

# Application Support and Server Management (ASSM) Agreement

**BETWEEN:**

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

(the "Province", "we", "us", or "our" as applicable) at the following address:

**AND:**

CGI Information Systems and Management Consultants Inc.,

(the "Contractor", "you", or "your" as applicable); and,

CGI Group Inc.

(the "Guarantor")

The Province and the Contractor agree to the following terms:

## **CONTRACTOR'S OBLIGATIONS**

1. You must provide the services described in Schedule A (the "Services") in accordance with this Agreement. You must provide the Services during the term of five (5) years following the completion of the Transition Project (the "Term"), together with two renewal options of two (2) years each, exercisable in the sole discretion of the Province. The Transition Project will commence on July 1<sup>st</sup>, 2006 (the "**Effective Date**") and will be completed by October 1<sup>st</sup>, 2006, (the "**Handover Date**") or such other date as contemplated under section 16.02 herein;
2. Unless otherwise specified in this Agreement or the parties otherwise agree in writing, you must supply and pay for all labour, materials, facilities, approvals and licenses necessary or advisable to perform your obligations under this Agreement.
3. Unless otherwise specified in this Agreement, you must perform the Services to a standard of care, skill, and diligence maintained by persons providing, on a commercial basis, services similar to the Services.
4. You must ensure that all persons you employ or retain to perform the Services are competent to perform them and are properly trained, instructed, and supervised.
5. We may from time to time give you reasonable instructions (in writing or otherwise) as to the performance of the Services. Providing that such instructions provided to you are not inconsistent with this Agreement, you must comply with those instructions but, unless otherwise specified in this Agreement, you may determine the manner in which the instructions are carried out.
6. You must, upon our request, fully inform us of all work done by you or a subcontractor in connection with providing the Services.
7. You must maintain books of account, invoices, receipts, and vouchers of all expenses incurred in relation to this Agreement, in form and content and for a period satisfactory to us.

8. Subject to section 13, you must permit us at all reasonable times to inspect and copy all accounting records, findings, software, data, specifications, drawings, reports, documents and other material, whether complete or not, that, are :
  - (a) produced by you or a subcontractor ((the "Produced Material"), which includes any material in existence prior to the start of the Term or developed independently of this Agreement, and that is incorporated or embedded in the Produced Material by you or a subcontractor (the "Incorporated Material")), or
  - (b) received by you or a subcontractor from us or any other person (the "Received Material").

In this Agreement, the Produced Material and the Received Material is collectively referred to as the "Material" generated in the course of your providing the Services under this Agreement; to the extent that the Material incorporates content for which Intellectual Property Rights exist, then the provisions of section 13 shall govern the Intellectual Property Rights in respect of that portion of the Material;

9. You must treat as confidential all information in the Material and all other information accessed or obtained by you or a subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure without our prior written consent except
  - (a) as required to perform your obligations under this Agreement or to comply with applicable law,
  - (b) if it is information that is generally known to the public other than as result of a breach of this Agreement, or
  - (c) if it is information in any Incorporated Material.
10. You must make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure or disposal, and you must comply with the obligations described in Schedule G.
11. If you receive a request for access to any of the Information from a person other than us, and this Agreement does not require or authorize you to provide that access, you must advise the person to make the request to us.
12. We exclusively own all property rights in the Material which are not Intellectual Property Rights. You must deliver any Material to us immediately upon our request.
13. Intellectual Property Issues:
  - (a) Pre-Existing Intellectual Property
    - (i) All Intellectual Property Rights owned by a party, its licensors or subcontractors as at the Effective Date shall continue to be owned by such party, its licensors or subcontractors and, except as expressly provided in this Agreement, the other party shall not acquire any right, title or interest in or to such Intellectual Property Rights.

- (ii) The Province grants to the Contractor a non-exclusive, non-transferable and royalty-free license during the Term to use any Intellectual Property Rights owned by the Province or licensed to the Province by third parties, and including the right to use any of the Province third party software and the Province software, to the extent necessary for, and for the sole purpose of, providing the Services to the Province and otherwise performing its obligations under this Agreement.
- (iii) The Contractor grants to the Province a non-exclusive, non-transferable royalty-free license during the Term to use any Intellectual Property Rights of the Contractor to the extent necessary for, and for the sole purpose of, utilizing the Services and exercising and performing the Province's rights and obligations under this Agreement.

(b) Ownership of Enhancements

- (i) All right, title and interest, including all Intellectual Property Rights in, all modifications, updates, upgrades or enhancements made, conceived or reduced to practice by the Contractor, its affiliates or its subcontractors ("the Province Modifications") to the proprietary material of the Province shall be owned exclusively by the Province, and shall be subject to the license rights granted in section 13(a) hereof and the Contractor hereby waives in favour of the Province its moral rights in and to such intellectual property and will ensure that its employees, agents and subcontractors are contractually bound to do the same.
- (ii) All right, title and interest, including all Intellectual Property Rights in, all modifications, updates, upgrades or enhancements made, conceived or reduced to practice by the Contractor or the Province ("the Contractor Modifications") to the proprietary materials of the Contractor shall be owned exclusively by the Contractor, and shall be subject to the license rights granted in section 13(a) hereof and those granted pursuant to a termination transition plan.

(c) Ownership by the Province of New Works

- (i) All right, title and interest, including all Intellectual Property Rights in new proprietary material of the Province resulting from or based on any Services and/or any Projects which is created or developed exclusively for the Province and provided by the Contractor to the Province hereunder, shall be owned exclusively by the Province; any such new proprietary material shall subject to the license rights granted in section 13(a) hereof, and the Contractor hereby waives in favour of the Province its moral rights in and to such intellectual property and will ensure that its employees, agents and subcontractors are contractually bound to do the same.
- (ii) Except with the Province 's prior written consent, the Contractor shall not include all or a material portion of any of the Contractor Intellectual Property Rights in the

development, creation, modification of proprietary material for the Province if such use or inclusion forces the Province to obtain authorization from the Contractor in order to use such proprietary material. If the Contractor uses or includes Contractor Intellectual Property Rights without the Province's prior written consent, the Province shall be automatically granted a fully paid up, royalty-free, non-exclusive, irrevocable, perpetual, transferable and assignable worldwide licence to use, reproduce, modify and distribute such Contractor Intellectual Property Rights.

(d) Ownership by Third Party of Intellectual Property

- (i) Except with the Province's prior written consent, the Contractor shall not include all or a material portion of any third party Intellectual Property Rights in the development, creation, modification or personalization of proprietary material for the Province to the extent that such use would subject the Province to requiring the authorization of the third party.
- (ii) The parties agree that the title, rights and licences granted under this Agreement are subject to any trademark or copyright owned by a software supplier and that this Agreement is subject to the terms and conditions of such trademark or copyright. The parties shall not remove any copyright or other proprietary notices and shall ensure that all such notices are duly reproduced.

(e) Residual Knowledge

Nothing contained in this Agreement shall restrict either party from the use of any know-how, concepts, or modifications of concepts, methodologies, processes, technologies, algorithms or techniques relating to the Services which either party, individually or jointly, develops or discloses under this Agreement, provided that in doing so such party does not breach its confidentiality obligations specified in this Agreement or infringe the Intellectual Property Rights of the other party.

(f) Definitions:

"Intellectual Property Rights" means all right, title and interest in and to any and all intellectual and industrial property, including, but is not limited to,

- (i) any and all patents and applications thereof;
- (ii) any and all inventions (whether patentable or not), invention disclosures, improvements, trade secrets, design, programming architecture, notes, drawings, systems, data, modules, tools, methodologies, analysis, frameworks, specifications, reports, manuals, interfaces, formula, models, methods, processes, proprietary information, technology, technical data, schematics and customer lists, and all documentation relating to any of the foregoing;

- (iii) any and all copyrights, copyrights registrations and applications thereof, and all other rights corresponding thereto throughout the world;
- (iv) any and all trade names, corporate names, logos, trade dress, common law trademarks, trademark registrations and applications thereof; and
- (v) any and all computer programs, applications or software whether in source, object or executable code and any proprietary rights in such programs, applications or software, including documentation and other materials or documents related thereto;

14. Deleted

15. You must comply with the Privacy Protection Schedule if attached as Schedule F.

16. You must maintain and pay for insurance on the terms, including form, amounts, and deductibles, outlined in Schedule D, if any, as modified from time to time in accordance with our directions.

17. You must apply for and, immediately on receipt, remit to us any available refund, rebate or remission of federal or provincial tax or duty that we have paid you for or agreed to pay you for under this Agreement.

18. You must comply with all applicable laws.

19. Deleted

20. Neither you nor the Guarantor may assign your rights under this Agreement without our prior written consent.

21. You may subcontract your obligation to provide up to 20% of the Services (measured on an annual basis by dollar value) without our prior written consent provided that you comply with all of the requirements of this section. The 20% subcontracting permitted by this section is in addition to the subcontractors named on Schedule C and to any other subcontractors that are providing any part of the Services to the Province on the Effective Date.

No subcontract, whether consented to or not, relieves you from any obligations under this Agreement. You must ensure that any subcontractor you retain fully complies with this Agreement in performing the subcontracted obligations. You must obtain each subcontractor's written acknowledgement that it is bound by all of the terms, covenants and conditions of this Agreement governing the delivery of the Services, including the provisions of the Privacy Schedule attached as Schedule F.

You are not permitted to retain as a subcontractor any person or entity that is owned or controlled by a person or entity that is not Canadian.

22. You must not provide any services to any person in circumstances which, in our reasonable opinion, could give rise to a conflict of interest between your duties to that person and your duties to us under this Agreement.
23. You must not do anything that would result in personnel hired by you or a subcontractor being considered our employees.
24. You must not commit or purport to commit us to pay any money unless specifically authorized by this Agreement.

## **PAYMENT**

25. If you comply with this Agreement, we must pay you
  - (a) the amounts, including the fees, described in Schedule B, and
  - (b) the expenses, if any, described in Schedule B if they are supported, where applicable, by proper receipts and, in our opinion, are necessarily incurred by you in providing the Services.
26. In order to obtain payment of any fees and expenses under this Agreement, you must submit to us an invoice in a form satisfactory to us upon completion of the Services or at other times described in Schedule B.
27. We may withhold from any payment due to you an amount sufficient to indemnify us against any liens or other third party claims that have arisen or could arise in connection with the provision of the Services. We may also withhold from you any amount that we believe is not owing to you pursuant to this Agreement.
28. Our obligation to pay money to you is subject to the ***Financial Administration Act***, which makes that obligation subject to an appropriation being available in the fiscal year of the Province during which payment becomes due.
29. Unless otherwise specified in this Agreement, all references to money are to Canadian dollars.
30. We certify to you that the Services purchased under this Agreement are for our use and are being purchased by us with Crown funds and are therefore not subject to the ***Goods and Services Tax***.
31. If you are not a resident in Canada, we may be required by law to withhold income tax from the fees described in Schedule B and then to remit that tax to the Receiver General of Canada on your behalf.

## **TERMINATION**

32. We may terminate this Agreement
  - (a) If you are guilty of a Material Breach of this Agreement, immediately on giving written notice of termination to you; except as provided in subsection (b) hereof, and provided

that the Material Breach can be cured within 30 days then we must give you written notice of that Material Breach and advise you of our intention to terminate this Agreement and you must, within 5 days of your receipt of that notice, provide us with a plan that is acceptable to us, acting reasonably, by which you will cure the Material Breach within 35 days of the day upon which you receive the written notice of the Material Breach, and you must thereafter proceed, according to the approved plan, to cure the Material Breach within the time limits provided herein.

- (b) We are not obliged to provide you a 30 day period in which to cure your breach of this Agreement if the Material Breach is a breach of the Privacy Schedule, is one of the breaches described in subsection (c) herein, or is a Chronic Breach;
- (c) For the purposes of this section, a Material Breach of the Agreement includes a change of control of the Contractor or the Guarantor to which the Province has not consented, an assignment of this Agreement by the Contractor or the Guarantor without the consent of the Province, the bankruptcy or insolvency of the Contractor or the Guarantor or if the Contractor or the Guarantor makes a proposal to its creditors under the provisions of the Bankruptcy and Insolvency Act, RS1985, c.B-3, and any material breach of the obligations of the Contractor set out in Schedule F; it is agreed that in determining whether a breach is a material breach of the obligations of Schedule F, the parties will have regard to whether the non-compliance causes an adverse impact on the Province taking into consideration such of the following matters as may be appropriate in the circumstances of the particular breach;
  - (i) Circumstances that led to the disclosure
  - (ii) Frequency of occurrence
  - (iii) Whether the Contractor has complied with the Agreement
  - (iv) Security measures used
  - (v) Harm to public confidence
  - (vi) Financial injury to the Province
  - (vii) Quantity of the data disclosed
  - (viii) Sensitivity of the data disclosed
  - (ix) Reputational harm to the Province

No consideration of these circumstances will limit the ability of the Province to terminate this Agreement for a breach of the requirements of Schedule F.

- (d) If you have paid damages to the Province equal to or greater than the limit of the Indemnity provided in section 2 of Schedule E, and after that payment is made we have provided you with 6 months notice of our intention to terminate this Agreement;
- (e) If the Transition Project has not been completed by December 1<sup>st</sup>, 2006.
- (f) At any time after the passage of two years from the Handover Date, without cause, upon payment of an early termination fee as provided herein and with 6 months prior written

notice, which notice may be given after 18 months from the Handover Date; the early termination fee shall be an amount calculated as follows:

- i) if the effective date of the early termination is during year 3 of the Term, an amount equal to 15% of the Base Services Fee times the number of months from the effective date of the early termination to the end of the Term;
- ii) if the effective date of the early termination is during year 4 of the Term, an amount equal to 10% of the Base Services Fee times the number of months from the effective date of the early termination to the end of the Term; and
- iii) if the effective date of the early termination is during year 5 of the Term, an amount equal to 5% of the Base Services Fee times the number of months from the effective date of the early termination to the end of the Term;

The early termination fee is payable to the Contractor on the effective date of the early termination.

If you fail to comply with it; in that circumstance, we may, following the termination, pursue other remedies.

- 33. You may terminate this Agreement if we continue to be in default of our obligation to pay you for the Services provided as required by section 25 after the expiration of a 30 day time period described in a written notice given to us no sooner than the date upon which we are initially in default of our obligation to pay you and where such notice describes the fact of our failure to pay you as required by this Agreement and advises of your intention to cancel this Agreement if the payment is not made within the 30 day period set out in the notice.

## **GENERAL**

- 34. You are an independent contractor and not our employee, agent, or partner.
- 35. If you are a corporation, you represent and warrant to us that you have authorized the signatory or signatories who have signed this Agreement on your behalf to enter into and execute this Agreement on your behalf without affixing your common seal.
- 36. We must make available to you all information in our possession which we consider pertinent to your performance of the Services.
- 37. This Agreement is governed by and is to be construed in accordance with the laws of British Columbia.
- 38. Time is of the essence in this Agreement.
- 39. Any notice contemplated by this Agreement, to be effective, must be in writing and either
  - (a) sent by fax to the addressee's fax number specified in this Agreement,



- (b) delivered by hand to the addressee's address specified in this Agreement, or
- (c) mailed by prepaid registered mail to the addressee's address specified in this Agreement.

Any notice mailed in accordance with paragraph (c) is deemed to be received 96 hours after mailing. Either of the parties may give notice to the other of a substitute address or fax number from time to time.

- 40. A waiver of any term of this Agreement or of any breach by you of this Agreement is effective only if it is in writing and signed by us and is not a waiver of any other term or any other breach.
- 41. No modification of this Agreement is effective unless it is in writing and signed by the parties.
- 42. This Agreement and any modification of it constitutes the entire Agreement between the parties as to performance of the Services.
- 43. DISPUTE RESOLUTION
  - 43.1 In the event of a disagreement between the Contractor and the Province on any matter relating to this Agreement, it is agreed that the parties respective Relationship Managers will meet initially and as frequently and for so long as is necessary for the parties to conclude that all reasonable good faith efforts to resolve the dispute have been made;
  - 43.2 If the dispute is not resolved within 5 business days of the initial meeting between the Relationship Managers, the dispute will be referred to the Joint Executive Committee for attention; the Joint Executive Committee will meet as frequently and for so long as is necessary for the parties to conclude that all reasonable good faith efforts to resolve the dispute have been made by the Joint Executive Committee;
  - 43.3 If the dispute is not resolved by the Joint Executive Committee within 10 business days of the initial meeting of the Joint Executive Committee, the dispute will be referred to the Joint Relationship Sponsors for attention; the Joint Relationship Sponsors will meet as frequently and for so long as is necessary for the parties to conclude that all reasonable good faith efforts to resolve the dispute have been made by the Joint Relationship Sponsors;
  - 43.4 If the dispute is not resolved by the Joint Relationship Sponsors within 10 business days of the initial meeting of the Joint Relationship Sponsors, the dispute will be referred to the decision of a sole arbiter appointed pursuant to the provisions of the Commercial Arbitration Act, RSBC 1996, c.55, and the decision of the Arbitrator so appointed shall be final and binding upon the parties; The place of arbitration will be Victoria, British Columbia.
- 44. Sections 6 to 15, 17, 19, 27, 28, 31 to 33 and 43 continue in force indefinitely, even after this Agreement ends.

