill 38)*
- Others<sup>11</sup>

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<sup>11</sup> Additional information may be obtained at <http://www.legis.gov.bc.ca>.



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## 3 OVERVIEW OF THE END-TO-END JSP PROCESS

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### 3.1 DEFINITION

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The JSP process is a multi-phased approach designed to select a Partner to work strategically with the Ministry from identification of Preferred Proponents through to joint development of a Solution and subsequent delivery of services over a long-term relationship. Emphasis will be placed on making sure that the Partner brings an optimum combination of commitment, capacity, and capability to manage an alternative delivery of the Ministry's business processes and technology.

The JSP process is normally used in situations where a complex business problem exists and where no clear 'off the shelf' solution can be readily identified. Due to the nature of such projects, the various phases of the JSP process are designed to help leverage the combined capability and creativity of the Ministry project team and the Preferred Proponents to create a Solution that effectively addresses the Project's goals and desired business outcomes, while optimizing the total value to the Business Alliance over the duration of the commercial arrangement.

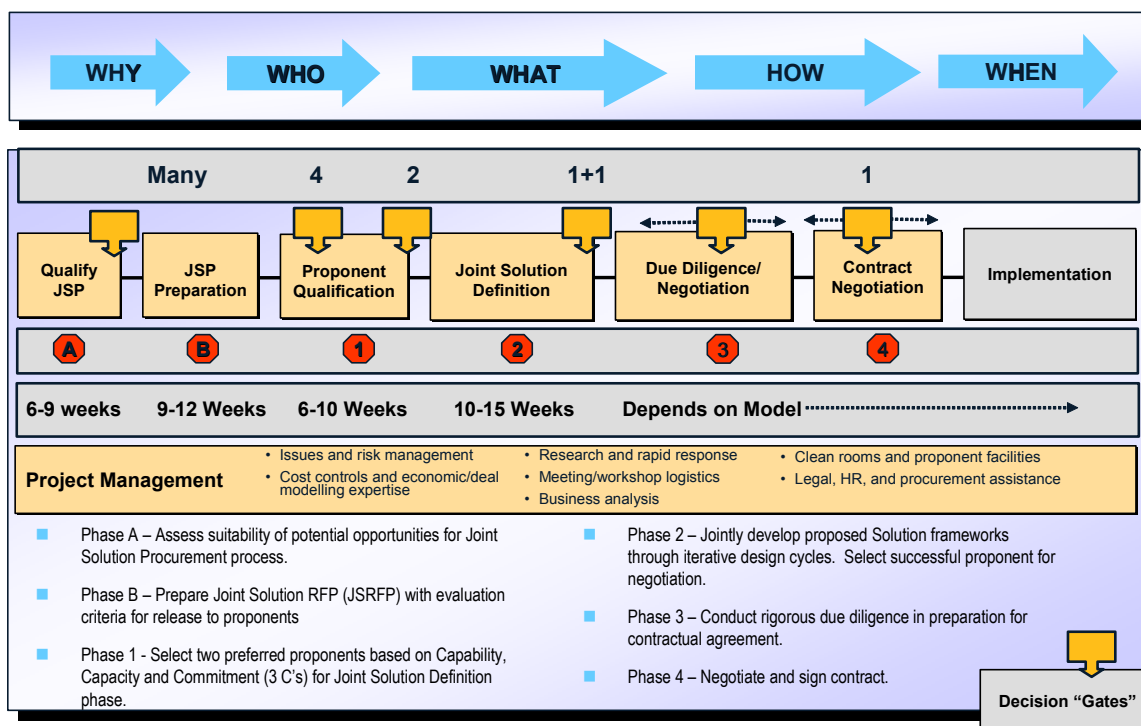
Unlike conventional procurement processes, a successful JSP process culminates with a long term Business Alliance that is adaptive in that it allows for creativity, flexibility and evolution over an extended period of time (typically seven to ten years).

The JSP approach is structured to be fair, open and competitive and includes activities in the Proponent Qualification Phase of the selection process that facilitate greater communication between Proponents and the Ministry.

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### 3.1.1 Approach and Timeline

The figure below illustrates the overall approach from JSP planning to the identification of a Successful Proponent.



### 3.1.2 Tentative Work Plan

Task Activity	Anticipated Date
JSRFP Closing date	September 8 <sup>th</sup> 2003
Proposal evaluations completed and short-listed Proponents notified	September 26 <sup>th</sup> 2003
Meeting with Ministers	September 29 <sup>th</sup> 2003
Workshops completed	October 17 <sup>th</sup> 2003
Preferred Proponents announced	November 14 <sup>th</sup> 2003
Joint Solution Definition Phase initiated	November 24 <sup>th</sup> 2003
Joint Solution Definition Phase completed	March 12 <sup>th</sup> 2004
Letter of Intent signed and Successful Proponent announced	March 29 <sup>th</sup> , 2004
Due Diligence and Negotiations completed	May 14 <sup>th</sup> 2004
Final Contract signed	August 31 <sup>st</sup> , 2004

The Ministry is interested in expediting the selection process to the maximum degree possible, and reserves the right to adjust the preceding schedule as it sees fit.

## 3.2 KEY SUCCESS FACTORS

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### 3.2.1 Mutual Understanding and JSP Structure

The JSP process is an intensive procurement approach that requires patience and substantial commitment by all parties to ensure its success.

The process allows Proponents more flexibility than commonly available during a conventional request for proposal. This includes, for Proponents, the ability to ask questions of Ministry staff (e.g., at Workshops) during the selection process and, for the Ministry, more latitude during the subsequent presentations.

One key premise of the JSP process is that the selection of a Successful Proponent will focus on the optimum strengths that a Proponent could bring to the Business Alliance. The other key premise is that the Solution itself is jointly developed after the Preferred Proponents have been identified, which allows for some significantly innovative approaches (e.g., during the Joint Solution Definition Phase) to be developed in order to meet the desired business outcomes of the Project.

Successful completion of the Joint Solution Definition Phase will be followed by a period of detailed due diligence and negotiations activities in the Due Diligence & Negotiation Phase. The final phase (Contract Negotiation) of the JSP process is marked by activities needed to finalize the commercial arrangement.

### 3.2.2 Sharing of Risks and Rewards

In order for a long-term Business Alliance to exist, both the prospective Partner as well as the Ministry will have to share the risks and rewards associated with the Project Solution. In order to assess the economic sharing of the risks and rewards, the Ministry is interested in understanding not only the Proponent's 3C's, but also any opportunities for sharing risks and rewards that may arise as a result of Business Alliance with the Partner.

While the Ministry is looking for innovative economic sharing models, one simple example may be gain sharing; another is a Proponent's interest in assuming business risk for the Solution as a springboard for other opportunities. Proponents will be asked to demonstrate their ability to engage in this sort of arrangement as part of the Proponent Qualification Phase.

Any details related to the economic sharing of risks and rewards in the Business Alliance and Final Contract will be formulated during the Joint Solution Definition Phase and finally negotiated as part of the Due Diligence & Negotiation and the Contract Negotiation Phases of the JSP process.

### 3.2.3 JSP Communications Protocol

Maintaining proper communications protocol throughout the JSP process is important in order to protect the integrity of the JSP procurement and the Project, as well as to protect the interests of the Proponents and Ministry. The following communication protocol will apply during the JSP process. The failure of a Proponent to adhere to the communication protocol may result in the Proponent being disqualified from the JSP process.

### **3.2.3.1 During the JSRFP**

All communication related to the JSRFP should be referred to the government contact listed on the front page of this document.

### **3.2.3.2 Workshops**

All communication related to the JSRFP should be referred to the government contact listed on the front page of this document. This excludes face-to-face communications with Proponents as part of the Workshops where communication with Ministry representatives is expected. Please note that the Ministry reserves the right to withhold information at the Workshops that may impact its negotiating position during the subsequent phases of the JSP process.

### **3.2.3.3 Joint Solution Definition Phase**

The Ministry will publish a list of staff capable of providing information during the Joint Solution Definition Phase. The list will include access to members of the evaluation committee, project staff, subject matter experts and senior executives of the Ministry as well as the Deputy Minister. Preferred Proponents may also request interviews with other Ministry staff as needed.

### **3.2.3.4 Due Diligence & Negotiation Phase**

The Ministry will publish a list of staff capable of providing information during the Due Diligence & Negotiation Phase of the JSP process. The list will include access to project staff, subject matter experts and senior executives of the Ministry as well as the Deputy Minister. The Ministry is committed to making senior decision makers available during this Phase of the process to ensure that commercial elements are immediately discussed, resolved and agreed upon.

### **3.2.3.5 Contract Negotiation Phase**

The Ministry will publish a list of staff capable of providing information during the Contract Negotiation Phase of the JSP process. This may include access to project staff, subject matter experts and senior executives of the Ministry as well as the Deputy Minister. The Ministry may retain the services of an independent party to act as a negotiating lead working with senior executives during this Phase.

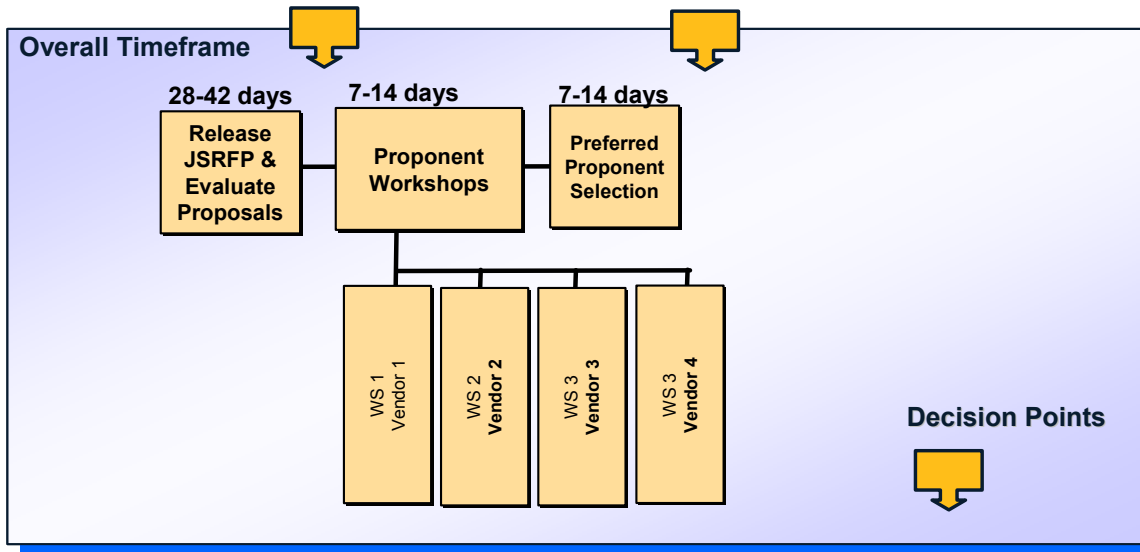
## **3.2.4 Fairness and Transparency in the JSP process**

The Ministry has engaged an individual to monitor the Ministry's decision making processes throughout the JSP. The individual (or delegate if for some reason the individual becomes unavailable) will monitor the Ministry's evaluation activities during the Proponent Qualification Phase and the decision points during the Joint Solution Definition Phase.

## 4 THE JSP PROCESS AND EVALUATION CRITERIA

### 4.1 THE JSRFP PROCESS

#### 4.1.1 Approach and Timeline Overview



The JSP process is designed to take a prospective JSP project through an initial series of pre-JSRFP exploratory sessions in order to determine a project's candidacy as a JSP project, through to a series of phases that culminates in some form of Business Alliance between a Successful Proponent as Partner and the Ministry. Examples of deal structures for the Business Alliance are outlined in section 2.2.1 of this document.

Identification of the Preferred Proponents is based on continuous assessment of a Proponent's 3C's to work with the Ministry in developing a Solution that meets the goals of the Ministry and desired business outcomes for the Project. As a guideline, the Ministry will be looking for a logical trend or progression in the Proponent's demonstrated skills as the Proponent moves from Stage 1 (being the evaluation of Proposals), gains more knowledge of the Ministry business environment and needs during Stage 2 (the Workshop Stage) and finally delivers a more focused but still conceptual solution (Concept) during Stage 3 (the Concept Stage) of the Proponent Qualification Phase. The Concept provided by the Preferred Proponents will be validated early in the Joint Solution Definition Phase of the JSP process. The Proponents should understand that the Concepts may be subject to significant change as the Joint Solution Definition Phase progresses.

A Proponent's Proposal in response to this JSRFP is the initial step in qualifying to participate in the Joint Solution Definition Phase. Preferred Proponents will be selected on overall performance in a number of areas encompassing the 3C's and not exclusively on the Concept. Proponents should keep in mind that the Ministry is not only looking for information on how to do the Project, but also on proof that the Proponent has successfully performed, managed and operated a similar sort of business process transformation initiative.

As part of the proposal, each Proponent is required to submit a short high-level Concept paper (one to two pages) that outlines the Concept on a high level, the Proponent's vision for the Project as well as the principles of success to be utilized.

#### **4.1.2 Release JSRFP & Evaluate Proposals**

Upon completion of the evaluation of the Proposals, a short-list of up to four Proponents will be created and those Proponents will be invited to participate in Stage 2 (the Workshop Stage). The remaining Proponents will be advised of their standing in writing and offered debriefing sessions. The Ministry proposes to hold the debriefing sessions soon after the Preferred Proponents are announced.

#### **4.1.3 Meeting with the Ministers**

All short listed Proponents will be scheduled for a brief meeting with the Minister of Health and the Minister of Management Services prior to the Workshops. This meeting is intended to be a forum where the Ministers can describe their vision for the Project as well as serve as introductory opportunities for the Proponents. The meeting is anticipated to last 30 to 60 minutes.

#### **4.1.4 If Only Two Proponents**

In the event that only two Proponents are deemed to qualify as a result of the evaluation of the Proposals in Stage 1, then the Ministry reserves the right to consider these Proponents as Preferred Proponents and to proceed directly to the Joint Solution Definition Phase. In this case some aspects of the Workshops may be performed during the early part of the Joint Solution Definition Phase in order to set the stage for Solution development. The Ministry also reserves the right to invite the two Preferred Proponents to present their 3C's to the Ministry to ensure that they have the necessary 3C's required to undertake the Project and deliver the final Solution. These presentations may take place either prior to the commencement of the Solution definition activities, or at any other time during the Joint Solution Definition Phase.

#### **4.1.5 Workshops**

The purpose of the Workshops is to allow short-listed Proponents the ability to further explore the Project and to provide an avenue for them to assess whether the Project is of sufficient interest to engage in a significant amount of work at the Joint Solution Definition Phase and, if the Proponent is the Successful Proponent, at the Due Diligence & Negotiation Phase and the Contract Negotiation Phase.

The guidelines that will govern the Workshops are outlined below. The Ministry reserves the right to alter these guidelines (and any scheduling) as needed, but will only do so after notifying the short-listed Proponents.

a) The Ministry will allot a full working day (in two half-day segments) for each of the short-listed Proponents. The first half-day will begin with an information session delivered by the Ministry to the short-listed Proponents. This information session will be unidirectional in order to ensure that all short-listed Proponents are given the same information. The Ministry will be available for questions for the immediate hour following the session. The second half-day session will be reserved for a short-listed Proponent's staff to question the Ministry team so as to further explore the material presented in the morning session or to ask questions that the short-listed Proponent feels are needed in order for it to deliver a Concept at Stage 3 of the selection process. The second half-day session may take place on the same day or be scheduled in the morning of the following day so as to give short-listed Proponents time to assimilate the first session's information and to prepare questions

for the second session. Please note that there will be no allowance for a follow-up Workshop.

b) The second session is for the benefit of the short-listed Proponents, and accordingly, wide latitude will be afforded to the question period. Short-listed Proponents may manage the meeting in the manner that they deem most useful. Please remember that the Ministry will be evaluating aspects of the 3C's during the Workshops.

c) While the Ministry will make every effort to ensure that pertinent people are available to answer queries, there may be some questions that cannot be answered during the second session. In this case every effort will be made to communicate the response to the short-listed Proponent within one working day of the Workshop. The Ministry will, however, not be liable whatsoever for any delays in providing a response to any unanswered questions within that period.

d) The Workshops will not be electronically recorded. Subject to paragraph 1.2.2.4, all questions asked by a short-listed Proponent will not be released to other short-listed Proponents and answers to questions asked during the Workshops which could not be answered by Ministry staff will be communicated in writing to the respective short-listed Proponent only. All questions asked prior to or after the Workshops should be submitted in writing to the contact person indicated on the front of this document. Responses to these questions may be communicated to all short-listed Proponents. The Ministry reserves the right, however, to disseminate information related to the Province or the Project arising as a result of questioning in any one of the Workshops, to all short-listed Proponents if, in the opinion of the Ministry, the information is related to a matter that all Proponents will need to know in order to prepare for the presentations.

e) The Ministry will not require short-listed Proponents to bring specific staff to the Workshops. Each short-listed Proponent should decide who from their organization is best suited to gather the necessary information. Please remember that the Ministry is still assessing the 3C's. While a poor showing will result in a poor assessment, it does not automatically follow that bringing a large team will result in a good assessment on the 3C's.

#### **4.1.6 Proponent Presentations**

On completion of the Workshops, short-listed Proponents will be given approximately one week to assess the information they have gathered during their Workshops and further develop a Concept for presentation to the evaluation committee in Stage 3. Section 4.6.3.4 describes the evaluation criteria that will be used at Stage 3.

While the major portion of the presentation should focus on the short-listed Proponent's Concept (which should include some possible deal structures and high level solution approaches), the short-listed Proponent's overall ability to function in a Business Alliance will also be considered. A transcription of minutes may be taken of the Stage 3 proceedings.

Presentations will be limited to 3 hours of which at least half the time will be reserved for the evaluation committee to ask questions on any aspect of the short-listed Proponent's Concept or performance during the various Stages of the Proponent Qualification Phase. The time may also be used to pose situational questions designed to assess the 3C's of the short-listed Proponent. Please note that the evaluation committee reserves some latitude when asking questions during Stage 3 on the condition that the questions will be based on information provided during the selection process.

Each short-listed Proponent is required to supplement its presentation with a paper and electronic copy version of its Concept presentation.

#### 4.1.7 Preferred Proponents Selection

On completion of the evaluation process, the Ministry will tabulate the evaluation results and rank the short-listed Proponents. The top two ranked short-listed Proponents will be deemed Preferred Proponents and will be invited to engage in the Joint Solution Definition Phase.

#### 4.1.8 Post Presentations and Debriefings

Once the top two Preferred Proponents have been declared, a Joint Solution Definition Agreement will have to be executed by the Ministry and each of the two Preferred Proponents prior to commencing the Joint Solution Definition Phase activities.

In the event Joint Solution Definition Phase activities or negotiations with one of the Preferred Proponents fail, the Ministry reserves the right to contact the next highest ranked short-listed Proponent and invite them to engage in Joint Solution Definition Phase activities with the Ministry.

Proponents who are not invited to the Joint Solution Definition Phase may request a debriefing session which will be scheduled by the Province after the conclusion of the Contract Negotiation Phase.

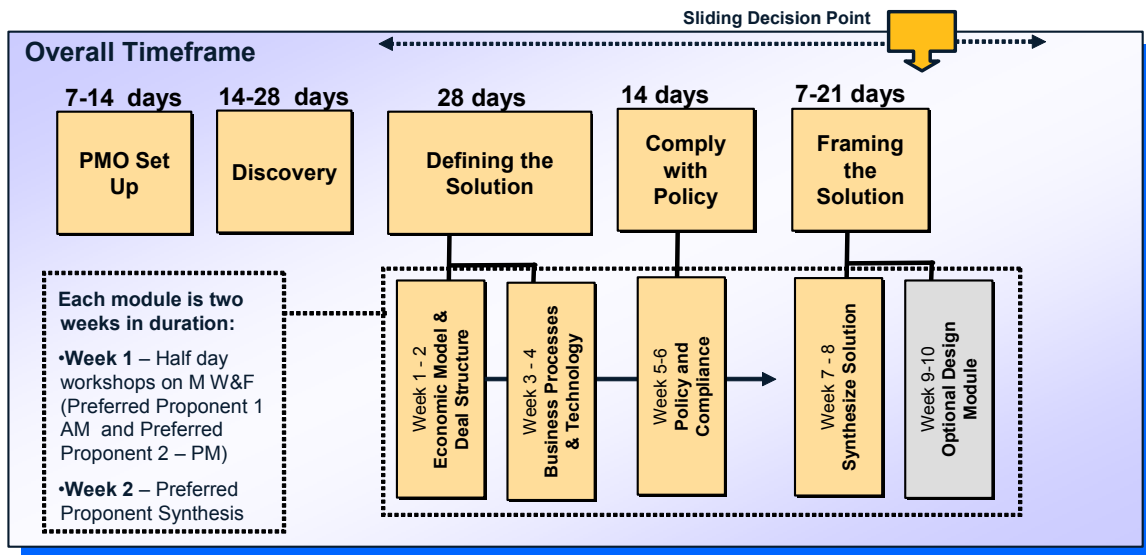
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## 4.2 JOINT SOLUTION DEFINITION PHASE

The Joint Solution Definition Phase of the JSP process will require significant investment on the part of the Ministry as well as the Preferred Proponents. The Joint Solution Definition Agreement that is signed by the Province with each of the Preferred Proponents will govern the conduct of the remaining Phases of the JSP.

Preferred Proponents are cautioned not to delay in finalizing the Joint Solution Definition Agreement as once one Preferred Proponent has satisfactorily executed the Joint Solution Definition Agreement, the discovery cycle of the Joint Solution Definition Phase described in section 4.2.2 may begin immediately with that Preferred Proponent.



The core objective of the Joint Solution Definition Phase is to work with both Preferred Proponents to define Solutions, economic models and deal structures for the Project. These activities (and series of meetings) will be performed jointly with the Ministry teams (see section 4.2.3) but independently with each Preferred Proponent. The primary deliverable coming out of the Joint Solution Definition Phase will be a document that describes (a) the deal structure, (b) a model that describes alternative services delivery strategy for business processes and technology, and (c) a statement of validation that the Solution framework is compliant with policy and other government regulations and agreements. This document is the platform that will be subject to due diligence and negotiations at the subsequent Due Diligence & Negotiation Phase of the JSP process.

There are five (5) key tasks, as follows, that describe how the Joint Solution Definition Phase will proceed.

### 4.2.1 Restricted Documents Room

The Ministry plans to establish a restricted documents room which will serve as a central repository of confidential Ministry information. Procedures will also be implemented to regulate information disclosure and maintain the confidentiality of Ministry and certain Proponent information.

Details about the restricted documents room and associated information disclosure procedures will be provided to the Preferred Proponents as the JSP process progresses.

#### **4.2.2 Discovery Cycle**

The discovery cycle is a one time period of activity when Preferred Proponents are permitted access to Ministry staff, documents, technology assets and records and service metrics (where applicable) as well as any information that a Preferred Proponent may feel is necessary in order to prepare for the process of creative Solution definition. Please note that this period is not guided by the Ministry, but will be subject to contract and information disclosure guidelines.

#### **4.2.3 Defining the Solution**

This period of activity consists of a series of iterative two-week Solution definition cycles designed to define the business and technical scope of the Project, as well as the potential timing to benefit realization, the nature of the deal structure (e.g., joint venture, outsource etc.) and economic model. The Preferred Proponents will be working independently from each other, with the Ministry Project team, in jointly formulating a Solution to the Project objectives.

While the Concept provided at the Preferred Proponent's presentation will be used as a basis for the Solution, it is possible that information gathered during the discovery cycle or as a result of discussions with the Ministry during this cycle may result with an entirely different approach being considered. It is likely as well that the Solutions developed by the Preferred Proponents may be very different.

The iterative series of meetings is envisioned to rotate with one week of data gathering workshops (e.g., 3 days a week with one Preferred Proponent allocated morning workshops and the other Proponent allocated afternoon workshops) with the subsequent week for synthesizing the models. The activities will focus on a proposed economic model for the Solution as well as Ministry business processes and technology. The Ministry expects that the Solutions will be very creative.

The Ministry will ensure that its decision makers are at the table so that decisions are expedited and the Solution Definition Phase of the JSP process successfully concluded.

#### **4.2.4 Comply with Public Sector Service Standards**

Once the economic model and business processes/ technology aspects of the final Solution are formulated, the Preferred Proponents and the Ministry will need to assess the Solution framework for compliance with public-sector service delivery standards. This process will include a series of iterative cycles where the Solution parameters are measured against functions such as: labour relations, conformance with privacy laws and standards, government direction and statutes, and existing agreements.

#### **4.2.5 Framing the Solution**

At this point in the Joint Solution Definition Phase, the Preferred Proponents will have formulated a Solution approach that incorporates work on a proposed deal structure, associated economic model, and Solution parameters addressing the scope of business

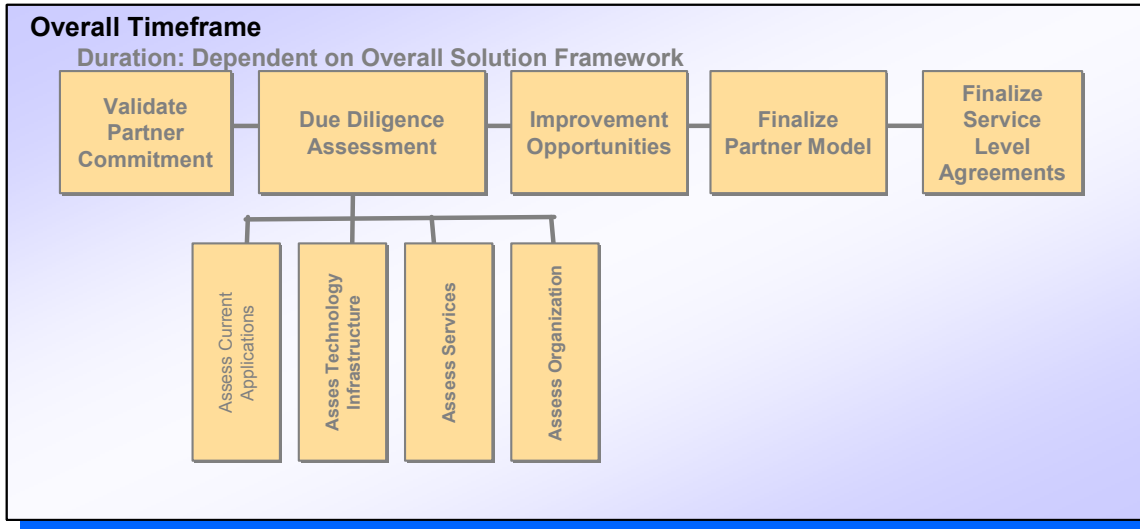
(business processes and technology) and will have been tested against government policy and standards.

A period of Solution synthesis will take place on the overall model after which the Ministry will perform a final evaluation to determine the Successful Proponent. The final evaluation will be based on the Preferred Proponent's Solution in the areas of: (a) deal structure, (b) economic model and assumptions; and (c) Solution business processes and technology. Details of the evaluation process will be more particularly set out in the Joint Solution Definition Agreement.

Once a Successful Proponent has been announced, the remaining Preferred Proponent will be designated as the 'vendor-in-waiting'. In the event negotiations with the Successful Proponent fail or do not adequately progress, the Ministry reserves the right to contact the remaining Preferred Proponent and invite it to enter into the Due Diligence & Negotiation Phase.

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### 4.3 DUE DILIGENCE & NEGOTIATION PHASE



The Due Diligence & Negotiation Phase will begin with a period of due diligence where both the Successful Proponent and the Ministry will engage in activities to ensure that the Solution developed during the previous Joint Solution Definition Phase is validated against detailed information.

There are five (5) key tasks that describe how the Due Diligence & Negotiation Phase will proceed.

#### 4.3.1 Validate Commitment

An early activity in this Phase is validation of the prospective Business Alliance structure and of the Solution framework presented by the Successful Proponent entering into this Phase. The Ministry expects that a Letter of Intent will be signed by the parties and announced to the Public. The Letter of Intent will make reference to the Successful Proponent's Solution framework as the approach of choice.

