

1. Terms and Conditions of Service

The Terms and Conditions of Service set forth herein, any CDS service order form ("Service Order Form") and any schedules including, but not limited to, Service Levels ("Schedules") thereto, together constitute the full and final expression of this agreement (the "Agreement") for the sale of products or services (the "Service(s)") by Cogeco Data Services LP, acting by its sole general partner, Cogeco Data Services GP Inc. (hereafter referred to as "CDS") to the Customer, and supersedes all prior correspondence, whether written or oral, between CDS and the Customer. Any different terms or conditions proposed by a party are rejected unless expressly agreed to in writing by the other party.

CDS shall furnish to the Customer Service(s) in accordance with the description shown in the service order form(s) (the "Service Order Forms") and schedule(s) (hereafter referred to as "Schedules") that may be attached hereto from time to time and may include additional terms and conditions applicable to provision of the Service(s). The Customer accepts the Terms and Conditions of Service and any language noted in the Service Order Form as the Agreement between the parties. Both parties must approve the Schedules before being attached and included as part of the Agreement.

2. Taxes

The price stipulated in the Service Order Form does not include any taxes. Customer shall be responsible for the payment of the Goods and Services Tax, Provincial Sales Tax, Harmonized Sales Tax, and other taxes of a similar nature applicable to, or imposed by a government entity (or quasi-governmental agency) in Canada.

3. Term

This Agreement shall commence on the day it is fully executed by both parties and shall continue in full force during the duration of the Term specified on the Service Order Form and shall continue until the latest date of expiration or termination of the last remaining Service Order unless otherwise terminated in accordance with the provisions herein. Upon expiration of the Term specified on the Service Order Form, the expired Service(s) shall be automatically extended on a month-to-month basis at the monthly Recurring Fee(s) (the "Recurring Fees") plus twenty-five (25%) percent, effective on the first day following the expiration of the Service Order, unless the Service(s) are terminated in accordance with the provisions herein, or Customer renews the Service(s) for a fixed term pursuant to a rate agreed to by CDS and the Customer.

4. Service Order Procedure

The Customer shall acquire Service(s) from CDS using Service Order Forms. Each Service Order Form shall be prepared and furnished by CDS, and shall contain the following provisions at a minimum:

- Description of Service(s);
- Monthly Recurring and Non-Recurring Charges payable to CDS;
- Locations of Customer Service Site(s);
- Additional Service-Specific Terms and Conditions, if any;
- Length of the Term of the Service(s) expressed in years or months, as applicable (the "Minimum Contract Period");
- Anticipated date(s) of activation of the Service(s);
- All relevant provisioning, technical, and billing contacts;
- Technology requirements for each Customer Service Site including point(s) of demarcation (the "Demarcation Point") and/or interconnection.

5. Provisioning of Service Procedure:

CDS shall notify the Customer in writing (the "Service Provision Notice"), in advance, as to the date and time that CDS shall activate Service(s) at the Demarcation Point. Upon receipt of the Service Provision Notice, the Customer shall, provide a time, date and designate a representative to meet a

COGECO DATA SERVICES - TERMS AND CONDITIONS

representative of CDS at the Service Site(s) within two (2) Business Days (the "Service Provision Date"), in order to complete the installation and testing of the Service(s) from the Demarcation Point to the Customer's communications equipment ("Communications Equipment") and it shall be deemed that CDS shall have completed all necessary work for provision of the Service(s) as of the Service Provision Date. The Effective Date for each Service shall be the Service Provision Date and all charges payable to CDS for the Service(s) shall be calculated from the Service Provision Date. If the Service Provision Date falls on a day other than the first day of the calendar month, the monthly charge(s) for the Service(s) during that calendar month shall be pro-rated to the Service Provision Date. For the purposes of this Agreement, "Business Days" means Monday to Friday from 08:00 to 17:00 Eastern time, excluding Statutory Holidays as observed in the Province of Ontario, Canada.