45. The Schedules to this Agreement are incorporated by this reference to be a part of this Agreement.
46. If there is a conflict between a provision in a schedule to this Agreement and any other provision of this Agreement, the provision in the schedule is inoperative to the extent of the conflict unless it states that it operates despite a conflicting provision of this Agreement.
47. This Agreement does not operate as a permit, license, approval or other statutory authority which you may be required to obtain from the Province or any of its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with the exercise by the Province or its agencies of any statutory power or duty.
48. The Agreement may be entered into by each party signing a separate copy of this Agreement (including a photocopy or faxed copy) and delivering it to the other party by fax.
49. In this Agreement,
  - (a) the words "includes" and "including" are not intended to be limiting,
  - (b) unless the context otherwise requires, references to sections by number are to sections of this Agreement,
  - (c) "we", "us", and "our" refer to the Province alone and not to the combination of the Contractor and the Province which is referred to as "the parties", and
  - (d) "attached" means attached to this Agreement when used in relation to a schedule.
  - (e) Capitalized words are defined terms and have the meaning attributed to them when the capitalized word or words were first used in this Agreement; in addition, for the purposes of this Agreement, the words defined in Schedule O have the meanings attributed to them in that schedule.
50. If Schedule E is attached, the additional terms set out in that schedule apply to this Agreement.
51. The following Schedules are included in this Agreement:
  - A Services and Service Levels
  - B Fees and Expenses
  - C Subcontractor(s)
  - D Insurance
  - E Additional Terms
  - F Privacy Protection
  - G Security Policies
  - H Governance Process
  - I Change Order Process
  - J Key Personnel
  - K Sample Non-Disclosure Agreement
  - L Sample Employee Confidentiality Agreement
  - M Province Shared Infrastructure
  - N Transition Charter
  - O Definitions

THE PARTIES have duly executed this Agreement the 29<sup>th</sup> day of June, 2006.

**SIGNED AND DELIVERED** on behalf of the  
Province by its duly authorized representative

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(Authorized Representative)

**SIGNED AND DELIVERED** by the Contractor  
(by an authorized signatory of the Contractor)

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(Authorized Signatory)

**SIGNED AND DELIVERED** by the Guarantor by  
(an authorized signatory of the Guarantor)

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(Authorized Signatory)

**SCHEDULE A – SERVICES and SERVICE LEVELS**

**SEE THE FOLLOWING 35 PAGES WHICH DESCRIBE THE SERVICES AND SERVICE LEVELS  
REQUIRED BY THIS AGREEMENT.**

## SCHEDULE B - FEES AND EXPENSES

### 1. **Fixed Fees:**

The Base Services Fee for Base Support Services as defined in Schedule A of this Agreement is <sup>s.21</sup> per month, commencing on the Handover Date;

These fees are fixed for the duration of the initial five year term of the Agreement. If the Province wishes to extend the Agreement for one or more of the optional two year terms, the Contractor and the Province will mutually agree on prices to be applied.

Changes prior to the Handover Date - The Base Services Fees for Base Support Services has been established according to the Province's environment as at July 1, 2006 and the description of Services in Schedule A. Should the Province make changes to the environment or the Services description during the period of time between July 1, 2006 and the Handover Date which, in the Contractor's determination, affects the Contractor's cost of providing the Services, an adjustment to the Base Services Fees that is mutually acceptable to the parties will be made through the Change Order Process described in Schedule I.

Changes after the Handover Date - Changes to scope of Base Support Services, including changes to defined Service Levels, may result in changes to the Base Services Fee. The Contractor and the Province will use Change Order Processes described in Schedule I to make required adjustments as applications are added or removed.

### 2. **Hourly Fees for Application Enhancement and Development:**

For the Skill Sets in the rate tables in this section to following definitions apply:

#### **Senior Project Manager**

- Conduct kickoff meeting with the Province.
- Oversee project timelines and costs.
- Provide business and technical advice as required
- Quality Assure deliverables prior to submitting to the Province for review.
- Monitor project for potential risks.
- Manage and assist all project management resources and the Province's Project Manager in resolving issues and mitigating risks that are of a significant or strategic nature.
- Corporate responsibility for both the Contractor's Team and overall project delivery.
- Main point of contact for the Province's Relationship Manager and the Province's project manager.
- Development a Project Statements, Project Plans, Quality Assurance Plans and Risk Management Plans to guide the enhancement and maintenance of the applications.
- Conduct meetings and workshops as required, at a senior level

### **Intermediate Project Manager**

- Provide lead project management services as described for Senior Project Manager for small to medium sized projects.
- Provide support to a Senior Project Manager for specific project areas for medium and large projects.
- Facilitation of JAD sessions and other meetings as required.
- Organization and attendance at status meetings.
- Preparation and delivery of project status, financial status and schedule status reports.
- Development of change requests to guide all systems maintenance and enhancement activities.
- Meeting the contract budgets and schedules.
- Management of scope and change control.
- Identification, management and resolution of project risks and issues.
- Task and resource management within the Contractor's team to ensure adequate allocation of resources to meet delivery and release dates.
- Preparation, review, maintenance, and approval of project work plans.
- Quality assurance of key deliverables including requirements and design documentation, change requests, test plans.
- Day-to-day supervision of the Contractor's team
- Conduct meetings and workshops as required, at an intermediate level

### **Junior Project Manager**

- Provide lead project management services for small projects or change requests.
- Provide support to Senior or Intermediate Project Managers for specific project areas for medium and large projects.
- Facilitation of JAD sessions and other meetings as required.
- Attendance at status meetings.
- Preparation of project status, financial status and schedule status reports as required
- Assist in development of change requests to guide all systems maintenance and enhancement activities.
- Task and resource management within the Contractor's team to ensure adequate allocation of resources to meet delivery and release dates.
- Preparation and maintenance of project work plans
- Day-to-day supervision of components of the Contractor's team.

### **Senior DBA**

- Creating the complex data models.
- Provide advice regarding data model adjustments.
- Participate in requirements and JAD sessions as required.
- Participate in systems design and analysis as required.
- Submitting models for technical and business review.
- Participate in sessions regarding logical and physical data models.
- Upgrading the physical database as required.
- Providing advice re: application performance and stability.
- Coordinating deliveries of releases with Province staff.
- Systems analysis and design.
- Supervision of all DBA staff

### **Intermediate DBA**

- Creating the moderate complexity data models
- Providing support to the Senior DBA to create complex data models
- Maintain the data models within databases
- Review data model additions and changes to meet Provincial standards
- Providing ongoing Database support.
- Populating and refreshing the database as required.
- Packaging application deliveries.
- Coordinating deliveries of releases with Provincial staff.
- Systems analysis and design.
- Code development as required
- Unit testing.
- Updating technical specifications.
- System Integration testing.

### **Junior DBA**

- Coordinating deliveries of releases with Provincial staff.
- Creating the moderate complexity data models
- Providing support to Senior and Intermediate DBAs to create complex data models
- Maintain the data models within databases
- Review data model additions and changes to meet Provincial standards
- Providing ongoing Database support.
- Populating and refreshing the database as required.
- Packaging application deliveries.
- Coordinating deliveries of releases with Provincial staff.
- Systems analysis and design.
- Code development as required
- Unit testing.
- Updating technical specifications.
- System Integration testing.

### **Senior Architect**

- Leading architect team members
- Clarification of business problems
- Conducting requirement gathering meetings and JAD facilitation, if required.
- Updating the requirements documentation.
- Applying review findings to the models.
- Assisting with Change Request development.
- Quality assurance of enhancements and fixes.
- System quality assurance review
- Developing application design components.
- Providing advice to the Province regarding the application architecture
- Obtaining Provincial approval for the technical architecture for new application components or application component changes

### **Intermediate Architect**

- Clarification of business problems
- Updating the requirements documentation.
- Applying review findings to the models.

- Assisting with Change Request development.
- Quality assurance of enhancements and fixes.
- Development of comprehensive test plans and procedures.
- System quality assurance testing.
- Reporting of quality assurance testing problems.
- Developing application design components.
- Updating systems design documentation.
- Providing advice to the Province regarding the application architecture
- Obtaining Provincial approval for the technical architecture for new application components or application component changes
- Gathering and documenting user requirements.

#### **Junior Architect**

- Clarification of business problems
- Updating the requirements documentation.
- Applying review findings to the models.
- Assisting with Change Request development.
- Quality assurance of enhancements and fixes.
- Assisting with the development of comprehensive test plans and procedures.
- Initial system quality assurance testing.
- Reporting of quality assurance testing problems.
- Developing application design components at a junior level
- Updating systems design documentation.
- Gathering and documenting user requirements.

#### **Senior Technical Analyst**

- Leading development team members
- Ensuring that the Contractor's development and test technical architecture aligns with the technical architecture at the Province
- Planning any required upgrades to the technical architecture throughout the project
- Developing complex application design components.
- Updating systems design documentation.
- Understanding leading edge technologies and complex program code,
- Providing quality assurance of work done by Intermediate and Junior Technical Analysts.

#### **Intermediate Technical Analyst**

- Planning any required upgrades to the technical architecture throughout the project
- Packaging application deliveries
- Coordinating deliveries of releases with Provincial staff
- Systems analysis and design
- Code development
- Unit testing
- Updating technical specifications
- System Integration testing

#### **Junior Technical Analyst**

- Systems analysis and design
- Code development



- Unit testing
- Updating technical specifications
- System Integration testing

**Administrative Support**

- Document production
- Stenography as required
- Invoicing
- Time reporting
- Generating reports for senior team members

Where the Province requires the Contractor to engage a specific Contractor managed sub-contractor or resource (non-Contractor Member) for incremental consulting services, the standard rates will not apply. The Province and the Contractor will negotiate in good faith the hourly rate to be used on a case-by-case basis.

For specialist Contractor resources not shown in the rate tables, the Province and the Contractor will agree on the resource rate to be used on a case-by-case basis.

Rates from the tables below will be used to estimate and charge for billable enhancement and development work which is beyond the scope of base support services as defined in this Agreement. The Contractor and the Province will use the Change Order Processes described in Schedule I for estimation and approval of enhancements.

The hourly rates are based on an eight hour work day.

The hourly rates in this section are fixed for the duration of the initial five year term of the Agreement. If the Province wishes to extend the Agreement for one or more of the optional two year terms, the Contractor and the Province will negotiate rates to be applied.

Skill Set	Fixed Hourly Rate	Skill Set	Fixed Hourly Rate
Project Managers:	s.21	Data Base Administrators:	s.21
<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>		<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>	
Architects:		Technical Analysts:	
<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>		<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>	
Administrative Support			

### 3. Dedicated Support Resources

The Province can request dedicated support resources using the Change Order Process. As long as the commitment is for a full-time resource for a minimum 1 year period the Province will be entitled to the preferred hourly rates shown in the table below. Dedicated resources can be requested at any time during the year.

The Province will pay the hourly rate times the number of hours the resource is available to work on Provincial enhancement work in the month. This will exclude sick time, vacation time, time spent on delivery of Base Support Services and other time that the resource may be working on the Contractor's internal tasks. Provided the Base Service Obligations are being met and Service Level Agreements are being achieved and both parties agree that there is enhancement work to be done as evidenced in the change management system then the Contractor may utilize Base Support Service resources to backfill when dedicated support resources are unavailable. Available hours are based on an 8 hour work day.

If the committed hours are not reached, the Province will be billed for the number of available hours in the month. It will be the responsibility of the management teams to ensure effective utilization of dedicated resources; that is, to make sure enhancement items are continually prioritized so that resources are busy to the greatest extent possible.

For hours in excess of the normal available hours in a month, where the individual resource may be required to work overtime, the Contractor will bill the Province for these hours at the same preferred rate. Overtime rates will not apply.

Skill Set	Fixed Hourly	Skill Set	Fixed Hourly Rate
Project Managers:	s.21	Data Base Administrators:	s.21
<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>		<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>	
Architects:		Technical Analysts:	
<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>		<ul style="list-style-type: none"> <li>• Senior</li> <li>• Intermediate</li> <li>• Junior</li> </ul>	
Administrative Support			

**4. Expenses:**

- (a) where travel is required and with prior approval from the Province, travel, accommodation and meal expenses for travel greater than 32 kilometres away from 1515 Blanshard Street, Victoria, British Columbia on the same basis as the Province pays Group 2 employees when they are on travel status;
- (b) travel and other billable project expenses will be included and agreed to as project work is approved by the Province through contract change orders or other appropriate forms of approval;
- (c) The Contractor's claim for reimbursement of expenses will be reduced by the total of GST shown on the receipts or by reducing the total of the receipts by 6/106 (or a revised amount based on the current rate of GST) of the total receipts, if the goods and services are subject to GST, but the tax does not appear on the receipts.

**5. Invoices:**

In order to obtain payment of any fees and expenses under this agreement for a period from and including the 1<sup>st</sup> day of a month to and including the last day of that month (each a "Billing Period"), the Contractor will deliver to the Province on a date after (monthly in arrears) the Billing Period (each a "Billing Date"), a written invoice in a form satisfactory to the Province containing:

- (a) the Contractor legal name and address;
- (b) the date of the invoice;
- (c) calculation of all fees claimed under this agreement, including a declaration that the Services have been completed;
- (d) a chronological listing, in reasonable detail, of any expenses claimed with receipts attached, if applicable;
- (e) a description of this Agreement, including contract number;
- (f) an invoice number for identification; and
- (g) any other billing information reasonably requested by the Province.

Sample invoices are included in this schedule.

**6. Payments Due:**

Supplier invoices will be paid as close as possible to 30 days after receipt of the invoice. Interest will be paid on late payments from the 61<sup>st</sup> day after the money becomes due (upon receipt of the invoice) as outlined in the Financial Administration Act – Interest on Overdue Accounts Payable Regulation.

**7. Other Obligations –The Province:**

The Province is responsible for server hardware and software costs, as well as any software licensing costs for the Contractor's staff to utilize Provincial selected tools for delivery of the Services, if not already licensed by the Contractor and available at no additional cost to provide services to the Province.

**8. Other Obligations - the Contractor:**

The Contractor is responsible for office space and equipment, including computer workstations, desks, printers, faxes, photocopiers, phones, pagers, cell phones to the Contractor's members (employees) as required to deliver the Services.

Sample Invoice for Base Support Services

**INVOICE**

October 31, 2006

CLIENT NUMBER: 12345-123  
INVOICE NUMBER: VIC-12345  
DESCRIPTION: Application Support and Server Management – Base Support Services

BC Ministry of Health  
7<sup>th</sup> Floor, 1515 Blanshard Street  
Victoria, BC  
V8W 3C8

ATTENTION: Mr. Xxx Xxxxxx  
Director, Project Management Office

---

For services rendered  
from October 01, 2006 to October 31, 2006

**FEES:**

Contract Base

s.21

**TOTAL INVOICE**

**\$**

PLEASE SEND PAYMENT TO: CGI Info Sys & Mgmt Consult Inc.  
6<sup>th</sup> Floor, 1405 Douglas Street, Victoria, BC V8W 2G2

GST Registration number: RRR123456789

Sample Invoice for Non-Base Support Services

**INVOICE**

October 31, 2006

CLIENT NUMBER: 12345-123  
INVOICE NUMBER: VIC-23456  
DESCRIPTION: Application Support and Server Management – Non-Base Support Services

BC Ministry of Health  
7<sup>th</sup> Floor, 1515 Blanshard Street  
Victoria, BC  
V8W 3C8

ATTENTION: Mr. Xxx Xxxxxx  
Director, Project Management Office

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For services rendered  
from October 01, 2006 to October 31, 2006

**FEES:**

Change Order 2006-001: s.21  
Senior Project Manager  
Intermediate Architect =

**TOTAL INVOICE**

PLEASE SEND PAYMENT TO: CGI Info Sys & Mgmt Consult Inc.  
6<sup>th</sup> Floor, 1405 Douglas Street, Victoria, BC V8W 2G2

GST Registration number: RRR123456789

**SCHEDULE C – SUBCONTRACTOR(S)**

1. <sup>s.21</sup>

## SCHEDULE D - INSURANCE

1. You must, without limiting your obligations or liabilities herein and at your own expense, provide and maintain throughout the term of this agreement the following insurances with insurers authorized to do business in British Columbia:
  - (a) **Comprehensive or Commercial General Liability** in an amount not less than \$2,000,000 inclusive per occurrence, insuring against bodily injury, personal injury and property damage and including liability assumed under this Agreement and this insurance must
    - i) include the Province as an additional insured,
    - ii) be endorsed to provide the Province with 30 days advance written notice of cancellation or material change, and
    - iii) include a cross liability clause; and
  - (b) **Professional Liability** insuring your liability resulting from errors or omissions in the performance of the Services in an amount of \$2,000,000 per occurrence and in the aggregate:

All insurance described in paragraph 1 of this Schedule must:

  - (a) be primary; and
  - (b) not require the sharing of any loss by any insurer of the Province.