A series of project management activities will take place to set the stage for detailed due diligence and negotiations. This includes establishment of both the Ministry and Successful Proponent's negotiating and supporting infrastructure (tools and resources), meeting schedules, subject areas and rules of engagement as applicable. An oversight process will be discussed and participation of decision makers for the duration of the Phase, in Victoria, British Columbia, agreed to prior to commencing with the due diligence process.

#### 4.3.2 Due Diligence Assessment

This period of activity is primarily for the Successful Proponent to detail its understanding of the parameters impacting successful delivery of the Solution formulated in the previous Joint Solution Definition Phase. This includes detailed verification of information used to design the Solution, assumptions reviewed and accepted or referred to negotiations, business processes and human resources data detailed and base-line service and financial levels assessed and verified against the Solution model and inventory of technology completed. The Ministry may in addition, perform further due diligence on the Successful Proponent to

verify its current financial and operating capacity to deliver on and/or commit to the statements made in the Solution framework.

### **4.3.3 Improvement Opportunities**

As a result of the due diligence process it is expected that opportunities to increase services and decrease costs of delivery will be discussed, negotiated and agreed upon to the maximum extent possible. An approach to establishing subsequent opportunities and the costs/benefits involved will also be defined.

### **4.3.4 Finalize Partner Model**

An important activity of this Phase is finalization of the proposed Partner model that will be used as a basis for the Final Contract. A number of joint discussions will need to take place including detailed understanding on the governance structure, strategic and tactical plans and guiding principles that describe how the Partner model will operate. This activity has to be completed prior to commencing the Contract Negotiation Phase of the JSP process.

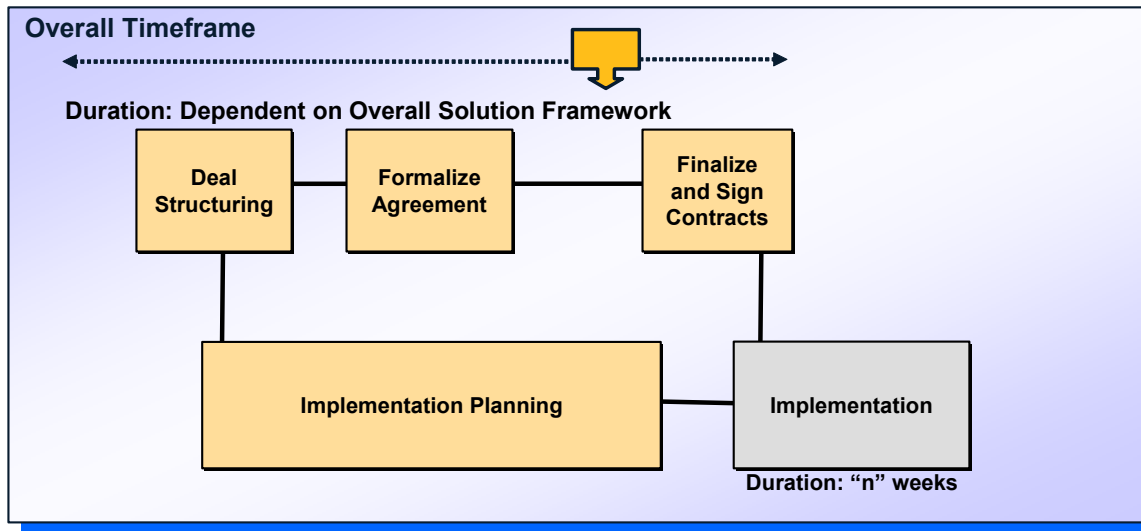
### **4.3.5 Finalize Service Level Agreements**

Based on the solution definition and due diligence assessment, detailed service level agreements will be developed and agreed upon. This will include agreements on key performance measures.

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## 4.4 CONTRACT NEGOTIATIONS PHASE

The Contract Negotiation Phase marks the final section of the JSP process. Activities include negotiations on the deal structure, governance and operational plans necessary to operate the Solution as well as developing the Final Contract so as to establish a long-term commercial arrangement and Business Alliance with the Partner. The negotiations will also include discussion on opportunities and mechanisms for mutual re-negotiation of the Final Contract, so as to respond to changes in the parties' respective business environment, as the Business Alliance evolves over the term of the Final Contract.



There are four (4) key tasks that describe how the Contract Negotiations Phase will proceed.

### 4.4.1 Deal Structuring

A period of deal structuring will take place once the economics have been finalized and agreed upon. The final term sheet will be produced, contract structure determined and final decision to proceed with the Final Contract will be made.

### 4.4.2 Implementation Planning

In preparation for implementation of the Project, the short term plan will be completed to:

- Transition staff;
- Establish priorities;
- Identify quick wins; and
- Establish communication requirements.

### 4.4.3 Formalize Agreement

During this period of activity the Final Contract will be negotiated and schedules prepared.

#### **4.4.4 Finalize and Sign Contract**

Once the Final Contract is ready for execution, both the Ministry and Partner will need to obtain the necessary approvals to sign the Final Contract. On signing, a public announcement may be made and implementation of the services will begin. Any public announcement by the Partner is to be approved by the Ministry before release.

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## 4.5 DECISION POINTS

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The Ministry reserves the right to apply a decision point at any time from the Joint Solution Definition Phase through to the end of the JSP process and either suspend, terminate or re-start discussions or negotiations with any of the Proponents. Any determination to invoke a decision point will reside with the Ministry.

At various stages in the JSP process, the Ministry may request that the Preferred Proponents prepare a presentation for the Ministry's executive so as to assess the progress of the activities to date. These presentations will be used to assess the state of the respective discussions and to determine whether the JSP approach continues to be appropriate.

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## 4.6 EVALUATION CRITERIA

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### 4.6.1 Proposal Format Guidelines

Proponents are asked to assist the evaluation committee by structuring their Proposals in a consistent manner. Proponents are strongly encouraged to limit their proposals to fifty pages, including appendices. The suggested Proposal format is described below.

- JSRFP Cover Page
- Signed letter in substantially similar format to that of Appendix A
- Table of Contents
- Executive Summary
- Proponent Profile
- Proponent Experience
- Checklist of Mandatory Requirements
- Body of the Proposal (see section 4.7 for questions that should be responded to)
- Corporate References
- Appendices
- Concept Paper – the format for this paper being:
  - High-level Concept
  - Vision for the Project
  - Principles for Success

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#### 4.6.2 JSRFP (Phase 1) Evaluation Criteria

Selection is based on continuous evaluation of a Proponent's ability to demonstrate its 3C's to the evaluation committee. Identification of the Preferred Proponents is based on performance over a three Stage evaluation process. The evaluation will proceed as follows:

##### 4.6.2.1 Mandatory Criteria

All Proposals that have satisfied the mandatory criteria will be evaluated according to the criteria described below. Failure to satisfy any one or more of the mandatory criteria will result with disqualification from the JSP process.

	<b>Mandatory Criteria</b>
<b>1</b>	The Proposal must include a covering letter in substantially similar format as the Sample Letter at Appendix A.
<b>2</b>	The Proposal must be received at the closing location before the specified closing time or it will not be accepted.
<b>3</b>	The Proposal must be in English and must not be sent by mail, facsimile or e-mail.
<b>4</b>	Proposals must include a statement that the Proponent is not in receivership or insolvent.
<b>5</b>	Proposals must include a statement that the Proponent has achieved annual revenues in excess of \$100 million for each of the last three years.

##### 4.6.2.2 Stage 1 Evaluation Criteria

Proposals will be evaluated based on the evaluation criteria listed in the following table. Stage 1 will be used to qualify Proponents to proceed to Stage 2 of the Proponent Qualification Phase. Scores achieved in Stage 1 will not be carried to Stage 2. However, information provided in Proposals may be referenced throughout the JSP process.

<b>Evaluation Criteria</b>	<b>Minimum Score</b>	<b>Stage 1 Weighting</b>
Capability – Privacy protection - Demonstrated experience ensuring privacy and security in the management of sensitive personal information	70%	10%

Evaluation Criteria	Minimum Score	Stage 1 Weighting
Capability - Proponent <ul style="list-style-type: none"> <li>- Company Profile</li> <li>- Demonstrated experience in similar scope work with similar size clients</li> <li>- Demonstrated experience in business transformation outsourcing</li> <li>- Demonstrated experience working with Public Sector client</li> <li>- Demonstrated experience in technology outsourcing</li> <li>- Demonstrated experience in labour transitioning</li> <li>- Demonstrated experience in innovative deal structuring</li> <li>- Demonstrated experience in designing and implementing innovative economic models</li> </ul>	60%	30%
Capability – Formulating a solution <ul style="list-style-type: none"> <li>- Proven experience in designing and implementing solutions similar to the scope and magnitude of the Health Benefits Operations Project</li> </ul>		15%
Capability – High-level concept <ul style="list-style-type: none"> <li>- Presentation of a high-level workable concept to be applied to the Ministry's transformation</li> </ul>		5%
Capacity <ul style="list-style-type: none"> <li>- Corporate and financial capacity</li> <li>- Demonstrated ability to manage investment risk</li> <li>- Demonstrated capacity to engage in long term commercial arrangements</li> <li>- Demonstrated capacity to manage services of similar magnitude to the Project</li> <li>- Demonstrated capacity to manage an outsourcing project</li> </ul>	60%	20%
Commitment <ul style="list-style-type: none"> <li>- Commitment to the JSP process</li> <li>- Commitment to the Business Alliance</li> <li>- Commitment to the business goals and objectives of the Ministry</li> </ul>	60%	20%

On completion of the Stage 1 evaluation process, the scores will be tallied and Proponents ranked. Up to the four (4) top ranked Proponents will be invited to participate in the Stage 2 Workshops. The remaining Proponents will be advised of their ranking and offered debriefing sessions that will be held after the Preferred Proponents have been announced. Section 4.7 provides response guidelines for Stage 1 of the Proponent Qualification Phase.

#### 4.6.2.3 Stage 2 Evaluation Criteria

All short-listed Proponents will be invited to participate in individual Stage 2 Workshops with the Ministry.

The Workshops provide an opportunity for the short-listed Proponents to explore the Project and to apply their knowledge of health benefits operations and alternative services delivery in producing a Concept for the Stage 3 presentations.

The following criteria will be used to evaluate the Stage 2 Workshops.

<b>Evaluation Criteria</b>	<b>Stage 2 Weighting</b>
Commitment to the JSP process	To be finalized
Communication skills	To be finalized
Subject matter expertise/ relevance of questions	To be finalized

The scores for Stage 2 account for 25% of the total evaluation for Stages 2 and 3 of the Proponent Qualification Phase.

#### 4.6.2.4 Stage 3 Evaluation Criteria

On completion of Stage 2 of the Proponent Qualification Phase, short-listed Proponents will be asked to develop a Concept for presentation to the evaluation committee. Proponents are not limited in any way to the brief Concept overview that they provided as part of their Proposal. Section 4.1.6 describes the format of the presentations.

The Concept accounts for 75% of the total evaluation score of Stages 2 and 3.

The Province will finalize the evaluation criteria for Stage 3 prior to opening of the Proposals and will distribute the finalized evaluation criteria to the short-listed Proponents.

<b>Evaluation Criteria (Concept) To be finalized</b>	<b>Stage 3 Weighting</b>
Deal Structure <ul style="list-style-type: none"> <li>- Governance model, strategic direction and suitability for the Health Benefits Operations Project</li> <li>- Compatibility (cultural fit of deal structure with government)</li> <li>- Challenges and key success factors</li> <li>- Proposed Health Benefits Operations Project deal</li> </ul>	To be finalized

Evaluation Criteria (Concept) To be finalized	Stage 3 Weighting
structure (e.g. pure outsource, joint venture etc) and supporting reasoning <ul style="list-style-type: none"> <li>- Understanding of government labour relations and human resources considerations governing choice of deal construct</li> <li>- Impact of existing privacy legislation, statutes, and compliance on conceptual deal structure</li> </ul>	
Business Processes <ul style="list-style-type: none"> <li>- Understanding of the business problem, scope and key success factors</li> <li>- Conceptual solution to alternative service delivery of Ministry business processes (including potential candidates as well as supporting reasons)</li> <li>- Impact of existing privacy legislation, statutes, and compliance on business processes solution</li> </ul>	To be finalized
Technology <ul style="list-style-type: none"> <li>- Understanding of the technology environment, current problem, scope and key success factors</li> <li>- Conceptual solution for alternative service delivery of Ministry technology</li> <li>- Impact of government standards on conceptual approach to the Ministry technology situation</li> </ul>	To be finalized
Economic Model <ul style="list-style-type: none"> <li>- Demonstrated understanding of government financial and governance environment and its impact on the Proponent's conceptual economic model</li> <li>- Key challenges and success factors impacting a mutually beneficial commercial arrangement for the Health Benefits Operations Project</li> <li>- Description of conceptual economic model arising out of the Health Benefits Operations Project alternative service delivery</li> </ul>	To be finalized
Other criteria to be determined.	To be finalized

The Concept to be delivered at the presentations should address the finalized criteria. Proponents will be notified of these criteria when they become available. Proponents are required to provide a written (and electronic) version of the Concept (slides) presented to the evaluation committee. The Ministry acknowledges that the Concept presented during Stage 3 may be substantially different from the Concept overview provided as part of the

Proposal and that the final Solution may be substantially different from the Concept following the Joint Solution Definition Phase.

On completion of the Stage 3 evaluation process, the scores will be tallied, weighted and added to the scores coming out of Stage 2, and the short-listed Proponents will be ranked. The top two short-listed Proponents will be deemed the Preferred Proponents and invited to the Joint Solution Definition Phase of the JSP process.

#### **4.6.2.5 Joint Solution Definition Phase Decision Criteria**

Once the Preferred Proponents have been identified, a period of Joint Solution Definition activities will take place that culminates with both Proponents each completing a Solution and economic model that describes their proposed commercial arrangement.

As described in section 4.2.5, the Ministry will request that the Preferred Proponents present their Solution where the following criteria will be assessed.

(Note: The Ministry reserves the right to alter these criteria provided it does so prior to the commencement of the Joint Solution Definition Phase, in which case, written notice of any alterations will be provided to the Preferred Proponents prior to the commencement of the Joint Solution Definition Phase).

	<b>Decision Criteria</b>
<b>1</b>	Deal Structure
<b>2</b>	Business Processes
<b>3</b>	Technology
<b>4</b>	Economic Model
<b>5</b>	Policy and Compliance

The decision criteria and governing process will be communicated to the Preferred Proponents upon the signing of the Joint Solution Definition Agreement, which must be signed prior to the commencement of the Joint Solution Definition Phase.

On completion of the evaluation, the Ministry will announce the Successful Proponent and the Due Diligence & Negotiation Phase will commence as described in section 4.3.

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## 4.7 PROPONENT RESPONSE GUIDELINES

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Proponents should provide as much detail as necessary in order to demonstrate (e.g., not how to do, but have done) expertise in the pertinent criteria. This includes providing real examples with contact references that can validate a Proponent's information as part of the reference checks. Proponents should carefully review the JSRFP definitions prior to Proposal preparation.

### 4.7.1 References

Proponents should provide both corporate and project references that support the statements made in the examples provided for the evaluation criteria.

### 4.7.2 Capability – Privacy Protection

#### **Demonstrated experience in privacy and security in the management of sensitive personal information.**

Each Proponent should describe its experience working with and providing protection over sensitive, confidential and/or personal information on behalf of their client. The Proponent should describe the prevailing law, policy or contractual obligations in relation to the information and what practices including quality assurance they had in place to provide protection and compliance.

### 4.7.3 Capability – Proponent

#### **Company Profile**

Each Proponent should include a proponent profile that details background information on the Proponent, including the year established; corporate ownership, corporate strategic direction; area of recognized expertise in the market place; an overview of the Proponent's corporate structure including information on size, revenues, market and geographic coverage. Each Proponent should ensure that sufficient information is provided in its Proposal to support its compliance with the mandatory requirements.

#### **Experience with projects of similar size and scope**

Each Proponent should describe its experience with projects of similar scope and working with similar sized clients. Information should demonstrate how this experience relates to the Project and why the experience is evidence of the Proponent's capability to understand, manage and operate required aspects of the Project.

#### **Business transformation outsourcing**

Each Proponent should describe its experience in business transformation and alternative service delivery and provide examples that demonstrate success in managing the transitioning and operating challenges of a major business transformation, preferably in healthcare and the public sector. The Proponent should be sure to support its statements with examples and include information that confirms the size and complexity of the engagements.

The Ministry is also interested in understanding the critical success factors that were identified as part of the business process transformation. As such Proponents are required to explain the challenges that had to be overcome in order to arrive at a mutually beneficial long term commercial arrangement.

Please provide any additional information that demonstrates past expertise in business transformation projects with a similar size and complexity to the Project.

### **Experience working with public sector client**

A successful relationship is based on mutual understanding of the needs and wants of the Business Alliance. Proponents should explain their cultural alignment and demonstrate (using real examples) success and ability to understand and work with the Ministry and with government in general in addressing the needs of the Project.

### **Technology outsourcing**

Proponents should describe their experience in technology transition and provide examples that demonstrate success in managing the transition and operation of an organization's technology assets. Proponents should support their statements with examples and include information that confirms the size and complexity of the engagement(s). Where possible, give examples that have similarities to this Project.

### **Labour transitioning**

Transitioning one or more business processes from a government environment to an outside operation requires significant experience and expertise in labour transitioning. This includes understanding the concerns of affected staff and having proper procedures in place in order to establish and successfully implement a transition plan.

Using past or current examples, Proponents should describe the challenges associated with labour transitioning and explain what approaches were employed by them in order to ensure smooth handling of the issue. Proponents should also describe the critical success factors associated with their project examples and explain how their approach resulted with a mutually beneficial result for both organizations.

Proponents should also demonstrate their understanding of the impact of existing provincial labour transitioning policy on any outsourcing that may be performed in British Columbia.

### **Deal structuring**

The Joint Solution Definition Phase of the JSP process will allow the Preferred Proponents to arrive at innovative approaches to addressing the Health Benefits Operations Project business goals and objectives. The commercial deal structure will define the relationship in which the Project will be delivered as well as the migration path for the services.

Referring to examples, Proponents should describe their depth and breadth of experience in conceptualizing, negotiating and operating within various commercial deal structures (including establishing shell companies, if applicable). Proponents should also describe any innovative commercial arrangements that they have structured that allowed for migration of services from a traditional model through to a partial or full outsource model or other form of alternative service delivery.

For all cases, Proponents should describe the types and challenges associated with deal structures they have established and the methods used to ensure that a mutually beneficial commercial arrangement was established and successfully operated.

### **Economic models**

In addition to a variety of important factors (e.g., deal structure, business and technology process specifics, labour relations, etc.) that make up a successful, long term, commercial arrangement, the economic model is possibly the most critical factor that makes or breaks a deal. The Ministry is interested in innovative economic models for the Health Benefits Operations Project.

Using past or current examples, Proponents should describe their ability to take a business problem and then conceptualize and produce innovative economic models with the flexibility



to handle changes in program deliverables over a long term commercial arrangement. Proponents should also describe their view of sharing the risks and rewards associated with long term commercial arrangements and discuss their success in maintaining a mutually beneficial relationship.

#### 4.7.4 Capability – Formulating a Solution

##### **Proven experience in designing and implementing solutions similar to the scope and magnitude of the Health Benefits Operations Project.**

Proponents should explain, using examples from past projects similar to the scope and magnitude of the Project, how they approached the process of business transformation and outsourcing. Proponents should use examples to formulate an idea of how the business outcomes of the Ministry could be achieved from a business transformation perspective. Proponents should explain the types of deal structures used in the past, the advantages and disadvantages of these forms of deal structures for projects similar to the Project, the various types of economic models that were found to be suited to a public sector environment, as well as the kinds of business processes that were easily adopted. Wherever possible, experiences gained from past projects should be cross-referenced to the business situation currently faced by the Ministry. The preference is that the project examples be based on alternative service delivery projects in the public sector and in an area involving sensitive personal information with high volume transactional processing in the provision of services to a broad client base.

#### 4.7.5 Capability – High Level Concept

##### **Presentation of a high-level workable concept to be applied to the Ministry's transformation.**

Using one or two pages, Proponents should submit a paper outlining their Concept on a high level. Proponents should briefly explain their vision for the Project, and the principles they will use to ensure the Project's success.

#### 4.7.6 Capacity

##### **Corporate and Financial Capacity**

The Health Benefits Operations Project may require that the prospective Proponent put up the initial funding to transform the Ministry business processes and technology. Proponents are asked to demonstrate (i.e. not explain how but show where and when) it has engaged as a lead vendor, with substantial financial obligation, on a similar project that involved the transformation and/ or outsourcing of business processes and technology. A large scale public or private sector related example would be preferred.

##### **Manage investment risk**

The Ministry is interested in the Proponent's experience in the allocation of risk associated with capital investment for projects that are funded by the Partner. As the JSP process contemplates a risk/ reward sharing mechanism in the Final Contract, Proponents are asked to demonstrate, using past project examples, where investment risk was assumed by the Proponent and the types of mitigation plans that were put in place that resulted with a mutually beneficial solution.

##### **Capacity to engage in long term commercial arrangements**

The Project is a significant endeavour and the Ministry expects that the Solution will evolve over the years. Proponents are required to demonstrate, using past or current examples, of

projects of similar scope and prospective change where the Proponent was able to successfully engage in a long term (five or more years) commercial arrangement.

#### **Capacity to deliver services of similar magnitude**

The business and technology scope described in this document illustrates the magnitude of the Project. Proponents are required to demonstrate, using past or current examples, where they had successfully transformed, transitioned and managed business processes and technology of similar magnitude to the Health Benefits Operations Project.

#### **Capacity to manage an outsourcing project**

Proponents should describe their capacity to manage an outsourcing initiative with the level of diversity and undefined scope inherent in this Project. Use examples that can be verified.

### **4.7.7 Commitment**

#### **Commitment to the JSP Process**

The JSP process will require a substantial commitment from the Proponents that advance to later Stages and Phases. It is critical to the Province that those Proponents who advance to later Stages and Phases of the JSP process will be fully dedicated and committed to the JSP process.

Proponents are asked to consider the magnitude of the JSP process and name individuals that will make up the Proponents' team as the JSP progresses from the Workshops (Stage 2) through to the Concept presentation (Stage 3), Joint Solution Definition Phase, Due Diligence & Negotiation Phase and finally the Contract Negotiation Phase. Please describe what duties the individuals currently have in the Proponent's organization and the role he or she will take in the JSP process. Proposals should also include any other steps or assurances that a Proponent can take or provide to demonstrate its commitment to the JSP process.

#### **Commitment to the Business Alliance**

The Business Alliance is a principled and holistic driven relationship between the Ministry and Partner designed to create an environment that facilitates and encourages a mutually successful commercial arrangement. Proponents should provide examples where this sort of commercial relationship has been successfully implemented and should describe any problems that needed to be addressed in order to maintain relationship. Proponents should also state their commitment to the Business Alliance and explain what they would do to ensure success for all parties.

#### **Commitment to the business drivers/ objectives of the Ministry**

Success in meeting or exceeding the business outcomes of the Project is a basic success factor for the Project. Proponents should describe how they would ensure that the Ministry's desired business outcomes will be met and demonstrate, using past or current examples, where their innovativeness, ingenuity and commitment to their client resulted with accelerated benefits to their client and which have met or exceeded the objectives of the alternative services delivery project objectives.

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## 5 APPENDICES

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### APPENDIX A – SAMPLE LETTER

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Letterhead or Proponent's name and address

Date

Ministry of Management Services  
Strategic Acquisitions and Technology Procurement Branch  
Common Business Services, Solutions BC  
102 – 3350 Douglas Street  
Victoria, BC  
V8Z 7X9  
Attention: Patrick Ngo

Dear Sir/Madam

**Subject:** Joint Solutions Procurement For The Health Benefits Operations Project  
JSRFP Number SATP029 (the “JSRFP”)  
List any amendment nos. and dates

The enclosed proposal is submitted in response to the above-referenced JSRFP. Through submission of this proposal we agree to all of the terms and conditions of the JSRFP.

We have carefully read and examined the JSRFP and have conducted such other investigations as were prudent and reasonable in preparing the proposal. We agree that subject to the terms and conditions of the JSRFP we shall also be bound by statements and representations made in this proposal.

Yours truly

\_\_\_\_\_  
signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Legal name of Proponent: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX B – RECEIPT CONFIRMATION FORM**

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**Health Benefits Operations Project**  
**Closing Date: September 8, 2003**  
**Joint Solution Request for Proposal No. SATP029**  
**Ministry of Health Services**

To receive any further information about this JSRFP please return this form to:

**Attention:** **Patrick Ngo**  
**Mail:** 102 – 3350 Douglas Street  
 Victoria, B.C.  
**Or:** Fax #: (250) 387-1399  
 Email: pcadmin@gems2.gov.bc.ca  
 Tel: (250) 387-1430

**Company:** \_\_\_\_\_

**Street address:** \_\_\_\_\_

**City/Province:** \_\_\_\_\_ **Postal Code:** \_\_\_\_\_

**Mailing address if different:** \_\_\_\_\_  
 \_\_\_\_\_

**Phone number:** \_\_\_\_\_ **Fax number:** \_\_\_\_\_

**Contact person:** \_\_\_\_\_

**email:** \_\_\_\_\_

☐ We will be sending \_\_\_\_\_ representatives to the Proponents Meeting.  
 (number)

**Representative 1:** \_\_\_\_\_

**Representative 2:** \_\_\_\_\_

**Others:** \_\_\_\_\_

☐ We will not be attending but will probably be submitting a proposal.

**Unless it can be sent by fax or email, the Proponent should arrange for courier pickup of further correspondence about this JSRFP upon email notice by the Project's designated contact.**

**Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_

## APPENDIX C – JOINT SOLUTION DEFINITION AGREEMENT

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The Preferred Proponents must enter into a Joint Solution Definition Agreement with the Province that will govern the actions of the Province and the Preferred Proponents during the Joint Solution Definition Phase, the Due Diligence and Negotiation Phase and the Contract Negotiation Phase. The Joint Solution Definition Agreement will include, but not be limited to, the provisions summarized below:

1. General representations, warranties and covenants;
2. Conflict of interest provisions including representations and warranties in respect of conflicts and a requirement to implement a conflicts plan;
3. Evaluation process including formation of the evaluation committee; certain evaluation criteria used to evaluate the Preferred Proponents; and the debriefing process;
4. The right of the Province to amend, modify or suspend the JSP process or suspend or cancel negotiations with a Preferred Proponent;
5. Right of the Province to designate an alternate Preferred Proponent;
6. Obligation of Preferred Proponents to bear all of their own expenses and to commit to the JSP process;
7. Restriction on lobbying and on any contact with Ministry or government personnel except as authorized by the Province;
8. Due diligence covenants including certain rights of the Preferred Proponent to seek information from the Province and the right of the Province to consult outside references and obtain third party information regarding the Preferred Proponent;
9. Possible obligation of the Preferred Proponent to provide assurances to the Province in the form of bonding, letters of credit or other forms of assurances;
10. The Province being under no obligation to enter into a Final Contract;
11. No obligation for the Final Agreement to be based upon the JSRFP and the ability of the Province and the Preferred Proponent to enter into arrangements that exceed or only include part of the scope contemplated by the JSRFP;
12. Duty of the Preferred Proponent to act in good faith throughout the JSP process;
13. Restricted documents room and information disclosure provisions;
14. Confidentiality provisions including the parties agreeing on processes for information to be released in certain circumstances to other stakeholders;
15. Privacy provisions;
16. Intellectual property provisions including ownership rights, representations, warranties, indemnities and cross licensing provisions;
17. The term of the JSP process, default provisions, termination rights and consequences of termination or breach;
18. A summary of certain terms that would be required to be included in the Final Contract;
19. No representations or warranties from the Province; no liability of the Province for indirect or similar types of damages; and a limit of liability of the Province equal to the reasonable direct expenses incurred by the Preferred Proponent;
20. No liability for errors or inaccuracies of the Province;
21. No assignment right for the Preferred Proponent;
22. Manner in which consortiums and their members are obligated to the Province;

23. General provisions including notice, governing law, entire agreement, nature of relationship, survival and execution; and
24. Dispute resolution process.