6. Access Requirements

The Customer shall obtain and grant to CDS, or its representatives, safe access to the Service Site(s) at any agreed upon hour for the purpose of providing Service(s), including installation, maintenance and removal of CDS equipment and/or facilities. All CDS employees or its representatives shall carry photo identification bearing the employee's and company's name. The Customer should refuse admittance to any Customer site to anyone claiming to be an employee or a representative of CDS who does not present photo identification. After normal business hours, it shall be the obligation of the Customer to grant access to the Service Site(s) for repair and/or restoration of Service(s).

7. Price

The total price for Service(s) (exclusive of taxes) shall be specified in the Service Order Form(s).

8. Invoicing

The Customer shall be invoiced thirty (30) days in advance (the "Billing Date") for all Service(s) provided under this Agreement with payment due within thirty (30) days of the Billing Date (the "Payment Due Date"). Payments will be credited to the account of the Customer as of the date the payment is received by CDS. Recurring Fees for Service(s) will not be considered in arrears until the Business Day following the first calendar day of the month when Service(s) are provided. In the event of non-payment of an invoice CDS may, in addition to all other rights and remedies under this Agreement and in law, suspend any or all Service(s) or terminate this Agreement after providing the Customer with written notice, five (5) Business Days prior to the date fixed for Service(s) suspension. All suspended Service(s) shall be restored to the Customer upon payment in full to CDS of all monetary sums, which are in arrears, and the Customer shall also pay to CDS any and all costs to terminate and restore such Service(s). The right of termination shall be in addition to any other rights or remedies CDS may have in law or equity. In the event that CDS terminates Service(s) due to non-payment of the account, prior to the expiry of the Minimum Contract Period, the Customer must pay the full charges (including arrears) for the entire Minimum Contract Period. When any payment is due on a day other than a Business Day, the payment shall be made on the following Business Day.

9. Delayed Payment

Without prejudice to the right of CDS to immediate payment, CDS may assess a late payment charge of 1.5% per month or fraction of a month (equivalent to 19.56 % per annum) on the unpaid balance. The late payment charge provides for recoupment of administration and carrying charges relating to accounts that are owed to CDS and are in arrears.

10. Security for Arrears Accounts

In addition to the remedies available to CDS set forth in Sections 8 and 10 herein, in the event that the Customer fails to pay CDS by the Payment Due Date, CDS, at its sole and exclusive option, will require the Customer to pay all outstanding arrears, and may also require the Customer to provide advance payment for three (3) month's Service(s) (the "Security"), payable in the form of a certified cheque, money order or bank draft within five (5) Business Days following receipt of such written notice. In the event that the Customer shall fail to provide CDS with all outstanding arrears payments

and the Security in accordance with the provisions above, CDS may, at its sole and exclusive option, terminate the Service(s). CDS will refund the Security to the Customer if the Customer is not in arrears for a continuous period of six (6) months.

11. Cancellation of Service(s) by Customer

(a) Subject to the Substituted Service provisions set forth in section 12 below, in the event that the Customer terminates all or any portion of the Service(s) (the "Terminated Service") by notice to CDS in writing, at any time commencing on the date of the acceptance of the Service Order by CDS and ending prior to the Service Provision Date the Customer shall pay to CDS all of the charges including out-of-pocket expenses incurred by CDS prior to the date of receipt of the notice of termination from the Customer. For greater clarity, such charges may include CDS' engineering costs, as well as third party contractual obligations (including inter-carrier costs) incurred by CDS for which CDS is obligated to make payment with respect to the Terminated Service(s). No rebate will be given for any activation or installation charges paid by the Customer prior to the Service Provision Date.

(b) The minimum Term for each Service Order shall be twelve (12) months. Before expiry of the first year of the Term, if the Customer terminates the Service(s), the Customer must pay the full charges (plus applicable taxes) for the entire Term for the Terminated Service(s).