2. You must provide to us when requested by us:
  - (a) evidence in the form of a completed Province of British Columbia Certificate of Insurance of all required insurance: or
  - (b) certified copies of required policies.
3. Notwithstanding paragraph 1(b) of this schedule, if in our sole discretion, we have approved in writing an alternative to the Professional Liability Insurance requirement set out in paragraph 1(b), then you will maintain throughout the term of this agreement, that alternative in accordance with the terms of the approval.



## SCHEDULE E – ADDITIONAL TERMS

1. You must indemnify and save us harmless from and against all claims, demands, losses, damages, costs and expenses made against or incurred, suffered or sustained by us at any time or times (whether before or after the expiration or sooner termination of this agreement), including any claim of infringement of third party Intellectual Property Rights where the same or any of them are based upon or arise out of or from anything done or omitted to be done by you in connection with this agreement (each a “Loss”) excepting always liability arising out of the independent acts or omissions of us, our agents and contractors.
2. The indemnification by you pursuant to paragraph 1 of this Schedule is limited in the aggregate to:

The greater of Five Million Dollars (\$5,000,000.00) or an aggregate amount equal to the Base Service Fees paid by the Province to the Contractor for the provision of the Services for a 2 year period ending on the day of the event triggering the termination, together with a sum equal to 1 year of payments made for all other revenues (other than Base Service Fee revenues) of the Contractor for the 12 month period ending on the day of the event triggering the termination;
3. The limitation set out in paragraph 2 of this Schedule does not apply to Losses for bodily injury or damage to real property or tangible property, or any Loss arising from a claim of infringement or third-party Intellectual Property Rights, or any Loss arising from a breach of sections 9, 10, 11 and 15 of this Agreement.
4. If we intend to make a claim for a Loss;
  - i) then we must promptly notify you in writing of the Loss as soon as we are aware of the Loss; and
  - ii) if the Loss is on the basis of a third party claim that any element of the Material infringes a patent, copyright, trademark or other proprietary right of any person,
    - a) then you must defend us against that claim at your expense and you will pay all costs, damages and legal fees that a court finally awards or are included in a settlement agreed to by you, and
    - b) we must cooperate with you and, where appropriate in the discretion of the Province, will allow you to control, the defence and any related settlement negotiations, and
    - c) if we are enjoined by an order of a Court or are otherwise prevented from using, possessing or owning any third party Intellectual Property Rights, you

may, in your discretion and without charge to us, mitigate your damages under this indemnity by:

- (A) procuring the right for us to continue using, possessing or owning the Intellectual Property Rights; or
- (B) replacing the same with comparable materials; or
- (C) modifying the same so as to avoid the infringement without materially reducing the functionality or performance thereof.

(iii) It is agreed that you shall have no liability to us under the indemnity described in section 4(ii) of this Schedule to the extent that any such claim is based on the alteration or modification of materials provided to us by you without your knowledge or approval;

5. We must indemnify and save you harmless in respect of any losses, costs or damages that are suffered by you as a result of any claim made against you where the loss, cost or damage is caused by a deficiency (or an alleged deficiency) in our ability to provide you with a lawful entitlement to use the Intellectual Property Rights that are associated with software applications, automated support systems, methods, policy, processes, procedures, tools, standards and architecture that are provided to you by us.
6. At the expiry or earlier termination of this agreement, we, in our sole discretion, may negotiate with you to provide to you a license (which may be exclusive or non-exclusive) for you to use, reproduce, modify or distribute some or all of the Produced Material.
7. In addition to section 44 of this agreement, the provisions of sections @@ contained in this Schedule continue in force indefinitely even after this agreement ends.
8. Further to section 22 of this Agreement, the Contractor will, during the Term, immediately disclose to the Ministry any actual or potential situations that could, in the reasonable opinion of the Province, give rise to a conflict of interest between your duties to any person, firm or corporation or other legal entity and your duties to us under this Agreement. You will ensure that all staff, agents and any approved subcontractors employed by you are aware of this requirement.
9. Audit

**9.01 Audit Investigation and Inspection Rights:**

In circumstances where the Province genuinely believes (acting reasonably) that there has been or is about to be a material breach of the requirements of this Agreement, some other act of misconduct or malfeasance, or a *bona fide* emergency situation relating to the Privacy Obligations, the Province shall have the right, at any time and without prior notice to you, to perform the audits, investigations or inspections described in this section in respect thereof. Simultaneously with any exercise of the rights provided for in this section 9.01, the Province shall provide you with written notice specifying the circumstances and grounds upon which the Province is relying in exercising its rights hereunder, in sufficient detail to enable you to assess

and respond to the same. Despite the foregoing, any such response from you shall not entitle you to prevent the Province from performing any such audit, investigation or inspection hereunder (it being acknowledged by the parties that you shall be entitled to bring your response forward through the Dispute Resolution Process set forth in section 43 should you reasonably believe that the Province did not have proper grounds for exercising its rights under this section 9.01). The provisions of section 9.06 shall apply with respect to the audit, investigation and inspection rights granted to the Province hereunder.

**9.02 Audit Rights:**

The Province may, through its Auditor or Authorized Representative, subject to the provisions of section 9.06 and section 9.04 review to confirm or verify, in any Contract Year, your compliance with this Agreement in the following areas:

- (a) compliance with the operational aspects of this Agreement to certify or verify:
  - (i) the integrity of the Material;
  - (ii) a security audit of privacy and security processes of you, and the compliance by you and any applicable Subcontractors with the Privacy Obligations and the Security Obligations;
  - (iii) the general controls, practices, and procedures utilized by you in connection with the Services performed;
  - (iv) the accuracy of all reports provided by you to the Province (including the supporting information and calculations from which such reports are compiled);
  - (v) 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 and any applicable requirements of any regulatory body or authority having jurisdiction; and
- (b) compliance with the financial aspects of this Agreement to certify or verify the accuracy of:
  - (i) all Fees invoiced to the Province by you and, in particular, to verify that the calculation of the Fees:
    - (A) has been based on the appropriate records related to this Agreement,
    - (B) is based upon appropriate rates as set forth in this Agreement,
    - (C) has been calculated correctly, and
    - (D) has included any credits or reductions in accordance with the Agreement; and
  - (ii) all Fees paid or payable by the Province to you under this Agreement.
- (c) operational and other audits by the Office of the Comptroller General and Office of the Auditor General under the *Financial Administration Act* or any other statutory authority to the extent authorized by Law, or any audits that may be required by Cabinet, and the Parties acknowledge that despite the fact that the exercise of the Province's rights of audit as set out in this section 9 is by the Office of the Comptroller General, the Office of the Auditor General or Cabinet, the provisions of section 9.06 shall apply to any such audits, provided that any such audit under this subsection (c) shall be separate and distinct from the audits contemplated in subsections (a) and (b) above for the purposes of

section 9.03 and shall not count toward the number of audits authorized by that section or the Audit Plan.

**9.03 Annual Audit Plan:**

Each Contract Year the Province shall develop and provide you with an audit plan (the "Audit Plan") for the following Contract Year, setting forth the audits that the Province expects to perform during that Contract Year pursuant to sections 9.02 (including any audits pursuant to Schedule F but excluding any investigations or inspections pursuant to section 9.01). In developing the Audit Plan, the Province shall include no more than two (2) audits in the period covered by the Audit Plan (one, an operational audit pursuant to subsection 9.02(a), which shall include, without limitation, an audit of privacy and security compliance, and the other, a financial audit, pursuant to subsection 9.02(b)). The Province shall consult with you through the Governance Process regarding the content of the Audit Plan. Despite the foregoing, the Province may conduct an investigation or inspection pursuant to section 9.01 at any time and from time to time whether or not such audits are included in the Audit Plan for the Contract Year in question.

**9.04 Costs of Audits:**

- (a) The Province shall be responsible for its costs and expenses of any audits, investigations and inspections under this section 9, and, except as set forth in subsection 9.04(b) below, the costs and expenses of any Auditor or Authorized Representative retained by the Province to conduct or assist with an audit, investigation or inspection under this section 9. The Province shall not be responsible for your or your Key Subcontractor's costs incurred in connection with any such audit, investigation or inspection, including the costs of the time and effort of you, your Personnel, or the Subcontractors in connection with any such audit, investigation or inspection, to the extent that such assistance does not require the use of different or additional resources beyond that which you or your Subcontractors are using for the provision of Services in accordance with the Service Levels (such as audit software or additional employees of Subcontractors) ("Additional Resources"). You shall use commercially reasonable efforts to use existing resources assigned to the performance of the Services, including security and facility personnel and the privacy compliance officer assigned to the performance to the Services, as reasonably required to address the requests and requirements of the Auditor, to the extent the use of such resources does not impact you or the Key Subcontractor's ability to meet the Service Levels. However, any request for you or your Subcontractors to provide assistance with an audit, which assistance requires the use of Additional Resources will be addressed through the Change Order Process. Despite the foregoing, where you or your Subcontractors require Additional Resources to provide assistance with an audit as contemplated by this section 9, then you shall be responsible for the first twenty five thousand dollars (\$25,000) over the Term of any and all costs and expenses (at 85% of the hourly rates in Schedule B) for such Additional Resources and the Province shall be responsible for all costs and expenses (at 85% of the hourly rates in Schedule B) in excess of twenty five thousand dollars (\$25,000) incurred by you for such Additional Resources.

- (b) Where an investigation, inspection or audit reveals a Deficiency, then you shall be responsible for the reasonable direct third party costs incurred by the Province for any follow-up investigation, inspection or audit to verify that the Deficiency initially identified has been corrected. The Province shall use reasonable efforts to employ the lowest cost option possible for any such follow-up investigation, inspection or audit at a cost structure consistent with the cost structure of the initial investigation, inspection or audit. The Province acknowledges that in the normal course of events, the request for follow-up activity by the Province shall be on an exception basis and that, as a general matter, you shall respond to the Province, after the Deficiency has been remedied, by providing reasonable documentation or other evidence that such Deficiency has been remedied. In the event that:
- (i) you identify a Deficiency in your compliance with the Agreement;
  - (ii) you notify the Province of such Deficiency; and
  - (iii) you are actively curing such Deficiency,

then the Province shall not engage a third party for any follow up investigation, inspection or audit to verify that the Deficiency initially identified has been corrected until such Deficiency has been cured and, to the extent possible, the Province will try to include such verification in its next scheduled audit.

- (c) Despite section 9.04 (a), where the Province has the right to conduct an inspection, investigation or audit after Termination, the Province shall pay you reasonable costs and expenses incurred in connection with such inspection, investigation or audit on a time and materials basis, at your then standard commercial rates.

**9.05 Subcontractors:**

For greater certainty, the Province may, in connection with the exercise of its operational audit rights pursuant to section 9.02(a), exercise or cause you to exercise its rights in respect of agreements with Subcontractors who are performing Services at any Services Location, to audit such Subcontractors in the same manner as set forth in section 9.02(a), to the extent applicable to the Services performed by them.

**9.06 General Principles:**

In connection with the access, investigation and audit rights granted to the Province under this section 9:

- (a) the Parties agree that nothing in this Agreement provides the Province with any right to audit, inspect or access any of your Confidential Information, proprietary information or confidential or proprietary information of your customers or costing information except as provided in section 9.01;
- (b) the Auditors and Authorized Representatives shall be qualified and trained to levels appropriate to conduct the audits, investigations or inspections being conducted;
- (c) where terms of reference are prepared by the Province in respect of an audit, investigation or inspection (other than inspections or investigations pursuant to section 9.01), they shall be in accordance with this section 9 and you shall have an opportunity to review and provide the Province with comments on the same;

- (d) the Province shall cause all such audits, investigations and inspections to be performed expeditiously during normal business hours and upon reasonable prior notice to you, which will be at least thirty (30) days unless otherwise agreed in the Audit Plan, other than audits, investigations or inspections pursuant to section 9.01, which may be performed at any time without notice;
- (e) the Province shall, and shall cause its Auditors and Authorized Representatives to:
  - (i) respect the scope and content of this Agreement in performing audits, investigations and inspections hereunder,
  - (ii) use reasonable efforts not to hinder or interfere with the performance of the Services by you, and for greater certainty, the Province acknowledges that to the extent any such exercise of rights directly hinders or interferes with your ability to deliver the Services, then you shall not be responsible for any resulting non-performance or your Service Level failures in respect and to the extent thereof, and
  - (iii) comply with all reasonable security and other similar policies while at your premises, provided that you provide the Province with reasonable prior notice thereof;
- (f) subject to section 9.06(e), you shall, and shall cause your personnel and Subcontractors to:
  - (i) cooperate with any investigations, inspections and audits performed by the Province or its representatives in accordance with this section,
  - (ii) subject to section 9.06(a), make available on a timely basis the information which is directly related to your compliance with this agreement and is reasonably required for the Province or its representatives to conduct the audit as set out in this section 9;
  - (iii) provide the Province and its representatives with reasonable assistance in obtaining access to such information , and to any Subcontractors, or your personnel as may be reasonably required to conduct audits in accordance with this section;
- (g) the access rights provided to your premises shall also extend to those premises of the Subcontractors at which information is stored, and you shall obtain such corresponding rights from your Subcontractors as may be necessary to give effect to this provision;
- (h) where reasonably possible, you shall be given the opportunity to respond to the audit, investigation or inspection results before they are finalized;
- (i) the Province shall ensure that a copy of all audit, investigation and inspection reports are provided to the Joint Executive Committee in a timely manner;
- (j) you shall ensure that a copy of your response to any audit, investigation or inspection report is provided to the Joint Executive Committee in a timely manner; and
- (k) where the Province intends to request that a third party Auditor or Authorized Representative perform the audit, it shall provide no less than 30 days notice thereof to you, identifying the proposed Auditor or Authorized Representative,

who shall not be a Competitor of you. In the event that you have any objections, acting reasonably, to the proposed Auditor or Authorized Representative, you shall provide notice to the Province identifying in sufficient detail the basis for the objection. Upon the Province's receipt of such notice from you, the matter shall be referred to the Governance Process for discussion by the parties, provided that you shall not have a veto right with respect to the proposed Auditor or Authorized Representative. All such third party Auditors or Authorized Representatives shall be engaged on a non-contingency fee basis, and shall be required to execute a non-disclosure agreement with the Contractor in a form substantially similar to Schedule K.

**9.07 Deficiencies:**

If an audit, investigation or inspection demonstrates that one or more of your invoices for the Services for the audited period were not correct, and you and the Province agree with such audit, then:

- (a) you will promptly credit the Province for the amount of any paid overcharges together with interest at the Bank of Canada Target for Overnight Rate on such overcharges unless the overcharge is the result of information relied upon by you and provided to you by the Province); or
- (b) the Province will promptly pay you for the amount of any undercharges (including interest at the Bank of Canada Target for Overnight Rate on such undercharges unless the undercharge is the result of an error in your invoicing or otherwise caused by your error.

If the Province and you do not agree with the results of the audit, then such matter shall be resolved pursuant to the dispute resolution procedure set out in section 43. Following delivery to you of an audit, investigation or inspection report that outlines Deficiencies of you, the Parties shall meet as soon as possible through the Governance Process in order to discuss such Deficiencies. If such report identifies the potential for any Deficiency, then you shall provide the Governance Process with your assessment of the impact of the same. Subject to any alternative agreement reached between the Parties at such meeting, you shall as soon as reasonably possible (but in any event within thirty (30) days), develop and present a report outlining timely corrective action with respect to such Deficiencies or anticipated 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 or anticipated Deficiency, the specific action to be taken and a specific implementation schedule including specific dates for taking the corrective action and whether it is you or a Key Subcontractor who will be taking the corrective action. The Parties acknowledge and agree that all such Deficiencies that are not material in nature shall be remedied by you in the ordinary course of business, and that no Deficiency shall require or otherwise obligate you to perform Services that are outside the scope of this Agreement.

Responses to:

- (i) Deficiencies in existence prior to the date of this Agreement;
- (ii) Deficiencies other than those resulting from the failure of you to comply with the provisions of this Agreement; and
- (iii) potential Deficiencies

shall be implemented in accordance with the Change Order Process.

9.08 **Correction of Deficiencies:**

Upon correction of material Deficiencies identified in any audit, investigation or inspection, upon the request of the Province you shall demonstrate to the reasonable satisfaction of the Province that such Deficiency has been remedied. If the Parties disagree as to the occurrence of a material Deficiency, or whether the steps taken by you have been sufficient to remedy the material Deficiency, then the matter shall be deemed to be a Dispute and shall be settled in accordance with section 43 of the Agreement.