## APPENDIX D – GUIDELINES FOR PROTECTION OF INFORMATION

### PRIVACY PROTECTION SCHEDULE

*This Schedule forms part of the agreement between*

*Her Majesty the Queen in right of the Province of British Columbia represented by*

(the "Province") and  
(the "Contractor") respecting  
(the "Agreement").

#### Purpose

1. The purpose of this Schedule is to enable the Province to comply with its statutory obligations under the Freedom of Information and Protection of Privacy Act with respect to "personal information", as defined in section 2 of this Schedule.

#### Definition of personal information

2. In this Schedule, "personal information" means recorded information about an identifiable individual collected or created by the Contractor as a result of the Agreement or any previous agreement between the Province and the Contractor dealing with the same subject matter as the Agreement.

#### Collection of personal information

3. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor may only collect or create personal information that is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
4. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about.
5. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects personal information:
  - (a) the purpose for collecting it;
  - (b) the legal authority for collecting it; and
  - (c) the title, business address and business telephone number of the person designated by the Province to answer questions about the Contractor's collection of personal information.

#### Accuracy of personal information

6. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Contractor or the Province to make a decision that directly affects the individual the information is about.

#### Access to personal information

7. If the Contractor receives a request for access to personal information from a person other than the Province, the Contractor must promptly advise the person to make the request to the Province unless the Agreement expressly requires the Contractor to provide such access and, if the Province has advised the Contractor of the name or title and contact information of an official of the Province to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

#### Correction of personal information

8. Within 5 business days of receiving a written direction from the Province to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction.
9. When issuing a written direction under section 8, the Province must advise the Contractor of the date the correction request to which the direction relates was received by the Province in order that the Contractor may comply with section 10.
10. Within 5 business days of correcting or annotating any personal information under section 8, the Contractor must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was made to the Province, the Contractor disclosed the information being corrected or annotated.
11. If the Contractor receives a request for correction of personal information from a person other than the Province, the Contractor must promptly advise the person to make the request to the Province and, if the Province has advised the Contractor of the name or title and contact information of an official of the Province to whom such requests are to be made, the Contractor must also promptly provide that official's name or title and contact information to the person making the request.

## Appendix D Guidelines for Protection of Information (Cont'd)

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12. The Contractor must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal.

### **Retention of personal information**

13. Unless the Agreement otherwise specifies, the Contractor must retain personal information until directed by the Province in writing to dispose of it or deliver it as specified in the direction.

### **Use of personal information**

14. Unless the Province otherwise directs in writing, the Contractor may only use personal information for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.

### **Disclosure of personal information**

15. Unless the Province otherwise directs in writing, the Contractor may only disclose personal information to any person other than the Province if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.

### **Inspection of personal information**

16. In addition to any other rights of inspection the Province may have under the Agreement or under statute, the Province may, at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect any personal information in the possession of the Contractor or any of the Contractor's information management policies or practices relevant to its management of personal information or its compliance with this Schedule and the Contractor must permit, and provide reasonable assistance to, any such inspection. The Contractor must provide the same access and assistance to the Office of the Information and Privacy Commissioner for the exercise of its statutory powers of inspection and audit.

### **Compliance with directions**

17. The Contractor must comply with any direction given by the Province under this Schedule.

### **Notice of non-compliance**

18. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the Province of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

### **Termination of Agreement**

19. In addition to any other rights of termination which the Province may have under the Agreement or otherwise at law, the Province may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Contractor, terminate the Agreement by giving written notice of such termination to the Contractor, upon any failure of the Contractor to comply with this Schedule in a material respect.

### **Interpretation**

20. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.  
 21. Any reference to the "Contractor" in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with this Schedule.  
 22. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.

**Note:** The Ministry expects that this schedule will apply to any subcontractors of the Partner.

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## SCHEDULE Q

### DESIGNATED EXPEDITED ARBITRATOR LIST

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The Parties acknowledge and agree that Harriet Velázquez and Stanley E. Singer may provide services to either or both Parties from time to time during the Term and notwithstanding the provision of any such services such Persons will be considered independent and without conflict of interest for purposes of the Expedited Dispute resolution procedure pursuant to Section 23.3 of this Agreement.

## **SCHEDULE R**

### **TRANSFORMATION PLAN**

#### **1.0 PURPOSE OF THIS SCHEDULE**

This Schedule describes the guiding principles under which the Parties will work to implement the Transformed Services, as well as the high-level tasks and milestones that must be completed to implement the Transformed Services. This initial Transformation Plan may be modified during the course of the Term, subject to the constraints identified in Section 5.3 of the Agreement. Progress in respect to this Transformation Plan shall be monitored in accordance with Schedules K and O. This Transformation Plan is provided, shall be governed by and updated in accordance with the Agreement including Article 5.

#### **2.0 GUIDING PRINCIPLES**

2.1 The Parties agree to work collaboratively to:

- (a) Ensure timely completion of the tasks, milestones, and associated reviews, approvals, and decisions, essential to the success of the Transformation;
- (b) Establish and maintain effective communication through out the Transformation period in accordance with the principles and protocols outlined in Schedule K of this Agreement; and
- (c) Keep each other informed of unanticipated events that may adversely impact the Transformation timelines.

Notwithstanding the foregoing, the Service Provider acknowledges and agrees that it has ultimate responsibility to complete the Transformation Services in accordance with and pursuant to the terms of the Agreement including those terms set forth in Article 5 of this Agreement.

2.2 The Province agrees to:

- (a) Facilitate communication between the Service Provider and certain third parties including resolution of issues that may arise between the Service Provider and such third parties as those issues may impact the Transformation (including, without limitation Transformation Services) and subsequent provision of Transformed Services. Such third parties include but are not necessarily limited to British Columbia Common IT Services, the British Columbia Public Service Agency and the Ministry of Provincial Revenue;
- (b) Retain primary responsibility for communication with and between all Stakeholders and Province Customers;

- (c) Retain responsibility for established delegations such as payment and existing Stakeholder agreements;
- (d) Assign staff knowledgeable about the current operational and technical environments relating to the delivery of health benefit services by the Province to work collaboratively with the Service Provider to implement a smooth Transformation (e.g. decisions for conversion, business rules and identification of risks); and
- (e) Provide assistance in developing an inventory of any policy gaps and develop plans and processes to close those gaps.

### 2.3 The Service Provider agrees to:

- (a) Assume and retain primary responsibility for successful completion of the Transformation in accordance with the terms of the Agreement;
- (b) Be responsible for overall management and implementation of the Transformation;
- (c) Ensure the Transformation Plan adequately addresses Critical Issues to the satisfaction of the Province;
- (d) Perform the Transformation Services;
- (e) Develop mechanisms to facilitate retention of appropriate knowledge by the Province;
- (f) Conduct a Risk and Controls Review as part of the acceptance process for each application, and such review shall be in a form and have results that are to the satisfaction of the Province; and
- (g) Conduct a Privacy Impact Assessment in accordance with Schedule X of this Agreement as part of the acceptance process for each application, and such privacy assessment shall be in a form and have results that are to the satisfaction of the Province.

## 3.0 MAJOR TASKS AND MILESTONES

The table set out below sets out the milestones (MM), Stages (SS) and tasks (TT) (including Transformation Services) that must be met to ensure a successful Transformation and the Party with primary responsibility for each of those milestones, Stages and tasks. There are five milestones, numbered 0 to 4, which are composed of Stages, which are further composed of tasks. The Transformation Stage Completion Dates are the dates in the column with the heading “End” for each Stage in the table below (i.e. the dates in the grey shaded cells). The table below forms part of the initial Transformation Plan which may be amended, modified or supplemented pursuant to Section 5.3 of this Agreement.

WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
<b>0</b>	<b>High Level Transformation Plan</b>	<b>377 days</b>	<b>11/4/04</b>	<b>4/21/06</b>	<b>Service Provider</b>
<b>1</b>	<b>Transformation Plan Project Management</b>	<b>252.5 days</b>	<b>11/4/04</b>	<b>10/31/05</b>	<b>Service Provider</b>
1.1	Execute Agreement with Province	1 day	11/4/04	11/4/04	Service Provider
1.2	Execute Contracts with Key Subcontractors	4 days	11/4/04	11/9/04	Service Provider
1.3	Transition Phase Completed	0.5 day	4/1/05	4/1/05	Service Provider, Province
1.4	Joint Executive Committee Process	151 days	4/1/05	10/31/05	Service Provider, Province
1.5	Joint Steering Committee Process	151 days	4/1/05	10/31/05	Service Provider, Province
1.6	Change Control Board Participation	151 days	4/1/05	10/31/05	Service Provider, Province
1.7	Incorporate Lessons Learned from Transition Phase	10 days	4/1/05	4/15/05	Service Provider, Province
1.8	Develop Transformation Project Training Plan	40 days	11/10/04	1/11/05	Service Provider
1.9	Define Acceptance Criteria	30 day	4/1/05	5/13/05	Service Provider
1.10	Develop Cutover and Contingency Plan	32 days	7/26/05	9/7/05	Service Provider, Province
<b>2</b>	<b>MAXe2 Installation</b>	<b>253 days</b>	<b>11/4/04</b>	<b>10/31/05</b>	<b>Service Provider</b>
2.1	Data Conversion Effort	252 days	11/4/04	10/28/05	Service Provider
2.1.1	Identify Source Systems	5.5 days	11/4/04	4/15/05	Service Provider, Province
2.1.2	Obtain Data Dictionaries for Source Systems	4 wks	11/4/04	12/3/04	Service Provider, Province
2.1.3	Develop Data Conversion Plan	30 days	12/6/04	1/19/05	Service Provider
2.1.4	Submit Conversion Plan to Province for Review	1 day	1/20/05	1/20/05	Service Provider
2.1.5	Review Conversion Plan	10 days	1/21/05	2/3/05	Province
2.1.6	Revise/Modify Based on Province Comments	5 days	2/4/05	2/10/05	Service Provider
2.1.7	Submit Final Conversion Plan to Province	1 day	2/11/05	2/11/05	Service Provider
2.1.8	Approve Final Conversion Plan	10 days	2/14/05	2/25/05	Province
2.1.9	Study MAXe2 Data Model	8 wks	11/4/04	1/5/05	Service Provider
2.1.10	Create Map from Each Source to MAXe2	12 wks	1/6/05	3/30/05	Service Provider
2.1.11	Submit Conversion Maps to Province for Review	5 days	3/31/05	4/6/05	Service Provider
2.1.12	Review Conversion Maps	10 days	4/7/05	4/20/05	Province
2.1.13	Revise/Modify Based on Province Comments	5 days	4/21/05	4/27/05	Service Provider

WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
2.1.14	Submit Final Conversion Map to Province	2 days	4/28/05	4/29/05	Service Provider
2.1.15	Approve Final Conversion Map	10 days	5/2/05	5/13/05	Province
2.1.16	Develop Stage 1 Data Model/Database	4 wks	5/16/05	6/10/05	Service Provider
2.1.17	Load Stage 1 Database	4 wks	6/13/05	7/8/05	Service Provider
2.1.18	Run Validation Tests	3 wks	6/20/05	7/8/05	Service Provider
2.1.19	Develop ODS Data Model/Database	4 wks	7/11/05	8/5/05	Service Provider
2.1.20	Load ODS Database	3 wks	8/8/05	8/26/05	Service Provider
2.1.21	Run Validation Tests	4 wks	8/1/05	8/26/05	Service Provider
2.1.22	Create MAXe2 Load Scripts	5 wks	8/29/05	9/30/05	Service Provider
2.1.23	Load MAXe2 Database	4 wks	10/3/05	10/28/05	Service Provider
2.1.24	Run Validation Tests	2 wks	10/17/05	10/28/05	Service Provider
2.2	Interface Development Effort	250.75 days	11/5/04	10/28/05	Service Provider
2.2.1	Develop Integration Plan	13 wks	11/5/04	2/10/05	Service Provider
2.2.2	Develop Interface Specifications for Each Source	8 wks	12/14/04	2/10/05	Service Provider
2.2.3	Submit Interface Specifications to Province for Review	1 day	2/11/05	2/11/05	Service Provider
2.2.4	Review Interface Specifications	10 days	2/14/05	2/25/05	Province
2.2.5	Revise/Modify Based on Province Comments	10 days	2/28/05	3/11/05	Service Provider
2.2.6	Submit Final Interface Specifications to Province	1 day	3/14/05	3/14/05	Service Provider
2.2.7	Approve Final Interface Specifications	10 days	3/15/05	3/28/05	Province
2.2.8	Develop File Formats	4.75 wks	3/29/05	4/29/05	Service Provider
2.2.9	Write & Unit Test Scripts	16 wks	4/29/05	8/19/05	Service Provider
2.2.10	Create Dummy Test Files	4 wks	8/19/05	9/16/05	Service Provider
2.2.11	Test Each Interface	6 wks	9/16/05	10/28/05	Service Provider
2.2.12	Review Results & Revise as Necessary	5 wks	9/23/05	10/28/05	Service Provider, Province
2.3	MAXe2 Application Tailoring Effort	195 days	11/5/04	8/11/05	Service Provider
2.3.1	Validate High-Level System Requirements	2.5 days	11/5/04	11/9/04	Service Provider, Province
2.3.2	Orient the Province team to the MAXe2 system	4 wks	11/9/04	12/9/04	Service Provider, Province
2.3.3	Familiarize team with Existing Processes and Data Documentation	4 wks	11/9/04	12/9/04	Service Provider, Province
2.3.4	Gain Agreement on future process model, business rules	6.5 wks	12/9/04	1/27/05	Service Provider
2.3.5	Image Assembly	70 days	1/28/05	5/5/05	Service Provider
2.3.5.1	Create First Prototype-Image Assembly	3 wks	1/28/05	2/17/05	Service Provider

WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
2.3.5.2	Review, Document Process or Data Exceptions	1 wk	2/18/05	2/24/05	Service Provider, Province
2.3.5.3	Create 2nd Prototype	2 wks	2/25/05	3/10/05	Service Provider
2.3.5.4	Review, Document Process or Data Exceptions	1 wk	3/11/05	3/17/05	Service Provider, Province
2.3.5.5	Create 3rd Prototype	4 wks	3/18/05	4/14/05	Service Provider
2.3.5.6	Review, Finalize Process and Data	1 wk	4/15/05	4/21/05	Service Provider, Province
2.3.5.7	Complete Unit Test	2 wks	4/22/05	5/5/05	Service Provider
2.3.6	Eligibility	70 days	1/28/05	5/5/05	Service Provider
2.3.6.1	Create First Prototype-Eligibility	4 wks	1/28/05	2/24/05	Service Provider
2.3.6.2	Review, Document Process or Data Exceptions	1 wk	2/25/05	3/3/05	Service Provider, Province
2.3.6.3	Create 2nd Prototype	3 wks	3/4/05	3/24/05	Service Provider
2.3.6.4	Review, Document Process or Data Exceptions	1 wk	3/25/05	3/31/05	Service Provider, Province
2.3.6.5	Create 3rd Prototype	2 wks	4/1/05	4/14/05	Service Provider
2.3.6.6	Review, Finalize Process and Data	1 wk	4/15/05	4/21/05	Service Provider, Province
2.3.6.7	Complete Unit Test	2 wks	4/22/05	5/5/05	Service Provider
2.3.7	Registration	75 days	1/28/05	5/12/05	Service Provider
2.3.7.1	Create First Prototype-Registration	4 wks	1/28/05	2/24/05	Service Provider
2.3.7.2	Review, Document Process or Data Exceptions	1 wk	2/25/05	3/3/05	Service Provider, Province
2.3.7.3	Create 2nd Prototype	2 wks	3/4/05	3/17/05	Service Provider
2.3.7.4	Review, Document Process or Data Exceptions	1 wk	3/18/05	3/24/05	Service Provider, Province
2.3.7.5	Create 3rd Prototype	3 wks	3/25/05	4/14/05	Service Provider
2.3.7.6	Review, Finalize Process and Data	1 wk	4/15/05	4/21/05	Service Provider, Province
2.3.7.7	Complete Unit Test	3 wks	4/22/05	5/12/05	Service Provider
2.3.8	Financial Management	77.5 days	1/28/05	5/17/05	Service Provider
2.3.8.1	Create First Prototype-Financial Mgmt	4 wks	1/28/05	2/24/05	Service Provider
2.3.8.2	Review, Document Process or Data Exceptions	1 wk	2/25/05	3/3/05	Service Provider, Province
2.3.8.3	Create 2nd Prototype	2 wks	3/4/05	3/17/05	Service Provider
2.3.8.4	Review, Document Process or Data Exceptions	1 wk	3/18/05	3/24/05	Service Provider, Province
2.3.8.5	Create 3rd Prototype	4 wks	3/25/05	4/21/05	Service Provider
2.3.8.6	Review, Finalize Process and Data	1.5 wks	4/22/05	5/3/05	Service Provider, Province
2.3.8.7	Complete Unit Test	2 wks	5/3/05	5/17/05	Service Provider
2.3.9	Letters	60 days	5/17/05	8/9/05	Service Provider
2.3.9.1	Create First Prototype-Letters	4 wks	5/17/05	6/14/05	Service Provider

WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
2.3.9.2	Review, Document Process or Data Exceptions	1 wk	6/14/05	6/21/05	Service Provider, Province
2.3.9.3	Create 2nd Prototype	2 wks	6/21/05	7/5/05	Service Provider
2.3.9.4	Review, Document Process or Data Exceptions	1 wk	7/5/05	7/12/05	Service Provider, Province
2.3.9.5	Create 3rd Prototype	2 wks	7/12/05	7/26/05	Service Provider
2.3.9.6	Review, Finalize Process and Data	1 wk	7/26/05	8/2/05	Service Provider, Province
2.3.9.7	Complete Unit Test	1 wk	8/2/05	8/9/05	Service Provider
2.3.10	Alerts & Notices	60 days	5/17/05	8/9/05	Service Provider
2.3.10.1	Create First Prototype-Alerts & Notices	3 wks	5/17/05	6/7/05	Service Provider
2.3.10.2	Review, Document Process or Data Exceptions	1 wk	6/7/05	6/14/05	Service Provider, Province
2.3.10.3	Create 2nd Prototype	3 wks	6/14/05	7/5/05	Service Provider
2.3.10.4	Review, Document Process or Data Exceptions	1 wk	7/5/05	7/12/05	Service Provider, Province
2.3.10.5	Create 3rd Prototype	2 wks	7/12/05	7/26/05	Service Provider
2.3.10.6	Review, Finalize Process and Data	1 wk	7/26/05	8/2/05	Service Provider, Province
2.3.10.7	Complete Unit Test	1 wk	8/2/05	8/9/05	Service Provider
2.3.11	Workflow	62.5 days	5/17/05	8/11/05	Service Provider
2.3.11.1	Create First Prototype-Workflow	3 wks	5/17/05	6/7/05	Service Provider
2.3.11.2	Review, Document Process or Data Exceptions	1 wk	6/7/05	6/14/05	Service Provider, Province
2.3.11.3	Create 2nd Prototype	3 wks	6/14/05	7/5/05	Service Provider
2.3.11.4	Review, Document Process or Data Exceptions	1 wk	7/5/05	7/12/05	Service Provider, Province
2.3.11.5	Create 3rd Prototype	3 wks	7/12/05	8/2/05	Service Provider
2.3.11.6	Review, Finalize Process and Data	0.5 wks	8/2/05	8/4/05	Service Provider, Province
2.3.11.7	Complete Unit Test	1 wk	8/5/05	8/11/05	Service Provider
2.3.12	Customer Service Centre	60 days	5/17/05	8/9/05	Service Provider
2.3.12.1	Create First Prototype-Call Centre	3 wks	5/17/05	6/7/05	Service Provider
2.3.12.2	Review, Document Process or Data Exceptions	1 wk	6/7/05	6/14/05	Service Provider, Province
2.3.12.3	Create 2nd Prototype	3 wks	6/14/05	7/5/05	Service Provider
2.3.12.4	Review, Document Process or Data Exceptions	1 wk	7/5/05	7/12/05	Service Provider, Province
2.3.12.5	Create 3rd Prototype	2 wks	7/12/05	7/26/05	Service Provider
2.3.12.6	Review, Finalize Process and Data	1 wk	7/26/05	8/2/05	Service Provider, Province
2.3.12.7	Complete Unit Test	1 wk	8/2/05	8/9/05	Service Provider
2.4	TESTING	182.5 days	2/11/05	10/25/05	Service Provider
2.4.1	Integration Testing	55 days	7/5/05	9/20/05	Service Provider



WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
2.4.1.1	Generate Complete Instance of Application	1 wk	8/2/05	8/9/05	Service Provider
2.4.1.2	Complete Integration Test Scripts	5 wks	7/5/05	8/9/05	Service Provider
2.4.1.3	Perform Integration Tests	4 wks	8/9/05	9/6/05	Service Provider
2.4.1.4	Log Errors	3 wks	8/16/05	9/6/05	Service Provider
2.4.1.5	Review & Fix	3 wks	8/23/05	9/13/05	Service Provider, Province
2.4.1.6	Perform Regression Tests	1 wk	9/13/05	9/20/05	Service Provider
2.4.2	User Acceptance Tests	80 days	7/5/05	10/25/05	Service Provider
2.4.2.1	Complete Test Scripts	10 wks	7/5/05	9/13/05	Service Provider
2.4.2.2	Train Users	1 wk	9/13/05	9/20/05	Service Provider, Province
2.4.2.3	Perform UAT	2 wks	9/20/05	10/4/05	Service Provider, Province
2.4.2.4	Review & Revise	3 wks	9/27/05	10/18/05	Service Provider
2.4.2.5	Complete Regression Tests	1 wk	10/18/05	10/25/05	Service Provider
2.4.3	Load & Stress Testing	166 days	2/11/05	9/30/05	Service Provider
2.4.3.1	Create Performance Risk Strategy	12 wks	2/11/05	5/5/05	Service Provider
2.4.3.2	Identify Performance Risk Scenarios to Be Tested	3 wks	5/6/05	5/26/05	Service Provider, Province
2.4.3.3	Load MAXe2 Converted Data	1 wk	8/29/05	9/2/05	Service Provider
2.4.3.4	Install Test Tools	5 days	8/29/05	9/2/05	Service Provider
2.4.3.5	Prepare Test Scripts	1 wk	9/5/05	9/9/05	Service Provider
2.4.3.6	Perform Load & Stress Tests	3 wks	9/12/05	9/30/05	Service Provider
2.4.4	Run Parallel Tests	27.5 days	9/13/05	10/20/05	Service Provider
2.4.4.1	Update MAXe2 Database	2 days	9/13/05	9/15/05	Service Provider
2.4.4.2	Create Parallel Data Feeds	2 wks	9/13/05	9/27/05	Service Provider
2.4.4.3	Run Batch Processes	2 wks	9/27/05	10/11/05	Service Provider
2.4.4.4	Review & Revise	0.5 wks	10/4/05	10/6/05	Service Provider, Province
2.4.4.5	Perform Regression Tests	2 wks	10/7/05	10/20/05	Service Provider
2.5	DOCUMENTATION	227.5 day	11/12/04	10/4/05	Service Provider
2.5.1	Create Documentation Requirements and Standards	10 days	11/19/04	12/6/04	Service Provider
2.5.2	Prepare Documentation Environment	10 days	11/12/04	11/29/04	Service Provider
2.5.3	Produce User Documentation	70 days	5/6/05	8/11/05	Service Provider
2.5.4	Revise System Operations Documentation	10 days	9/20/05	10/4/05	Service Provider
2.6	TRAINING	245.5 days	11/5/04	10/21/05	Service Provider
2.6.1	Develop Transformation Project Training Plan	20 days	11/5/04	12/6/04	Service Provider
2.6.2	Develop User Learning materials	70 days	5/13/05	8/18/05	Service Provider
2.6.3	Prepare Training Environment	5 days	9/29/05	10/6/05	Service Provider

WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
2.6.4	Conduct User learning Sessions	10 days	10/6/05	10/20/05	Service Provider
2.6.5	Assess Training Effectiveness	10 days	10/7/05	10/21/05	Service Provider
2.7	APPLICATION ROLL-OUT	24 days	9/27/05	10/28/05	Service Provider
2.7.1	Perform privacy impact assessment	15 days	9/27/05	10/17/05	Service Provider
2.7.2	Perform risk and controls review	15 days	9/27/05	10/17/05	Service Provider
2.7.3	Install MAXe2	5 days	10/24/05	10/28/05	Service Provider
	PHASE 2 COMPLETE	1 day	10/31/05	10/31/05	Service Provider
<b>3</b>	<b>CAPS Implementation</b>	<b>377 day</b>	<b>11/4/04</b>	<b>4/21/06</b>	<b>Emergis*</b>
3.1	Stage 0 - Project Initiation	15 day	11/4/04	11/24/04	Emergis
3.1.1	Document and finalize architecture	15 day	11/4/04	11/24/04	Emergis
3.1.2	Document and finalize security architecture	15 day	11/4/04	11/24/04	Emergis
3.1.3	Document and finalize project plan and processes	15 day	11/4/04	11/24/04	Emergis
3.2	Stage 1 - Data Conversion/EHIP	156 day	11/29/04	7/7/05	Emergis
3.2.1	Inception and Elaboration	9 days	11/29/04	12/9/04	Emergis
3.2.1.1	Claim data conversion analysis	9 days	11/29/04	12/9/04	Emergis, Service Provider
3.2.1.2	Interfaces Analysis	9 days	11/29/04	12/9/04	Emergis, Service Provider
3.2.1.3	Integration Platform Analysis	9 days	11/29/04	12/9/04	Emergis, Service Provider
3.2.2	Elaboration Milestone	0 day	12/23/04	12/23/04	Emergis
3.2.3	Construction	92 days	12/10/04	4/21/05	Emergis
3.2.3.1	Claim Data	52 days	12/10/04	2/24/05	Emergis
3.2.3.2	Interfaces	26 days	12/10/04	1/19/05	Emergis, Service Provider
3.2.3.3	Integration Platform	52 days	12/10/04	2/24/05	Emergis
3.2.3.4	Functional Testing	40 days	2/25/05	4/21/05	Emergis
3.2.4	User Acceptance Testing	35 days	4/22/05	6/9/05	Emergis
3.2.5	Conversion and Rollout	20 days	6/10/05	7/7/05	Emergis
3.3	Stage 2 - AOIN Engine Replacement	224 days	12/10/04	10/24/05	Emergis
3.3.1	Inception and Elaboration	32 days	12/10/04	1/27/05	Emergis
3.3.1.1	Aion Automate rules conversion analysis	22 days	12/10/04	1/13/05	Emergis
3.3.1.2	AION Manual Rule Analysis	22 days	12/10/04	1/13/05	Emergis
3.3.1.3	Claim Manager Customization Analysis	22 days	12/10/04	1/13/05	Emergis
3.3.1.4	Rules Grammar Customization Analysis	10 days	1/14/05	1/27/05	Emergis
3.3.2	Elaboration Milestone	0 day	1/27/05	1/27/05	Emergis

WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
3.3.3	Construction	182 day	1/14/05	9/26/05	Emergis
3.3.3.1	Develop and Execute Automated rules conversion	32.5 day	1/14/05	3/1/05	Emergis, Service Provider
3.3.3.2	Rules Grammar Enhancements	20 day	1/14/05	2/10/05	Emergis
3.3.3.3	Perform manual rules conversion	45 day	2/11/05	4/14/05	Emergis
3.3.3.4	Develop Claim Manager Enhancements	96 day	1/28/05	6/10/05	Emergis
3.3.3.5	Rules Testing	50 day	3/18/05	5/26/05	Emergis
3.3.3.6	QA and Load Testing	41 day	6/13/05	8/8/05	Emergis
3.3.3.7	User Acceptance Testing	35 day	8/9/05	9/26/05	Emergis
3.3.4	Application Roll-Out	55 day	8/9/05	10/24/05	Service Provider
3.3.4.1	Perform privacy impact assessment	20 day	8/9/05	9/5/05	Service Provider
3.3.4.2	Perform risk and controls review	20 day	8/9/05	9/5/05	Service Provider
3.3.4.3	Rollout and Training	20 day	9/27/05	10/24/05	Emergis
3.4	Transformation Stage #1 Complete	0 day	10/24/05	10/24/05	Emergis
3.5	Stage 3 -- Mainline Engine Replacement	129 days	10/25/05	4/21/06	Emergis
3.5.1	Inception and Elaboration	25 days	10/25/05	11/28/05	Emergis
3.5.1.1	MF Automate rules conversion analysis	7.5 days	10/25/05	11/3/05	Emergis, Service Provider
3.5.1.2	MF Manual Rule Analysis	15 days	10/25/05	11/14/05	Emergis
3.5.1.3	Claim Manager Customization Analysis	15 days	10/25/05	11/14/05	Emergis
3.5.1.4	Rules Grammar Customization Analysis	10 days	11/15/05	11/28/05	Emergis
3.5.2	Elaboration Milestone	0 day	11/28/05	11/28/05	Emergis
3.5.3	Construction	121.5 days	11/3/05	4/21/06	Emergis
3.5.3.1	Develop and Execute Automated rules conversion	35 days	11/3/05	12/22/05	Emergis
3.5.3.2	Rules Grammar Enhancements	15 days	11/15/05	12/5/05	Emergis
3.5.3.3	Perform manual rules conversion	39 days	12/6/05	1/27/06	Emergis
3.5.3.4	Develop Claim Manager Enhancements	20 days	11/29/05	12/26/05	Emergis
3.5.3.5	Rules Testing	30 days	1/2/06	2/10/06	Emergis
3.5.3.6	QA and Load Testing	30 days	1/30/06	3/10/06	Emergis
3.5.3.7	User Acceptance Testing	30 days	3/13/06	4/21/06	Emergis
3.5.4	Application Roll-Out	20 days	3/13/06	4/7/06	Service Provider
3.5.4.1	Perform privacy impact assessment	20 days	3/13/06	4/7/06	Service Provider
3.5.4.2	Perform risk and controls review	20 days	3/13/06	4/7/06	Service Provider
3.6	Transformation Stage #2 Complete	0 days	4/21/06	4/21/06	Emergis

WBS (MM.SS.TT)	Task Name	Duration	Start	End	Resource
<b>4</b>	<b>Develop Enhanced Functionality in Call Centre</b>	<b>20.80 Weeks</b>	<b>2/15/05</b>	<b>7/8/05</b>	<b>Service Provider and Telus*</b>
4.1	Further Refinement of the ICCS Application including integration of MaxE2 and CAPS into the ICCS platform	38 Weeks	2/14/05	11/4/05	Service Provider, Telus
4.1.1	Finalize Scope, approach and resources	7 Weeks	2/14/05	4/1/05	Service Provider and Telus
4.1.2	Complete Analysis/Software Requirements for each of the sub-projects to be undertaken	7 Weeks	3/7/05	4/22/05	Service Provider and Telus
4.1.3	Design the overall functionality for each of the sub-projects	5 Weeks	4/4/05	5/6/05	Telus and Service Provider
4.1.4	Develop Functionality	14 Weeks	5/9/05	8/12/05	Telus
4.1.5	Unit/Regression Test	2.20 Weeks	8/12/05	8/26/05	Telus
4.1.6	perform Integration Testing	3 Weeks	8/28/05	9/16/05	Telus and Service Provider
4.1.7	Develop training Specifications and Materials	4 Weeks	8/28/05	9/23/05	Service Provider and Telus
4.1.8	Complete User and Help Desk Documentation	4 Weeks	8/28/05	9/23/05	Service Provider and Telus
4.1.9	Conduct Pilot Deployment	3 Weeks	9/26/05	10/14/05	Telus and Service Provider
4.1.10	Conduct Deployment to Production	2 Weeks	10/24/05	11/4/05	Telus and Service Provider
4.1.11	Perform Post-Implementation Review	2 Weeks	11/04/05	11/18/05	Telus
4.2	Develop BCP and DRP Enhancements	20.80 Weeks	2/15/05	7/8/05	Telus
4.3	Voice Recognition Implementation (Sub Applications of Practitioner Information Line, Travel Assist, and Beneficiaries)	48 Weeks	12/6/04	11/4/05	Telus and Service Provider
4.3.1	Perform Requirements Definition	6 Weeks	12/6/04	1/14/05	Telus and Service Provider
4.3.2	Development of the Voice Recognition applications in Nuance	32 Weeks	1/17/05	8/26/05	Telus
4.3.3	Integration Testing	3 Weeks	8/29/05	9/16/05	Telus
4.3.4	Deploy Pilot Project	4 Weeks	9/12/05	10/7/05	Telus and Service Provider
4.3.5	Make Pilot changes and implement Contact Centre Wide	2 Weeks	10/10/05	10/22/05	Telus and Service Provider
4.3.6	Call Centre Enhancement Stage Complete	1 day	10/22/05	10/22/05	Service Provider and Telus

\* (Telus) is Telus, Inc., (Emergis) is Emergis (BCE), these are subcontractors to the Service Provider

#### **4.0 TRANSFORMATION REQUIREMENTS**

The Parties agree that the transition of Basic Services contemplated on the Hand-Over Date to include the Transformed Services contemplated upon completion of the Transformation shall be subject to the satisfaction or waiver by the Province in its sole discretion of each of the following Transformation Requirements:

- (a) the Service Provider shall have completed, to the reasonable satisfaction of the Province, all Transformation Services;
- (b) the Service Provider and the Province shall have completed all testing of the delivery of the Services as contemplated in the Transformation Plan and such testing provides no reasonable basis to conclude that the Service Provider will not be able to provide the Transformed Services required to be provided;
- (c) the Province is satisfied, acting reasonably, that the Service Provider will be able to effectively provide all of the Transformed Services required to be provided;
- (d) all policies and procedures intended to be implemented by the Service Provider with respect to the provision of the Transformed Services shall be in a form approved by the Province, acting reasonably;
- (e) testing of the updated Disaster Recovery/Business Continuity Plans have been completed in accordance with Section 6.6(e) of this Agreement;
- (f) a security review shall have been conducted by the Service Provider and delivered to the Province, and such security review shall be in a form and have results that are to the satisfaction of the Province, acting reasonably;
- (g) a Privacy Impact Assessment shall have been conducted by the Service Provider and delivered to the Province in accordance with Schedule X of this Agreement, and such privacy assessment shall be in a form and have results that are to the satisfaction of the Province; and
- (h) a Risk and Controls Review shall have been conducted by the Service Provider and delivered to the Province, and such risk and controls review shall be in a form and have results that are to the satisfaction of the Province.

#### **5.0 WORKING TRANSFORMATION PLAN COMPONENTS**

This initial Transformation Plan focuses on the tasks, responsibilities and timelines associated with Transformation activities. The working Transformation Plan, as described in Section 5.3 of this Agreement, will contain additional provisions intended to gain full agreement from the Service Provider and the Province on how the Transformation will be implemented.

The sections of the working Transformation Plan will include the following:

#### Transformation Overview

- Purpose, Scope and Objectives
- Assumptions and Constraints
- Risks and Mitigations
- Transformation Deliverables
- Acronyms and Definitions

#### Transformation Phase Organization

- External Interfaces and Impacts (Province Customers, Stakeholders)
- Transformation Team Structure
- Roles and Responsibilities

#### Managerial Process Plans

- Start-Up Plan
- Workplan
- Project Tracking Plan
- Risk Management Plan
- Transformation Phase Closeout Plan

#### Technical Process Plan

- Technical Process Model
- Methods, Tools and Techniques
- Development Standards
- Transformation Phase Infrastructure
- Workproduct Acceptance Process

#### Supporting Process Plans

- Configuration Management
- Verification and Validation
- Documentation
- Quality Assurance
- Problem Resolution
- Policy Compliance
- Subcontractor Management
- Facilities Management
- Privacy and Security Management
- Training Management
- Acceptance Criteria
- Test plans

# Standards of Business Conduct and Ethics



THIRD EDITION  
APRIL 2003

**MAXIMUS**  
HELPING GOVERNMENT SERVE THE PEOPLE®

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# Letter from the Chief Executive Officer

Dear MAXIMUS Colleague:

Through the years, MAXIMUS has earned a reputation for excellence in our services and an unwavering commitment to the highest ethical principles and values. To maintain this reputation, we must demonstrate consistently that we act with absolute integrity in our day-to-day activities.

This booklet presents and discusses principles and standards of business conduct and ethics that we expect all MAXIMUS directors, officers, employees, and representatives to follow. Many of the “rules” set forth are nothing more than common sense — doing the right thing all the time. Ethics at MAXIMUS are more than mere compliance with the letter of the law; it is a commitment to uphold the spirit of ethical conduct.

Please familiarize yourself with the contents of this booklet and apply these principles to your daily conduct. If you are in doubt about a course of conduct, seek appropriate counsel before taking any action which might compromise the Company’s ethical standards.

Thank you for your continued commitment to the highest levels of excellence and integrity. Together, let’s protect our standards.

Sincerely,

A handwritten signature in black ink, appearing to read "David V. Mastran", with a long horizontal flourish extending to the right.

David V. Mastran  
Chief Executive Officer

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# Statement of Company Philosophy and Commitment to Ethical Conduct

Our mission at MAXIMUS (“Company”) is “Helping Government Serve the People.®” Our three most important assets are our staff, our references, and our integrity. Taken together, these elements comprise our Company’s reputation. Ultimately, we sell our reputation — a reputation developed since the Company’s founding in 1975 — and it is critical that we all conduct our activities with that reputation in mind.

The basic ethical principles of right and wrong apply equally to our personal and business lives. Ethical principles tend to be very basic — do not lie, cheat, steal or harm another person. Laws tend to reflect society’s core ethical values. If you do what is ethically “right,” you will not violate the MAXIMUS Standards of Business Conduct and Ethics. If you do what is ethically “wrong,” you probably will. When you encounter a “gray” area situation, as we all do from time to time, applying basic ethical principles will most often result in the right ethical decision.

The standards and policy statements set forth in this booklet are the foundation of the MAXIMUS Business Conduct and Ethics program. They provide guidance to all MAXIMUS colleagues and assist us in carrying out our responsibilities in conformance with appropriate ethical and legal standards. They are meant to protect the good reputation of the Company and its employees. They are not intended to cover every problem or situation we might encounter in our professional and business lives. In the final analysis, it is imperative that all of us, to the best of our abilities, apply these standards and principles to the individual situation, exercising our judgment to do what is right.

Any requests for waivers of these standards for officers or directors must be approved by the MAXIMUS Board of Directors. Requests for waivers for other employees must be submitted to the Chief Compliance Officer.

If you believe a violation of the standards or policies set forth in the pamphlet has occurred, are faced with an ethical problem not covered in this booklet, or have any questions concerning the interpretation or application of the matters covered, it is your responsibility to consult your supervisor, the MAXIMUS Human Resources Department, the MAXIMUS General Counsel, or the MAXIMUS Ethics Line toll-free at 1-800-350-2017, or in the corporate headquarters local calling area at 703-251-8701. Additionally, a separate line has been established at 1-888-267-9885 for reporting complaints or issues to the Audit Committee of the Board of Directors relating to the Company’s accounting, auditing, or internal controls. You may also access the Audit Committee via e-mail at [auditcommittee@maximus.com](mailto:auditcommittee@maximus.com).

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# MAXIMUS Principles of Ethical Conduct

The following principles of ethical conduct apply to all directors, officers, employees, consultants, agents, and representatives of MAXIMUS, and form the basis for the specific business practices and standards set forth in the MAXIMUS Standards of Business Conduct and Ethics.

1. MAXIMUS conducts its business affairs honestly, fairly, and in an ethical and proper manner.
2. The obligation of MAXIMUS and its directors, officers, employees, and others representing the Company, is to conduct business with due regard for compliance with all applicable laws and regulations.
3. The responsibility of every MAXIMUS director, officer, employee and representative is to foster and maintain high ethical standards of business conduct. MAXIMUS personnel and representatives shall avoid any actions creating even the appearance that they are violating law, regulation, or Company policy.
4. MAXIMUS is committed to more than mere adherence to laws and regulations. Our conduct reflects the highest level of integrity and ethics in dealing with each other, our customers and clients, our shareholders, and the public.
5. MAXIMUS does not sacrifice ethical and compliant behavior in the pursuit of business objectives.
6. MAXIMUS colleagues view each other as valuable members of the corporate team and treat one another with loyalty, respect and dignity.

# Standards of Business Conduct and Ethics



# Relationships with Government Customers

Our primary business relationships are with federal, state, and local government agencies. Contracting with government entities often involves unique legal or



contractual regulations and requirements not generally applicable to commercial dealings between private parties. Government rules are very specific and absolute. This is one area where you cannot always rely on your business sense or sense of “right and wrong” to guide you. Therefore, to assure strict compliance with government rules and to protect our reputation, we will:

- identify and understand the legal and contractual requirements relevant to our government business and client-specific requirements;
- assure that we can comply with those requirements; and
- take prompt corrective action when problems arise.

## Relationships with MAXIMUS Competitors

Learning about our competitors is good business practice, but it must be done ethically and legally. We may learn about our competitors' services and prices through publicly available information, such as published articles, market analyses, reports or Internet websites. However, MAXIMUS employees must never try to obtain or be willing to accept improperly obtained proprietary or confidential information about competitors. This would include seeking proprietary or confidential information when doing so would require someone to violate a contractual agreement, such as a confidentiality agreement with a former employer, hiring a competitor's employees solely to obtain proprietary or confidential information, or accepting non-public information from a prospective client. Likewise, MAXIMUS employees should never provide competitors or other outside parties with confidential Company information or otherwise assist competitors in any way in competing against MAXIMUS.



# Proper Marketing Practices

We will only use ethical business practices to market MAXIMUS services. Special care must be taken in the following areas:

- **Marketing Plans** — The marketing of MAXIMUS services to potential government clients through marketing plans, telephone call plans, and face-to-face meetings prior to the release of a Request for Proposal (RFP) is permissible and encouraged. This may include providing marketing materials emphasizing MAXIMUS experience and expertise in a given area, or sample RFPs issued by other government entities for similar services.
- **Requests for Proposals** — Unless expressly permitted by the client's rules, regulations, or the specific terms of an RFP, MAXIMUS may not write RFPs that the Company will respond to as a potential vendor. Likewise, MAXIMUS will not obtain draft RFPs unless they are publicly distributed to potential bidders by the issuing agency for review and comment. We will not seek meetings with government officials other than those designated in the RFP after an RFP has been released.
- **Discussion of Competitors** — MAXIMUS policy is to emphasize the quality of its services and to abstain from making disparaging comments or casting doubt on competitors or their services. If statements are made concerning a competitor or its services, they must be limited to factual information.



Where prohibited, MAXIMUS will not pay commissions, percentages, brokerages, or other fees contingent on securing a federal, state or local contract. When sales agents are employed, they must not exert improper influence to solicit or obtain business for MAXIMUS.

No bribes, kickbacks, or other illegal inducements or consideration, including the hiring of relatives, shall be given to any person or organization to attract or retain business.

MAXIMUS assures that all proposals are accurate and realistic with regard to performance, cost, and schedule.

# MAXIMUS Procurement Policy

MAXIMUS will purchase materials, supplies, equipment, and services from qualified, competent, and responsible sources. Those purchases shall be made on a competitive basis, whenever practicable, and shall be based on factors such as price, quality, and service. Gifts, family, or personal relationships should never be the basis for a purchasing decision.





# Protecting Confidential and Proprietary Information and Individually Identifiable Health Information

As a MAXIMUS director, officer or employee, you may have access to information the Company considers confidential or proprietary. This includes technical/management and pricing information in MAXIMUS proposals, merger and acquisition information, business plans, personnel information, and undisclosed financial and earnings reports. Many of our contracts and projects have their own specific confidentiality requirements. It is critical that we understand and comply with those requirements as well.

Given the increasingly competitive nature of the markets MAXIMUS serves, you may have contact with someone interested in acquiring information in your possession. It is very important not to use or disclose MAXIMUS proprietary or confidential information except as authorized by the Company and to provide adequate safeguards to prevent the loss of such information. These confidentiality obligations continue after you leave the Company. MAXIMUS will take all available legal steps to protect its confidential or proprietary information.



Information about MAXIMUS, including the movement of our stock price and the performance of our projects, may appear on various Internet message boards. Employees shall not post such messages and shall not post information in response to any messages concerning the Company or our business.

From time to time, MAXIMUS may be involved in litigation or other sensitive legal matters. It is extremely important that MAXIMUS position or strategy in such matters not be disclosed outside the Company or even within the Company to those without a need to know. You should not engage in any discussions about

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litigation involving MAXIMUS with anyone outside the Company, especially someone who may have ties to an adverse party. You should immediately contact the MAXIMUS General Counsel if anyone outside the Company seeks to engage you in a discussion of MAXIMUS position or strategy in legal matters.

Our customers often entrust us with individually identifiable health information, which is protected under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). In these instances, agreements with our customers require us to protect the confidentiality of that information, and all employees involved in handling or transmitting that information must comply with those contractual requirements. Employees in those business lines must also be familiar with the MAXIMUS statement of privacy practices, which outlines a number of methods the Company employs for protecting and safeguarding that information. As the sponsor of a group health plan that is directly subject to HIPAA, MAXIMUS is committed to ensuring that individually identifiable health information relating to employees is properly safeguarded and will be used and disclosed only as provided in the group health plan documents.

# Insider Trading



MAXIMUS stock is publicly traded on the New York Stock Exchange. In order for our stock to be traded, MAXIMUS must comply with the rules of the Securities and Exchange Commission. Those rules prohibit “insider trading.” Insider trading occurs when someone has non-public, material information that could reasonably affect an investor’s investment decision to buy, sell, or hold stock or other securities, and uses that information in a transaction. Examples of “inside information” include actual or forecasted financial results, earnings estimates, changes

in earnings estimates, significant changes in the levels of operation, major contract awards or terminations, potential acquisitions, pending and threatened litigation, reorganizations, and marketing strategies. Information ceases being “inside” when it has been effectively disclosed to the public, through press releases, earnings reports, etc., and enough time has elapsed to allow the market to absorb and evaluate the information.

MAXIMUS directors, officers, employees or members of their immediate families who obtain access to inside information may not use that information to buy or sell MAXIMUS stock or options (including put and call options) or the securities of any other company. Further, MAXIMUS directors, officers, employees, or members of their immediate families may not disclose such information to others. MAXIMUS directors and certain officers are also subject to black-out periods when they may not trade in MAXIMUS securities. These black-out periods usually commence two weeks before the end of a quarter and end on the third day after the Company has announced its financial results for that quarter.

If you have any questions or concerns that you may be in an “insider” position, you should consult with the MAXIMUS General Counsel prior to making any commitment to buy or sell securities.

# Antitrust and Fair Competition Practices

MAXIMUS will conduct its business activities by using fair competitive practices and will comply at all times with applicable antitrust laws. Meetings and agreements with actual or potential competitors present significant risk and should be coordinated through the MAXIMUS General Counsel. Special care must be taken in the following areas:

- **Price fixing** — MAXIMUS will not enter into any agreements, understandings, or arrangements with competitors to raise, lower, fix, or stabilize prices.
- **Collusion** — In preparing and submitting bids and proposals for the sale of MAXIMUS services, we will not, directly or indirectly, enter into any understanding or arrangement with any other bidder or competitor which has the purpose of reducing competition.
- **Anti-competitive practices** — MAXIMUS will not (1) agree to allocate territories, markets, or customers, (2) artificially limit our services, or (3) boycott a customer or supplier.
- **Reciprocal dealings** — We will not enter into any arrangement where we agree to buy a product or service from a supplier on the condition that they buy a product or service from us.
- **Tying arrangements** — We will not require our customers to purchase other services as a condition of receiving desired services.



## International Activities

MAXIMUS will pursue, obtain, and perform international business in accordance with the same high standards of business and personal ethics the Company practices in its domestic business. Care must be taken that MAXIMUS staff handling the international business of the Company recognize the different rules and regulations, customs, manners and values that exist abroad. MAXIMUS is committed to adhering to the laws of the countries in which we do business as well as United States laws regulating foreign commerce. In support of this commitment, MAXIMUS:

- will obtain applicable United States export licenses when required;
- will not engage in or support blacklisting of any person, group, or country in violation of the United States anti-boycott laws; and
- will not offer or provide improper payments, either directly or through an agent, to any foreign official for the purpose of influencing an official act or decision.



## Accuracy of Financial Statements, Time Sheets, and Other Records

The maintenance of accurate financial statements, time sheets, and other records is essential to efficient management of our business and the confidence of our investors and customers. All MAXIMUS directors, officers, and employees are expected to keep and complete accurate records with respect to their employment and areas of responsibility. Such records must be truthfully and carefully recorded and maintained on an up-to-date basis in accordance with established MAXIMUS policy. This requires that:

- the Company comply with generally accepted accounting principles at all times;
- the Company maintain internal accounting controls to ensure that all transactions are properly recorded, valued, summarized, and disclosed;
- time charged by an employee must accurately reflect the work done and be charged to the proper account; for example, marketing activities must be charged to a marketing account and travel time is to be billed as such to the appropriate account;
- no false or misleading entries shall be made on any record for any reason;
- payments to vendors must be made only for work actually performed;
- MAXIMUS invoices must accurately reflect work performed and be consistent with time records; and
- no undisclosed or unrecorded fund or asset of the Company shall be established for any purpose.



## Proper Use and Accounting for Corporate and Client Assets



The responsibility of MAXIMUS employees is to properly use and protect the property, technology, and trade secrets of the Company. As a general rule, employees may not use MAXIMUS property and services for their personal benefit. However, individual units of MAXIMUS may establish written

policies permitting the occasional personal use of certain equipment, such as computers, copying facilities, and telephones, where the cost to MAXIMUS is insignificant and there is no disruption of the business. Any use of Company resources for personal financial gain unrelated to MAXIMUS business is strictly prohibited.

MAXIMUS telephones, computers, e-mail, voicemail, networks, and communication systems (including the Internet) are subject to monitoring to ensure appropriate usage. Employees should not have an expectation of privacy when using those items and should not use those items to send or receive inappropriate, unlawful, or derogatory materials. The unauthorized sharing or use of passwords, access codes, or log-ons is prohibited. Employees may not illegally copy, use, or install unauthorized software on MAXIMUS computers or networks.

From time to time, government agencies deliver their property to MAXIMUS for use in connection with a MAXIMUS contract. All such property will be properly accounted for from the time of receipt to the time the property is returned to the government or disposed of at its direction. MAXIMUS employees are expected to treat such property with the same care as Company property.

# Conflicts of Interest and Related-Party Transactions

The primary principle underlying MAXIMUS conflicts of interest policies is that directors, officers, and employees must never permit their personal interests to conflict or appear to conflict with the interests of the Company or its clients. Directors, officers, and employees must avoid any situation that may create, or appear to create, such a conflict. Such conflicts might include accepting a gift from a current or potential vendor, having a substantial financial interest in, or serving in a business capacity with, another company that does, or seeks to do business with MAXIMUS, or that is a competitor.

Employees must promptly disclose any actual or potential conflicts of interest to their supervisor. Supervisors becoming aware of conflicts or potential conflicts are to promptly discuss the situation with the MAXIMUS General Counsel, who will determine whether a conflict or potential conflict exists, and the action to be taken to remove or avoid the conflict. Directors and officers must promptly disclose any actual or potential conflicts of interest to the General Counsel and the Chair of the Audit Committee of the Board of Directors.





## Gifts, Gratuities, and Entertainment

MAXIMUS directors, officers, and employees shall not offer or accept gifts, gratuities, or entertainment in the course of their employment which would have the appearance or effect of influencing the judgment of the recipient in the performance of his or her duties.

Some businesses offer gifts, particularly meals and entertainment such as attendance at shows and sporting events, to those with whom they do or desire to do business. MAXIMUS permits its directors, officers, and employees to accept such offers only where the fair market value of the thing offered does not exceed \$25.00. Any questions as to whether the acceptance of such an offer is appropriate should immediately be discussed with the General Counsel or the Chief Compliance Officer.

MAXIMUS recognizes that there may be situations when it would be appropriate to offer or accept gifts, gratuities, or entertainment. Such situations include:

- Gifts of nominal value not in excess of \$25.00 on an occasional and infrequent basis when gifts are traditionally exchanged, such as birthdays, marriage, retirement, holidays, or special occasions which represent expressions of friendship;
- Reasonable entertainment at luncheon, dinner, or business meetings with present or prospective customers or clients when the expenditure would be properly chargeable as a business expense;
- Unsolicited advertising and promotional material (e.g., pens, calendars, coffee mugs, etc.) of a nominal value;
- Awards given by charitable, educational, civil, or religious organizations for meritorious contributions or service; and
- Gifts clearly motivated by personal friendship.

Special rules on the acceptance of gifts from outside sources apply to officials and employees of the federal government and many state and local governments. Gifts, gratuities, and entertainment must not be offered to those employees unless expressly permitted by law and with the prior approval of the MAXIMUS General Counsel.

## Political Activities



MAXIMUS funds, services, facilities, or other assets may not be contributed or used in any fashion to support or oppose any political party or candidate for political office without the prior written consent of the Chief Executive Officer. MAXIMUS employees are encouraged to participate in the political process on their own time and at their own expense. Employees may contribute, on a purely voluntary basis, to the MAXIMUS Political Action Committee.

## Charitable Contributions

MAXIMUS funds, services, facilities or other assets may not be contributed or used in any fashion to support any charitable organization or event which is supported by, recommended by or affiliated with a MAXIMUS client without the prior written consent of the Chief Executive Officer. MAXIMUS employees are encouraged to participate in charitable activities on their own time and at their own expense. Employees may also contribute, on a purely voluntary basis, to the MAXIMUS Foundation.



# Workplace Conduct

MAXIMUS is committed to providing a work environment that is free of discrimination, harassment, threats, and violence. Threatening or violent conduct will result in discipline or termination and may be referred to law enforcement authorities for prosecution. Likewise, actions, words, jokes, or comments based on an individual's sex, race, ethnicity, age, religion, sexual orientation, or any other legally protected characteristic will not be tolerated. As an example, sexual harassment, either overt or subtle, constitutes misconduct that is demeaning to another person, undermines the integrity of the employment relationship, and is strictly prohibited.

Sexual harassment is defined to include:

- Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual or otherwise offensive nature when
  - submission to such conduct is made either explicitly or implicitly a term or condition of employment;
  - submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
  - such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- Offensive comments, jokes, innuendos, and other sexually oriented remarks.

Employees must promptly report any instance of discrimination, harassment, threats, or violence to their immediate supervisor, who will take appropriate action, including reporting the incident to the Human Resources Department. If an employee is uncomfortable reporting the incident to his or her immediate supervisor, the employee may make the report via the MAXIMUS toll-free Ethics Line.

The public areas in MAXIMUS facilities are subject to monitoring for security purposes. MAXIMUS employees are expected to conduct themselves in a professional manner at all times while on Company premises or on company business.

All instances of job-related discrimination, harassment, threats, or violence will be thoroughly investigated and acted upon as appropriate.

# Drug and Alcohol Abuse

MAXIMUS provides a drug-free, healthful and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on MAXIMUS premises and while conducting business-related activities off MAXIMUS premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.



# Employment Practices

MAXIMUS provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, handicap, sexual orientation, or other legally protected characteristic. Qualified disabled veterans and veterans of the Vietnam era receive special consideration as provided by law.