(c) After completion of the first twelve (12) months of the Term, the Customer may terminate the Service(s) with sixty (60) days' prior written notice to CDS. The Customer must pay CDS a fee for early cancellation of the Service(s) as liquidated damages and not as a penalty ("Early Cancellation Fee"), equal to sixty (60%) percent of the outstanding value of the Service Order, plus applicable taxes for the Terminated Service(s), calculated from the date of termination; as well, any outstanding arrears and any interest and taxes payable thereon, shall be brought up to date in advance of any entitlement to such Early Cancellation Fee.

(d) In the event that a Service Order has been renewed following the expiration of the Term, the Customer may terminate the Services(s) with sixty (60) days' prior written notice to CDS. The Customer must pay CDS an Early Cancellation Fee, as liquidated damages and not as a penalty, equal to sixty (60%) percent of the outstanding value of the (renewed) Service Order, plus applicable taxes for such Terminated Service(s) calculated from the date of termination: as well, any outstanding arrears and any interest and taxes payable thereon, shall be brought up to date in advance of any entitlement to such Early Cancellation Fee.

12. Substituted Service

Customer may substitute a Service (the "Substituted Service") provided that (a) the monthly recurring cost of such Substituted Service shall be equal to or greater than the cost of the Terminated Service; (b) the Term of the Substituted Service is equal to or greater than the remaining Term of the Original Service and (c) CDS, in its sole discretion, has sufficient capacity available on its network to provide the Substituted Service. In such case, Customer shall bear all non-recurring activation and installation charges in respect of the provision of the Substituted Service. The Customer may cancel Service(s) with sixty (60) days' prior notice to CDS and the Customer must pay sixty (60%) percent of the outstanding value of the Substituted Service, plus applicable taxes for the Terminated Service(s), calculated from the date of termination to the end of the Term of the original Service Order, plus any outstanding arrears.

In the event that a Substituted Service has been renewed following the expiration the Term of the Original Service, the Customer may terminate the Services(s) with sixty (60) days' prior written notice to CDS. The Customer must pay sixty (60%) percent of the outstanding value of the Service Order, plus applicable taxes for such Terminated Service(s) calculated from the date of termination, plus any outstanding arrears.

13. Limited Liability

Except as explicitly set forth in the CDS service level schedule(s), CDS makes no warranties of any kind, whether express or implied for the Services it is providing and disclaims implied warranties of merchantability and fitness for a particular purpose or failure to realize expected savings. CDS specifically denies any responsibility for the legality, accuracy or quality of information transmitted through the Services. Use of all information obtained or transmitted via the Services is at the Customer's own risk.

CDS is not liable for:

- (a) any act or omission of a telecommunications carrier whose facilities are used in establishing connections to points that CDS does not directly serve;
- (b) defamation or copyright infringement arising from material transmitted or received over CDS' facilities;

In no event shall either party be liable to the other or to any third party for any special, indirect, incidental, punitive or consequential damages, or any damages, penalty or fine whatsoever resulting from loss of use, data, or profits, (including without limitation any damages claimed for loss of income, revenue or profits or for loss of goodwill or legal fees) whether in an action for, or arbitration, mediation or other dispute resolution proceedings respecting, breach of contract, negligence or other tortious action arising out of or in connection with the performance of this Agreement.

The liability of CDS for claims arising from the furnishing of Service(s) or equipment pursuant to this Agreement or claims arising from the interruption or loss of use thereof, whether such Services are provided over its own facilities or through any connecting carriers or through facilities operated by its agents, shall be limited to, and the Customer's exclusive remedies shall be an outage credit for the affected Service which is specified in the Service Level schedule. In any event CDS total liability (including claims based on negligence) shall be limited in the aggregate to the Customer's direct damages not to exceed the invoiced value for a thirty (30) day period of the Service(s) which was affected and which gave rise to the claim.