9.09 **Definitions: (for this section 9):**

- (a) "Auditor" means the internal and external auditors of the Province who are not Competitors of you;
- (b) "Authorized Representative" means Province investigators, inspectors or professional advisors who are not Competitors of you.
- (c) "Competitors" and each a "Competitor" means Accenture, ACS, CSC, Deloitte, EDS, IBM, ITI Systems, Maximus, OA Solutions, Quortech, Sierra Systems, Tata, and any firm greater than 100 employees that is currently providing application management services to the Ministry of Health or to other social services Ministries of the Province including the Ministry of Employment and Income Assistance and the Ministry of Children and Families;
- (d) "Deficiency" means:
  - (i) a misstatement or misrepresentation by you in your reporting, accounting or record keeping pursuant to this Agreement;
  - (ii) a material failure to comply with the provisions of GAAP when required to do so;
  - (iii) a material failure to comply with the provisions of this Agreement (including the performance of the Services);
  - (iv) a material failure to comply with Core Policy Manual, Applicable Laws, any other applicable requirements of regulatory bodies and authorities having competent jurisdiction; or
  - (v) the occurrence of any fraud, malfeasance, wilful misconduct, gross negligence or other similar acts in the performance of the Services.

10. Force Majeure

If either of the parties becomes unable to carry out the whole or any part of its obligations under this Agreement for any reason beyond its control including acts of God, acts of governmental authorities (except the Government of the Province), strikes by employees of the Province that interfere with the provision of the Services, war, riots or any other cause of such nature ("an event of Force Majeure"), then the performance of the obligations of the



affected party (other than any obligations set out in the Disaster and Business Recovery Plan) (the "Affected Party") shall be excused during the continuance of any inability so caused, but such inability shall, as far as possible, be remedied with all reasonable dispatch.

Either party shall give immediate notice to the other party upon becoming aware of an Event of Force Majeure. Except in the event of a strike by employees of the Province who are involved in the provision of the Services, if an Event of Force Majeure continues for a period exceeding fourteen days or such other period as is mutually agreed to by the parties, the other party may terminate this Agreement by giving the Affected Party seven days notice of its decision to do so.

11. Termination Assistance:

Upon the termination of this agreement, the Contractor will provide the Province with assistance on the transition of responsibility for providing the Services (the "**Termination Assistance**") on the following terms and conditions;

The obligation to provide the Termination Assistance will commence on the earlier of 12 months prior to the expiration date of this Agreement or the date that a termination notice is delivered.

Termination Assistance will require the Contractor to cooperate with and provide assistance to the Province and to the new service provider to facilitate the transfer of services without any material service disruptions or adverse effects;

Termination Assistance will require the Contractor to assist the Province in describing the Services to be provided in the preparation of an RFP for the provision of the Services beyond the termination date of this Agreement;

The Contractor will provide to the Province a list of its employees who, during the 12 months preceding the date of delivery of the termination notice, spent at least 66% of their time performing services under this Agreement; it is agreed that both the Province and the new service provider will be permitted to make employment offers to the employees named on this list and that the provisions of section 12 of this Schedule will be waived to the extent necessary to give effect to this entitlement;

The Contractor will provide assistance by facilitating the transfer to the Province or new service provider of any of its employees who accept the offers of employment; the Contractor's responsibility for any employee who accepts an offer of employment from either the Province or the new service provider will end on the earlier of the date that the employee terminates their employment with the Contractor or the date that the employee commences employment with the Province or the new service provider;

The Contractor will provide to the Province:

- a list of all software used by it in the performance of the Services;
- copies of all documentation (both electronic and paper copy) related to the software used by it in the performance of the Services;
- a list of all subcontractors providing services under this Agreement, including the names and contact information of all key contacts who are involved in providing the sub-contracted services.;
- reasonable assistance to the Province with the creation and testing of the Province's transition plan;

The Contractor will facilitate in all reasonable ways, by assignment or otherwise, the transfer to the Province or a new service provider of the responsibility for the performance of the component of the Services being provided by the subcontractors

The Contractor will use all commercially reasonable efforts to provide the Termination Assistance in the ordinary course of business while continuing with the delivery of the Services and at no additional cost to the Province;

To the extent that additional personnel may be required to fulfill the Contractors obligations under this section, the additional personnel shall be retained at the rates provided in this Agreement and only after their retention has been approved under the Change Order Process described herein;

It is agreed by the Province that the provision by the Contractor of the Termination Assistance will not disqualify the Contractor (on the basis of a conflict of interest) from responding to the RFP so developed for the provision of the Services

12. Non Solicitation of Employees:

Neither party is permitted to directly solicit an employee of the other to change employers and work for the party that is doing the solicitation; this section will not prevent a party from hiring an employee of the other that seeks to change employers as a result of a general solicitation for employees that is made to the general public;

It is agreed that during the Term, neither party will, directly or indirectly, contract with or hire a subcontractor of the other to provide any part of the Services

It is agreed that during the Term, neither party will, directly or indirectly, contract with or hire a former employee of the other to provide any part of the Services unless such employee has not been employed by the other party for a minimum of six months before the effective start date of the contract or employment.

13. 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 thereto) as at the date on which such calculation is made or required to be made, consistently applied. Unless otherwise provided in this Agreement, all accounting, record keeping, book keeping and other actions of Contractor shall be performed and carried out in a manner that is consistent with GAAP.

14. Business Excellence:

The Province wishes to engage the Contractor on an annual basis to participate in a business planning process whereby the Province will discuss with the Contractor its business challenges and opportunities and provide the Contractor with an opportunity to develop proposals to address the challenges and opportunities in a creative and cost effective manner. The Contractor has agreed to participate in this process in a positive and constructive manner. The first meeting will be held no less than 6 months and no more than 12 months after the Handover Date. It is anticipated that these annual sessions will be held off-site for a minimum of one and one-half days and that they will be attended by the key executives and key managers from both the Province and the Contractor. Each party will bear their own costs of attending the sessions and any costs of facilities and facilitation will be split between the parties. As a consequence of these meetings it is expected that the Contractor will develop proposals related to these discussions for the Province's consideration. Should the Province accept any such proposal, it may request a change order for the Contractor to do the work or, it may instead choose to issue a tender to which the Contractor will be permitted to respond

15. Approval Authority:

The Province and the Contractor will designate a primary authority (the "Relationship Manager") who, in a timely manner, will be capable of approving issues relating to this Agreement including change orders consistent with the Annual Operating Plan, capable of making business decisions that impact business functions or operations, and capable of committing resources on behalf their respective organizations. The Relationship Manager will be the sole individual who can initiate or approve a Change Request or a Change Order on behalf of each party. Each party to this Agreement shall identify an Alternate Relationship Manager so that if the Relationship Manager is not available, the alternate may provide the necessary approvals, decisions and commitments. The authority limits, both as to subject matter and dollar amount, will be initially established in jointly developed collateral agreement on the subject and thereafter will be formally revised from time-to-time with the approval of the governance processes. The limits of the designated authority are intended to provide the designated authorities with sufficient latitude to provide approvals, make decisions and make commitments necessary for timely and efficient operation of the Province in the delivery of its mandated role and function. When a decision is required that is beyond the limits on authority as provided from time to time, any necessary approval, decision or commitment will be made in accordance with the Governance Process.

16. Transition Project:

From and after the Effective Date, the Contractor will implement, at no cost to the Province, the Transition Project as described in the Transition Charter in Schedule N, to provide for the seamless transition of the provision of the Services from the former supplier of the Services to the Contractor. It is agreed that the Transition Project will be fully implemented and complete by the Handover Date. The parties agree that the nature of the Transition Project is such that its implementation will require flexibility and cooperation by the parties throughout the process. It is understood and agreed that despite the clear language of the Transition Charter, there will be requirements that will have to be addressed in approaches that are not contemplated as the parties begin the process and in that evolution, the requirement for flexibility and cooperation will be manifested; the parties will collectively work in the cooperative manner indicated herein so as to ensure that the Transition Project is implemented with the least possible disruption to both. The Transition Charter may be changed with the permission of the parties.

#### 16.01 Transition Project Delays

If the Transition Project is delayed beyond October 1<sup>st</sup>, 2006, the costs each party incurs during October 2006 will be borne by the respective party without recourse to the other;

If the Transition Project is delayed beyond November 1<sup>st</sup>, 2006, the out of pocket costs each party incurs during November 2006 will be borne by the party responsible for the delay in the implementation of the Transition Project;

For the purposes of this section, the "out of pocket costs" incurred by the Province will be any expenses incurred above and beyond what the Province would have spent had the Transition Project been completed, and the "out of pocket costs" incurred by the Contractor will be 85% of the Base Service Fees that would have been paid to the Contractor during the delay period;

Any dispute as to the amount of the costs incurred or the party responsible for the delay will be resolved by the Dispute Resolution Process.

#### 16.02 Transition Implementation:

The Handover Date will be October 1<sup>st</sup>, 2006 but for the occurrence of one of the delay events described in this sub-section.

If the parties agree that all milestones for a successful Transition that require completion by August 31, 2006 are not complete on that date, then the Province may require a delay in the Handover Date and if the Handover Date is delayed as a result of this determination by the Province, the Transition Delay provisions take effect;

If the parties do not agree that all milestones for a successful Transition that require completion by August 31, 2006 are complete on that date the Province may require a delay in the Handover Date and the issue of whether the delay of the Handover Date was properly

required will be referred to the Dispute Resolution Process for a determination. If the determination of the Dispute Resolution Process is that the required milestones for a successful Transition were not complete on August 31, 2006, then the Transition Delay provisions will take effect. If the determination of the Dispute Resolution Process is that the required milestones were complete on August 31, 2006, the Province will pay the Contractor a sum equal to 85% of the pro-rated Base Service Fees that would have been earned by the Contractor during the period of the delay. The pro-ration will be based on the percent of the month (by working days) represented by the delay.

17. Key Personnel:

It is agreed that the individuals named on Schedule J are "Key Personnel" for the provision and utilization of the Services:

It is agreed that the following rules will govern the "Key Personnel" named herein:

Each will be assigned to their respective positions for a minimum period of two years and no changes to the assigned personnel will be effected unless mutually agreed upon;

A retirement, resignation, or other changed circumstance that occurs at the initiation of a "Key Personnel" will not be a breach of this provision;

The appointment of the Contractor's "Relationship Manager" will be subject to the prior approval of the Province.

18 Change Orders and Change Order Disputes:

18.01 Change Orders:

It is agreed that the process for effecting any change in the scope of the Services or the price to be paid for additional services that are required to be provided will be addressed by the process described on Schedule I.

18.02 Change Order Disputes:

This process is to be used where there is a disagreement between the parties involving either the contents or pricing of a Change Order Request, or a Change Order;

The dispute will first be referred to the Governance Process for a resolution. If there has been no resolution of the dispute from the Governance Process and if the dispute involves an amount that is more than the greater of \$30,000 or 7% of the amount of the Change Order, the parties will jointly retain an independent third party consultant, with recognized expertise in the subject area to provide an opinion on the dispute; in preparing the opinion, the consultant will be directed to consider all relevant information including the complexity of the solution, the skill level and hourly rates of the staff of the Contractor assigned to the execution of the Change Order, and the number of days that are estimated to be required for

each resource assigned to the task; the consultant must not be a Competitor of the Contractor;

The parties will utilize all commercially reasonable efforts to resolve the dispute on the basis of the consultant's report, but if they are unable to do so, the dispute will be resolved by the decision of a sole arbitrator appointed pursuant to the provisions of section 43.4 of the Agreement, which decision will be final and binding on the parties. The Arbitrator hearing the dispute may have reference to and rely upon the opinion of the consultant prepared as directed herein.

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20. Provincial Governmental Policy Changes:

It is acknowledged that the Province may, from time to time, issue written directives and instructions and establish written policies and procedures governing the duties and obligations of the Contractor relating to the provision of the Services (including directives, instructions, policies and procedures with respect to confidentiality, privacy and security), so as to ensure that the Contractor complies with Provincial policies in the performance of the Services.

Unless requested by the Contractor through the Governance Process, the Province will not issue directives, instructions, policies or procedures to resolve Disputes or other disagreements between the parties.

Any such written directives, instructions, policies and procedures shall be communicated to the Contractor through the aegis of the Province's Relationship Manager.

The Province shall provide timely notice to the Contractor of any such written directives, instructions, policies and procedures and shall provide the Contractor with a reasonable period of time in which to comply. The time period for compliance shall be established having regard to all of the circumstances in respect of each such written directive, instruction, policy and procedure. It is acknowledged by the parties that the nature of some such requirements may require immediate compliance, in which case the Contractor shall use reasonable efforts to comply as promptly as is practicable having regard to the circumstances.

Any additional costs incurred by the Contractor in effecting its compliance with such new policy, shall be resolved by reference to the Change Order process and any disagreements between the parties with respect to the cost to implement required changes will be subject to the Change Order Dispute process set out in subsection 18.02 herein.

The willful failure of the Contractor to comply with the written directives, instructions, policies and procedures that it has received from the Province within the times required by this Agreement and in accordance with the provisions of this section may, at the option of the Province, constitute a Material Breach.

21. Warranty on Deliverables

The Contractor warrants and represents that the Warranted Deliverables will be free from defects and deficiencies for a period of 90 days from the earlier of the date that use of the Warranted Deliverable is commenced or the Termination Date.

The obligations of the Contractor under this warranty are limited to the repair of defects and deficiencies in the Warranted Deliverable when compared to the agreed functional specifications.

The Province will utilize all commercially reasonable efforts to ensure that the Warranted Deliverables are thoroughly tested and verifying that all business requirements are being achieved.

The Contractor will utilize all commercially reasonable efforts to:

- a) assist the Province in developing and validating a user acceptance and testing plan (UAT) for each project;
- b) Notify the Province as soon as it becomes aware of any situation which may materially affect the Province's ability to utilize the application(s) in the delivery of services;
- c) during the warranty period, rectify any faults to deliverables at no additional cost to the Province by using the resources that created the deliverable; and
- d) Rectify any data errors and/or omissions which result from the introduction of the Warranted Deliverable into the production environment at no additional cost to the Province.

The following are the Warranted Deliverables:

- a) application solutions, including application code, database and associated scripts, and automated procedures; and
- b) analysis and design deliverables that the Province and the Contractor have mutually agreed will be maintained as part of the ongoing application support component of the Services.

It is agreed that the warranty provided herein is subject to the following provisos:

- (a) The Contractor does not warrant uninterrupted or "error free" Services or products.
- (b) The Province may have additional rights under certain laws that do not allow the Contractor to exclude implied warranties and conditions or to exclude or limit certain damages. If those laws apply to the Province, the above exclusions or limitations may not apply to the Province.
- (c) The warranties contained in this Agreement are in lieu of all other warranties, conditions or guarantees, express or implied, including any implied warranties or conditions of merchantable quality or fitness for a particular purpose.
- (d) Any additions, modifications or deletions to the Services or products provided under this Agreement made by the Province or a third party and not approved in writing by the Contractor shall void this Warranty as to the particular service or product to which the unauthorized addition, modification or deletion was made.



22. Location of Services

The Contractor will maintain an office within 15 minutes travel time (by car) from 1515 Blanshard Street in Victoria, BC.

The following members of the Contractor's project team will work from the Contractor's Victoria BC office above described:

- Contractor's Relationship Manager;
- project managers;
- senior design architect;
- team leads;
- data base administrators; and,
- any programming resources that may be required to consult directly with Ministry personnel.

23. Documentation:

It is agreed that the Services to be provided under this Agreement include an obligation in the Contractor to make current application software user documentation and application software system documentation associated with the application software under maintenance. The parties will jointly develop a list of the most critical software application documentation needs during The Transition Project and the Contractor will remediate this documentation within the first 180 days following the Handover Date.

All other documentation will be remediated on a schedule to be mutually agreed upon. Once remediated, the Contractor will ensure that the documentation for the software applications under maintenance is kept current on an ongoing basis as changes are made.

Where a software enhancement/change order described is accepted by the Province, the Contractor will produce a documentation package for each enhancement that will include such of the following attributes that are applicable to the particular enhancement/change order;

- new or updated user documentation,
- test plans,
- implementation plans,
- training documentation,
- project documentation,
- user designs,
- technical designs, and
- associated system documentation.

All documentation will be deposited in a Ministry approved repository for such information.

24. Corporate Guarantee:

It is agreed that the Guarantor is a signatory to this Agreement to provide that corporation's guarantee of the obligations and responsibilities undertaken by the Contractor in this Agreement and to provide the Province with recourse to that corporation should the Contractor fail to perform its obligations and responsibilities herein.

25. Business Continuity Plan:

The Contractor will be responsible to assist the Province in ensuring that all applications included in this Agreement are supported under a Business Continuity Plan (**BCP**) which mitigates risk of incidents.

The BCP will require that a recovery process is available and operable for each application.

The BCP will require that each application will have appropriate back-up of data files, application modules and documentation, and will map to a common recovery point. The BCP will require that currency and data coordination of backup files will be assured.

The Contractor will provide the Province with primary and backup contacts on 24/7 coverage and will make the necessary resources available in the event of an incident.