MAXIMUS employees responsible for recruiting and hiring must be aware that government employees and former government employees may be subject to certain post-employment restrictions. The restrictions may vary depending on whether the individual worked for the federal or a state government, and what position the individual held. The Human Resources Department or the MAXIMUS General Counsel should be consulted prior to entering into employment discussions with such individuals. Similarly, some private sector employees may be subject to non-competition agreements or other restrictions arising out of their previous employment. Consult with the General Counsel before extending employment offers to such individuals.

# Employee Relationships

MAXIMUS respects the privacy rights of its employees and their right to establish consensual personal relationships, as well as professional relationships, with each other. However, there is a significant potential for conflict of interest where a consensual personal relationship is established between a supervisor or manager and a subordinate employee. Such conflict might include improper influence affecting the employee's position, job responsibilities, performance evaluation, or compensation. Therefore, such relationships should be avoided, and when they do develop should be disclosed to the individuals' immediate supervisor and the Human Resources Department. MAXIMUS expects that employees involved in consensual personal relationships will avoid any actions or situations that might weaken the public's confidence in the Company or damage the Company's or their own reputation for integrity.



MAXIMUS employees should not have personal relationships with the individuals we serve at our various projects. If a personal or family relationship exists or develops, the MAXIMUS employee must disclose the matter to his or her supervisor immediately so the case can be transferred to another employee. Depending on the circumstances, failure to disclose the matter will result in discipline, including termination of employment, and may result in legal action against the employee.

## Employment of Relatives and Others with Special Relationships

MAXIMUS will consider relatives of current employees for employment. Offers of employment for relatives of current employees must be approved in advance by the Chief Executive Officer (CEO) or the Chief Administrative Officer. No employee may be the immediate supervisor of a relative unless approved by the CEO.

Although government service is a valuable background for our business, MAXIMUS does not offer current or former government officials employment to curry favor with such officials or to obtain an improper competitive advantage. We must take special precautions when considering any current or former government official for employment. Because of the potential conflict of interest issues, as well as the post-employment restrictions affecting such officials, any offer of employment to a current or former government official must be reviewed and approved in advance by the MAXIMUS General Counsel.

MAXIMUS must also be careful when employing relatives or close associates of government employees whose decision-making authority could affect Company business. Because such hiring decisions present potential conflict of interest issues, any offer of employment to a relative or close associate of such official must be reviewed by the MAXIMUS General Counsel and approved in advance by a Group President.





# Copyright

MAXIMUS employees must not make unauthorized copies of copyrighted materials (including written materials, software, music, videos, etc.). In general, this means that employees shall obtain permission from the author or owner of such materials before making copies. In addition, employees must not download or distribute copyrighted materials (such as MP3 music files) over the Internet, e-mail system, or other communications system without proper authorization. Violations of this policy could result in legal liability for the Company and possible civil and criminal charges for the employee. MAXIMUS monitors internet and e-mail usage to ensure compliance with Company policies and applicable laws.



# Authority and Responsibility Matrix

MAXIMUS maintains an Authority and Responsibility Matrix which summarizes corporate policy governing the approval and review requirements for various actions and documents. All MAXIMUS personnel in positions of responsibility must be familiar with the Matrix and ensure that they have the actual authority to take the action intended. This is particularly important when retaining consultants, signing any type of contract, and following applicable employment policies, including but not limited to establishing salary levels and raises.



As stated in the Rules of Application to the Matrix, an individual with approval authority on a certain issue cannot exercise that authority in a situation where he or she has a personal interest in the outcome.

The Authority and Responsibility Matrix is available on MAXnet. Any questions concerning the Matrix should be directed to the MAXIMUS Chief Compliance Officer or the General Counsel.

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# Following the Standards of Business Conduct and Ethics

As MAXIMUS employees, we recognize that the guiding principles and business practices set forth in this Code represent the foundation of our business ethics program and must guide all our activities. We recognize that we are each individually responsible for performing our job duties in a manner consistent with this Code and with other Company policy as set forth in the MAXIMUS Corporate Employee Manual and other policy documents which may be issued from time to time.

Violations of the standards contained in this Code constitute serious misconduct and will not be tolerated. Substantiated violations will result in appropriate disciplinary action, up to and including termination of MAXIMUS employment.

All MAXIMUS employees have a responsibility to promptly report actual and suspected violations of this Code. Violations should be reported to supervisors through the normal chain of command, to the Human Resources Department, or through the toll-free Ethics Line at 1-800-350-2017, or in the corporate headquarters local calling area at 703-251-8701. Concerns pertaining to the Company's accounting, auditing, or internal controls may be reported to the Audit Committee of the Board of Directors at 1-888-267-9885 or via e-mail at [auditcommittee@maximus.com](mailto:auditcommittee@maximus.com).

To the extent permitted by law and consistent with the need to thoroughly investigate potential violations of the Code, the identity of those reporting suspected violations of this code will be maintained in the strictest confidence. The results of investigations conducted into alleged violations of the Code will only be disclosed to Company officials with a need to know and those outside the Company to whom reporting may be required by law.

It is the policy of MAXIMUS that no employee shall be subject to reprisal, retaliation, or retribution for the good faith reporting of a suspected violation of this Code. Any employee found to have engaged in reprisal, retaliation, or retribution for the reporting of a suspected violation of this Code will be subject to immediate disciplinary action, which may include termination of employment.

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# Standards of Business Conduct and Ethics Receipt and Acknowledgment

I hereby acknowledge that I have received a copy of the MAXIMUS Standards of Business Conduct and Ethics. I understand that I am responsible for familiarizing myself with its contents and acknowledge that the Standards represent binding MAXIMUS policy.

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Printed Name

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Signature

---

Date

---

Employee Number

**MAXIMUS**  
*HELPING GOVERNMENT SERVE THE PEOPLE®*



# MAXIMUS

*Corporate Headquarters*

11419 Sunset Hills Road :: Reston, Virginia 20190

1.800.368.2152 :: FAX 703.251.8240 :: [WWW.MAXIMUS.COM](http://WWW.MAXIMUS.COM)

## SCHEDULE T

### PROVINCE DISCLOSURE SCHEDULE

#### 1. Office of Information and Privacy Commissioner

- (a) **Submitted by:** George Heyman, President of BCGEU  
**Date:** June 8, 2004  
**Description:** The BCGEU, on behalf of the employees at the Ministry of Health in the Medical Services Plan and PharmaCare program areas, has requested the Ministry cease to disclose employees' personal information to Maximus and the Commissioner order that all information previously disclosed be returned to the Ministry.  
**Status:**
- (b) **Date:** June 6, 2004  
**Description:** The Ministry of Health Services was reorganized into two ministries in June 2001. An employee has made several freedom of information requests related to the impact on seniority blocks and subsequent placement of impacted employees.  
**Status:** The Ministry is preparing the response.

#### 2. Human Rights Office

**Date:** Received in the Ministry June 2, 2003  
**Description:** The VDP (Voluntary Departure Program) required employees on maternity leave to sever their relationship by November 2002 whereas other employees had the option of remaining on payroll until April 30, 2003. An employee who accepted VDP while on maternity leave, has alleged discriminatory practice in regards to this VDP policy.  
**Status:** pending

#### 3. Grievances (pending)

- (a) **Date of Grievance Submitted:** August 20, 2003  
**Article Grievied:** 36.2 (a)  
**Issue:** Union requested the Ministry stop further ASD actions and meet to discuss the implications of the ASD announcement based on the article mentioned above.  
**Status:** Pending
- (b) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending

- (c) **Date of Grievance Submitted:** February 9, 2004  
**Article Grievied:** 12  
**Issue:** The grievance concerns the direct appointment of another bargaining unit employee into a vacancy.  
**Status:** Pending
- (d) **Date of Grievance Submitted:** April 5, 2004  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (e) **Date of Grievance Submitted:** November 7, 2000  
**Article Grievied:** 31.1. (b), 6  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (f) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (g) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (h) **Date of Grievance Submitted:**  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (i) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (j) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (k) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending

- (l) **Date of Grievance Submitted:** July 30, 2003  
**Article Grievied:** 27.2 (a,b,c,d)  
**Issue:** Payment of wages and allowances.  
**Status:** Pending
- (m) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (n) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (o) **Date of Grievance Submitted:** February 4, 2004  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (p) **Date of Grievance Submitted:** November 12, 2002  
**Article Grievied:** 27  
**Issue:** Payment of wages and allowances.  
**Status:** Pending
- (q) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee that requested conversion to regular status.  
**Status:** Pending
- (r) **Date of Grievance Submitted:** December 18, 2003  
**Article Grievied:** 31.1(b)  
**Issue:** An auxiliary employee requested conversion to regular status.  
**Status:** Pending
- (s) **Date of Grievance Submitted:** February 5, 2004  
**Article Grievied:** 15.1, 15.2, 17.4  
**Issue:** Shift Work  
**Status:** Pending
- (t) **Date of Grievance Submitted:** July 21, 2004  
**Article Grievied:** 19  
**Issue:** STIIP; Non-Payment of STIIP Benefits  
**Status:** Pending



#### 4. Potential Grievances

- (a) **Date:** Filed 2004  
**Article Grieved:** 2.1  
**Issue:** Use of contractors. The Union is concerned the contractors may meet the test for employee status.  
**Potential Impacts:** Contractors who are assigned to HBO functions may be deemed employees. This would increase the number of employees transferred to the Service Provider.  
**Status:** Pending.

#### 5. Litigation

- (a) British Columbia Government & Services Employees' Union v. The Minister of Health Services and the Medical Services Commission (Supreme Court of British Columbia, 040879).
- (b) Richard Yu, Wayne Donn, R. Lee Hutton, Samuel H. Krikler, David F. McFarland, Douglas Mulholland, James W. M. Stephen and Grant Roden v. The Attorney General of British Columbia and British Columbia Medical Association (Supreme Court of British Columbia, L032654).
- (c) James Peter Halvorson, as Representative Petitioner v. Medical Services Commission of British Columbia and the Minister of Health as Represented by the Attorney General of British Columbia (Supreme Court of British Columbia, C985385 and A982808).
- (d) Paramedical Professional Bargaining Association v. the Queen (Supreme Court of Canada, S021637).
- (e) Health Services and Support-Facilities Subsector Bargaining Assn. et al. v. the Queen (Supreme Court of British Columbia, CA31275).

## SCHEDULE U

### KEY SUPPLIERS, MATERIAL SUBCONTRACTORS AND KEY PROVIDERS

Set out below is a list all of the Key Suppliers, Material Subcontractors and Key Providers of the Service Provider as of the Effective Date (all of which have been Approved in accordance with the terms of this Agreement):

**1.     Key Suppliers**

None

**2.     Material Subcontractors**

None

**3.     Key Providers**

None

## SCHEDULE V

### SPECIFIC APPLICABLE LAWS

1. *Canada Health Act* (Canada)
2. *Child, Family and Community Service Act* (British Columbia)
3. *Chiropractors Act* (British Columbia)
4. *Continuing Care Act* (British Columbia)
5. *Controlled Drugs and Substances Act* (Canada)
6. *Dentists Act* (British Columbia)
7. *Document Disposal Act* (British Columbia)
8. *Employment and Assistance for Persons with Disabilities Act* (British Columbia)
9. *Employment Standards Act* (British Columbia)
10. *Financial Administration Act* (British Columbia)
11. *Food and Drugs Act* (Canada)
12. *Freedom of Information and Protection of Privacy Act* (British Columbia), including, without limitation, *Freedom of Information and Protection of Privacy Amendment Act, 2004* (British Columbia)
13. *Health Professions Act* (British Columbia), including, without limitation, *Naturapathic Physicians Regulation*
14. *Hospital Insurance Act* (British Columbia)
15. *Immigration and Refugee Protection Act* (Canada)
16. *Income Tax Act* (British Columbia)
17. *Income Tax Act* (Canada)
18. *Infants Act* (British Columbia)
19. *Insurance (Motor Vehicle) Act Revised Regulation* (British Columbia)
20. *Insurance Corporation Act* (British Columbia)

21. *Investment Canada Act* (Canada)
22. *Labour Relations Code* (British Columbia)
23. *Medicare Practitioners Act* (British Columbia)
24. *Medicare Protection Act* (British Columbia), including, without limitation,  
*Medical and Health Care Services Regulation*
25. *Mental Health Act* (British Columbia)
26. *Ministry of Health Act* (British Columbia)
27. *Name Act* (British Columbia)
28. *Ombudsman Act* (British Columbia)
29. *Optometrists Act* (British Columbia)
30. *Pharmacists, Pharmacy Operations and Drug Scheduling Act* (British Columbia)
31. *Podiatrists Act* (British Columbia)
32. *Workers Compensation Act* (British Columbia)

**MAXIMUS BC HEALTH INC.**

**(the “Company”)**

**ARTICLES**

1. Interpretation
2. Shares and Share Certificates
3. Issue of Shares
4. Share Registers
5. Share Transfers
6. Transmission of Shares
7. Purchase of Shares
8. Borrowing Powers
9. Alterations
10. Meetings of Shareholders
11. Proceedings at Meetings of Shareholders
12. Votes of Shareholders
13. Directors
14. Election and Removal of Directors
15. Alternate Directors
16. Powers and Duties of Directors
17. Disclosure of Interest of Directors
18. Proceedings of Directors
19. Executive and Other Committees
20. Officers
21. Indemnification
22. Dividends and Reserves
23. Documents, Records and Reports
24. Notices
25. Seal
26. Prohibitions
27. Unalterable Provisions

**1. Interpretation**

**1.1 Definitions**

In these Articles, unless the context otherwise requires:

- (1) “**board of directors**”, “**directors**” and “**board**” mean the directors or sole director of the Company for the time being;

- (2) “**Business Corporations Act**” means the *Business Corporations Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- (3) “**legal personal representative**” means the personal or other legal representative of the shareholder;
- (4) “**registered address**” of a shareholder means the shareholder’s address as recorded in the central securities register;
- (5) “**seal**” means the seal of the Company, if any.

## **1.2 Business Corporations Act and Interpretation Act Definitions Applicable**

The definitions in the *Business Corporations Act* and the definitions and rules of construction in the *Interpretation Act*, with the necessary changes, so far as applicable, and unless the context requires otherwise, apply to these Articles as if they were an enactment. If there is a conflict between a definition in the *Business Corporations Act* and a definition or rule in the *Interpretation Act* relating to a term used in these Articles, the definition in the *Business Corporations Act* will prevail in relation to the use of the term in these Articles. If there is a conflict between these Articles and the *Business Corporations Act*, the *Business Corporations Act* will prevail.

## **2. Shares and Share Certificates**

### **2.1 Authorized Share Structure**

The authorized share structure of the Company consists of shares of the class or classes and series, if any, described in the Notice of Articles of the Company.

### **2.2 Form of Share Certificate**

Each share certificate issued by the Company must comply with, and be signed as required by, the *Business Corporations Act*.

### **2.3 Shareholder Entitled to Certificate or Acknowledgment**

Each shareholder is entitled, without charge, to (a) one share certificate representing the shares of each class or series of shares registered in the shareholder’s name or (b) a non-transferable written acknowledgment of the shareholder’s right to obtain such a share certificate, provided that in respect of a share held jointly by several persons, the Company is not bound to issue more than one share certificate and delivery of a share certificate for a share to one of several joint shareholders or to one of the shareholders’ duly authorized agents will be sufficient delivery to all.

## **2.4 Delivery by Mail**

Any share certificate or non-transferable written acknowledgment of a shareholder's right to obtain a share certificate may be sent to the shareholder by mail at the shareholder's registered address and neither the Company nor any director, officer or agent of the Company is liable for any loss to the shareholder because the share certificate or acknowledgment is lost in the mail or stolen.

## **2.5 Replacement of Worn Out or Defaced Certificate or Acknowledgement**

If the directors are satisfied that a share certificate or a non-transferable written acknowledgment of the shareholder's right to obtain a share certificate is worn out or defaced, they must, on production to them of the share certificate or acknowledgment, as the case may be, and on such other terms, if any, as they think fit:

- (1) order the share certificate or acknowledgment, as the case may be, to be cancelled; and
- (2) issue a replacement share certificate or acknowledgment, as the case may be.

## **2.6 Replacement of Lost, Stolen or Destroyed Certificate or Acknowledgment**

If a share certificate or a non-transferable written acknowledgment of a shareholder's right to obtain a share certificate is lost, stolen or destroyed, a replacement share certificate or acknowledgment, as the case may be, must be issued to the person entitled to that share certificate or acknowledgment, as the case may be, if the directors receive:

- (1) proof satisfactory to them that the share certificate or acknowledgment is lost, stolen or destroyed; and
- (2) any indemnity the directors consider adequate.

## **2.7 Splitting Share Certificates**

If a shareholder surrenders a share certificate to the Company with a written request that the Company issue in the shareholder's name two or more share certificates, each representing a specified number of shares and in the aggregate representing the same number of shares as the share certificate so surrendered, the Company must cancel the surrendered share certificate and issue replacement share certificates in accordance with that request.

## **2.8 Certificate Fee**

There must be paid to the Company, in relation to the issue of any share certificate under Articles 2.5, 2.6 or 2.7, the amount, if any and which must not exceed the amount prescribed under the *Business Corporations Act*, determined by the directors.

## **2.9 Recognition of Trusts**

Except as required by law or statute or these Articles, no person will be recognized by the Company as holding any share upon any trust, and the Company is not bound by or compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share or fraction of a share or (except as by law or statute or these Articles provided or as ordered by a court of competent jurisdiction) any other rights in respect of any share except an absolute right to the entirety thereof in the shareholder.

## **3. Issue of Shares**

### **3.1 Directors Authorized**

Subject to the *Business Corporations Act* and the rights of the holders of issued shares of the Company, the Company may issue, allot, sell or otherwise dispose of the unissued shares, and issued shares held by the Company, at the times, to the persons, including directors, in the manner, on the terms and conditions and for the issue prices (including any premium at which shares with par value may be issued) that the directors may determine. The issue price for a share with par value must be equal to or greater than the par value of the share

### **3.2 Commissions and Discounts**

The Company may at any time pay a reasonable commission or allow a reasonable discount to any person in consideration of that person purchasing or agreeing to purchase shares of the Company from the Company or any other person or procuring or agreeing to procure purchasers for shares of the Company.

### **3.3 Brokerage**

The Company may pay such brokerage fee or other consideration as may be lawful for or in connection with the sale or placement of its securities.

### **3.4 Conditions of Issue**

Except as provided for by the *Business Corporations Act*, no share may be issued until it is fully paid. A share is fully paid when:

- (1) consideration is provided to the Company for the issue of the share by one or more of the following:
  - (a) past services performed for the Company;
  - (b) property;
  - (c) money; and
- (2) the value of the consideration received by the Company equals or exceeds the issue price set for the share under Article 3.1.



### **3.5 Share Purchase Warrants and Rights**

Subject to the *Business Corporations Act*, the Company may issue share purchase warrants, options and rights upon such terms and conditions as the directors determine, which share purchase warrants, options and rights may be issued alone or in conjunction with debentures, debenture stock, bonds, shares or any other securities issued or created by the Company from time to time.

## **4. Share Registers**

### **4.1 Central Securities Register**

As required by and subject to the *Business Corporations Act*, the Company must maintain in British Columbia a central securities register. The directors may, subject to the *Business Corporations Act*, appoint an agent to maintain the central securities register. The directors may also appoint one or more agents, including the agent which keeps the central securities register, as transfer agent for its shares or any class or series of its shares, as the case may be, and the same or another agent as registrar for its shares or such class or series of its shares, as the case may be. The directors may terminate such appointment of any agent at any time and may appoint another agent in its place.

### **4.2 Closing Register**

The Company must not at any time close its central securities register.

## **5. Share Transfers**

### **5.1 Registering Transfers**

A transfer of a share of the Company must not be registered unless:

- (1) a duly signed instrument of transfer in respect of the share has been received by the Company;
- (2) if a share certificate has been issued by the Company in respect of the share to be transferred, that share certificate has been surrendered to the Company; and
- (3) if a non-transferable written acknowledgment of the shareholder's right to obtain a share certificate has been issued by the Company in respect of the share to be transferred, that acknowledgment has been surrendered to the Company.

### **5.2 Form of Instrument of Transfer**

The instrument of transfer in respect of any share of the Company must be either in the form, if any, on the back of the Company's share certificates or in any other form that may be approved by the directors from time to time.

### **5.3 Transferor Remains Shareholder**

Except to the extent that the *Business Corporations Act* otherwise provides, the transferor of shares is deemed to remain the holder of the shares until the name of the transferee is entered in a securities register of the Company in respect of the transfer.

### **5.4 Signing of Instrument of Transfer**

If a shareholder, or his or her duly authorized attorney, signs an instrument of transfer in respect of shares registered in the name of the shareholder, the signed instrument of transfer constitutes a complete and sufficient authority to the Company and its directors, officers and agents to register the number of shares specified in the instrument of transfer or specified in any other manner, or, if no number is specified, all the shares represented by the share certificates or set out in the written acknowledgments deposited with the instrument of transfer:

- (1) in the name of the person named as transferee in that instrument of transfer; or
- (2) if no person is named as transferee in that instrument of transfer, in the name of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered.

### **5.5 Enquiry as to Title Not Required**

Neither the Company nor any director, officer or agent of the Company is bound to inquire into the title of the person named in the instrument of transfer as transferee or, if no person is named as transferee in the instrument of transfer, of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered or is liable for any claim related to registering the transfer by the shareholder or by any intermediate owner or holder of the shares, of any interest in the shares, of any share certificate representing such shares or of any written acknowledgment of a right to obtain a share certificate for such shares.

### **5.6 Transfer Fee**

There must be paid to the Company, in relation to the registration of any transfer, the amount, if any, determined by the directors.

## **6. Transmission of Shares**

### **6.1 Legal Personal Representative Recognized on Death**

In case of the death of a shareholder, the legal personal representative, or if the shareholder was a joint holder, the surviving joint holder, will be the only person recognized by the Company as having any title to the shareholder's interest in the shares. Before recognizing a person as a legal personal representative, the directors may require proof of appointment by a court of competent jurisdiction, a grant of letters probate, letters of administration or such other evidence or documents as the directors consider appropriate.

## **6.2 Rights of Legal Personal Representative**

The legal personal representative has the same rights, privileges and obligations that attach to the shares held by the shareholder, including the right to transfer the shares in accordance with these Articles, provided the documents required by the *Business Corporations Act* and the directors have been deposited with the Company.

## **7. Purchase of Shares**

### **7.1 Company Authorized to Purchase Shares**

Subject to Article 7.2, the special rights and restrictions attached to the shares of any class or series and the *Business Corporations Act*, the Company may, if authorized by the directors, purchase or otherwise acquire any of its shares at the price and upon the terms specified in such resolution.

### **7.2 Purchase When Insolvent**

The Company must not make a payment or provide any other consideration to purchase or otherwise acquire any of its shares if there are reasonable grounds for believing that:

- (1) the Company is insolvent; or
- (2) making the payment or providing the consideration would render the Company insolvent.

### **7.3 Sale and Voting of Purchased Shares**

If the Company retains a share redeemed, purchased or otherwise acquired by it, the Company may sell, gift or otherwise dispose of the share, but, while such share is held by the Company, it:

- (1) is not entitled to vote the share at a meeting of its shareholders;
- (2) must not pay a dividend in respect of the share; and
- (3) must not make any other distribution in respect of the share.

## **8. Borrowing Powers**

The Company, if authorized by the directors, may:

- (1) borrow money in the manner and amount, on the security, from the sources and on the terms and conditions that they consider appropriate;
- (2) issue bonds, debentures and other debt obligations either outright or as security for any liability or obligation of the Company or any other person and at such discounts or premiums and on such other terms as they consider appropriate;
- (3) guarantee the repayment of money by any other person or the performance of any obligation of any other person; and

- (4) mortgage, charge, whether by way of specific or floating charge, grant a security interest in, or give other security on, the whole or any part of the present and future assets and undertaking of the Company.

## **9. Alterations**

### **9.1 Alteration of Authorized Share Structure**

Subject to Article 9.2 and the *Business Corporations Act*, the Company may by special resolution:

- (1) create one or more classes or series of shares or, if none of the shares of a class or series of shares are allotted or issued, eliminate that class or series of shares;
- (2) increase, reduce or eliminate the maximum number of shares that the Company is authorized to issue out of any class or series of shares or establish a maximum number of shares that the Company is authorized to issue out of any class or series of shares for which no maximum is established;
- (3) subdivide or consolidate all or any of its unissued, or fully paid issued, shares;
- (4) if the Company is authorized to issue shares of a class of shares with par value:
  - (a) decrease the par value of those shares; or
  - (b) if none of the shares of that class of shares are allotted or issued, increase the par value of those shares;
- (5) change all or any of its unissued, or fully paid issued, shares with par value into shares without par value or any of its unissued shares without par value into shares with par value;
- (6) alter the identifying name of any of its shares; or
- (7) otherwise alter its shares or authorized share structure when required or permitted to do so by the *Business Corporations Act*.

### **9.2 Special Rights and Restrictions**

Subject to the *Business Corporations Act*, the Company may by special resolution:

- (1) create special rights or restrictions for, and attach those special rights or restrictions to, the shares of any class or series of shares, whether or not any or all of those shares have been issued; or
- (2) vary or delete any special rights or restrictions attached to the shares of any class or series of shares, whether or not any or all of those shares have been issued.

### **9.3 Change of Name**

The Company may by special resolution authorize an alteration of its Notice of Articles in order to change its name or adopt or change any translation of that name.

### **9.4 Other Alterations**

Subject to any Article specifically designated in these Articles as unalterable, if the *Business Corporations Act* does not specify the type of resolution and these Articles do not specify another type of resolution, the Company may by special resolution alter these Articles.

## **10. Meetings of Shareholders**

### **10.1 Annual General Meetings**

Unless an annual general meeting is deferred or waived in accordance with the *Business Corporations Act*, the Company must hold its first annual general meeting within 18 months after the date on which it was incorporated or otherwise recognized, and after that must hold an annual general meeting at least once in each calendar year and not more than 15 months after the last annual reference date at such time and place as may be determined by the directors.

### **10.2 Resolution Instead of Annual General Meeting**

If all the shareholders who are entitled to vote at an annual general meeting consent by a unanimous resolution under the *Business Corporations Act* to all of the business that is required to be transacted at that annual general meeting, the annual general meeting is deemed to have been held on the date of the unanimous resolution. The shareholders must, in any unanimous resolution passed under this Article 10.2, select as the Company's annual reference date a date that would be appropriate for the holding of the applicable annual general meeting.

### **10.3 Calling of Meetings of Shareholders**

The directors may, whenever they think fit, call a meeting of shareholders.

### **10.4 Notice for Meetings of Shareholders**

The Company must send notice of the date, time and location of any meeting of shareholders, in the manner provided in these Articles, or in such other manner, if any, as may be prescribed by ordinary resolution (whether previous notice of the resolution has been given or not), to each shareholder entitled to attend the meeting, to each director and to the auditor of the Company, unless these Articles otherwise provide, at least the following number of days before the meeting:

- (1) if and for so long as the Company is a public company, 21 days;
- (2) otherwise, 10 days.

### **10.5 Record Date for Notice**

The directors may set a date as the record date for the purpose of determining shareholders entitled to notice of any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. The record date must not precede the date on which the meeting is held by fewer than:

- (1) if and for so long as the Company is a public company, 21 days;
- (2) otherwise, 10 days.

If no record date is set, the record date is 5 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

### **10.6 Record Date for Voting**

The directors may set a date as the record date for the purpose of determining shareholders entitled to vote at any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. If no record date is set, the record date is 5 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

### **10.7 Failure to Give Notice and Waiver of Notice**

The accidental omission to send notice of any meeting to, or the non-receipt of any notice by, any of the persons entitled to notice does not invalidate any proceedings at that meeting. Any person entitled to notice of a meeting of shareholders may, in writing or otherwise, waive or reduce the period of notice of such meeting.