14. Additional Work

Should CDS incur any additional costs or expenses in the performance of its work under this Agreement, resulting from any errors, omissions, defects or other problems contained in the information, materials and/or instructions provided to it by the Customer, CDS shall be fully paid by the Customer, for reasonable costs and expenses incurred by CDS, over and above all recurring and non-recurring payments due under this Agreement. Payment shall be made to CDS for such additional work, within thirty (30) days of receipt of an invoice.

15. Access to Service Site

The Customer is responsible for providing CDS and its employees, contractors, subcontractors, agents and representatives with safe access to cables, termination panels and any other equipment located on private property. Service outage time shall not include any time that CDS or its employees, contractors, subcontractors, agents and representatives are delayed by the Customer in providing CDS with such access.

16. Termination for Loss of Access

CDS may terminate affected Service(s) at any time upon written notice to the Customer if CDS' right of access to a Service Site(s) through which it serves the Customer is terminated by the Building owner or property manager. CDS however, shall employ commercially reasonable efforts, at reasonable cost, to renew or extend access to the affected Service Site(s). Such efforts may include a request for regulatory intervention.

COGECO DATA SERVICES - TERMS AND CONDITIONS

In the event that CDS' right of access to a Service Site is terminated by the Building Owner or Property Manager due to damage or destruction or reconstruction of the premises housing the Equipment, CDS and Customer shall consult to determine whether there shall be work-around solutions in order to continue to provide Service(s) to the Service Site and determine a plan for migration of the Service(s) to an alternative Service Site.

17. Termination of Service by CDS

CDS may terminate or suspend Service(s) if the Customer:

(a) Uses or permits others to use any CDS Service(s) for a purpose or in a manner which is not permitted pursuant to the Agreement, including any Service Order Form; or (b) if the Customer re-arranges, disconnects, removes, repairs or otherwise interferes with CDS Equipment or facilities (except in cases of emergency); or (c) interferes with CDS Network; or (d) otherwise interferes with the delivery of the Service(s); or (e) engages in behaviour that is illegal and such termination or suspension of Services is necessary in order to protect CDS from legal liability; or (f) ceases to carry on business as a going concern, becomes insolvent, becomes or may become the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or if a receiver or similar officer is appointed with respect to the whole or a substantial part of its assets, or an event similar to any of the foregoing occurs under applicable law. If CDS terminates the Service(s) pursuant to this Section 17, the Customer must pay the full charges, plus applicable taxes, for the entire Term of the Terminated Service(s).

18. Network Management Service

The following Network management functions shall be performed on a 7 day per week, 24 hour a day basis for "lit" Service(s):

- Network Surveillance;
- Fault Management;

The following Network management functions will be performed during CDS normal business hours, 08:00 to 17:00 EST Monday through Friday:

- Management of Moves, Adds and Changes;
- Name and Address Management.

19. Customer Obligations

The Customer shall:

- Be responsible to provide first line support personnel who will be the interface between the parties for all Services performed as part of the Agreement;
- Notify CDS of the Customer due date for moves, adds and changes;
- Provide CDS with a prior written request and obtain the prior written approval for moves, adds and changes;
- Not upload or download any illegal material;
- Comply with the CDS Acceptable Use Policy, as published or posted on CDS' website.

20. Compliance with Laws

The parties agree to comply with all applicable laws in the Province of Ontario and Canada.

21. Ownership of Equipment

The Equipment, as detailed in a Service Order Form, shall be supplied and installed by CDS shall be maintained and repaired only by CDS or CDS authorized agents. The Customer acknowledges that, unless otherwise specified elsewhere in this Agreement, the Equipment shall remain the property of CDS, or such third party and shall not by reason of the attachment, installation or connection of any part thereof to any realty become or be deemed a fixture to such realty, nor be pledged by the

COGECO DATA SERVICES - TERMS AND CONDITIONS

Customer as part of collateral to any third party. The Customer shall be responsible for any loss, cost, claim or damage caused to or by the Equipment at the Service Site from any cause whatsoever including, without limitation, theft, or in connection with its installation, removal, use, maintenance or repair, unless such loss or damage is due to the negligence or wilful misconduct of CDS or CDS' authorized agents. The Customer shall not, except as necessary in an emergency, without CDS' prior written consent, make any alteration, addition or correction to the Equipment, connect any of the Customer's equipment to the Equipment, or permit access to the Equipment by any person not approved by CDS.