The Contractor will establish and maintain a relationship with those CITS personnel who have a shared responsibility with the Contractor for the restoration of services following an incident. The Contractor agrees to develop an appropriate working relationship with CITS to define roles and responsibilities and to ensure that there are no aspects of the BCP that are not dealt with in the areas of shared responsibility.

It is acknowledged by the Contractor that CITS is responsible to provide backup and recovery of server hardware and operating systems. In the event of an incident, the Contractor will ensure that the Province's applications are recovered and made available to the responsible business staff of the Province as soon as practicable.

Without restricting the generality of the foregoing, the Contractor agrees that it will:

- a. participate in the updating of the Ministry and CITS BCP plan as required;
  - b. assist CITS staff in restoring applications to an interim site and/or re-establishment of normal operations at the primary site;
  - c. work with CITS staff in restoring 'IT' services that are directly related to applications supported by the Contractor;
  - d. work effectively with the CITS BCP team, as required to ensure all BCP tasks are completed in a timely, coordinated and effective fashion;
  - e. provide business users with support for interim activities (if required) while application restoration proceeds;
  - f. ensure effective communication channels are established to obtain definition of requirements from the Ministry of Health and CITS staff should an incident occur;
- and,

- g. provide support to the business users for their contingency plan execution.

From and after the Handover Date, the Contractor's participation in updating the BCP of the Province and of CITS will be a priority.

In addition to assisting the Ministry and CITS in providing BCP services, the Contractor will establish a business continuity plan for its own offices to respond to an incident affecting its worksite or its access to the network of the Province. The BCP for the Contractor's offices will be completed and fully functional by the dates defined in the Transition Charter.

The Contractor will maintain currency and availability of its plan. The BCP for the Contractor's offices must be integrated with and work in conjunction with the BCP of the Province's so that in areas where the plans interconnect there will be continuity and appropriate outcomes.

The Contractor will support the periodic testing of the BCP of the Province. The testing of the BCP is anticipated to be an annual event and will be arranged at the discretion of the Province. The testing process may be conducted as a desktop exercise or a simulated disaster scenario.

In the event of an incident occurring within the area of responsibility of the Province or of CITS, the Contractor will work with the Province's Relationship Manager and CITS to initiate the BCP plan at the earliest possible opportunity with a view to re-establishing full and complete systems functionality at the earliest possible time in accordance with the priorities of the Province.

It is understood and agreed that CITS will provide a physical platform that is capable of supporting the application environment. The Contractor will restore the applications, and work with CITS in establishing the data files to a production ready state.

Should an incident occur within the Contractor's office, the Contractor will immediately inform the Ministry and invoke its BCP process. An aspect of the Contractor's BCP will be the identification of viable alternate location(s) that are to be identified as readily available so as to minimize the impact on the Province of an incident that occurs at the offices of the Contractor.

During any recovery process, the Contractor will protect its physical environment. The Contractor will ensure protection of any data and related information sources, and take appropriate steps to minimize loss at the damaged site.

## 26. Service Level Agreements:

### 26.1 General Compliance.

The Contractor acknowledges that the establishment of the Service Levels is a matter of fundamental importance to the Province. The Parties acknowledge and agree that:

- a) the Service Levels are comprised of:

- i) the specific Service Level Agreements as set forth in Schedule A (Service Levels); and
  - ii) Service Level Objectives (being performance measures and indicators) as set forth in Schedule A;
- b) the Contractor shall use all reasonable efforts to perform the Services to a standard and level of performance which is required to meet or exceed the relevant Service Level Agreements and the Service Level Objectives for the Services, unless otherwise mutually agreed in writing by the Parties;
  - c) the Service Levels set out in this Agreement, as may be amended from time to time through the Change Order Process 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 Contractor shall use commercially reasonable efforts to identify actions and opportunities to improve or increase the Achieved Service Levels, on an ongoing basis, including monitoring and evaluating changes and trends in the industry 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 Contractor shall use commercially reasonable efforts to improve the Achieved Service Levels, on an ongoing basis, 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; and
  - f) any improvements in Achieved Service Levels or performance standards and levels achieved by the Contractor, whether or not as part of any progressive improvement requirements contemplated in this Agreement, will not result in an increase in the Base Service Fees payable under this Agreement unless otherwise agreed to by the Province in writing.

## 26.2 Establishing Baselines for new Service Level Agreements and Service Level Objectives

The parties agree that Interim Service Level Agreements are established either by being named as such on the Handover Date, or by a process which follows the agreement of the parties to set a service level target and then by observing the sequence of steps described herein;

Where a new Interim Service Level Agreement is to be established or as of the Handover Date a Service Level Agreement is defined as an Interim Service Level Agreement then:

- a) a proposed service level target will be set by the parties;

- b) the service level achieved (the "Achieved Service Level") will be measured and reported on monthly for a period of six months or for such other period as is agreed to by the parties;
- c) at the end of the agreed measurement period if
  - i) the Achieved Service Level for the period meets or exceeds the proposed service level target then the proposed service level target will be the Service Level Agreement; otherwise
  - ii) if the Achieved Service Level for the period does not meet or exceed the proposed service level target then:
    - (A) the Province will advise the Contractor if it wishes to reduce the proposed service level to the Achieved Service Level and if that determination is made, the reduced proposed service level shall be a Service Level Agreement;
    - (B) if the Province does not wish to reduce the proposed service level to the Achieved Service Level then the Contractor will propose a Change Order describing how to raise the Achieved Service Level to the proposed service level and if the parties can not agree on the Change Order then the Change Order Dispute section will apply.

The same process shall be used to establish new Service Level Objectives.

### 26.3 Monitoring.

The Contractor shall establish and maintain in place, at all times, the tools and processes necessary to monitor and evaluate the achievement of the Service Levels on a monthly basis, in order to permit the Contractor to satisfy its reporting obligations. The Contractor acknowledges that, as of the Handover Date, the reporting obligations to this Agreement are sufficient to allow it to:

- a) evaluate Achieved Service Levels;
- b) satisfy its reporting obligations;
- c) respond to enquires from the Province in respect of the Contractor's performance of the Services; and
- d) confirm and verify Achieved Service Levels in respect of any Service Level from time to time upon reasonable notice.

### 26.4 Reports of Achieved Service Levels.

Without limiting the application of section 26.3, beginning no later than the second month after the Handover Date and monthly thereafter, the Contractor will prepare and deliver to the Province standard reports summarizing the Contractor's performance during the previous month against the Service Level

Agreements and the Service Level Objectives, in such form and content as the Parties may agree through the Governance Process and document in the CSDM, and shall make such reports available to the Province by the tenth (10th) Business Day after the end of each month or as otherwise agreed by the Parties.

#### 26.5 Reports of Service Level Failures.

The Reports referred to in section 26.4 shall identify each failure to meet a Service Level of which the Contractor is aware in respect of the provision of a Service. The Contractor will provide reasonable detail as to such failure in order to allow the parties to evaluate the remedies available as a result of such failure, to cooperate to rectify and remediate the cause of such failure, and to prevent similar failures in the future. Such reports shall include a description of the measures taken or planned to be taken by the Contractor to rectify and remedy each failure to meet a Service Level (including the timelines in which such measures were or will be taken).

#### 26.5 Problem Alert and Escalation Procedures.

Within ninety (90) days after the Handover Date, the Contractor shall develop, implement, maintain and comply with problem alert, escalation, and management procedures mutually agreed upon by the Parties from time to time (acting reasonably) through the Governance Process (the "Problem Alert and Escalation Procedures"). If the Contractor becomes aware of any event, occurrence, error, deficiency, defect, interruption, malfunction or other similar matter with respect to the Services, and which the Contractor reasonably believes could have a material adverse effect on the delivery of the Services (a "Problem"), then the Contractor will promptly notify the Province through the Governance Process of such Problem.

#### 26.7 Problem Management and Root Cause Analysis.

In the event of a Problem, the Contractor shall treat the Problem as a priority, shall work diligently to avert or minimize any adverse effect that the Problem may have on the performance of the Services and the Service Levels. Upon the occurrence of any Problem, the Contractor shall perform a root cause analysis in respect thereof as soon as practicable, for the purposes of identifying the cause of such Problem, and in order to assist the Contractor in developing and implementing a proposal for correcting the Problem and implementing improved processes to detect and avoid similar problems in the future. The Contractor will correct the Problem and will use all reasonable efforts to minimize reoccurrence of problem for which the Contractor is responsible. The Province agrees to correct and use all reasonable efforts to minimize problems for which the Province is responsible and that prevent the Contractor from meeting the Service Levels.-

#### 26.8 Chronic Failure.

- a) A "Chronic Failure" shall be deemed to occur if thirty percent (30%) of the Service Level Agreements are missed in any three (3) months of any six (6) consecutive months; provided that the provisions relating to Chronic Failure set forth in this section 26.8 shall not apply to the establishment of any Interim Service Level.

- b) For purposes of determining whether there is a Chronic Failure under this Section 26.8, a), in calculating the 30% level, if one event causes multiple Service Level Agreements to be missed, it will only count as one Service Level Agreement being missed.
- c) In the event of a Chronic Failure under this section 26.8, the Province shall have the right, in its discretion, to terminate the Agreement without liability for any payment to the Contractor or its Subcontractors, relating to, in connection with or arising out of the Province's termination of this Agreement provided that prior to exercising such right of termination, the Province shall have escalated the matter of such Chronic Failure to the Joint Relationship Sponsors through the Governance Process.

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#### 26.10 Relief.

The Contractor will be relieved of its responsibility for meeting any Service Level Agreement and shall not be required to apply a Banked Credit, pursuant to section 26.9(g) above, or set-off a Service Level Credit against the Base Service Fee, pursuant to section 26.9(h) above (and for greater certainty, will not contribute to a Chronic Failure pursuant to section 26.8 above), with respect to such missed Service Level Agreement as were caused by the actions or inaction of the Province, third party vendors (excluding the Subcontractors) and suppliers of the Province, or circumstances that constitute an Event of Force Majeure or travel time required for on-site after hours support in order to comply with the restrictions on remote access as set out in Section 1.11 of Schedule G.

#### 26.11 Joint Review of Service Levels.

The Parties acknowledge that the Service Levels are intended to be comprehensive, however, it is the intention of the Parties that during the Term the Parties may agree to different or additional Service Levels in respect of any of the Services. Accordingly, on an annual basis during the Term, and pursuant to the Governance Process, the Parties shall jointly review:

- a) the then-current Service Levels;
- b) generally available information indicating industry-wide improvements in delivery of substantially similar services; and
- c) improved performance capabilities, including those associated with advances in technology and methods used to provide the Services.

On the basis of such review, the Parties shall discuss and agree upon whether any of the Service Levels shall be adjusted. In determining whether an adjustment under this section 26.11 is warranted, the Parties shall take into consideration the relationship between the existing Service Level Agreements and the remedies for failure to obtain such Service Level Agreements as set forth in this Agreement as of the Handover Date. Any such adjustment shall be subject to the mutual agreement of the Parties in accordance with the Governance Process and as documented by a Change Order.

**"Achieved Service Levels"** means, in respect of any Service Level Agreement and for any month, the standard and level of performance actually achieved by the Contractor in the provision of the applicable Service in such month.

#### 27. Representations and Warranties:

The Contractor represents and warrants that it is capable in all respects of providing and shall provide all Services in accordance with this Agreement. The Contractor further represents and warrants that all Services provided under this Agreement shall be provided in a timely, professional, and workmanlike

manner consistent with the highest standards of quality and integrity and shall meet the performance standards required under this Agreement

Each party represents and warrants to the other party that the execution and performance of this Agreement does not violate or constitute a breach of any of its contractual obligations with third parties.

Each party represents and warrants to the other party that:

- (a) it has all requisite corporate power and authority, approvals and consents (including any necessary third party consents) to enter into this Agreement and that are necessary to carry out the transactions contemplated herein and to perform its obligations hereunder;
- (b) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all requisite corporate action on the part of each such party; and
- (c) this Agreement has been duly executed and delivered by each such party and is a valid and binding obligation of such party, enforceable against it in accordance with its terms.

28. Change Order Process:

The parties agree that the process to be followed in respect of any change to the Services to be provided to add additional scope of work such as projects or new applications, and to descope or remove applications from the Agreement will be as described in Schedule I.

29. Provincial Shared Infrastructure:

29.1 Ownership and Control of Province Shared Infrastructure.

The parties acknowledge that the Contractor requires access to and use of the Province Shared Infrastructure to support the delivery and performance of the Services as contemplated in this Agreement. In connection therewith, the Contractor acknowledges that:

- (a) the Province Shared Infrastructure will at all times be owned, operated and maintained by the Province or on behalf of the Province by third parties;
- (b) the Contractor has no ownership or other interest in the Province Shared Infrastructure other than the rights of access to, and use of, the Province Shared Infrastructure granted to the Contractor under this section for the purposes of delivering and performing the Services in accordance with this Agreement; and
- (c) subject to the rights of the Contractor specifically set out in this section and otherwise in this Agreement, the Province shall have control of, access to and use of the Province Shared Infrastructure, and the control of the operation and maintenance of the Province Shared Infrastructure including changes, modifications and upgrades thereto, without any requirement for the consent of or approval from the Contractor (provided that, if any of

the foregoing has a material impact on the Contractor, then the parties will deal with the same through the Change Order Process).

## 29.2 Use of Province Shared Infrastructure.

The Province shall make available to the Contractor such access to and use of the Province Shared Infrastructure as is required by the Contractor to deliver and perform the Services in accordance with this Agreement (including through obtaining any consents, approvals or authorizations required for such Contractor access and use). Such access and use shall be available for the period commencing on the Effective Date to and including the end of the Termination Assistance Period or such shorter period of use as may be required by the Contractor (the "Shared Infrastructure Use Period"), and without any fee or payment from the Contractor to the Province (unless specifically provided otherwise in this Agreement).

Provided however that the Province may discontinue the Contractor's use of any portion of the Province Shared Infrastructure pursuant to this section where any managed applications of the Contractor running on the Province Shared Infrastructure cause process loops, runaway jobs, extreme load conditions or other similar adverse impacts to users of the Province Shared Infrastructure.

## 29.3 Restrictions on Access and Use.

The right of the Contractor to access and use the Province Shared Infrastructure shall be subject to the following:

- (a) the Province Shared Infrastructure shall be made available during the normal hours of the operation of the Province Shared Infrastructure during which the same is generally made available to other users thereof. The Province may change and modify such hours of operation from those in effect on the Effective Date and from time to time on reasonable prior written notice to the Contractor 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,
  - (ii) any such change or modification of the hours of operation apply generally to users of the Province Shared Infrastructure and do not apply only or principally to the Contractor, and
  - (iii) the Contractor will not be liable for any breach of or failure to perform its obligations under this Agreement including any failure to meet the Contractor Service Levels to the extent that such breach or failure to perform is attributable to any such change or modification of the hours of operation of the Province Share Infrastructure;
- (b) in exercising its right of access to or use of the Province Shared Infrastructure, the Contractor shall:

- (i) not alter, change, damage or remove any equipment, data or information comprising part of the Province Shared Infrastructure, and
- (ii) following each exercise of access to or use of the Province Shared Infrastructure, 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 Contractor,

except with the prior written consent of the Province or as specifically contemplated in or resulting from the Services provided under this Agreement;

- (c) the Contractor will access and use the Province Shared Infrastructure only for the purpose of delivering and performing the Services under this Agreement, and for no additional, ancillary or other purpose unless specifically authorized in writing by the Province;
- (d) the Contractor will advise the Province of any intended reduction in use of the Province Shared Infrastructure as soon as the Contractor is reasonably aware of the same, including any determination by the Contractor to discontinue all or partial use of the Province Shared Infrastructure provided that in no event is the Contractor required to provide more than twelve months' notice of any intended reduction; and
- (e) Nothing in this section entitles the Contractor to require the Province to change, modify or upgrade the Province Shared Infrastructure.

#### 29.4 Ordinary Course Changes to the Province Shared Infrastructure.

The Province, in its sole discretion and from time to time, may make changes, modifications, additions or upgrades to the Province Shared Infrastructure or discontinue use of any portion of the Province Shared Infrastructure (collectively, "Infrastructure Changes") in the ordinary course of operations, without a requirement for the consent of the Contractor. The Province will include the Contractor in the Province's change management process through the Joint Operations Committee as necessary to allow the Contractor to assess and plan for Infrastructure Changes. If the Services are materially adversely impacted by an Infrastructure Change, then the Contractor will be relieved of the affected Contractor Service Level Agreements, (unless contemplated otherwise under this Agreement. If as a result of any such Infrastructure Change, the Contractor is required to change, modify, add to or upgrade its systems and operations in order to continue to have access to and use of the Province Shared Infrastructure, then the Contractor shall do so and may seek recompense for any additional costs in accordance with the Change Order Process.