### **10.8 Notice of Special Business at Meetings of Shareholders**

If a meeting of shareholders is to consider special business within the meaning of Article 11.1, the notice of meeting must:

- (1) state the general nature of the special business; and
- (2) if the special business includes considering, approving, ratifying, adopting or authorizing any document or the signing of or giving of effect to any document, have attached to it a copy of the document or state that a copy of the document will be available for inspection by shareholders:
  - (a) at the Company's records office, or at such other reasonably accessible location in British Columbia as is specified in the notice; and
  - (b) during statutory business hours on any one or more specified days before the day set for the holding of the meeting.

## **11. Proceedings at Meetings of Shareholders**

### **11.1 Special Business**

At a meeting of shareholders, the following business is special business:

- (1) at a meeting of shareholders that is not an annual general meeting, all business is special business except business relating to the conduct of or voting at the meeting;
- (2) at an annual general meeting, all business is special business except for the following:
  - (a) business relating to the conduct of or voting at the meeting;
  - (b) consideration of any financial statements of the Company presented to the meeting;
  - (c) consideration of any reports of the directors or auditor;
  - (d) the setting or changing of the number of directors;
  - (e) the election or appointment of directors;
  - (f) the appointment of an auditor;
  - (g) the setting of the remuneration of an auditor;
  - (h) business arising out of a report of the directors not requiring the passing of a special resolution or an exceptional resolution;
  - (i) any other business which, under these Articles or the *Business Corporations Act*, may be transacted at a meeting of shareholders without prior notice of the business being given to the shareholders.

### **11.2 Special Majority**

The majority of votes required for the Company to pass a special resolution at a meeting of shareholders is two-thirds of the votes cast on the resolution.

### **11.3 Quorum**

Subject to the special rights and restrictions attached to the shares of any class or series of shares, the quorum for the transaction of business at a meeting of shareholders is two persons who are, or who represent by proxy, shareholders who, in the aggregate, hold at least 5% of the issued shares entitled to be voted at the meeting.

### **11.4 One Shareholder May Constitute Quorum**

If there is only one shareholder entitled to vote at a meeting of shareholders:

- (1) the quorum is one person who is, or who represents by proxy, that shareholder, and
- (2) that shareholder, present in person or by proxy, may constitute the meeting.

### **11.5 Other Persons May Attend**

The directors, the president (if any), the secretary (if any), the assistant secretary (if any), any lawyer for the Company, the auditor of the Company and any other persons invited by the directors are entitled to attend any meeting of shareholders, but if any of those persons does attend a meeting of shareholders, that person is not to be counted in the quorum and is not entitled to vote at the meeting unless that person is a shareholder or proxy holder entitled to vote at the meeting.

### **11.6 Requirement of Quorum**

No business, other than the election of a chair of the meeting and the adjournment of the meeting, may be transacted at any meeting of shareholders unless a quorum of shareholders entitled to vote is present at the commencement of the meeting, but such quorum need not be present throughout the meeting.

### **11.7 Lack of Quorum**

If, within one-half hour from the time set for the holding of a meeting of shareholders, a quorum is not present:

- (1) in the case of a general meeting requisitioned by shareholders, the meeting is dissolved, and
- (2) in the case of any other meeting of shareholders, the meeting stands adjourned to the same day in the next week at the same time and place.

### **11.8 Lack of Quorum at Succeeding Meeting**

If, at the meeting to which the meeting referred to in Article 11.7(2) was adjourned, a quorum is not present within one-half hour from the time set for the holding of the meeting, the person or persons present and being, or representing by proxy, one or more shareholders entitled to attend and vote at the meeting constitute a quorum.

### **11.9 Chair**

The following individual is entitled to preside as chair at a meeting of shareholders:

- (1) the chair of the board, if any; or
- (2) if the chair of the board is absent or unwilling to act as chair of the meeting, the president, if any.

### **11.10 Selection of Alternate Chair**

If, at any meeting of shareholders, there is no chair of the board or president present within 15 minutes after the time set for holding the meeting, or if the chair of the board and the president are unwilling to act as chair of the meeting, or if the chair of the board and the president have



advised the secretary, if any, or any director present at the meeting, that they will not be present at the meeting, the directors present must choose one of their number to be chair of the meeting or if all of the directors present decline to take the chair or fail to so choose or if no director is present, the shareholders entitled to vote at the meeting who are present in person or by proxy may choose any person present at the meeting to chair the meeting.

#### **11.11 Adjournments**

The chair of a meeting of shareholders may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

#### **11.12 Notice of Adjourned Meeting**

It is not necessary to give any notice of an adjourned meeting or of the business to be transacted at an adjourned meeting of shareholders except that, when a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.

#### **11.13 Decisions by Show of Hands or Poll**

Subject to the *Business Corporations Act*, every motion put to a vote at a meeting of shareholders will be decided on a show of hands unless a poll, before or on the declaration of the result of the vote by show of hands, is directed by the chair or demanded by at least one shareholder entitled to vote who is present in person or by proxy.

#### **11.14 Declaration of Result**

The chair of a meeting of shareholders must declare to the meeting the decision on every question in accordance with the result of the show of hands or the poll, as the case may be, and that decision must be entered in the minutes of the meeting. A declaration of the chair that a resolution is carried by the necessary majority or is defeated is, unless a poll is directed by the chair or demanded under Article 11.13, conclusive evidence without proof of the number or proportion of the votes recorded in favour of or against the resolution.

#### **11.15 Motion Need Not be Seconded**

No motion proposed at a meeting of shareholders need be seconded unless the chair of the meeting rules otherwise, and the chair of any meeting of shareholders is entitled to propose or second a motion.

#### **11.16 Casting Vote**

In case of an equality of votes, the chair of a meeting of shareholders does not, either on a show of hands or on a poll, have a second or casting vote in addition to the vote or votes to which the chair may be entitled as a shareholder.

### **11.17 Manner of Taking Poll**

Subject to Article 11.18, if a poll is duly demanded at a meeting of shareholders:

- (1) the poll must be taken:
  - (a) at the meeting, or within seven days after the date of the meeting, as the chair of the meeting directs; and
  - (b) in the manner, at the time and at the place that the chair of the meeting directs;
- (2) the result of the poll is deemed to be the decision of the meeting at which the poll is demanded; and
- (3) the demand for the poll may be withdrawn by the person who demanded it.

### **11.18 Demand for Poll on Adjournment**

A poll demanded at a meeting of shareholders on a question of adjournment must be taken immediately at the meeting.

### **11.19 Chair Must Resolve Dispute**

In the case of any dispute as to the admission or rejection of a vote given on a poll, the chair of the meeting must determine the dispute, and his or her determination made in good faith is final and conclusive.

### **11.20 Casting of Votes**

On a poll, a shareholder entitled to more than one vote need not cast all the votes in the same way.

### **11.21 Demand for Poll**

No poll may be demanded in respect of the vote by which a chair of a meeting of shareholders is elected.

### **11.22 Demand for Poll Not to Prevent Continuance of Meeting**

The demand for a poll at a meeting of shareholders does not, unless the chair of the meeting so rules, prevent the continuation of a meeting for the transaction of any business other than the question on which a poll has been demanded.

### **11.23 Retention of Ballots and Proxies**

The Company must, for at least three months after a meeting of shareholders, keep each ballot cast on a poll and each proxy voted at the meeting, and, during that period, make them available for inspection during normal business hours by any shareholder or proxyholder entitled to vote at the meeting. At the end of such three month period, the Company may destroy such ballots and proxies.

## **12. Votes of Shareholders**

### **12.1 Number of Votes by Shareholder or by Shares**

Subject to any special rights or restrictions attached to any shares and to the restrictions imposed on joint shareholders under Article 12.3:

- (1) on a vote by show of hands, every person present who is a shareholder or proxy holder and entitled to vote on the matter has one vote; and
- (2) on a poll, every shareholder entitled to vote on the matter has one vote in respect of each share entitled to be voted on the matter and held by that shareholder and may exercise that vote either in person or by proxy.

### **12.2 Votes of Persons in Representative Capacity**

A person who is not a shareholder may vote at a meeting of shareholders, whether on a show of hands or on a poll, and may appoint a proxy holder to act at the meeting, if, before doing so, the person satisfies the chair of the meeting, or the directors, that the person is a legal personal representative or a trustee in bankruptcy for a shareholder who is entitled to vote at the meeting.

### **12.3 Votes by Joint Holders**

If there are joint shareholders registered in respect of any share:

- (1) any one of the joint shareholders may vote at any meeting, either personally or by proxy, in respect of the share as if that joint shareholder were solely entitled to it; or
- (2) if more than one of the joint shareholders is present at any meeting, personally or by proxy, and more than one of them votes in respect of that share, then only the vote of the joint shareholder present whose name stands first on the central securities register in respect of the share will be counted.

### **12.4 Legal Personal Representatives as Joint Shareholders**

Two or more legal personal representatives of a shareholder in whose sole name any share is registered are, for the purposes of Article 12.3, deemed to be joint shareholders.

### **12.5 Representative of a Corporate Shareholder**

If a corporation, that is not a subsidiary of the Company, is a shareholder, that corporation may appoint a person to act as its representative at any meeting of shareholders of the Company, and:

- (1) for that purpose, the instrument appointing a representative must:
  - (a) be received at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice for the receipt of proxies, or if no

- number of days is specified, two business days before the day set for the holding of the meeting; or
- (b) be provided, at the meeting, to the chair of the meeting or to a person designated by the chair of the meeting;
- (2) if a representative is appointed under this Article 12.5:
- (a) the representative is entitled to exercise in respect of and at that meeting the same rights on behalf of the corporation that the representative represents as that corporation could exercise if it were a shareholder who is an individual, including, without limitation, the right to appoint a proxy holder; and
  - (b) the representative, if present at the meeting, is to be counted for the purpose of forming a quorum and is deemed to be a shareholder present in person at the meeting.

Evidence of the appointment of any such representative may be sent to the Company by written instrument, fax or any other method of transmitting legibly recorded messages.

#### **12.6 Proxy Provisions Do Not Apply to All Companies**

If and for so long as the Company is a public company or a pre-existing reporting company which has the Statutory Reporting Company Provisions as part of its Articles or to which the Statutory Reporting Company Provisions apply, Articles 12.7 to 12.15 apply only insofar as they are not inconsistent with any securities legislation in any province or territory of Canada or in the federal jurisdiction of the United States or in any states of the United States that is applicable to the Company and insofar as they are not inconsistent with the regulations and rules made and promulgated under that legislation and all administrative policy statements, blanket orders and rulings, notices and other administrative directions issued by securities commissions or similar authorities appointed under that legislation.

#### **12.7 Appointment of Proxy Holders**

Every shareholder of the Company, including a corporation that is a shareholder but not a subsidiary of the Company, entitled to vote at a meeting of shareholders of the Company may, by proxy, appoint one or more (but not more than five) proxy holders to attend and act at the meeting in the manner, to the extent and with the powers conferred by the proxy.

#### **12.8 Alternate Proxy Holders**

A shareholder may appoint one or more alternate proxy holders to act in the place of an absent proxy holder.

#### **12.9 When Proxy Holder Need Not Be Shareholder**

A person must not be appointed as a proxy holder unless the person is a shareholder, although a person who is not a shareholder may be appointed as a proxy holder if:

- (1) the person appointing the proxy holder is a corporation or a representative of a corporation appointed under Article 12.5;
- (2) the Company has at the time of the meeting for which the proxy holder is to be appointed only one shareholder entitled to vote at the meeting; or
- (3) the shareholders present in person or by proxy at and entitled to vote at the meeting for which the proxy holder is to be appointed, by a resolution on which the proxy holder is not entitled to vote but in respect of which the proxy holder is to be counted in the quorum, permit the proxy holder to attend and vote at the meeting.

#### **12.10 Deposit of Proxy**

A proxy for a meeting of shareholders must:

- (1) be received at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice, or if no number of days is specified, two business days before the day set for the holding of the meeting; or
- (2) unless the notice provides otherwise, be provided, at the meeting, to the chair of the meeting or to a person designated by the chair of the meeting.

A proxy may be sent to the Company by written instrument, fax or any other method of transmitting legibly recorded messages.

#### **12.11 Validity of Proxy Vote**

A vote given in accordance with the terms of a proxy is valid notwithstanding the death or incapacity of the shareholder giving the proxy and despite the revocation of the proxy or the revocation of the authority under which the proxy is given, unless notice in writing of that death, incapacity or revocation is received:

- (1) at the registered office of the Company, at any time up to and including the last business day before the day set for the holding of the meeting at which the proxy is to be used; or
- (2) by the chair of the meeting, before the vote is taken.

#### **12.12 Form of Proxy**

A proxy, whether for a specified meeting or otherwise, must be either in the following form or in any other form approved by the directors or the chair of the meeting:

*[name of company]*  
(the "Company")

The undersigned, being a shareholder of the Company, hereby appoints *[name]* or, failing that person, *[name]*, as proxy holder for the undersigned to attend, act

and vote for and on behalf of the undersigned at the meeting of shareholders of the Company to be held on *[month, day, year]* and at any adjournment of that meeting.

Number of shares in respect of which this proxy is given (if no number is specified, then this proxy is given in respect of all shares registered in the name of the shareholder):

*Signed [month, day, year]*

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*[Signature of shareholder]*

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*[Name of shareholder—printed]*

### **12.13 Revocation of Proxy**

Subject to Article 12.14, every proxy may be revoked by an instrument in writing that is:

- (1) received at the registered office of the Company at any time up to and including the last business day before the day set for the holding of the meeting at which the proxy is to be used; or
- (2) provided, at the meeting, to the chair of the meeting.

### **12.14 Revocation of Proxy Must Be Signed**

An instrument referred to in Article 12.13 must be signed as follows:

- (1) if the shareholder for whom the proxy holder is appointed is an individual, the instrument must be signed by the shareholder or his or her legal personal representative or trustee in bankruptcy;
- (2) if the shareholder for whom the proxy holder is appointed is a corporation, the instrument must be signed by the corporation or by a representative appointed for the corporation under Article 12.5.

### **12.15 Production of Evidence of Authority to Vote**

The chair of any meeting of shareholders may, but need not, inquire into the authority of any person to vote at the meeting and may, but need not, demand from that person production of evidence as to the existence of the authority to vote.

### **13. Directors**

#### **13.1 First Directors; Number of Directors**

The first directors are the persons designated as directors of the Company in the Notice of Articles that applies to the Company when it is recognized under the *Business Corporations Act*.

The number of directors, excluding additional directors appointed under Article 14.8, is set at:

- (1) subject to paragraphs (2) and (3), the number of directors that is equal to the number of the Company's first directors;
- (2) if the Company is a public company, the greater of three and the most recently set of:
  - (a) the number of directors set by ordinary resolution (whether or not previous notice of the resolution was given); and
  - (b) the number of directors set under Article 14.4;
- (3) if the Company is not a public company, the most recently set of:
  - (a) the number of directors set by ordinary resolution (whether or not previous notice of the resolution was given); and
  - (b) the number of directors set under Article 14.4.

#### **13.2 Change in Number of Directors**

If the number of directors is set under Articles 13.1(2)(a) or 13.1(3)(a):

- (1) the shareholders may elect or appoint the directors needed to fill any vacancies in the board of directors up to that number;
- (2) if the shareholders do not elect or appoint the directors needed to fill any vacancies in the board of directors up to that number contemporaneously with the setting of that number, then the directors may appoint, or the shareholders may elect or appoint, directors to fill those vacancies.

#### **13.3 Directors' Acts Valid Despite Vacancy**

An act or proceeding of the directors is not invalid merely because fewer than the number of directors set or otherwise required under these Articles is in office.

#### **13.4 Qualifications of Directors**

A director is not required to hold a share in the capital of the Company as qualification for his or her office but must be qualified as required by the *Business Corporations Act* to become, act or continue to act as a director.

### **13.5 Remuneration of Directors**

The directors are entitled to the remuneration for acting as directors, if any, as the directors may from time to time determine. If the directors so decide, the remuneration of the directors, if any, will be determined by the shareholders. That remuneration may be in addition to any salary or other remuneration paid to any officer or employee of the Company as such, who is also a director.

### **13.6 Reimbursement of Expenses of Directors**

The Company must reimburse each director for the reasonable expenses that he or she may incur in and about the business of the Company.

### **13.7 Special Remuneration for Directors**

If any director performs any professional or other services for the Company that in the opinion of the directors are outside the ordinary duties of a director, or if any director is otherwise specially occupied in or about the Company's business, he or she may be paid remuneration fixed by the directors, or, at the option of that director, fixed by ordinary resolution, and such remuneration may be either in addition to, or in substitution for, any other remuneration that he or she may be entitled to receive.

### **13.8 Gratuity, Pension or Allowance on Retirement of Director**

Unless otherwise determined by ordinary resolution, the directors on behalf of the Company may pay a gratuity or pension or allowance on retirement to any director who has held any salaried office or place of profit with the Company or to his or her spouse or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

## **14. Election and Removal of Directors**

### **14.1 Election at Annual General Meeting**

At every annual general meeting and in every unanimous resolution contemplated by Article 10.2:

- (1) the shareholders entitled to vote at the annual general meeting for the election of directors must elect, or in the unanimous resolution appoint, a board of directors consisting of the number of directors for the time being set under these Articles; and
- (2) all the directors cease to hold office immediately before the election or appointment of directors under paragraph (1), but are eligible for re-election or re-appointment.

### **14.2 Consent to be a Director**

No election, appointment or designation of an individual as a director is valid unless:



- (1) that individual consents to be a director in the manner provided for in the *Business Corporations Act*;
- (2) that individual is elected or appointed at a meeting at which the individual is present and the individual does not refuse, at the meeting, to be a director; or
- (3) with respect to first directors, the designation is otherwise valid under the *Business Corporations Act*.

#### **14.3 Failure to Elect or Appoint Directors**

If:

- (1) the Company fails to hold an annual general meeting, and all the shareholders who are entitled to vote at an annual general meeting fail to pass the unanimous resolution contemplated by Article 10.2, on or before the date by which the annual general meeting is required to be held under the *Business Corporations Act*;

or

- (2) the shareholders fail, at the annual general meeting or in the unanimous resolution contemplated by Article 10.2, to elect or appoint any directors;

then each director then in office continues to hold office until the earlier of:

- (3) the date on which his or her successor is elected or appointed; and
- (4) the date on which he or she otherwise ceases to hold office under the *Business Corporations Act* or these Articles.

#### **14.4 Places of Retiring Directors Not Filled**

If, at any meeting of shareholders at which there should be an election of directors, the places of any of the retiring directors are not filled by that election, those retiring directors who are not re-elected and who are asked by the newly elected directors to continue in office will, if willing to do so, continue in office to complete the number of directors for the time being set pursuant to these Articles until further new directors are elected at a meeting of shareholders convened for that purpose. If any such election or continuance of directors does not result in the election or continuance of the number of directors for the time being set pursuant to these Articles, the number of directors of the Company is deemed to be set at the number of directors actually elected or continued in office.

#### **14.5 Directors May Fill Casual Vacancies**

Any casual vacancy occurring in the board of directors may be filled by the directors.

#### **14.6 Remaining Directors Power to Act**

The directors may act notwithstanding any vacancy in the board of directors, but if the Company has fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the directors may only act for the purpose of appointing directors up to that number or of summoning a meeting of shareholders for the purpose of filling any vacancies on the board of directors or, subject to the *Business Corporations Act*, for any other purpose.

#### **14.7 Shareholders May Fill Vacancies**

If the Company has no directors or fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the shareholders may elect or appoint directors to fill any vacancies on the board of directors.

#### **14.8 Additional Directors**

Notwithstanding Articles 13.1 and 13.2, between annual general meetings or unanimous resolutions contemplated by Article 10.2, the directors may appoint one or more additional directors, but the number of additional directors appointed under this Article 14.8 must not at any time exceed:

- (1) one-third of the number of first directors, if, at the time of the appointments, one or more of the first directors have not yet completed their first term of office; or
- (2) in any other case, one-third of the number of the current directors who were elected or appointed as directors other than under this Article 14.8.

Any director so appointed ceases to hold office immediately before the next election or appointment of directors under Article 14.1(1), but is eligible for re-election or re-appointment.

#### **14.9 Ceasing to be a Director**

A director ceases to be a director when:

- (1) the term of office of the director expires;
- (2) the director dies;
- (3) the director resigns as a director by notice in writing provided to the Company or a lawyer for the Company; or
- (4) the director is removed from office pursuant to Articles 14.10 or 14.11.

#### **14.10 Removal of Director by Shareholders**

The Company may remove any director before the expiration of his or her term of office by special resolution. In that event, the shareholders may elect, or appoint by ordinary resolution, a director to fill the resulting vacancy. If the shareholders do not elect or appoint a director to fill

the resulting vacancy contemporaneously with the removal, then the directors may appoint or the shareholders may elect, or appoint by ordinary resolution, a director to fill that vacancy.

#### **14.11 Removal of Director by Directors**

The directors may remove any director before the expiration of his or her term of office if the director is convicted of an indictable offence, or if the director ceases to be qualified to act as a director of a company and does not promptly resign, and the directors may appoint a director to fill the resulting vacancy.

### **15. Alternate Directors**

#### **15.1 Appointment of Alternate Director**

Any director (an "appointor") may by notice in writing received by the Company appoint any person (an "appointee") who is qualified to act as a director to be his or her alternate to act in his or her place at meetings of the directors or committees of the directors at which the appointor is not present unless (in the case of an appointee who is not a director) the directors have reasonably disapproved the appointment of such person as an alternate director and have given notice to that effect to his or her appointor within a reasonable time after the notice of appointment is received by the Company.

#### **15.2 Notice of Meetings**

Every alternate director so appointed is entitled to notice of meetings of the directors and of committees of the directors of which his or her appointor is a member and to attend and vote as a director at any such meetings at which his or her appointor is not present.

#### **15.3 Alternate for More Than One Director Attending Meetings**

A person may be appointed as an alternate director by more than one director, and an alternate director:

- (1) will be counted in determining the quorum for a meeting of directors once for each of his or her appointors and, in the case of an appointee who is also a director, once more in that capacity;
- (2) has a separate vote at a meeting of directors for each of his or her appointors and, in the case of an appointee who is also a director, an additional vote in that capacity;
- (3) will be counted in determining the quorum for a meeting of a committee of directors once for each of his or her appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, once more in that capacity;
- (4) has a separate vote at a meeting of a committee of directors for each of his or her appointors who is a member of that committee and, in the case of an appointee who is also a member of that committee as a director, an additional vote in that capacity.

#### **15.4 Consent Resolutions**

Every alternate director, if authorized by the notice appointing him or her, may sign in place of his or her appointor any resolutions to be consented to in writing.

#### **15.5 Alternate Director Not an Agent**

Every alternate director is deemed not to be the agent of his or her appointor.

#### **15.6 Revocation of Appointment of Alternate Director**

An appointor may at any time, by notice in writing received by the Company, revoke the appointment of an alternate director appointed by him or her.

#### **15.7 Ceasing to be an Alternate Director**

The appointment of an alternate director ceases when:

- (1) his or her appointor ceases to be a director and is not promptly re-elected or re-appointed;
- (2) the alternate director dies;
- (3) the alternate director resigns as an alternate director by notice in writing provided to the Company or a lawyer for the Company;
- (4) the alternate director ceases to be qualified to act as a director; or
- (5) his or her appointor revokes the appointment of the alternate director.

#### **15.8 Remuneration and Expenses of Alternate Director**

The Company may reimburse an alternate director for the reasonable expenses that would be properly reimbursed if he or she were a director, and the alternate director is entitled to receive from the Company such proportion, if any, of the remuneration otherwise payable to the appointor as the appointor may from time to time direct.

### **16. Powers and Duties of Directors**

#### **16.1 Powers of Management**

The directors must, subject to the *Business Corporations Act* and these Articles, manage or supervise the management of the business and affairs of the Company and have the authority to exercise all such powers of the Company as are not, by the *Business Corporations Act* or by these Articles, required to be exercised by the shareholders of the Company.

#### **16.2 Appointment of Attorney of Company**

The directors may from time to time, by power of attorney or other instrument, under seal if so required by law, appoint any person to be the attorney of the Company for such purposes, and

with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these Articles and excepting the power to fill vacancies in the board of directors, to remove a director, to change the membership of, or fill vacancies in, any committee of the directors, to appoint or remove officers appointed by the directors and to declare dividends) and for such period, and with such remuneration and subject to such conditions as the directors may think fit. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney as the directors think fit. Any such attorney may be authorized by the directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in him or her.

## **17. Disclosure of Interest of Directors**

### **17.1 Obligation to Account for Profits**

A director or senior officer who holds a disclosable interest (as that term is used in the *Business Corporations Act*) in a contract or transaction into which the Company has entered or proposes to enter is liable to account to the Company for any profit that accrues to the director or senior officer under or as a result of the contract or transaction only if and to the extent provided in the *Business Corporations Act*.

### **17.2 Restrictions on Voting by Reason of Interest**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter is not entitled to vote on any directors' resolution to approve that contract or transaction, unless all the directors have a disclosable interest in that contract or transaction, in which case any or all of those directors may vote on such resolution.

### **17.3 Interested Director Counted in Quorum**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter and who is present at the meeting of directors at which the contract or transaction is considered for approval may be counted in the quorum at the meeting whether or not the director votes on any or all of the resolutions considered at the meeting.

### **17.4 Disclosure of Conflict of Interest or Property**

A director or senior officer who holds any office or possesses any property, right or interest that could result, directly or indirectly, in the creation of a duty or interest that materially conflicts with that individual's duty or interest as a director or senior officer, must disclose the nature and extent of the conflict as required by the *Business Corporations Act*.

### **17.5 Director Holding Other Office in the Company**

A director may hold any office or place of profit with the Company, other than the office of auditor of the Company, in addition to his or her office of director for the period and on the terms (as to remuneration or otherwise) that the directors may determine.

### **17.6 No Disqualification**

No director or intended director is disqualified by his or her office from contracting with the Company either with regard to the holding of any office or place of profit the director holds with the Company or as vendor, purchaser or otherwise, and no contract or transaction entered into by or on behalf of the Company in which a director is in any way interested is liable to be voided for that reason.

### **17.7 Professional Services by Director or Officer**

Subject to the *Business Corporations Act*, a director or officer, or any person in which a director or officer has an interest, may act in a professional capacity for the Company, except as auditor of the Company, and the director or officer or such person is entitled to remuneration for professional services as if that director or officer were not a director or officer.

### **17.8 Director or Officer in Other Corporations**

A director or officer may be or become a director, officer or employee of, or otherwise interested in, any person in which the Company may be interested as a shareholder or otherwise, and, subject to the *Business Corporations Act*, the director or officer is not accountable to the Company for any remuneration or other benefits received by him or her as director, officer or employee of, or from his or her interest in, such other person.

## **18. Proceedings of Directors**

### **18.1 Meetings of Directors**

The directors may meet together for the conduct of business, adjourn and otherwise regulate their meetings as they think fit, and meetings of the directors held at regular intervals may be held at the place, at the time and on the notice, if any, as the directors may from time to time determine.

### **18.2 Voting at Meetings**

Questions arising at any meeting of directors are to be decided by a majority of votes and, in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

### **18.3 Chair of Meetings**

The following individual is entitled to preside as chair at a meeting of directors:

- (1) the chair of the board, if any;
- (2) in the absence of the chair of the board, the president, if any, if the president is a director;  
or
- (3) any other director chosen by the directors if:
  - (a) neither the chair of the board nor the president, if a director, is present at the meeting within 15 minutes after the time set for holding the meeting;

- (b) neither the chair of the board nor the president, if a director, is willing to chair the meeting; or
- (c) the chair of the board and the president, if a director, have advised the secretary, if any, or any other director, that they will not be present at the meeting.