22. Confidentiality

The parties agree that the terms and provisions of this Agreement (including the parties' names, logos, trademarks and business names, drawings, blueprints, plans, network architecture, equipment lists, schematics, contract pricing and price lists supplied to the Customer) shall remain strictly confidential and may not be disclosed to any third party without the express written consent of both parties.

23. Adequate Assurances

The Customer authorizes CDS, its subsidiaries and affiliates, and/or their respective agents to disclose, share and/or exchange information that they have concerning the Customer for the purpose of assessing the Customer's credit worthiness.

24. No Right of Offset

The right of CDS to any payment provided for under this Agreement shall not be subject to any abatement, reduction, set off, defence, counterclaim or recoupment of any amount due or alleged to be due by reason of any past, present or future claims of the Customer.

25. Force Majeure

Neither Party shall be liable or responsible to the other party for any delay in performance or for non-performance in whole or in part of this Agreement and periods set out for performance of responsibilities pursuant to this Agreement shall be extended for a period equal to the period of the delay caused by the occurrence of ("Force Majeure Event") acts of God, floods, war, fires, natural disasters, famine, earthquake, embargoes, labour disputes, casualties, civil disturbance, acts of insurrection by civil and military authorities, terrorist acts, fibre, fibre cuts, other material or component failures, failure of the networks of other companies, lack of or delay in transportation, shortages, public health emergencies, unavailability or delay in delivery not resulting from the responsible party's failure to timely place orders therefore, government codes, permits, ordinances, laws, rules, regulations, restrictions or any other contingency beyond its reasonable control. In the event of delay in performance due to any such cause, the date of delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

If a Force Majeure Event causes a material failure or delay in the performance of any Service(s) by CDS for more than thirty (30) consecutive days, the Customer may, in addition to any other rights it may have, immediately terminate the affected Service(s) with two (2) Business Days written notice to CDS without liability to CDS.

26. Maintenance Release Notification

To ensure that the CDS Network is operating at optimal performance, CDS may elect to schedule and inform the Customer of periodic downtimes for diagnosis and maintenance. An advanced notification is provided to the affected customers in the form of an e mail to technical and change management contacts provided to CDS by the customer. There are two (2) types of release notifications- Planned and Emergency maintenance work. The Notification period for planned maintenance work is a minimum of seven (7) days, however, CDS, endeavours to provide no less than fifteen (15) days advance notice to the customers, and shall schedule these period downtimes during non peak hours

COGECO DATA SERVICES - TERMS AND CONDITIONS

from 12:01 A.M Sunday until 6:00 AM Sunday. For Emergency Maintenance work, CDS will make all reasonable efforts to provide as much notice of the work as possible.

27. Customer Care

The Customer can contact a CDS Customer Service representative by any of the following methods:

Via telephone at 416-542-2525 (to open trouble tickets)

Via facsimile at 416-626-5419

Via e-mail at: noc@cogecodata.ca

Via Mail sent to: Cogeco Data Services LP

413 Horner Avenue

Toronto, Ontario, M8W 4W3

The Customer shall notify CDS immediately in the event of degradation or interruption of Service(s). CDS shall make available a CDS Customer Service representative on a twenty-four (24) hours a day, seven (7) days a week basis. The Customer should request the CDS representative to open a "trouble ticket".