#### 29.5 Material Changes to the Province Shared Infrastructure.

The Province may make Infrastructure Changes or discontinue the use of any portion of the Province Shared Infrastructure from time to time, notwithstanding that such change may have a material effect or impact on the access to and use of the Province Shared Infrastructure by the Contractor, provided that:

- (a) subject to the Contractor implementing any changes, modifications, additions or upgrades to its systems and operations as contemplated in this section, the Contractor shall 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 Province; and
- (b) the Province shall give reasonable prior written notice to the Contractor of the details of such material change to the Province Shared Infrastructure, including an analysis 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 Contractor in the delivery and performance of the Services to the extent known, and the impact thereof on the Contractor shall be dealt with through the Change Order Process.

Where such material Infrastructure Change may be reasonably expected to have a material impact on the Contractor, the Province shall provide the notice of such material change contemplated in paragraph 0 above to the Contractor sufficiently in advance of the implementation thereof so as to afford the Contractor a reasonable opportunity to make the required changes, modifications, additions and upgrades to its Systems and operations in accordance with the Change Order Process.

#### 29.6 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 Contractor from having such access to and use of the Province Shared Infrastructure, as is required by the Contractor for the delivery and performance of the Services, whether arising from the negligence or fault of the Province or otherwise, the Province and the Contractor acknowledge and agree that:

- (a) the Province shall have no liability or obligation to the Contractor in respect thereof other than the obligation to use reasonable 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;
- (b) if such failure of or lack of Contractor access or use to the Province Shared Infrastructure:
  - (i) continues for 48 hours, and
  - (ii) has a material impact on the Contractor' ability to perform the Services, then the Province will cooperate to mitigate the impact on the Contractor;
- (c) to the extent that the Contractor is not able to deliver or perform a Service in the manner or to the Contractor Service Level required under this Agreement, or to perform any other obligations under this Agreement, as a result of such failure or lack of access to or use, of the Province Shared Infrastructure, the Contractor shall be released of all consequences otherwise provided in this Agreement in respect of such failure to deliver and perform

such Service, to meet such applicable Contractor Service Level or to perform such obligations under this Agreement, until such failure or lack of access to or use of the Province Shared Infrastructure is rectified or remedied to a degree that the Contractor is able to deliver and perform the Services and to perform its obligations in accordance with this Agreement; and

- (d) the Contractor will at the request and cost of the Province, assist the Province in the recovery from the failure of the Province Shared Infrastructure.

#### 29.7 Termination of Rights to Province Shared Infrastructure.

The Contractor acknowledges and agrees that its rights in respect of the Province Shared Infrastructure under this section shall cease upon the expiry (or earlier termination in accordance with this section) of the Shared Infrastructure Use Period. Upon such expiry, the Contractor 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.

#### Definitions:

“Province Shared Infrastructure” means those parts or components of certain systems (including the wide area network) owned and operated by the Province, or on behalf of the Province by third parties, which are required by the Contractor to support the delivery and performance of the Services, and which systems (including the wide area network) are shared resources of the Province used to support other services and other uses by the Province as well, as such systems are expressly and specifically listed in Schedule M.

#### 30. Governance Provisions:

The parties agree that the governance of this Agreement will be conducted generally in the manner described in Schedule H. The parties have committed to the philosophy, methodology and process described in Schedule H and where the business relationship affairs of the parties require an interaction with the other party it is agreed that that the parties will first have recourse to the approach dictated by the Governance Process before engaging the Dispute Resolution Process. It is anticipated by the parties that the vast majority of issues that arise for consideration in the ongoing relationship between the parties as the Term of this Agreement develops will be referred to and resolved through the Governance Process and that only in exceptional circumstances will the issue require a referral to the Dispute Resolution Process.

#### 31. Material Variation from the Request for Proposals:

It is agreed that if there is found to be a material misrepresentation in the Request for Proposals at any time during the Transition Project and for a further period of up to 90 days following the Handover Date,

then the issue thus created will be reviewed by the parties through the Governance process. It is agreed that any such variation will not be subject to Dispute Resolution Process described herein.

32. Client Services Delivery Manual:

As soon as is reasonably practicable following the Handover Date, the Contractor will complete, with the assistance of the Province, the Client Services Delivery Manual (CSDM) document. The CSDM will outline the organizational structure, reporting relationships, administrative procedures, and other operational details of the delivery of the Services. The CSDM is intended to be a working document that will be revised and updated from time to time during the Term by mutual agreement of the parties.

33. Quality Assurance:

The Contractor will develop and document a visible quality assurance process in the Ministry of Health's Client Services Delivery Manual (CSDM) and will apply adequate quality assurance efforts to all maintenance and enhancement activities in accordance with the Contractor's Peritus (tm) methodologies. The Contractor will also apply a process for continual improvement of the visible quality assurance process in the CSDM which will include input from the Province.

34. Change of Control:

The Contractor and the Guarantor shall notify the Province in writing immediately upon the occurrence of a change of control of the Contractor or the Guarantor. For the purposes of the section, "control" means the ability to direct the affairs of the Contractor whether by virtue of contract, ownership of shares or otherwise. If the Province does not approve of such change of control, it shall have the right to terminate this Agreement in accordance with the provisions of section 32 of this Agreement.

35. Annual Operating Plan:

35.1 The Contractor will, with the co-operation and assistance of the Province, prepare and provide to the Province an annual operating and technology plan (the "Operating Plan") which shall be a planning document and which shall not create any contractual rights or obligations, consisting of:

- (a) a summary of the financial and operational changes over the previous year;
- (b) the annual audit plan described in section 9.03 of Schedule E;
- (c) a survey, review and analysis of the applications and systems used to provide the Services;
- (d) information technology strategies to assist in realizing the Province's business and technological goals and objectives relevant to the Services,;
- (e) an analysis by the Contractor of application software used by the Province on the Systems with recommendations for changes to reduce costs or improve efficiencies;

- (f) a description of the Services to be provided in the following year, including any planned changes to the Services or systems thereof;
- (g) notification to the Province of proposed significant changes in the way the Contractor will support the Province or otherwise change the way it delivers the Services;
- (h) a review and analysis of projects performed over the previous year and summary of recommended projects; and
- (i) a budget forecast setting out the estimated monthly Fees and costs, a pro-forma budget for any major projects, as well as any planned capital expenditures to be made by the Contractor in connection with the Services.

35.2 The first Operating Plan, shall be delivered by the Contractor within 90 days of the Handover Date. Thereafter, no later than 90 days prior to the commencement of the Province's annual planning cycle as communicated to the Contractor by the Province, the Contractor shall develop, prepare and provide to the Province a proposed annual Operating Plan for the next 12 month period. Within 45 days following receipt of the proposed annual Operating Plan, the Province will advise the Contractor as to whether the Province approves such Operating Plan or will discuss with the Contractor any modifications or additions, and the Contractor shall provide a revised plan incorporating such agreed upon changes. Any changes contemplated under an annual Operating Plan shall be implemented in accordance with the Change Order Process.



## SCHEDULE F – PRIVACY PROTECTION

This Schedule forms part of the agreement between Her Majesty the Queen in right of the Province of British Columbia represented by the Minister of Health (the "Province") and CGI Information Systems and Management Consultants Inc. (the "Contractor") respecting the Application Support and Server Management (ASSM) Agreement (the "Agreement").

### Definitions

1. In this Schedule,
  - (a) "**access**" means disclosure by the provision of access;
  - (b) "**Act**" means the *Freedom of Information and Protection of Privacy Act* (British Columbia), as amended from time to time;
  - (c) "**contact information**" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
  - (d) "**personal information**" means recorded information about an identifiable individual, other than contact information, 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 but excluding any such information that, if this Schedule did not apply to it, would not be under the "control of a public body" within the meaning of the Act.

### Purpose

2. The purpose of this Schedule is to:
  - (a) enable the Province to comply with its statutory obligations under the Act with respect to personal information; and
  - (b) ensure that, as a service provider, the Contractor is aware of and complies with its statutory obligations under the Act with respect to personal information.

### 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.

**Requests for 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.

**Protection of personal information**

12. The Contractor must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

**Storage and access to personal information**

13. Unless the Province otherwise directs in writing, the Contractor must not store personal information outside Canada or permit access to personal information from outside Canada.

### **Retention of personal information**

14. 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**

15. Unless the Province otherwise directs in writing, the Contractor may only use personal information if that use is:
  - (a) for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement; and
  - (b) in accordance with section 13.

### **Disclosure of personal information**

16. Unless the Province otherwise directs in writing, the Contractor may only disclose personal information inside Canada 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.
17. Unless the Agreement otherwise specifies or the Province otherwise directs in writing, the Contractor must not disclose personal information outside Canada.

### **Inspection of personal information**

18. 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.

### **Compliance with the Act and directions**

19. The Contractor must in relation to personal information comply with:
  - (a) the requirements of the Act applicable to the Contractor as a service provider, including any applicable order of the commissioner under the Act; and
  - (b) any direction given by the Province under this Schedule.
20. The Contractor acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.

### **Notice of non-compliance**

21. 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**

22. 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**

23. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.

24. 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.

25. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.

26. If a provision of the Agreement (including any direction given by the Province under this Schedule) conflicts with a requirement of the Act or an applicable order of the commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.

27. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 28, the law of any jurisdiction outside Canada.

28. Nothing in this Schedule requires the Contractor to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.

## **SCHEDULE G**

### **SECURITY OBLIGATIONS**

- 1.1 The Contractor will require that all of its employees involved in providing the Services will participate in an annual training program to understand FOIPPA legislation, policies and practices, delivered by either the Province (at the option of the Province) or delivered by a resource of the Contractor specializing in freedom of information and privacy protection and related legislation; the Contractor will ensure that all employees who are assigned to provide any part of the Services will be required to understand 'FOIPPA' and comply with it.
- 1.2 All employees of the Contractor will sign a privacy and confidentiality agreement with the Province in the form attached as Schedule L and will be trained in their obligations in respect of protection of personal information.
- 1.3 The Contractor will designate its Relationship Manager as the employee responsible for privacy and security issues, in this role to be known as the 'Privacy and Security Officer'. The Privacy and Security Officer will be employed by the Contractor but will take direction on privacy and security issues from a designated person within the Ministry. The Province will ensure that its designated individual will oversee the Privacy and Security Officer to ensure that the privacy and security monitoring and compliance activities of the Contractor are in compliance with this Agreement;
- 1.4 The Contractor will ensure that all suppliers or subcontractors involved in any way with the provision of the Services will comply with the security processes and requirements established for the Contractor. The obligation to comply with these security processes and requirements will be included in contract agreements with suppliers and sub-contractors.
- 1.5 The Contractor will ensure that any information or data in the possession of the Contractor will reside within British Columbia, or with written approval from the Province, may be stored in other approved locations within Canada. The Contractor will ensure that no personal information relating to the Agreement will be stored, transmitted or made available in any form or manner outside Canada and that no person outside of Canada will have access in any form to personal information except data the Province has approved for public use or disclosure.
- 1.6 The Contractor will ensure that controls (including appropriate network security controls) are in place to maintain required security levels for the information, as prescribed by the information's classification level.
- 1.7 The Contractor will implement security measures to ensure that authorized personnel cannot use devices that can inappropriately copy or remove data to or from the secure facilities of the Province. This prohibition includes a restriction on using external hard drives, floppy disks, 'CDs', 'USB' devices, and all such similar products.

- 1.8 The Contractor will ensure that any Contractor information system, computer, database, or server that contains Sensitive Information will be directly connected to a secure network. It is agreed that Sensitive Information will be stored on databases and servers that are not accessible to e-mail or the internet.
- 1.9 The Contractor will ensure that all access points to information systems, computers, databases or servers that store Sensitive Information will be protected by firewalls. Wireless connections and network controls will comply with or exceed Provincial standards for security which may be periodically revised.
- 1.10 The Contractor will ensure that for all of its employees that have access to Sensitive Information and require access to the internet or e-mail, all such access will be logged and monitored by the Contractor and made available to the Province on demand. The required logs will include the time, date, userid and specific information related to the access (e.g., internet website and internet protocol address; e-mail address, e-mail heading, e-mail subject line).
- 1.11 The Contractor agrees that it will not have remote access to any secure data base that houses Ministry data. Unless otherwise agreed to by the Province, it is agreed that remote access to the systems of the Province will be limited to access to systems application code and documentation or to internal email [using only Province-supplied authentication mechanisms approved in advance by the Ministry](#). The Contractor will not have access to any date through the internet.
- 1.12 The Contractor will provide secure facilities that meet the Province's policies, procedures and standards relating to security. It is agreed that the Contractor will establish security controls for the Contractor's physical premises, personnel, IT systems and information of the Province that are commensurate with the level of sensitivity of the information being accessed.
- 1.13 The Contractor's offices must provide a secure work site using either a staffed reception desk or locked entry point, preferably using electronic technology. The Contractor will immediately notify the Province should a privacy or security breach occur.
- 1.14 The Contractor will ensure that the security software is current at all times, through applying critical patches, anti-virus software updates and other similar measures. The Contractor will monitor software vendor alert services on an ongoing basis to ensure that software updates are applied proactively.
- 1.15 When installing new software or upgrades to existing software the Contractor will ensure that all such additions are reviewed for malicious code or hidden accesses that may pose security problems.
- 1.16 The Contractor will implement appropriate controls and service monitoring processes to detect security breaches (i.e., from malicious code or unauthorized access).
- 1.17 The Contractor will ensure that appropriate physical security measures are used for facilities that store information systems, computers, databases, data rooms, servers, processors,

telecommunications or network facilities that store electronic information of the Province. These controls may include appropriate heating, ventilation, air conditioning ('HVAC') controls, fire suppression controls, uninterruptible power supply, keys, restricted access, and similar devices.

- 1.18 The Contractor will ensure that any removable media (e.g., hard drives, floppies, 'CDs', media sticks, 'USB' smart drives) that is to be disposed or re-used will be erased using procedures and methods that are approved in advance by the Province.
- 1.19 The Contractor will ensure that no Sensitive Information is stored on mobile or removable devices (e.g., laptops, PDAs, cell phones) unless approved by the Province.
- 1.20 The Contractor will ensure that no Sensitive Information should be transmitted over unsecured networks, such as the internet, or via e-mail, or widely-accessible networks unless such access is approved by the Province.

## SCHEDULE H

### GOVERNANCE PROCESS

The primary objectives of the governance framework are to:

- Establish clear lines of responsibilities and decision making accountability to facilitate the delivery of the Services and resolve issues as quickly as possible.
- Provide clear and centralized channels of communication so that the parties both receive consistent and relevant information.
- Provide a mechanism that enables the Services to develop and adapt during the Term in a controlled but flexible manner.

#### **1.1 Joint Executive Committee- Functions, Roles and Responsibilities**

(a) Role:

The Joint Executive Committee will provide strategic direction, budgetary approvals and guidance, in alignment with the Agreement by:

- Ensuring business and service delivery are aligned with the Province's Service Plan.
- Modeling and supporting a culture of change and relationship/alliance building between the parties to create an environment for success.

(b) Responsibilities:

- Establish and approve strategic directions for the working relationship between the parties, including 3-year goals and annual priorities.
- Champion the relationship between the parties and the new way of doing business to create conditions for success, including assisting each party to identify and obtain the required internal resources.
- Model expected behaviors for the success of the relationship between the parties (e.g., culture and working together on the basis of mutual interest).
- Approve the performance measurement framework upon the recommendation of the Joint Management Committee.
- Approve major changes to the Agreement or how the transaction is being managed, as required.
- Provide issue and dispute resolution to minimize escalation to the Joint Relationship Sponsors.
- Review and approve requests for changes to Key Personnel.

(c) Chair and Membership:



- Co-chaired by one representative of the Province and one representative of the Contractor unless otherwise agreed by both parties.
- 3 senior executive representatives of each of the Province and Contractor or such other number of committee members as is agreed to by both parties.
- Contractor's representatives may include representatives of Contractor's Subcontractors.

(d) Meetings

- Every other month for first 6 months; quarterly thereafter or more often as requested by either party on five Business Days prior notice.
- All meetings will follow the meeting protocols set out in section 1.6.

**1.2 Joint Management Committee- Functions, Roles and Responsibilities**

(a) Role:

- Provide advisory support to the Joint Executive Committee and direction and guidance in respect of the relationship between the parties to ensure operational success.
- Provide a formal forum for joint issue resolution and decision-making.
- Create or modify Working Groups and approve Working Group terms of reference.

(b) Responsibilities:

- Jointly develop the 3-year and annual Province/Contractor business plan.
- Review and recommend the annual Operational Plan and resolve any changes through the Change Order Process.
- Prioritize projects and initiate and approve project charters.
- Review and approve requests for changes to Material Subcontractors
- Continuously look for new ways to deliver business value, new business development opportunities and proactively seek advice on and share best practices.
- Determine appropriateness and need for knowledge transfer activities.
- Provide recommendations to the Joint Executive Committee regarding significant changes in project scope, budget, timeframes and stakeholder relationships.
- Monitor Contractor performance and the objectives, outcomes and other benefits realized, and identify and escalate any systemic contractual or management problems to the Joint Executive Committee.
- Confirm performance measurement framework and manage issues related to performance and Service Levels.