#### **18.4 Meetings by Telephone or Other Communications Medium**

A director may participate in a meeting of the directors or of any committee of the directors in person or by telephone if all directors participating in the meeting, whether in person or by telephone or other communications medium, are able to communicate with each other. A director may participate in a meeting of the directors or of any committee of the directors by a communications medium other than telephone if all directors participating in the meeting, whether in person or by telephone or other communications medium, are able to communicate with each other and if all directors who wish to participate in the meeting agree to such participation. A director who participates in a meeting in a manner contemplated by this Article 18.4 is deemed for all purposes of the *Business Corporations Act* and these Articles to be present at the meeting and to have agreed to participate in that manner.

#### **18.5 Calling of Meetings**

A director may, and the secretary or an assistant secretary of the Company, if any, on the request of a director must, call a meeting of the directors at any time.

#### **18.6 Notice of Meetings**

Other than for meetings held at regular intervals as determined by the directors pursuant to Article 18.1, reasonable notice of each meeting of the directors, specifying the place, day and time of that meeting must be given to each of the directors and the alternate directors by any method set out in Article 24.1 or orally or by telephone.

#### **18.7 When Notice Not Required**

It is not necessary to give notice of a meeting of the directors to a director or an alternate director if:

- (1) the meeting is to be held immediately following a meeting of shareholders at which that director was elected or appointed, or is the meeting of the directors at which that director is appointed; or
- (2) the director or alternate director, as the case may be, has waived notice of the meeting.

#### **18.8 Meeting Valid Despite Failure to Give Notice**

The accidental omission to give notice of any meeting of directors to, or the non-receipt of any notice by, any director or alternate director, does not invalidate any proceedings at that meeting.

### **18.9 Waiver of Notice of Meetings**

Any director or alternate director may send to the Company a document signed by him or her waiving notice of any past, present or future meeting or meetings of the directors and may at any time withdraw that waiver with respect to meetings held after that withdrawal. After sending a waiver with respect to all future meetings and until that waiver is withdrawn, no notice of any meeting of the directors need be given to that director and, unless the director otherwise requires by notice in writing to the Company, to his or her alternate director, and all meetings of the directors so held are deemed not to be improperly called or constituted by reason of notice not having been given to such director or alternate director.

### **18.10 Quorum**

The quorum necessary for the transaction of the business of the directors may be set by the directors and, if not so set, is deemed to be set at two directors or, if the number of directors is set at one, is deemed to be set at one director, and that director may constitute a meeting.

### **18.11 Validity of Acts Where Appointment Defective**

Subject to the *Business Corporations Act*, an act of a director or officer is not invalid merely because of an irregularity in the election or appointment or a defect in the qualification of that director or officer.

### **18.12 Consent Resolutions in Writing**

A resolution of the directors or of any committee of the directors may be passed without a meeting:

- (1) in all cases, if each of the directors entitled to vote on the resolution consents to it in writing; or
- (2) in the case of a resolution to approve a contract or transaction in respect of which a director has disclosed that he or she has or may have a disclosable interest, if each of the other directors who are entitled to vote on the resolution consents to it in writing.

A consent in writing under this Article may be by signed document, fax, email or any other method of transmitting legibly recorded messages. A consent in writing may be in two or more counterparts which together are deemed to constitute one consent in writing. A resolution of the directors or of any committee of the directors passed in accordance with this Article 18.12 is effective on the date stated in the consent in writing or on the latest date stated on any counterpart and is deemed to be a proceeding at a meeting of directors or of the committee of the directors and to be as valid and effective as if it had been passed at a meeting of the directors or of the committee of the directors that satisfies all the requirements of the *Business Corporations Act* and all the requirements of these Articles relating to meetings of the directors or of a committee of the directors.



## **19. Executive and Other Committees**

### **19.1 Appointment and Powers of Executive Committee**

The directors may, by resolution, appoint an executive committee consisting of the director or directors that they consider appropriate, and this committee has, during the intervals between meetings of the board of directors, all of the directors' powers, except:

- (1) the power to fill vacancies in the board of directors;
- (2) the power to remove a director;
- (3) the power to change the membership of, or fill vacancies in, any committee of the directors; and
- (4) such other powers, if any, as may be set out in the resolution or any subsequent directors' resolution.

### **19.2 Appointment and Powers of Other Committees**

The directors may, by resolution:

- (1) appoint one or more committees (other than the executive committee) consisting of the director or directors that they consider appropriate;
- (2) delegate to a committee appointed under paragraph (1) any of the directors' powers, except:
  - (a) the power to fill vacancies in the board of directors;
  - (b) the power to remove a director;
  - (c) the power to change the membership of, or fill vacancies in, any committee of the directors; and
  - (d) the power to appoint or remove officers appointed by the directors; and
- (3) make any delegation referred to in paragraph (2) subject to the conditions set out in the resolution or any subsequent directors' resolution.

### **19.3 Obligations of Committees**

Any committee appointed under Articles 19.1 or 19.2, in the exercise of the powers delegated to it, must:

- (1) conform to any rules that may from time to time be imposed on it by the directors; and
- (2) report every act or thing done in exercise of those powers at such times as the directors may require.

#### **19.4 Powers of Board**

The directors may, at any time, with respect to a committee appointed under Articles 19.1 or 19.2:

- (1) revoke or alter the authority given to the committee, or override a decision made by the committee, except as to acts done before such revocation, alteration or overriding;
- (2) terminate the appointment of, or change the membership of, the committee; and
- (3) fill vacancies in the committee.

#### **19.5 Committee Meetings**

Subject to Article 19.3(1) and unless the directors otherwise provide in the resolution appointing the committee or in any subsequent resolution, with respect to a committee appointed under Articles 19.1 or 19.2:

- (1) the committee may meet and adjourn as it thinks proper;
- (2) the committee may elect a chair of its meetings but, if no chair of a meeting is elected, or if at a meeting the chair of the meeting is not present within 15 minutes after the time set for holding the meeting, the directors present who are members of the committee may choose one of their number to chair the meeting;
- (3) a majority of the members of the committee constitutes a quorum of the committee; and
- (4) questions arising at any meeting of the committee are determined by a majority of votes of the members present, and in case of an equality of votes, the chair of the meeting does not have a second or casting vote.

### **20. Officers**

#### **20.1 Directors May Appoint Officers**

The directors may, from time to time, appoint such officers, if any, as the directors determine and the directors may, at any time, terminate any such appointment.

#### **20.2 Functions, Duties and Powers of Officers**

The directors may, for each officer:

- (1) determine the functions and duties of the officer;
- (2) entrust to and confer on the officer any of the powers exercisable by the directors on such terms and conditions and with such restrictions as the directors think fit; and
- (3) revoke, withdraw, alter or vary all or any of the functions, duties and powers of the officer.

### **20.3 Qualifications**

No officer may be appointed unless that officer is qualified in accordance with the *Business Corporations Act*. One person may hold more than one position as an officer of the Company. Any person appointed as the chair of the board or as a managing director must be a director. Any other officer need not be a director.

### **20.4 Remuneration and Terms of Appointment**

All appointments of officers are to be made on the terms and conditions and at the remuneration (whether by way of salary, fee, commission, participation in profits or otherwise) that the directors think fit and are subject to termination at the pleasure of the directors, and an officer may in addition to such remuneration be entitled to receive, after he or she ceases to hold such office or leaves the employment of the Company, a pension or gratuity.

## **21. Indemnification**

### **21.1 Definitions**

In this Article 21:

- (1) “eligible penalty” means a judgment, penalty or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding;
- (2) “eligible proceeding” means a legal proceeding or investigative action, whether current, threatened, pending or completed, in which a director, former director or alternate director of the Company (an “eligible party”) or any of the heirs and legal personal representatives of the eligible party, by reason of the eligible party being or having been a director or alternate director of the Company:
  - (a) is or may be joined as a party; or
  - (b) is or may be liable for or in respect of a judgment, penalty or fine in, or expenses related to, the proceeding;
- (3) “expenses” has the meaning set out in the *Business Corporations Act*.

### **21.2 Mandatory Indemnification of Directors and Former Directors**

Subject to the *Business Corporations Act*, the Company must indemnify a director, former director or alternate director of the Company and his or her heirs and legal personal representatives against all eligible penalties to which such person is or may be liable, and the Company must, after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by such person in respect of that proceeding. Each director and alternate director is deemed to have contracted with the Company on the terms of the indemnity contained in this Article 21.2.

### **21.3 Indemnification of Other Persons**

Subject to any restrictions in the *Business Corporations Act*, the Company may indemnify any person.

### **21.4 Non-Compliance with Business Corporations Act**

The failure of a director, alternate director or officer of the Company to comply with the *Business Corporations Act* or these Articles does not invalidate any indemnity to which he or she is entitled under this Part.

### **21.5 Company May Purchase Insurance**

The Company may purchase and maintain insurance for the benefit of any person (or his or her heirs or legal personal representatives) who:

- (1) is or was a director, alternate director, officer, employee or agent of the Company;
- (2) is or was a director, alternate director, officer, employee or agent of a corporation at a time when the corporation is or was an affiliate of the Company;
- (3) at the request of the Company, is or was a director, alternate director, officer, employee or agent of a corporation or of a partnership, trust, joint venture or other unincorporated entity;
- (4) at the request of the Company, holds or held a position equivalent to that of a director, alternate director or officer of a partnership, trust, joint venture or other unincorporated entity;

against any liability incurred by him or her as such director, alternate director, officer, employee or agent or person who holds or held such equivalent position.

## **22. Dividends**

### **22.1 Payment of Dividends Subject to Special Rights**

The provisions of this Article 22 are subject to the rights, if any, of shareholders holding shares with special rights as to dividends.

### **22.2 Declaration of Dividends**

Subject to the *Business Corporations Act*, the directors may from time to time declare and authorize payment of such dividends as they may deem advisable.

### **22.3 No Notice Required**

The directors need not give notice to any shareholder of any declaration under Article 22.2.

#### **22.4 Record Date**

The directors may set a date as the record date for the purpose of determining shareholders entitled to receive payment of a dividend. The record date must not precede the date on which the dividend is to be paid by more than two months. If no record date is set, the record date is 5 p.m. on the date on which the directors pass the resolution declaring the dividend.

#### **22.5 Manner of Paying Dividend**

A resolution declaring a dividend may direct payment of the dividend wholly or partly by the distribution of specific assets or of fully paid shares or of bonds, debentures or other securities of the Company, or in any one or more of those ways.

#### **22.6 Settlement of Difficulties**

If any difficulty arises in regard to a distribution under Article 22.5, the directors may settle the difficulty as they deem advisable, and, in particular, may:

- (1) set the value for distribution of specific assets;
- (2) determine that cash payments in substitution for all or any part of the specific assets to which any shareholders are entitled may be made to any shareholders on the basis of the value so fixed in order to adjust the rights of all parties; and
- (3) vest any such specific assets in trustees for the persons entitled to the dividend.

#### **22.7 When Dividend Payable**

Any dividend may be made payable on such date as is fixed by the directors.

#### **22.8 Dividends to be Paid in Accordance with Number of Shares**

All dividends on shares of any class or series of shares must be declared and paid according to the number of such shares held.

#### **22.9 Receipt by Joint Shareholders**

If several persons are joint shareholders of any share, any one of them may give an effective receipt for any dividend, bonus or other money payable in respect of the share.

#### **22.10 Dividend Bears No Interest**

No dividend bears interest against the Company.

#### **22.11 Fractional Dividends**

If a dividend to which a shareholder is entitled includes a fraction of the smallest monetary unit of the currency of the dividend, that fraction may be disregarded in making payment of the dividend and that payment represents full payment of the dividend.

## **22.12 Payment of Dividends**

Any dividend or other distribution payable in cash in respect of shares may be paid by cheque, made payable to the order of the person to whom it is sent, and mailed to the address of the shareholder, or in the case of joint shareholders, to the address of the joint shareholder who is first named on the central securities register, or to the person and to the address the shareholder or joint shareholders may direct in writing. The mailing of such cheque will, to the extent of the sum represented by the cheque (plus the amount of the tax required by law to be deducted), discharge all liability for the dividend unless such cheque is not paid on presentation or the amount of tax so deducted is not paid to the appropriate taxing authority.

## **22.13 Capitalization of Surplus**

Notwithstanding anything contained in these Articles, the directors may from time to time capitalize any surplus of the Company and may from time to time issue, as fully paid, shares or any bonds, debentures or other securities of the Company as a dividend representing the surplus or any part of the surplus.

## **23. Accounting Records**

### **23.1 Recording of Financial Affairs**

The directors must cause adequate accounting records to be kept to record properly the financial affairs and condition of the Company and to comply with the *Business Corporations Act*.

### **23.2 Inspection of Accounting Records**

Unless the directors determine otherwise, or unless otherwise determined by ordinary resolution, no shareholder of the Company is entitled to inspect or obtain a copy of any accounting records of the Company.

## **24. Notices**

### **24.1 Method of Giving Notice**

Unless the *Business Corporations Act* or these Articles provides otherwise, a notice, statement, report or other record required or permitted by the *Business Corporations Act* or these Articles to be sent by or to a person may be sent by any one of the following methods:

- (1) mail addressed to the person at the applicable address for that person as follows:
  - (a) for a record mailed to a shareholder, the shareholder's registered address;
  - (b) for a record mailed to a director or officer, the prescribed address for mailing shown for the director or officer in the records kept by the Company or the mailing address provided by the recipient for the sending of that record or records of that class;
  - (c) in any other case, the mailing address of the intended recipient;

- (2) delivery at the applicable address for that person as follows, addressed to the person:
  - (a) for a record delivered to a shareholder, the shareholder's registered address;
  - (b) for a record delivered to a director or officer, the prescribed address for delivery shown for the director or officer in the records kept by the Company or the delivery address provided by the recipient for the sending of that record or records of that class;
  - (c) in any other case, the delivery address of the intended recipient;
- (3) sending the record by fax to the fax number provided by the intended recipient for the sending of that record or records of that class;
- (4) sending the record by email to the email address provided by the intended recipient for the sending of that record or records of that class;
- (5) physical delivery to the intended recipient.

#### **24.2 Deemed Receipt of Mailing**

A record that is mailed to a person by ordinary mail to the applicable address for that person referred to in Article 24.1 is deemed to be received by the person to whom it was mailed on the day, Saturdays, Sundays and holidays excepted, following the date of mailing.

#### **24.3 Certificate of Sending**

A certificate signed by the secretary, if any, or other officer of the Company or of any other corporation acting in that behalf for the Company stating that a notice, statement, report or other record was addressed as required by Article 24.1, prepaid and mailed or otherwise sent as permitted by Article 24.1 is conclusive evidence of that fact.

#### **24.4 Notice to Joint Shareholders**

A notice, statement, report or other record may be provided by the Company to the joint shareholders of a share by providing the notice to the joint shareholder first named in the central securities register in respect of the share.

#### **24.5 Notice to Trustees**

A notice, statement, report or other record may be provided by the Company to the persons entitled to a share in consequence of the death, bankruptcy or incapacity of a shareholder by:

- (1) mailing the record, addressed to them:
  - (a) by name, by the title of the legal personal representative of the deceased or incapacitated shareholder, by the title of trustee of the bankrupt shareholder or by any similar description; and
  - (b) at the address, if any, supplied to the Company for that purpose by the persons claiming to be so entitled; or

- (2) if an address referred to in paragraph (1)(b) has not been supplied to the Company, by giving the notice in a manner in which it might have been given if the death, bankruptcy or incapacity had not occurred.

## **25. Seal**

### **25.1 Who May Attest Seal**

Except as provided in Articles 25.2 and 25.3, the Company's seal, if any, must not be impressed on any record except when that impression is attested by the signatures of:

- (1) any two directors;
- (2) any officer, together with any director;
- (3) if the Company only has one director, that director; or
- (4) any one or more directors or officers or persons as may be determined by the directors.

### **25.2 Sealing Copies**

For the purpose of certifying under seal a certificate of incumbency of the directors or officers of the Company or a true copy of any resolution or other document, despite Article 25.1, the impression of the seal may be attested by the signature of any director or officer.

### **25.3 Mechanical Reproduction of Seal**

The directors may authorize the seal to be impressed by third parties on share certificates or bonds, debentures or other securities of the Company as they may determine appropriate from time to time. To enable the seal to be impressed on any share certificates or bonds, debentures or other securities of the Company, whether in definitive or interim form, on which facsimiles of any of the signatures of the directors or officers of the Company are, in accordance with the *Business Corporations Act* or these Articles, printed or otherwise mechanically reproduced, there may be delivered to the person employed to engrave, lithograph or print such definitive or interim share certificates or bonds, debentures or other securities one or more unmounted dies reproducing the seal and the chair of the board or any senior officer together with the secretary, treasurer, secretary-treasurer, an assistant secretary, an assistant treasurer or an assistant secretary-treasurer may in writing authorize such person to cause the seal to be impressed on such definitive or interim share certificates or bonds, debentures or other securities by the use of such dies. Share certificates or bonds, debentures or other securities to which the seal has been so impressed are for all purposes deemed to be under and to bear the seal impressed on them.

## **26. Prohibitions**

### **26.1 Definitions**

In this Article 26:



- (1) "designated security" means:
  - (a) a voting security of the Company;
  - (b) a security of the Company that is not a debt security and that carries a residual right to participate in the earnings of the Company or, on the liquidation or winding up of the Company, in its assets; or
  - (c) a security of the Company convertible, directly or indirectly, into a security described in paragraph (a) or (b);
- (2) "security" has the meaning assigned in the *Securities Act* (British Columbia);
- (3) "voting security" means a security of the Company that:
  - (a) is not a debt security, and
  - (b) carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing.

## **26.2 Application**

Article 26.3 does not apply to the Company if and for so long as it is a public company or a pre-existing reporting company which has the Statutory Reporting Company Provisions as part of its Articles or to which the Statutory Reporting Company Provisions apply.

## **26.3 Consent Required for Transfer of Shares or Designated Securities**

No share or designated security may be sold, transferred or otherwise disposed of without the consent of the directors and the directors are not required to give any reason for refusing to consent to any such sale, transfer or other disposition.

## **27. Unalterable Provisions**

Notwithstanding any other provision of these Articles and notwithstanding any provision of law that otherwise so empowers the Company, the Company will not:

- (1) take any action in furtherance of, or fail to take any possible action to avert, the occurrence, other than as permitted by the Province of British Columbia (the "Province") or pursuant to an order of the Supreme Court of British Columbia, the Court of Appeal of British Columbia, or the Supreme Court of Canada, of any disclosure of or any access to personal information that is transferred to, collected, accessible or compiled by, or otherwise under the control or custody of the Corporation and that:
  - (a) is about members of the public or about employees of or consultants to the Province,
  - (b) is in the custody or under the control of the Province or of any "public body" (as such term is defined in the Freedom of Information and protection of *Privacy Act* (British Columbia)), or

(c) is otherwise held by the Company on behalf of the Province.

(**"Personal Information"**) or

- (2) Comply, directly or indirectly, with any orders, directives, rulings, requirement, judgment, injunction, award, decree, decision or other requirement issued pursuant to the *USA PATRIOT Act* or any directions or requests from any shareholder of the Corporation or other person in respect of the same.
- (3) amend, alter, delete, remove or otherwise modify or amend any of the provisions contained in this Article 27.

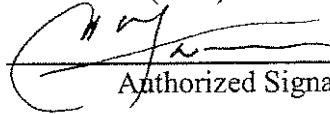
As contemplated in Article 9.4, this Article 27 is specifically designated as unalterable.

Dated September 9, 2004.

**FULL NAME AND SIGNATURE OF  
INCORPORATOR**

FMD SERVICE (B.C.) INC.

Per:

  
Authorized Signatory

## SCHEDULE X

### PRIVACY OBLIGATIONS

#### 1.1 Privacy Overview and Framework

- (a) The purpose of this Schedule X is to set forth certain commitments of the Service Provider Group relating to the protection of Province Data (which includes health related Personal Information) and mechanisms to ensure that under no circumstances shall Province Data be disclosed other than as directed by the Province or strictly in accordance with Policies. Where Policies are changed by the Province after the Hand-Over Date or the Province issues directives in respect of the foregoing after the Hand-Over Date, which in either case require a material change to either (i) the level of privacy protection that the Service Provider is then required to provide to the Province under this Schedule; or (ii) the business processes utilized by the Service Provider in order to deliver the Services; then such change shall be dealt with in accordance with Article 7 of the Agreement.
- (b) The Service Provider acknowledges that:
  - (i) the Province has been entrusted with control and custody of the Province Data as more particularly set forth in Section 18.8 of the Agreement in order that the Province may serve the public and the Stakeholders,
  - (ii) the Province Data is collected, used, disclosed, and otherwise managed by the Province on behalf of the public and the Stakeholders, and
  - (iii) the Agreement is premised on and must continue to maintain the Province's and the Service Provider's absolute commitment to maintain the privacy and security of the Province Data.

Accordingly, the Service Provider is fully committed to taking all of the additional measures set forth in this Schedule X, as otherwise set forth in the Agreement and as otherwise required (subject to Article 7 of the Agreement) in order to ensure that Province Data will at all times be fully protected and more secure than it currently is in the custody of the Province.

- (c) Where there is a conflict between this Schedule X and the provisions in the Agreement or any other Schedule attached thereto, this Schedule X shall take precedence notwithstanding Section 1.10 of the Agreement.
- (d) The Province has the right at any time to amend this Schedule X upon notice to the Service Provider. Such changes will either be Ordinary Course Changes or Permitted Material Changes, as applicable, and governed in accordance with Article 7 of the Agreement.

## 1.2 Non-Disclosure of Province Data

All Province Confidential Information (including Province Data) shall not be disclosed to any Person for any reason other than as contemplated in Article 17 of the Agreement. Without limiting the generality of the foregoing, the Service Provider shall not disclose Province Data pursuant to an Order in respect of the *USA PATRIOT Act*, as more expressly limited in Section 9.4 of the Agreement.

## 1.3 Anticipatory Disclosure of Province Data

Where the Province determines, acting reasonably, that there is a risk that Province Data may be disclosed contrary to the terms of this Agreement then the Province shall have all right and authority to take all actions necessary to prevent such disclosure including, without limitation:

- (a) exercising its right to have all Province Data returned to the Province and all copies erased or destroyed pursuant to Section 18.8(c) of the Agreement;
- (b) exercising its rights pursuant to the Trust Agreement with respect to notice to the Trustee and the triggering of the Province's beneficial interest in the shares of MAXIMUS Prime;
- (c) proceeding directly to court in respect of such potential disclosure, as more particularly contemplated by Section 23.7 of the Agreement; and
- (d) taking all actions necessary for and on behalf of the Service Provider to prevent such disclosure and in furtherance of the same each of the Service Providers hereby irrevocably appoints any Person holding a Key Position of the Province to be its attorney, with full power of substitution, and to do on the Service Providers' behalf anything that the Service Provider lawfully can do by an attorney. Such power shall be limited to acts that are necessary to prevent the disclosure or the potential disclosure of Province Data. Such power of attorney is acknowledged by the Service Providers to be coupled with an interest, shall not be revoked by the dissolution, winding up, surrender of charter, bankruptcy or insolvency of either of the Service Providers and may be exercised in the name of and on behalf of the Service Providers.

## 1.4 Definition of Province Data

The Service Provider acknowledges and recognizes that the Province Data includes Personal Information that the Province is obligated to protect pursuant to privacy legislation and other information that the Province is obligated to treat or intends to treat as confidential and that the Province Data includes health related records and other personal information to which the Service Provider has been provided with access under the terms of the Agreement. The Service Provider acknowledges and recognizes that Province Data is highly sensitive confidential information.

## 1.5 Compliance Certificate

The Service Provider will deliver a compliance certificate to the Province every Contract Year as part of the delivery of the Annual Operating Plan which confirms the Service Provider's compliance with Article 17 of the Agreement and this Schedule X and all related provisions with respect to the protection of Province Data including Section 9.4 of the Agreement.

## 1.6 Flow Down of Obligations

Whether expressly stated or not, all agreements between the Service Provider and Suppliers, Subcontractors and any other members of the Service Provider Group who have access or potential access to Province Data must include provisions consistent with all of the obligations in Article 17 of the Agreement and this Schedule X, unless otherwise Approved by the Province or except as otherwise expressly contemplated in this Agreement. All rights of the Province with respect to the Service Provider must be granted by such Persons directly to the Province in order that all references in this Schedule X would be read as references to such other Persons, unless otherwise Approved by the Province.

## 1.7 Supplier/Subcontractor Direct Agreements

Each Material Subcontractor, Key Provider and Key Supplier shall enter into a Supplier/Subcontractor Direct Agreement with the Province prior to providing any services or engaging in any activities with respect to the Services or this Agreement. The form of the Supplier/Subcontractor Direct Agreement shall be as established by the Province from time to time. Any Approval of a Material Subcontractor, Key Provider or Key Supplier by the Province shall be conditional upon the Province's receipt of a fully signed copy of the Supplier/Subcontractor Direct Agreement.

## 1.8 Ownership and Control of Province Data

As expressly acknowledged by the Service Provider in Section 18.8 of the Agreement, the Province shall be and remain the exclusive owner of all rights, title and interest in and to the Province Data and its Confidential Information and shall be and remain in complete control of the Province Data and Confidential Information. No access to or custody over Province Data or Confidential Information by the Service Provider or other Persons as contemplated in the Agreement shall be construed in any manner as providing control or any other rights with respect to such Province Data or Confidential Information.

## 1.9 Policies and Procedures

- (a) The Service Provider will develop and maintain current policies and procedures specific to privacy and security. Those policies and procedures will at all times be consistent with the Agreement including being consistent with this Schedule X. Copies of such policies and procedures will be provided by the Service Provider to the Province at the request of the Province. The Service Provider will advise the Province of any material changes that it makes to such policies and procedures.

- (b) The Service Provider will maintain a training plan that includes training all Personnel and External Personnel in (i) all aspects of privacy and security as appropriate to their job function; (ii) the commitment that such Persons have directly to the Province with respect to the protection of Province Confidential Information; (iii) the priority of such Persons' statutory and contractual duties to the Province with respect to the disclosure of Province Data over their commitment to Service Provider (and the fact that there shall be no adverse consequences to such Persons in respecting such priority); and (iv) the hotline established by the Province in order that Personnel and External Personnel can notify the Province directly in the event of any disclosure or potential disclosure of Province Data. Refresher training will be provided annually or, where necessary to implement changes in the applicable policies or procedures, more frequently. The policies and procedures developed and maintained by the Service Provider will include staff manuals (as part of the Manual) that detail the above noted training commitments.
- (c) Privacy Impact Assessments will be performed by the Service Provider in accordance with the process, procedures and forms authorized by the Province, and such Privacy Impact Assessment shall be approved by the Province prior to any material change to the delivery of Services or any processes in respect of the same (such as application changes or business process changes).

#### 1.10 Transition and Transformation

- (a) Data used for any non-production purpose including application testing, development, and training environments shall only use non-personally identifiable data to the extent reasonably possible. Extracts of production Province Data must not be used for these purposes unless expressly Approved by the Province.
- (b) Without limiting the generality of Subsection 1.9(c) above, prior to the Hand-Over Date and prior to Acceptance of each Stage of the Transformation, the Service Provider shall conduct Privacy Impact Assessments to the satisfaction and Approval of the Province. The Province has the right to conduct, at its own expense, its own Privacy Impact Assessments.
- (c) Prior to implementation of every transformational change or Material Change in business process, technology, or stakeholder process pursuant to this Agreement the Service Provider shall complete a Risks and Controls Review to the satisfaction and Approval of the Province which documents (in a format Approved by the Province) the impacts of such proposed change, including, without limitation, compliance with government policy, legislation, and ISO17799:2000 (as revised or replaced from time to time) ("ISO17799"). The Province has the right to conduct, at its own expense, its own Risk and Controls Review or other security review.
- (d) Prior to implementation of each transformational change or Material Change in business process, technology, or stakeholder process pursuant to this Agreement

the Service Provider will resolve all potential negative stakeholder impacts, ISO17799 non-compliance issues, or other deficiencies in connection with such change to the satisfaction of the Province, acting reasonably.