The Customer may be assessed maintenance service charges for incidents involving a service call in response to customer requested support, where the problem is determined not to be a CDS service issue. A maintenance service charge will be not billed for an incident that is determined to have arisen as a result of a fault of the CDS network. Requests to have a CDS or a contractor available on a standby basis for support of a customer-initiated move or change to their Service(s) may be subject to charges.

28. Dispute Resolution

In the event of any dispute arising out of this Agreement, (or Service Orders or Schedules hereto) the parties agree as follows:

To attempt in good faith, to negotiate a settlement of the dispute between themselves within twenty (20) Business Days from the date the dispute arose; and in the event that the parties cannot settle the dispute between themselves, either party may, following the passage of at least twenty (20) Business Days from the date the dispute arose (as evidenced by writing between the parties), submit the dispute for resolution by arbitration by delivery of a notice of submission to the other party. The notice of submission shall name an arbitrator. If the party receiving the notice delivers a reply, disagreeing with the arbitrator named in the notice within five (5) Business Days of receipt of the notice, either party may make an application to the courts for appointment of arbitrator. If no reply is received disagreeing with the arbitrator named in the notice is received within the five (5) Business Day period, the arbitrator named in the notice shall conduct the arbitration relating to any dispute. Any arbitrator selected to act under this Agreement shall be qualified by education, training and experience to arbitrate the particular question in dispute and shall have no connection to either of the parties other than in acting in previous arbitrations. Arbitration shall be conducted in Toronto, in accordance with the provisions of the Arbitration Act, 1991, S.O. c-17 as amended and the decision shall be final and binding with no right of appeal.

Notwithstanding the foregoing, the following matters will not be subject to arbitration proceedings and will be dealt with through litigation in the courts of competent jurisdiction: disputes or claims respecting confidential and/or proprietary information, disputes or claims for which an indemnification has been provided; and disputes involving claims for injunctive relief by a party herein.

29. Assignment

This Agreement shall not be assigned in whole or in part by either party without the prior written consent of the other party, such consent not to be unreasonably withheld, provided that this Agreement may be assigned to any Affiliate of a party on written notice. "Affiliate" has the meaning

COGECO DATA SERVICES - TERMS AND CONDITIONS

set out for that term in the *Business Corporations Act* (Ontario) as amended, and also includes any subsidiary and any non-corporate entity which is controlled by a Party, an Affiliate or a combination thereof. Any permitted assignment requiring consent shall be conditional upon the assigning party providing to the other party a true copy of the assignment agreement, and an agreement and undertaking from the assignee to be directly bound by the provisions of this Agreement and not to further assign its rights hereunder without complying with the provisions herein contained. CDS shall have the right to deny an assignment of this Agreement, to party unaffiliated with the Customer in the event that CDS shall determine that such unaffiliated party is not in CDS' judgement, credit-worthy.

30. Entire Agreement

This Agreement constitutes the entire understanding between the Customer and CDS with respect to the subject matter, merging and superseding all prior agreements, understandings and representations and warranties. No amendment or modification hereto shall be binding on CDS unless made in writing by an authorized representative of each party. Only completed Service Order Forms in the form proscribed by CDS shall obligate CDS to provide a Service hereunder. It is expressly agreed that if the Customer issues a Purchase Order or other document for the Service(s) provided under this Agreement, such document will be deemed for the Customer's internal use only, and any provisions contained therein shall have no effect whatsoever upon this Agreement. The parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, or expiration of this Agreement shall survive such termination, cancellation, or expiration: for certainty, and without limiting the foregoing, in the event that a non-disclosure agreement is incorporated into this Agreement, the terms of the non-disclosure Agreement shall survive the suspension, expiry, cancellation or termination of this Agreement.

31. Governing Law

This Agreement shall be governed, interpreted and construed by and in accordance with the laws of the Province of Ontario and the laws of Canada.