- Review proposed Services Level Targets and adjust Service Levels as appropriate based on:
  - the then-current Service levels,
  - industry standards,
  - improved performance factors,
  - customer satisfaction surveys.
- Conduct an annual review of reporting requirements for approval of any improvements, enhancements or changes.
- Provide dispute resolution decision-making and issue resolution to minimize escalation to the Joint Executive Committee.
- Approve charter, chairs and membership of Working Groups.

(c) Chair and Membership:

- Alternating Chairs from each party.
- Senior representatives of each party in such numbers as may be agreed by both parties (which need not be equal as between the two parties), but not to exceed 8 in total.
- Contractor's representatives may include representatives of Contractor's Subcontractors.
- Province's representatives may include representatives of CITS.

(d) Meetings:

- Monthly or more often as requested by either party on five Business Days prior notice.
- All meetings will follow the meeting protocols set out in section 1.6.

### **1.3 Joint Operations Committee- Functions, Roles and Responsibilities**

#### **(a) Role:**

- Address day to day operations management and day-to-day issues.

#### **(b) Responsibilities:**

- Management of the change process, including scheduling conflicts.
- Review of all major problems, root cause, and corrective action planned or implemented.
- Review the results of all major changes.
- Prepare reports for the Joint Management Committee including the monthly service level report

#### **(c) Chair and Membership:**

- Co-chaired by the Relationship Managers
- Technical representatives of each party in such numbers as may be agreed by both parties (which need not be equal as between the two parties), but not to exceed 8 in total.
- Contractor's representatives may include representatives of Contractor's Subcontractors.
- Province representatives may include representatives of CITS.

#### **(d) Meetings:**

- Weekly or more often as requested by either party on one Business Days prior notice.
- All meetings will follow the meeting protocols set out in section 1.6.

### **1.4 Working Groups- Functions, Roles and Responsibilities**

#### **Working Groups will:**

- Be constituted at the request of the Joint Management Committee, and will perform functions as requested by the Joint Management Committee.
- Develop and maintain terms of reference for approval by the Joint Management Committee.

- Develop annual Release Plans as part of the Operating Plan.
- Work on the basis of consensus as between the two parties.
- Be consultative in nature.
- Receive operational direction through the Province Contract Management Office (as originating from the Joint Management Committee).

Chairs and membership of the Working Groups and the approval of the charters of the Working Groups will be determined by the Joint Management Committee. Chairs will be responsible for setting agendas, moderating meetings, declaring consensus, recording decisions and/or approving recommendations to higher level committees.

### **1.5 Relationship Managers**

An overall relationship manager (the “Relationship Manager”) assigned by each party who will:

- 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;
- Jointly be responsible for preparation of the agendas for the Joint Management Committee and the Joint Executive Committee
- Attend all JMC and JEC meeting but is not a member of either committee
- Act as the primary liaison with the executive staff of the other party with respect to the Services;
- Coordinate, oversee, and monitor the performance of the Services by the Contractor,
- Verify invoices
- Be solely authorized to sign-off on change requests or change orders
- Be familiar with the principles and practices of interest-based negotiations; and
- Otherwise act in accordance with any responsibilities as set forth in this Schedule or otherwise in this Agreement.

### **1.6 Meeting Protocols**

- All governance meetings should follow standard business practices for meeting etiquette, as follows:
  - Meeting changes should be communicated at least 5 Business Days in advance.

- Agendas will be jointly established and circulated together with any other meeting materials 3 Business Days prior to the meeting.
- Quorum for all meetings require at least one representative of each party to be present in person or through acceptable remote access.
- All decisions will be made in accordance with section 1.7 (*Authority and Decision making*) below.
- Meeting minutes shall be taken and circulated to committee members within 3 Business Days of the meeting.
- parties have three Business Days after circulation of the minutes to object to minutes, failing which minutes are deemed to be accepted. Such deeming provision shall not apply to minutes of meetings of Joint Relationship Sponsors which must be accepted by the members thereof.
- Meeting invitees to indicate ability to attend at least 3 Business Days prior to the meeting and, if unable to attend, to send an appropriate delegate with decision-making authority.
- Meeting notice should indicate mandatory and optional invitees; meeting attendance is mandatory for permanently appointed members of any committee.
- Meeting notice should indicate whether presence is required in-person, otherwise remote access (teleconference, net meeting) is acceptable.
- Meetings will start at the stated time on the circulated agenda.

### **1.7 Authority and Decision Making**

The following table outlines the scope of authority and decision making of the various committees, teams and working groups described in the governance framework.

Any decision made by a governance committee that is within the operating mandate of that committee will be:

- made by the mutual consensus of the Province committee members on the one hand, and the Contractor committee members on the other hand; and
- binding upon the parties (unless decided otherwise by a committee having authority to do so).

Decisions that extend beyond the mandate of the committee will be escalated to the next appropriate committee as indicated in this Schedule, and where no such committee is indicated, to the Joint Executive Committee. All decisions made by the committees will, where appropriate, follow the Change Order Process. All decisions will be recorded in meeting minutes and a notice of each decision will be sent to affected parties.

**Subject to section 2.3 of Schedule I, where, as a result of the exercise of a decision-making authority conferred on a governance committee under this Schedule, the parties propose to amend the Agreement, such proposed amendment shall be implemented by way of the Change Order Process.**

**Summary of Authority of Governance Committees**

GOVERNANCE COMMITTEE	AUTHORITY TO MAKE DECISIONS ON ISSUES
<p>Joint Relationship Sponsors            For the Province – the Assistant Deputy Minister – Knowledge Management and Technology            For the Contractor – the Senior Vice President – Western Canada</p>	<p>Issues that significantly impact the health of the relationship between the parties</p>
<p>Joint Executive Committee (JEC)</p>	<p>Issues that significantly impact:</p> <ul style="list-style-type: none"> <li>- Scope</li> <li>- Transition</li> <li>- Timeframes</li> <li>- Budget Allocation</li> <li>- Stakeholder relations</li> </ul> <p>Official Plans and Priorities</p> <p>Issues impacting the parties including:</p> <ul style="list-style-type: none"> <li>- Legislative</li> <li>- Policy</li> <li>- Privacy and security</li> <li>- Issues escalated from the Joint Management Committee</li> </ul> <p>Contractor and Province Service Level Appeals</p>
<p>Joint Management Committee (JMC)</p>	<p>Issues that impact:</p> <ul style="list-style-type: none"> <li>- Scope, including new project approvals and changes to Service Descriptions</li> <li>- Timeframes</li> <li>- Budget Management</li> <li>- Stakeholder Relations</li> <li>- Performance and Service Levels</li> <li>- Resource sufficiency and availability</li> <li>- CITS relationship</li> </ul> <p>Issues escalated from JOC, Working Groups, Project and/or Operational Teams .</p>

GOVERNANCE COMMITTEE	AUTHORITY TO MAKE DECISIONS ON ISSUES
	Risk mitigation strategies
Joint Operations Committee (JOC)	Issues that impact: <ul style="list-style-type: none"> <li>- Day-to-day operations</li> <li>- Operational change management</li> <li>- Problem and incident review and follow-up</li> <li>- Performance and Service Levels</li> </ul>
Working Groups	Review, assess, provide input, and advice regarding issues (no decision making authority unless delegated).
Project and Operational Teams	Day to day decisions and issue resolution for items within the scope of their respective mandates as defined in their charters (no decision making authority unless delegated).

## SCHEDULE I

### CHANGE ORDER PROCESSES

#### 1. Change Order Processes

The following process, to be further defined in the Client Services Delivery Manual ("CSDM"), will be used to govern operation, technical and other changes to the Base Support Services provided and to add additional scope of work such as projects or new applications. This process will also be used to descope or remove applications from the Agreement.

The CSDM will define processes for the detailed handling of Service Requests, some of which may result in a contract Change Order. Where appropriate, procedures for the handling of Service Requests will follow the principles and agreements outlined in this Schedule.

#### 2. Change Order Process

##### 2.1 Changes

The process described in this section 2 shall apply to all material changes to the following:

- The Monthly Base Services Fee or other fees payable to the Contractor under this Agreement;
- The Services to the extent the change alters scope of a Service, including descopeing or removal of applications from the Agreement;
- The Service Levels;
- The security or other Provincial policies to the extent they affect price, scope or Service Levels;
- Changes in critical milestones or other dates or deadlines;
- Changes in Province-owned or Province-leased equipment, applications, software;
- Changes in the form of any attachment, process or procedure described in the Agreement other than the Schedules or ;
- New services or new initiatives.

##### 2.2 Descoping or Removal of Applications

The Province will provide written notice to the Contractor requesting specific services to be descoped. This notice must be provided no less than 90 calendar days from the planned de-scoping date.

The Contractor will be provided formal instructions to commence de-scoping activities and schedule via the Province signature on a descoping change order no less than 60 calendar days from planned de-scoping date.

2.3 In no event may the Change Order Process be used for changes in the terms of the written Agreement or Schedules thereto unless mutually agreed upon by the Province and the Contractor.

##### 2.4 Forms

In this Schedule "I":

- (a) Change Order Request means that document issued by the Province in the form attached as Exhibit "1"; and



- (b) Change Order Proposal means that document issued by the Contractor in the form attached as Exhibit "2";

The form of Change Order Proposal and Change Order Request is provided for guidance only and the parties by mutual agreement may use other forms as may be more applicable to the particular change.

## 2.5 Rates

Hourly rates from Schedule B – Fees and Expenses will be used to determine cost estimates to be included in the Change Order Proposal.

For Change Order Requests, the Contractor will prepare at its cost, an initial estimate of effort, a likely range of project costs, a description of the business value to the Province, a description of the work required to accomplish the enhancement, a draft work plan, initial risk identification and mitigation plan and descriptions of the deliverables required. The Contractor will allot up to 3 business days of Contractor resource time for the initial estimate. Subsequent work, with approval by the Province, will be billable.

If the Change Order Proposal is accepted and approved by the Province, the Contractor will produce a documentation package for each change order that may include new or updated user documentation, test plans, implementation plans, training documentation, project documentation, user designs, technical designs, and associated system documentation.

The parties will work in good faith to jointly manage the volume, priority and approval of Change Order Requests and Change Order Proposals to ensure effective use of each party's resources.

## 2.6 Province Initiated Changes

The parties agree that:

- (a) The Province will use the Change Order Request when notifying the Contractor of a Change. Where applicable, the Contractor will provide assistance to the Province in identifying Changes;
- (b) For High Priority requests, the Contractor will respond to the Change Order Request within:
- 5 Business Days for a Minor Change – a Minor Change is defined as 5 days or less of Contractor work;
  - 10 Business Days for a Medium Change – a Medium Change is defined as significant enhancements requiring more than 5 days but less than or equal to 20 days of Contractor work;
  - Time as the parties may mutually agree based on the scope of the requested change for a Major Change – a Major change is defined as requiring more than 20 days of Contractor work;

using a Change Order Proposal. If, in the opinion of the Contractor, a Change Order Request could be implemented in a more cost effective manner than that described in the Change Order Request or should, for any reason, be implemented in a different manner than that described in the Change Order Request, the Contractor will advise the Province in writing of its recommendations and, if requested by the Province, will prepare a Change Order Proposal which reflects its recommendations. Pricing in the Change Order Proposal will reflect actual incremental costs or savings;

- (c) For High Priority Requests, the Province will respond to the Change Order Proposal within:
- 5 Business Days for a Minor Change;

- 10 Business Days for a Medium Change;
- Major Change – time as the Parties may mutually agree based on the scope of the requested change;

indicating acceptance by signing the Change Order Proposal or by written communication indicating either rejection of the Change Order Proposal or proposing alternatives for the unacceptable items; and

- (d) For High Priority Requests, if the Province has proposed alternatives under paragraph (c), the Contractor shall submit an updated Change Order Proposal within:
- 5 Business Days for a Minor Change;
  - 10 Business Days for a Medium Change;
  - Major Change – time as the Parties may mutually agree based on the scope of the requested change.
- (e) For other requests are not High Priority – time as the Parties may mutually agree based on the scope and priority of the requested change.

## 2.7 Contractor Initiated Change

The Parties agree that:

- (a) If the Contractor wishes to initiate Change, it shall use the Change Order Proposal. The Change Order Proposal shall in addition to the items listed in Exhibit 2 contain
- (i) all required technical and financial information, and
  - (ii) justification for the Province to assess the proposal;
- (b) The Province will evaluate the Change Order Proposal to determine the extent of impact on the Province.; and
- (c) The Province will respond within the time limits set out above, either indicating acceptance by signing the Change Order Proposal, or by indicating that the Change Order Proposal is unacceptable, and indicating rejection, or proposing acceptable alternatives.

## 2.8 Severity Classification

The Severity Classification of the change will be determined by the Contractor and documented in the Change Order Proposal. The Parties will then agree upon whether the change is a Minor Change, Medium Change or Major Change. If the parties are unable to agree upon the Severity Classification, the Change will be designated as a Major Change.

## 2.9 Priority Classification

Upon initiating each Change Order, the Province will assign a Priority Classification to the Change Order Request. Further, based on the Contractor's work in preparing the Change Order Proposal, the parties will agree upon whether the change is a High, Medium or Low Priority. If the parties are unable to agree upon the Priority Classification the Change will be designated as a High Priority. Priority Classifications are defined as follows:

### **High Priority:**

- the business area has set a firm deadline for delivery;
- the changes are such that the work will need to begin shortly in order to meet the deadline;

- there will be a significant impact to the business area if the changes are not delivered by the deadline; and
- user-testers are available in order to for the deadline to be met.

**Medium Priority:**

- the business area has set a firm deadline for delivery;
- the changes are such that the start date for the work can be delayed in order to meet the deadline;
- there will be some degree of impact to the business area if the changes are not delivered by the deadline; and
- there is some flexibility, based on the delivery schedule, as to when user-testers must be available.

**Low Priority:**

- the business area is unsure as to when the work must be completed or is very flexible on the completion date;
- the changes are such that the work can be done as time permits;
- there will be very little impact to the business area if the changes are not made; and
- there is a high degree of flexibility, based on the delivery schedule, as to when user-testers must be available.

2.10 Mutual Agreement

The Province and the Contractor may mutually agree in writing to a Change without using the forms and process outlined in this section 2, however, such written agreement will be subject to the authority limits set out in section 3 below.

**3. Authority Limits**

Unless otherwise stated in the applicable form, Changes, regardless of classification as Major, Medium or Minor will be approved by the Contractor Relationship Manager and the Province Relationship Manager, with both parties recognising that Changes of a higher magnitude may require additional internal approvals within each organisation prior to execution.

**4. Dispute Resolution**

In the event the parties cannot agree to proposed changes, the Change Order Dispute Resolution provisions of the Agreement shall control.

**5. Change Management Process**

The processes that the Province uses to initiate and track changes to each application will be documented in the CSDM, based on the processes that were included in the RFP and the concept of Service Releases.

**6. Automation of the Process**

The change order form reflects the information that must be collected for each change order request and proposal, however, an electronic tool and process could be used for the creation, management and approval of change orders. Subject to joint agreement by the Province and the Contractor, during the Transition Project it will be determined as to whether change orders will be managed via a paper-based process or an automated process.

**EXHIBIT 1**  
**CHANGE ORDER REQUEST (example – actual form TBD)**

**To:** CGI Information Systems and Management Consultants Inc. (the  
“Contractor”)  
**From:** BC Ministry of Health (“the Province”)  
**Re:** Information Services Agreement dated \_\_\_\_\_ Between the Contractor  
and the Province (the "Agreement")  
**And Re:** Schedule “I” to the Agreement

**Change Order Request Number** \_\_\_\_\_

The Change Order Request forms part of and is subject to the terms and conditions in the Agreement.

1. Statement of Objective
2. Description of Change
3. Expected Effect on Existing Services and Service Levels
4. Delivery Schedule or Impact on Current Deadlines
5. Priority Classification
6. Assumptions
7. Deliverables
8. Justification
9. Other Issues or Information

Please respond to this Change Order Request on or before \_\_\_\_\_.

The Province

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

\_\_\_\_\_  
Name (Print or Type)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

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**EXHIBIT 2**  
**CHANGE ORDER PROPOSAL (example – actual form TBD)**

**To:** BC Ministry of Health (the "Province")

**From:** CGI Information Systems and Management Consultants Inc. (the "Contractor")

**Re:** Information Services Agreement dated \_\_\_\_\_ Between the Contractor and the Province (the "Agreement")

**And Re:** Schedule "I" to the Agreement

The Change Order Proposal forms part of and is subject to the terms and conditions of the Agreement.

Change Order Proposal Number \_\_\_\_\_.

Response to Change Order Request Number \_\_\_\_\_.