- (e) The Province will have SysTrust Audits conducted as contemplated by Section 14.6 of the Agreement.
- (f) Notwithstanding any reviews, audits, investigations or other analysis conducted by or for the Province in this Schedule X or otherwise in the Agreement, it shall be the Service Provider's sole responsibility to ensure compliance with the terms of this Agreement including all standards so referenced herein (subject to the specific provision set forth below in Section 1.10(g) with respect to ISO17799).
- (g) With respect to the ISO17799 standard, and (for greater certainty) subject to Article 7 of the Agreement, the Parties expressly agree as follows:
  - (i) The Service Provider shall make reasonable commercial efforts to comply with ISO17799 standards.
  - (ii) ISO17799 compliance shall be evaluated by the Service Provider at its expense on a regular basis (not less than annually) and prior to the Service Provider making any material changes to its Systems, technology or business processes (including prior to the Hand-Over Date and prior to Acceptance of each Stage of the Transformation). The Service Provider shall monitor and determine such compliance by conducting Risk and Controls Reviews. The Province has the right to conduct, at its own expense, its own Risk and Controls Review or other security review to its satisfaction and/or monitor such reviews conducted by the Service Provider.
  - (iii) To the extent that any risk and control review or other process identifies any non-compliance with ISO17799 standards notwithstanding reasonable commercial efforts to do the same then the Service Provider shall identify such non-compliance to the Province.
  - (iv) The Service Provider shall not implement any material changes to its Systems, technology or business processes that result in non-compliance with ISO17799 standards unless such non-compliance is Approved by the Province, acting reasonably.
  - (v) The Service Provider shall, on an ongoing basis, make reasonable commercial efforts to address any non-compliance with ISO17799 standards, including the deployment of new technologies, Systems and business processes to resolve such non-compliance.

#### 1.11 Classification of Province Data

- (a) Unless the Agreement otherwise specifies, the Service Provider must classify and retain Province Data and Province Records in accordance with Article 14 of the Agreement.
- (b) The Service Provider, its Personnel and all External Personnel shall at no time have the ability to remove Province Data from the Service Centre unless the purpose for such removal is expressly authorized elsewhere in this Schedule X or in the Agreement or is otherwise Approved by the Province. Any such authorized or Approved removal shall otherwise remain subject to the Agreement including Article 17 of the Agreement and this Schedule X.
- (c) If Province Data or other Province Records are stored offsite in accordance with the Agreement and this Schedule X, such offsite storage location must be Approved by the Province in advance. All other obligations set forth in the Agreement, including those set forth in Articles 10 and 17 of the Agreement, shall continue to apply.

#### 1.12 Security Generally

- (a) The Service Provider will make arrangements to maintain the security of the Province Data that it has access to, by protecting the Province Data against such risks as unauthorized access, collection, use, duplication, modification, disclosure or disposal. In particular, the Service Provider will:
  - (i) meet or exceed the standards and procedures set out in the Province's Information Technology Security Policy (as revised or replaced from time to time, subject to Article 7 of the Agreement in the event of any such revision or replacement); and
  - (ii) comply with the security requirements set out in this Schedule X and elsewhere in the Agreement.
- (b) The Service Provider will be required to follow directions from the Province with respect to security requirements. Where such directions amount to being Changes, such Changes will either be Ordinary Course Changes or Permitted Material Changes, as applicable, and governed in accordance with Article 7 of the Agreement.
- (c) The Service Provider will have in place all necessary controls to maintain the level of security required for the classification level of the Province Data being handled.
- (d) Province Data, including Province Data in the possession of the Service Provider, will remain at all times in British Columbia or, with the Approval of the Province, in another location in Canada.



- (e) The Service Provider will ensure currency of critical software such as installation of patches and virus software updates on a timely basis and the proactive monitoring of vendor alert services.
- (f) The Service Provider will ensure appropriate network security controls are implemented to achieve and maintain security of Province Data.
- (g) The Service Provider will ensure applications are developed using generally accepted security best practices for coding.
- (h) The Service Provider will employ cryptographic controls where the classification of the data requires it, as reasonably determined by the Province.
- (i) The Service Provider will ensure formal and documented change management processes are used for implementation of application changes. All system and application changes will be thoroughly tested and documented. These cumulative change documents will be retained through the term of the Agreement.
- (j) The Service Provider will ensure application code has been reviewed for possible covert channels and malicious code.
- (k) The Service Provider will ensure Services are managed to ensure that there are no security breaches such as unauthorized access or through malicious code.

#### 1.13 Organizational Security

- (a) The Service Provider will have clearly defined security roles and responsibilities within the Service Provider's organization.
- (b) The Service Provider will ensure appropriate security requirements are included in all Supplier and Subcontractor agreements.
- (c) The Service Provider will have a designated Privacy, Security and Compliance officer responsible for monitoring and enforcing privacy and security measures. While such Person shall be an employee of the Service Provider, such Person shall take functional direction from a Person designated by the Province. The Province will oversee such Person to ensure monitoring and enforcement activities are appropriate and sufficient.

#### 1.14 Limiting Access

- (a) Except as expressly Approved by the Province, and subject to the additional requirements set out herein, the Service Provider will ensure that Province Data may be accessed only by individual Persons ("**Authorized Personnel**") who:
  - (i) are:

- A. Personnel who are employees of the Service Provider who have entered into a Personnel Agreement (as defined below), or
  - B. External Personnel employed by Approved Material Subcontractors, Key Providers or Key Suppliers who have entered into an External Personnel Agreement (as defined below) and who have received clearance in accordance with Section 1.25(g) of this Schedule X; and
- (ii) have a need to access the Province Data or portion thereof in order to perform their job tasks (provided that such job tasks are in furtherance of the Services and are not inconsistent with the terms or the purpose of this Schedule X).

#### 1.15 Physical and Environmental Security

- (a) The Service Provider will ensure that information processing or storage facilities housing Province Data that are otherwise authorized and permitted by the Agreement and this Schedule X (“**Secured Facilities**”) have appropriate physical and environmental security controls such as air conditioning, UPS/power generators, surge protection, and fire protection.
- (b) The Service Provider will ensure that access to Secured Facilities is restricted to Authorized Personnel. In addition to the other obligations set forth in the Agreement and this Schedule X, the Service Provider will ensure that Secured Facilities have adequate physical security controls as Approved by the Province.
- (c) The Service Provider will ensure all data rooms, servers, processors will be accessible only to Authorized Personnel or External Personnel by way of security measures, pass codes and other procedures as Approved by the Province.
- (d) The Service Provider will ensure that Authorized Personnel are prohibited from bringing into or removing from Secured Facilities any devices which might be used to inappropriately remove or copy data.

#### 1.16 Secured Databases

- (a) The Service Provider will identify and segregate, in the manner directed by the Province, all (i) individual computers or other hardware devices that contain Province Data and (ii) all networks and databases that host Province Data (collectively, “**Secured Databases**”).
- (b) The Service Provider will ensure that all Secured Databases may be accessed solely by Authorized Personnel. Access to Secured Databases by Authorized Personnel will be restricted by strong and unique user IDs and passwords that are linked to identifiable Authorized Personnel.

- (c) The Service Provider will at all times meet or exceed the Province's authentication standards, as amended from time to time, subject to any such amendment being subject to Article 7 of the Agreement. Without limiting the generality of the foregoing, the Service Provider acknowledges that the Province of British Columbia is currently undertaking an authentication project with which the Service Provider acknowledges it would be required to comply to the extent that such project relates to the Services or otherwise to the Province Data.
- (d) Password protection on Secured Databases will include power-on and screen saver features. Password rules for Secured Databases and Secured Media must meet or exceed Province standards as such standards are revised from time to time, including standards relating to character length and time-expiry of passwords.
- (e) Firewalls will be in place for all access points to Secured Databases, including systems on SPAN/BC.
- (f) The Service Provider will ensure that policies and procedures exist to restrict and, where permitted, authorize and control remote access to Secured Databases. All such policies and procedures must be Approved in advance by the Province and no remote access to any Secured Databases shall be granted until such time as the Province has provided such Approval. Under no circumstances will the Province Approve any such policies and procedures unless the Province is satisfied that no remote access to Secured Databases can occur and the Service Provider shall at all times ensure that no remote access to Secured Databases can occur (i) from outside of Canada or (ii) by any individual other than Authorized Personnel (acting solely in their capacity as Authorized Personnel), other than for Province Customers accessing their own Personal Information in accordance with user authenticated means that have been Approved by the Province. For greater certainty, except as authorized in accordance with the foregoing:
  - (i) no Secured Databases may be directly connected to the Internet or to any wide area network, and
  - (ii) no Secured Databases may be hosted on hardware that also hosts email, Internet, or other wide area server applications.
- (g) Authorized Personnel will not have access to the Internet or to outbound email unless specifically required to perform their job functions, and all such Internet or email access shall be subject to detailed logging requirements that permit the Service Provider and, where appropriate, the Province to identify the time and particulars of any Internet and email activities of Authorized Personnel.
- (h) Except where required to perform the Services (such as for authorized back-up of Province Data), Secured Databases will not have removable data storage devices (such as floppy drives, CD or DVD burners), and all USB or other ports to which

external storage devices (such as external hard drives) may be connected must be disabled.

- (i) The Service Provider will ensure that Secured Databases are not removed from Secured Facilities except as permitted pursuant to the Agreement.
- (j) The Service Provider will ensure that, prior to disposal or redeployment, all Province Data is erased from Secured Databases using Approved disk erasure procedures (for example, overwrite and inspection procedures), all in accordance with processes as Approved by the Province.
- (k) Wireless network controls shall meet or exceed standards of the Province, as revised from time to time.

#### 1.17 Transmission of Province Data

- (a) The Service Provider shall ensure that all individual items of hardware or storage media that contain Province Data and that are permitted, pursuant to the Agreement, to be removed from Secured Facilities (“**Secured Media**”), such as for purposes of off-site back-up, may be accessed only by Authorized Personnel. Access to Secured Media shall be restricted by password or, where password protection is not possible given the nature of the Secured Media, either (i) the Secured Media shall be protected using physical security measures that prohibit use of the media or access to the Province Data contained thereon, or (ii) the Province Data contained thereon shall be encrypted in a manner that renders discovery of the Province Data practically impossible.
- (b) The Service Provider shall ensure that no Province Data is transmitted over the Internet or any other wide area network (whether by email or otherwise) unless Approved by the Province in advance and unless the Service Provider ensures that the Province Data is encrypted in a manner that renders discovery of the Province Data practically impossible.
- (c) The Service Provider shall ensure that no Province Data is stored on laptops, PDAs, or any other mobile computing devices unless Approved by the Province in advance and unless the Service Provider ensures that (i) the Province Data contained thereon is encrypted in a manner that renders discovery of the Province Data practically impossible AND (ii) access to the device is restricted by password protection or other means approved by the Province.

#### 1.18 Audit Mechanisms

- (a) The Service Provider will maintain records as necessary to ensure that the Service Provider is at all times able to:
  - (i) identify all Secured Databases, including for greater certainty all individual items of hardware (identified by manufacturers’ serial number) that contain Province Data;

- (ii) identify all Secured Media (identified by unique catalogue number); and
  - (iii) describe the amount and nature of Province Data contained thereon.
- (b) The Service Provider must record and maintain user access records/logs (“**System Logs**”) with respect to all Province Data for the purpose of audit and investigations by the Province. All applications with Province Data will also have audit trails. Systems Logs shall include, at a minimum:
  - (i) a record of the time of each entry, modification, and duplication of Province Data and the identity of the Personnel performing such function;
  - (ii) a record of the time of each instance in which Province Data is accessed including the identify of the Personnel gaining the access;
  - (iii) in respect of every network containing Province Data, a record of the time of log-on to and log-off from such network by every user of the network; and
  - (iv) a detailed audit history of each disclosure of Province Data including the identity of the recipient of the Province Data.
- (c) Subject to Article 17 of the Agreement, System Logs will be retained throughout the Term and for a minimum of seven (7) years following Termination unless otherwise agreed to in writing by the Province.
- (d) To the extent reasonably possible, the Systems that store or have access to Province Data will have mechanisms in place to provide automatic notification to a Person designated by the Province in the event of irregular actions, access, copying or other activities with respect to Province Data.

#### 1.19 Use and Disclosure of Personal Information

- (a) The Service Provider may only use Province Data in accordance with the Agreement and only for the purposes of performance of the Service Provider’s obligations, or the exercise of the Service Provider’s rights, under the Agreement.
- (b) Under no circumstances shall the Service Provider enter into any relationship, contractual or otherwise, with another Person involving data sharing or data access, except as Approved by the Province. The Province will have sole and exclusive authority for establishing data sharing or data access agreements.

#### 1.20 Collection of Personal Information

- (a) Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Service Provider shall not collect or create any Personal Information in respect of the Services other than Personal Information in respect of its own Personnel, Subcontractors or Suppliers that is necessary for the performance of

the Service Provider's obligations, or the exercise of the Service Provider's rights, under the Agreement.

- (b) Unless the Agreement otherwise specifies or the Province otherwise directs in writing, where the Service Provider is authorized to collect Personal Information in respect of the Services, it must collect such Personal Information directly from the Person to whom the Personal Information relates.
- (c) Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Service Provider must inform a Person from whom the Service Provider collects Personal Information in respect of the Services:
  - (i) the purpose for collecting the information;
  - (ii) the legal authority for collecting the information;
  - (iii) that the Service Provider is collecting the information on behalf of the Province; and
  - (iv) the title, business address and business telephone number of the Person designated by the Province to answer questions about the Service Provider's collection of Personal Information.

#### 1.21 Accuracy of Personal Information

In addition to and without limiting the Service Provider's obligations to satisfy the Service Levels pursuant to the Agreement, the Service Provider must make every reasonable effort to ensure the accuracy and completeness of any Personal Information to be used by the Service Provider in respect of the Services to make a decision that directly affects the Person that the Personal Information is about.

#### 1.22 Access to Personal Information

If the Service Provider receives a request for access to Personal Information from a Person other than the Province, the Service Provider must promptly advise the Person to make the request to the Province, unless the Agreement expressly requires the Service Provider to provide such access and, if the Province has advised the Service Provider of the name or title and contact information of an official of the Province to whom such requests are to be made, the Service Provider must also promptly provide to the Person making the request such official's name or title and contact information.

#### 1.23 Correction of Personal Information

Without limiting the generality of Section 18.8(b) of the Agreement:

- (a) If the Service Provider receives a request for correction of Province Data that has arisen from an investigation, audit or any other action initiated by the Province or the Medical Services Commission that may affect or alter a decision that confers

or denies a benefit or service or establishes eligibility from a Person other than the Province, the Service Provider must promptly advise the person to make the request to the Province and, if the Province has advised the Service Provider of the name or title and contact information of an official of the Province to whom such requests are to be made, the Service Provider must also promptly provide that official's name or title and contact information to the person making the request.

- (b) Within 5 Business Days of receiving a written direction from the Province to correct or annotate any Province Data that is used to make a decision that confers or denies a benefit or service or establishes eligibility, the Service Provider must annotate or correct the information in accordance with the direction.
- (c) When issuing a written direction under paragraph (b), the Province must advise the Service Provider of the date the correction request to which the direction relates was received by the Province in order that the Service Provider may comply with paragraph (d) below.
- (d) Within 5 Business Days of correcting or annotating any Province Data under paragraph (b), the Service Provider must provide the corrected or annotated information to any Person to whom, within one year prior to the date the correction request was made to the Province, the Service Provider disclosed the Province Data being corrected or annotated.

#### 1.24 Complaints and Investigations

In the event of (a) a dispute between either (i) the Service Provider and an individual; or (ii) the Province and an individual, or (b) an investigation or other proceeding before a Privacy Commissioner or other institution or authority, concerning the collection, use, disclosure, or otherwise by (i) the Service Provider, or (ii) the Province in respect of Personal Information; the Service Provider shall defend and advocate the lawfulness of its personal information handling practices and its policies and procedures, as well as those of the Province, through all available means of dispute resolution as provided for by applicable laws, all in cooperation with and as directed by the Province. Where such dispute, investigation or proceeding arises primarily as a result of an act or failure to act on the part of the Province or as a result of the Province's breach of Article 17 of the Agreement or this Schedule X, the costs and expenses incurred by the Service Provider in defending and advocating as required under Section 1.24 of this Schedule X (including attorney's fees) shall be borne by the Province. Where such dispute or proceeding arises primarily as a result of an act or failure to act on the part of the Service Provider or as a result of the Service Provider's breach of Article 17 of the Agreement or this Schedule X, the costs and expenses incurred by the Service Provider in defending and advocating as required under Section 1.24 of this Schedule X (including attorney's fees) shall be borne by the Service Provider.

## 1.25 Obligations of Personnel, External Personnel and Other People

- (a) In addition to the obligations in Section 1.14 of this Schedule X, the Service Provider shall further limit Authorized Personnel's access to Province Data only to those portions of the Province Data as is reasonably required in order to perform their job tasks, with the objective of limiting access to particularly sensitive Province Data and to Secured Facilities, Secured Databases, and Secured Media that contain particularly sensitive Province Data or that are particularly vulnerable to unauthorized access, collection, use, duplication, modification, disclosure or disposal, all as identified by the Province from time to time ("**Highly Sensitive Information**").
- (b) All Personnel shall be required to sign direct agreements with the Province in a form approved by the Province (the "**Personnel Agreement**"), unless otherwise Approved by the Province. The Personnel Agreements will contain non-disclosure obligations along with express obligations to advise the Province directly in the event that the Person becomes aware of any potential disclosure of Province Data. The Service Provider will not permit any Personnel to carry out any employment activities nor have any access to Province Data until such time as a Personnel Agreement has been signed and delivered by the Personnel to the Service Provider. Signed copies of such agreements will be provided by the Service Provider to the Province upon request.
- (c) All External Personnel shall be required to sign direct agreements with the Province in a form approved by the Province (the "**External Personnel Agreement**"), unless otherwise Approved by the Province. The External Personnel Agreements will contain non-disclosure obligations along with express obligations to advise the Province directly in the event that the Person becomes aware of any potential disclosure of Province Data. In the event of breach of an External Personnel Agreement, the Province will have specific remedies including liquidated damages payable by such External Personnel to the Province. The Service Provider will not permit any Subcontractor, Supplier or other member of the Service Provider Group to carry out any activities in respect of the Services or the Province nor have any access to Province Data until such time all relevant External Personnel of such Subcontractor, Supplier or other member of the Service Provider Entity have signed an External Personnel Agreement and all such signed agreements have been delivered to the Service Provider. Copies of such agreements will be provided by the Service Provider to the Province upon request. The Service Provider shall ensure that External Personnel access only those portions of Highly Sensitive Information, and only in the manner, that is Approved by the Province.
- (d) All Personnel and External Personnel that have access to any Province Data will be trained in all aspects of collection, storage, release, disposal and security as appropriate, in advance of any access being granted, as more particularly described in the training plan contemplated in Section 1.9 above.



- (e) All Personnel and External Personnel will reconfirm in writing their Personnel Agreements or External Personnel Agreements, as applicable, on an annual basis.
- (f) The Service Provider will include in its employee or confidentiality agreements with its Personnel specific language as directed by the Province with respect to privacy and confidentiality. This language may take the form of a unilateral agreement by the Service Provider to the Personnel. The language shall specifically provide for the precedence of the Personnel Agreement over any agreement that the Service Provider has with such Personnel and will further save harmless Personnel for protecting Province Data including complying with requirements set out in the Personnel Agreement.
- (g) The Service Provider will perform security clearances for all Personnel and External Personnel who have significant access rights to Province Data, such as database administrators, programmers, and other technology support Personnel and External Personnel. The scope of the Personnel and External Personnel subject to security clearances and the nature of the security clearances conducted on such People shall be as reasonably directed by the Province from time to time.
- (h) No Subcontractors resident in the United States (“US Subcontractors”) shall have any access to Province Data at any time unless expressly Approved by the Province in advance. The Service Provider shall not utilize US Subcontractors for the purposes of accessing Province Data unless absolutely required. Where US Subcontractors are required for Services such as data conversion, the Service Provider will provide stripped Province Data to the extent possible, such as by replacing names with identifiers or utilizing other means as reasonably directed by the Province. Any US Subcontractors that must access the Province Data (and which have been Approved by the Province) shall only do so from the Service Centre in British Columbia. Under no circumstances shall US Subcontractors: (a) have remote access to Province Data or any access to Province Data from any other location; or (b) have any ability at any time to copy, export or otherwise remove or send any Province Data from the Service Centre. Any activities of US Subcontractors with respect to Province Data shall be directly overseen by the Service Provider.
- (i) The Service Provider will not and will ensure that none of the Service Provider Group:
  - (i) discipline any Personnel for, or discourage any Personnel from, acting in accordance with (i) his or her obligations to the Province pursuant to a Personnel Agreement or External Personnel Agreement, as applicable, or (ii) the Service Provider’s or Service Provider Group’s obligations to the Province pursuant to the Agreement; or
  - (ii) impose or permit to be imposed on any Personnel any obligation that is inconsistent with or that materially adversely affects his or her ability to fulfill (i) his or her obligations to the Province pursuant to a Personnel

Agreement or External Personnel Agreement, as applicable, or (ii) the Service Provider's or Service Provider Group's obligations to the Province pursuant to the Agreement.

- (j) The Service Provider acknowledges and agrees, and shall ensure that all education and training of Personnel reflects and all policies and agreements applicable to Personnel reflect, that the obligations of Personnel or External Personnel agreements with members of the MAXIMUS Group may obligate Personnel and External Personnel in protecting the disclosure of Province Data to act in a manner that is contrary to the interests of the MAXIMUS Group (for example, because the fulfillment of the obligation by the Personnel may result in monetary damages being suffered by MAXIMUS US in the United States). The MAXIMUS Group expressly acknowledges and agrees that at all times the protection of Province Data shall be paramount and actions by any Personnel or External Personnel to protect the disclosure of such Province Data is ultimately in the best interests of the MAXIMUS Group.

#### 1.26 Compliance and Remedies

- (a) The Service Provider must comply with any direction given by the Province under this Schedule X. The Service Provider will be required to report on compliance with security and privacy requirements to the Province. Any breach of Article 17 of the Agreement or this Schedule X, disclosure or potential disclosure of Province Data contrary to this Agreement, or other risk with respect to the disclosure of Province Data shall be immediately reported by the Service Provider to the Province.
- (b) If for any reason the Service Provider does not comply, or anticipates that it will be unable to comply, with a provision in Article 17 of the Agreement or in this Schedule X in any respect, the Service Provider must promptly notify the Province of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

#### 1.27 Audits

- (a) In addition to any other rights of inspection the Province may have under the Agreement (such as those set forth in Article 14 of the Agreement) or at law or pursuant to any legislation, regulation or order, the Province may, at any time and on reasonable notice to the Service Provider (other than in situations where the Province determines in its sole discretion that there is a risk of potential disclosure of Province Data, in which case no notice is required), enter on the Service Provider's premises, or the premises of any Subcontractor, Supplier or member of the Service Provider Group, to inspect any Province Data in the possession of any such Person, or to inspect any of the information management policies or practices of such Person relevant to its management of Province Data or its compliance with Article 17 of the Agreement and with this Schedule X and all

such Persons must permit, and provide reasonable assistance to, any such inspection.

#### 1.28 Certain Remedies upon Disclosure of Province Data

- (a) As noted in Article 21 of the Agreement, any disclosure of Province Data contrary to the terms of the Agreement will constitute a Material Breach by the Service Provider. A Material Breach with respect to disclosure of Province Data gives rise to several remedies for the Province, including the right to terminate the Agreement. Under certain circumstances, such Material Breach also obligates the Service Provider to pay liquidated damages to the Province pursuant to Section 21.3 of the Agreement.
- (b) All remedies of the Province against the Service Provider are further supported by the performance guarantee from MAXIMUS Canada and the financial guarantee from MAXIMUS US.

#### 1.29 Corporate Structure

- (a) Services will be delivered at all times by MAXIMUS Sub and MAXIMUS Prime.
- (b) MAXIMUS Sub, a British Columbia corporation, is wholly owned by, and shall at all times during the Term remain wholly owned by MAXIMUS Prime.
- (c) MAXIMUS Prime, a British Columbia corporation, is wholly beneficially owned by, and shall at all times during the Term remain wholly beneficially owned by MAXIMUS Canada in accordance with the Trust Agreement.
- (d) MAXIMUS Canada, a Nova Scotia incorporated corporation, is wholly owned by, and shall at all times during the Term remain wholly owned by MAXIMUS US, unless otherwise Approved by the Province.
- (e) Restrictions shall be placed in the Articles of each of the Service Providers relating to the prevention of disclosure of Province Data, in a form approved by the Province. Such restrictions shall not be amended or deleted unless Approved in advance by the Province.
- (f) MAXIMUS Canada shall, in addition to restrictions in this Agreement, be restricted from taking actions in respect of the disclosure of Province Data as more particularly set forth in the Performance Guarantee.
- (g) Directors of the Service Providers will at all times be British Columbia residents who are Canadian citizens and who are not US Personnel. Any breach of this paragraph would be deemed to be a Material Breach by the Service Provider under the Agreement. All directors of the Service Provider will enter into External Personnel Agreements with the Province.

- (h) MAXIMUS Canada hereby expressly agrees, in addition to all other obligations otherwise set forth herein and in the Performance Guarantee, that it will fully comply with the obligations set forth in Article 17 of the Agreement and this Schedule X, it will at no time permit or take any steps to allow the disclosure of Province Data contrary to the terms of Article 17 of the Agreement or this Schedule X, and it will immediately advise the Province of any disclosure, potential disclosure or request to disclose Province Data contrary to the terms of the Agreement (including any request from any Persons employed by or providing services to MAXIMUS US). MAXIMUS Canada expressly acknowledges that it is subject solely to the laws of Canada and that under no circumstances will it take any steps that would make it subject to the laws or jurisdiction of the United States. In the event that MAXIMUS Canada or any of its employees do become subject to the laws or jurisdiction of the United States for any reason it will immediately advise the Province of the same including the circumstances giving rise to the same. Any breach by MAXIMUS Canada of the obligations set forth herein or in the Performance Guarantee or any disclosure of Province Data that it permits or allows to occur for any reason shall be deemed to be a Material Breach of this Agreement.
- (i) A trust structure has been established with the Trustee pursuant to the Trust Agreement referenced under Schedule L of the Agreement in order to further prevent the disclosure of Province Data contrary to the terms of this Agreement.

#### 1.30 Additional Representations, Warranties and Covenants

- (a) In addition to the representations and warranties otherwise set forth in the Agreement, the Service Provider represents, warrants, and covenants to the Province as follows:
  - (i) The Service Provider will at all times comply with and ensure that all of the Service Provider Group comply with their obligations pursuant to the foregoing provisions of this Schedule X, as such exist from time to time;
  - (ii) The Service Provider is and will remain during the term of the Agreement in compliance, in all material respects, with all applicable laws relating to the privacy of Personal Information, including without limitation the *Personal Information Protection and Electronic Documents Act* (Canada) and the *Personal Information Protection Act* (British Columbia);
  - (iii) The Service Provider shall ensure that, with respect to the Services, the Personal Information, and its and the Service Provider Group's obligations in connection with the Agreement, the Province remains in compliance with the *Freedom of Information and Protection of Privacy Act* (British Columbia) and all other applicable laws and regulations relating to the privacy of personal information;

- (iv) The Service Provider has in place privacy policies and guidelines as required by Applicable Laws;
- (v) The Service Provider has appointed a Privacy Officer or individual who is responsible for compliance with its privacy obligations and the implementation of its privacy policies and practices;
- (vi) The Service Provider has implemented education and training programs in respect of its employees and contractors in order to educate such personnel regarding its obligations in respect of Personal Information and regarding privacy practices in general; and
- (vii) The Service Provider will handle Personal Information in a manner that complies with all applicable privacy laws.