32. Notice

Any notice, request, demand, consent or other communication provided or permitted hereunder shall be in writing and given by personal delivery, or sent by registered mail, postage prepaid, or transmitted by facsimile or other form of recorded communication tested prior to transmission, addressed to the party for which it is intended at its address set out in this Agreement provided, however, that either party may change its address for purposes of receipt of any such communication by giving five (5) Business Days prior written notice of such change to the other party in the manner prescribed above. Any notice given by mail shall be deemed to have been received three (3) Business Days following mailing. In the case of notices delivered by courier, on the date following transmission, and if it was delivered or transmitted by facsimile or other form of electronic communication, on the date of transmission provided that the party transmitting the facsimile or other form of electronic communication retains proof of successful transmission of the communication. During times of postal disruption, notice shall be given by personal delivery or transmitted by facsimile or other form of recorded communication tested prior to transmission.

33. To CDS at the following addresses:

President
Cogeco Data Services LP
413 Horner Avenue
Toronto, Ontario, M8W 4W3
Phone: (416) 847-0872
Fax: (416) 245-4428

With copies to be given at the same time and in the same manner to:

Legal Affairs

Cogeco Data Services LP
5 Place Ville-Marie, Suite 1700
Montréal, Québec H3B 0B3
Phone: (514) 764-4700
Fax: (514) 874-0776

34. Method of Payment

Invoices must be paid by wire transfer, electronic funds transfer or by cheque made payable to Cogeco Data Services LP and sent to the following address:

Cogeco Data Services LP
Attention: Collections Analyst
413 Horner Avenue
Toronto, Ontario, M8W 4W3

35. Privacy and Security of Transmissions & Acceptable Use Policies

CDS does not warrant the security of the content of telecommunications transmitted by the Customer. The Customer is advised to utilize appropriate encryption technology to safeguard the content of its transmissions.

The Customer shall at all times ensure that the Services are used by it and its customers and end-users in accordance with CDS Acceptable Use Policy (AUP) as published or posted on CDS website (www.cogecodata.com) from time to time.

36. General Conditions

Any Article, Section, Item or other subdivision of the Agreement which is, or becomes illegal, invalid or unenforceable shall be severed from the Agreement and be ineffective to the extent of such illegality, invalidity or unenforceability and shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement.

The Customer is permitted to resell the Services provided by CDS pursuant to a Service Agreement. If the Customer uses or allows the use by its customers (the "End Users") of the Services for the provision of Voice over Internet Protocol services ("VoIP Services") and the Customer or its End Users are not already subject to the requirements of the Canadian Radio-television and Telecommunications Commission (the "CRTC"), as regards the provision of VoIP Services, then the Customer shall ensure it, and its End Users comply with the decisions, directives and other requirements of the CRTC with respect to emergency services obligations (including E-9-1-1), message relay services obligations and consumer privacy and safety obligations applicable to the provision of VoIP Services, and Customer indemnifies and saves harmless CDS in this regard.

This Agreement, including any schedules, addenda, Service Order Forms, appendices or other attachments hereto, shall enure to the benefit of, and be binding upon, the parties hereto, and their respective successors and permitted assigns.

The individuals executing this Agreement on behalf of CDS or the Customer, as the case may be, each represent that they are authorized to execute the Agreement (including but not limited to the Service Order Form(s)) on behalf of CDS and the Customer, as the case may be.

Any delay or omission of CDS (or the Customer) in the enforcement of any provision of the Agreement shall not affect the right of CDS (or the Customer) thereafter to enforce the same provision. Nor shall the waiver by CDS (or the Customer) of any breach of any provision of the Agreement be taken or held binding by the Customer (or CDS), unless in writing and such waiver shall not be taken or held to be a waiver of any future breach of the same provision or prejudice the enforcement of any other provision.

37. **Schedules**

In the event of any inconsistency or contradiction with regards to interpretation or applicability between or among them, the following declining order of precedence shall govern:

- (a) Terms and Conditions of Service;
- (b) Service Orders;
- (c) Schedules to the Service Orders, including but not limited to CDS Service Levels.