1. Description of Change
2. Effect on Existing Services and Service Levels
3. Delivery Schedule or Impact on existing Deadlines
4. Estimated Project Costs
5. Estimated Effect on Ongoing Fees
6. Alternatives
7. Recommendations
8. CGI Responsibilities
9. Ministry of Health Responsibilities
10. Assumptions
11. Risk Assessment and Mitigation Plan
12. Deliverables

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13. Priority Classification
  14. Severity Classification
  15. Other Issues or Information

This Change Order Proposal is offered to the Province by the Contractor and shall remain open for acceptance by the Province for \_\_\_\_\_ Business Days.

**Agreed to:****Agreed to:****CGI Information Systems and Management  
Consultants Inc.****The Province**

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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**SCHEDULE J****KEY PERSONNEL****1.1 Province:**

Relationship Manager  
Joint Executive Sponsor

**1.2 Contractor:**

Service Delivery Manager  
Relationship Manager  
Joint Executive Committee Member

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**1.3 Subcontractor**

Server Manager (Team Lead)

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**SCHEDULE K****SAMPLE NON-DISCLOSURE AGREEMENT****NON-DISCLOSURE AGREEMENT**

**This Non-Disclosure Agreement** is made and entered into this \_\_\_\_ (*insert day*) day of \_\_\_\_\_ (*insert month*), 20\_\_\_\_ (*insert year*) (hereinafter referred to as the “**Non-Disclosure Agreement**”).

**BETWEEN:** **CGI INFORMATION SYSTEMS AND MANAGEMENT CONSULTANTS INC.**, a duly incorporated company, having a place of business at 1405 Douglas Street, 6<sup>th</sup> Floor, Victoria, BC, V8W 2G2, (hereinafter referred to as (“**CGI**”)

**AND:** \_\_\_\_\_ (*insert recipient’s name*) a duly incorporated company, having a place of business at \_\_\_\_\_ (*insert recipient’s address*), (hereinafter referred to as the “**Recipient**”)

**WHEREAS** for the Purpose defined hereinafter, CGI will disclose to the Recipient certain information that is confidential and proprietary to CGI and/or its client(s) (hereinafter referred to as the “**Client**”); and

**WHEREAS** the parties wish to define the nature of the confidential information that is the object of this Non-Disclosure Agreement as well as the Recipient’s obligations with respect to same;

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Recipient hereto agrees as follows:

**ARTICLE 1. INTERPRETATION**1.1 Definitions

The words contained in this Non-Disclosure Agreement that are set forth with the initial letter in upper case shall have the following meaning:

- (a) “**Confidential Information**” means:
- (i) all information provided by CGI or its Client to the Recipient, including without limitation, processes, methodologies, techniques, business practices, know-how, data, tools, templates, technology, technical data and/or solution, documentation, development, procedures, software, programs, business plans, financial data, marketing plans and strategies, existing and potential customers’ data, suppliers’ lists, sale opportunities, proposal and bid



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documentation and strategies, and other non public information which is confidential or proprietary to CGI or its Client, regardless of the form of disclosure;

- (ii) all information provided by CGI or its Client which is marked with an appropriate stamp or legend designating such material as “Confidential”; and
- (iii) all information provided orally by CGI or its Client which is identified as confidential at the time it is transmitted and is subsequently confirmed as such in writing by CGI within fifteen (15) days after such verbal transmittal.

Notwithstanding the foregoing, all information disclosed hereunder shall be deemed to be Confidential Information, regardless of whether such information is marked as “Confidential” or the Recipient is advised orally that such information is confidential, provided it would be reasonable for the Recipient, taking into account the circumstances surrounding the disclosure or the nature of the information itself, to assume that such information is confidential.

- (b) “**Purpose**” means the fulfillment of the Recipient’s contractual obligations to the BC Ministry of Health.

## **ARTICLE 2. RECIPIENT’S OBLIGATIONS**

### **2.1 Obligations With Respect to Confidential Information**

- (a) The Recipient shall keep all Confidential Information in strict confidence, exercising the same degree of care and measures as it would normally exercise for its own information of like nature, but not less than the reasonable degree of care and measures necessary to safeguard such Confidential Information.
- (b) The Recipient agrees not to use and make copies, whether in printed or machine-readable form, of the Confidential Information except in accordance with the Purpose of this Non-Disclosure Agreement and to the extent necessary to perform its obligations hereunder.
- (c) The Recipient agrees not to disclose the Confidential Information to its employees except to those that have a need to know such Confidential Information in accordance with this Non-Disclosure Agreement, provided that such employees agree to be bound by the terms and conditions of this Non-Disclosure Agreement or by similar non-disclosure obligations.
- (d) The Recipient agrees, upon CGI’s request, to promptly return the Confidential Information to CGI or, at CGI’s option, to certify in writing that the Confidential Information has been destroyed.

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**2.2 Exclusions to the Recipient's Obligations**

The obligations of non-use and maintenance of confidentiality set out herein shall not apply in the event the Confidential Information:

- (a) was, at the time of disclosure by CGI or its Client, in the public domain;
- (b) was lawfully received by the Recipient from a third party without restrictions on disclosure or use;
- (c) was already in the possession of the Recipient as shown by the Recipient's written records;
- (d) was independently developed by the Recipient without any breach of this Non-Disclosure Agreement and without reference to or reliance upon the Confidential Information;
- (e) is required to be disclosed by order of any court or tribunal of competent jurisdiction, provided that if an application is made to a court or tribunal for an order requiring Recipient to disclose any Confidential Information, Recipient shall immediately notify CGI. If CGI elects to oppose such an application, CGI shall immediately inform Recipient by notice to that effect. If CGI so requests, Recipient shall assist CGI in opposing such application.

**ARTICLE 3. OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS**

- 3.1 The Recipient acknowledges that the Confidential Information remains the sole property of CGI or of its Client, as applicable. Further, no license under any of CGI or of its Client's trade secret, patent, trade-mark, copyright, or other proprietary rights is granted by CGI to the Recipient or can be implied by the disclosure to the Recipient of any Confidential Information hereunder.

**ARTICLE 4. ACCURACY AND COMPLETENESS**

- 4.1 It is acknowledged that, although CGI has endeavored to include in the Confidential Information all the information that it deemed relevant to achieve the Purpose referred to in this Non-Disclosure Agreement, CGI makes no representation or warranty as to the accuracy or completeness of the Confidential Information. CGI and its Client, as applicable, shall have no liability to the Recipient for any inaccuracy or the incomplete nature of the Confidential Information supplied by CGI or its Client under this Non-Disclosure Agreement.

**ARTICLE 5. REMEDIES**

- 5.1 Recipient acknowledges that the terms and conditions contained herein are reasonable and necessary to protect CGI's and its Client's legitimate business interest. In the event of violation of these terms and conditions, irreparable damages will be caused to CGI

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and/or its Client and monetary damages will not adequately compensate CGI and/or its Client for all damages suffered. Accordingly, the Recipient agrees that CGI and/or its Client will be entitled, in addition to any remedies available at law or in equity, to injunctive relief for any breach of this Non-Disclosure Agreement.

**ARTICLE 6. TERM**

6.1 The parties agree that this Non-Disclosure Agreement and any obligations resulting hereunder shall be in effect for a period of five (5) years from the disclosure of the Confidential Information.

**ARTICLE 7. SEVERABILITY**

7.1 If any provision of this Non-Disclosure Agreement shall be held by an arbitrator or a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be interpreted as necessary to carry out the intent of the parties and the other provisions herein shall remain in full force and effect.

**ARTICLE 8. MODIFICATION**

8.1 No modification to this Non-Disclosure Agreement will be valid unless it is in writing and executed by a duly authorized representative of each of the parties.

**ARTICLE 9. HEADINGS**

9.1 The headings in this Non-Disclosure Agreement are inserted for convenience of reference only and shall not affect the interpretation hereof.

**ARTICLE 10. ASSIGNMENT**

10.1 This Non-Disclosure Agreement may not be assigned by the Recipient without the prior written consent of CGI.

**ARTICLE 11. SUCCESSORS IN INTEREST**

11.1 This Non-Disclosure Agreement and the provisions hereof shall enure to the benefit of and be binding upon the parties and their respective successors and assigns.

**ARTICLE 12. GOVERNING LAWS**

12.1 This Non-Disclosure Agreement shall be governed by and construed according to the laws of the Province of British Columbia and the laws of Canada applicable therein.

**IN WITNESS WHEREOF**, the parties hereto have respectively caused this Non-Disclosure Agreement to be executed by their authorized representatives as of the date above-mentioned.

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**CGI INFORMATION SYSTEMS AND  
MANAGEMENT CONSULTANTS INC.**

\_\_\_\_\_ (*name of Recipient*)

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

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

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

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

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

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

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**SCHEDULE L****CONFIDENTIALITY COVENANT**

**Her Majesty the Queen in Right of the Province of British Columbia, represented by the Minister of Health** (the “**Province**”) has contracted **CGI Information Systems and Management Consultants Inc.**, (the “**Company**”) to provide various services in connection with application support and server management (the “**Contract**”). In the course of the Company’s provision of services to the Province, the Company will be provided with access to or custody over personal information, including highly sensitive personal information, and other confidential information that is under the control of the Province (the “**Province Data**”), and the Company is obligated to ensure the privacy, confidentiality, and security of the Province Data.

I, the undersigned, as a condition of being assigned to work on the Contract, will comply with all of the policies of the Company relating to security, confidentiality and personal information and the terms of this Agreement, which includes my obligation to maintain the confidentiality and security of Province Data and to report any breach or suspected breach of confidentiality or security and any wrongdoing or suspected wrongdoing of which I become aware.

I, the undersigned, further covenant and agree that:

1. I will access and deal with Province Data only in strict accordance with the written policies and processes that have been agreed to between the Company and the Province (collectively, the “**Privacy Obligations**”).
2. I will not disclose any Province Data except as clearly permitted or provided for by the Privacy Obligations.
3. If I know or suspect that the Company or any other person or organization has accessed or disclosed or intends to access or disclose any Province Data in any manner that is not permitted by, or that is inconsistent with, the provisions or the spirit of the Privacy Obligations (a “**Breach**”), I will:
  - (a) not take any action to assist the Company or any other person in committing the Breach or that might otherwise permit or provide for the furtherance of the Breach, even if instructed to do so by the Company or by any other person; and
  - (b) immediately notify the Province of the Breach by calling the hotline that has been established by the Province as set forth in the

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Privacy Obligations (the “**Hotline**”) and I will cooperate with the Province by providing all relevant information regarding the details of the Breach.

4. Where I have any questions as to whether a Breach has occurred, I will call the Hotline. I will be deemed to be in compliance with my obligations under this Confidentiality Covenant when I follow any direction that I receive from the Province through the Hotline.
5. I acknowledge and agree that my obligations to the Province pursuant to this Confidentiality Covenant take priority over any agreement with or commitment to any other party (including the Company) that is inconsistent with this Confidentiality Covenant.
6. I will, on an annual basis or as otherwise requested by the Company, reconfirm my commitments in respect of the Province Data.

Dated: \_\_\_\_\_

SIGNED, SEALED AND DELIVERED by ● )  
[NAME] in the presence of: )

\_\_\_\_\_)  
Signature )

\_\_\_\_\_)  
Print Name ) ● [NAME] \_\_\_\_\_

\_\_\_\_\_)  
Address )

\_\_\_\_\_)  
Occupation )

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**SCHEDULE M****PROVINCIAL SHARED INFRASTRUCTURE**

The services that the Contractor will be using that are provided by the Province will include:

Application Hosting:

- CITS will provide the server hardware and operating system software for Unix, Linux and Windows
- CITS will provide storage service
- CITS will provide data backup service
- CITS will provide shared web hosting service
- CITS will provide MVS mainframe service

Data Network - SPAN/BC:

- Remote access - SPAN/Dial service and VPN gateway
- Domain Registration service
- Network Management tools
- Wide/Local Area Network services

Access to the E-forms Application

BCeID directories and authentication  
IDIR directory and authentication service  
Blackberry service  
Shared file and print  
Sharepoint team collaboration

the details of which can be found at <https://cits.gov.bc.ca/general/allservices.htm> through an IDIR account to be provided by the Province.

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**SCHEDULE N  
TRANSITION CHARTER**



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**SCHEDULE O****DEFINITIONS****Definition :**

"Base Service Fees" means the monthly fees payable to the Contractor by the Province for the Base Support Services as initially described in Schedule B, and as amended from time to time as provided in the Agreement;

"Base Support Services" means the routine application support and server maintenance services described in Schedule A that are required to be provided to the Province by the Contractor under the Agreement, which services will generally exclude "project" work on enhancements and additions to the applications being supported;

"Business Day" means any day other than a Saturday, Sunday or a Statutory Holiday in the Province of British Columbia;

"Contract Year" means a consecutive 12 month period commencing on the Handover Date or its anniversary, and terminating on the day before the anniversary of the Handover Date in the ensuing year;

"Dispute Resolution Process" means the process described in section 43 of the Agreement;

"Governance Process" means the process described in Schedule H;

"Sensitive Information" means personal, confidential or protected information whose release is unauthorized i.e., information which is reasonably likely to be excepted or excluded from access under the Freedom of Information and Protection of Privacy Act;

"Transition Charter" means the process to accomplish the Transition Project described in Schedule N;

"Transition Project" means the project to transition the provision of the Services from the current provider of the Services to the Contractor, as more particularly described in the Transition Charter.

**BETWEEN:**

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Ministry of Health

(the "Province") at the following address:  
7-1, 1515 Blanshard Street, Victoria, BC, V8W 3C8  
Fax: (250)-952-1186

**AND:**

CGI Information Systems and Management Consultants Inc.

(the "Contractor") at the following address:  
Suite 203, 2621 Douglas Street  
Victoria, BC, V8T 4M2  
Fax: (250) 220-1465

and

CGI Group Inc.

(the "Guarantor")

**BACKGROUND**

- A. The parties entered into an Application Support and Server Management (ASSM) Agreement made effective the 1<sup>st</sup> day of July, 2006, a copy of which is attached hereto as Exhibit 1 (the "Agreement").
- B. The Parties have agreed to extend the term of the Agreement and amend specific terms and conditions as set out herein.

**AGREEMENT**

The parties agree as follows:

- (1) This Amendment Agreement is to modify and become part of the Agreement.
- (2) Despite Section 1 of the Agreement, the parties will extend the term of the Agreement on the same terms and conditions save and except for those terms and conditions specifically modified by this Amendment Agreement, for a period of four (4) years commencing on the 1<sup>st</sup> day of October, 2011 and terminating on the 30<sup>th</sup> day of September, 2015.
- (3) Schedule A – Services and Services Levels of the Agreement is amended by adding new applications, and servers to the Base Support Services as requested by the Ministry, as set out in the document entitled "MoH ASSM – Applications-Services-Services" V4 dated June 2011, a copy of which is attached hereto as Exhibit 2.
- (4) Schedule B – Fees and Expenses of the Agreement will be amended as outlined in "Application Support and Server Management, ASSM Extension Recommendation, Briefing Document", dated 2011-08-01, Version 1.2, and its attachments, a copy of which is attached hereto as Exhibit 3, which for clarity specifies the following changes to the Agreement:
  - a. Section 1 – Fixed Fees: Effective October 1, 2011 and for the remainder of the term set out in Section (2) above, the monthly Base Services Fee shall be \$312,500 per month.
  - b. Section 2 – Hourly Fees for Applications Enhancement and Development: The list of Skill Sets has been revised to include additional resource types in order meet the service needs of the

Province. The revised list is as set out in the document entitled "Role Descriptions", a copy of which is attached hereto as Exhibit 4.

- c. Section 2 – Hourly Fees for Applications Enhancement and Development: The new hourly rate table is as set out in the Section entitled "Non-Base" on page 8 of Exhibit 3 hereto.
  - d. Section 3 – Dedicated Support Resources: The new hourly rate table is as set out in the Section entitled "Pool" on page 9 of Exhibit 3. In addition, the first paragraph of Section 3 of Schedule B of the Agreement is hereby replaced with the following: "The Province can request dedicated support resources using the Change Order Process. As long as the commitment is for a minimum one (1) year period and a minimum commitment of \$2,000,000 of total dedicated support resources for that year, the Province will be entitled to the preferred hourly rates set out in the table below. Dedicated resources can be requested at anytime during the year."
- (5) This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered will be an original, and all such counterparts may be delivered by facsimile transmission and such transmission will be considered an original.
- (6) The parties acknowledge and agree this agreement satisfies the requirement under Schedule I in respect of the matters herein that requires a Change Order as required by Schedule I.
- (7) In all other respects the Agreement is confirmed.

THE PARTIES have duly executed this agreement the 30<sup>th</sup> day of September, 2011.

**SIGNED AND DELIVERED** on behalf of the Province by an authorized representative of the Province

\_\_\_\_\_  
(Authorized Representative)

**SIGNED AND DELIVERED** by or on behalf of the Contractor (or by an authorized signatory of the Contractor if a corporation)

\_\_\_\_\_  
(Contractor or Authorized Signatory)

**SIGNED AND DELIVERED** by or on behalf of the Guarantor (or by an authorized signatory of the Guarantor if a corporation)

\_\_\_\_\_  
(Guarantor or Authorized Signatory)