



BC ONE CALL
MEMBER'S AGREEMENT

This Agreement made on the _____ day of, _____ (the "Effective Date").

BETWEEN:

BC ONE CALL LIMITED,
2600-700 West Georgia Street,
Vancouver, B.C.
V7Y 1B3

(the "Supplier")

AND:

(the "Member")

In consideration of the covenants, representations and conditions contained herein and other good and valuable consideration, the parties covenant and agree as follows:

1. The Member hereby retains the Supplier to provide the services set forth in the Terms and Conditions attached to and forming part of this Agreement and the Supplier agrees to provide the Services in accordance with the Terms and Conditions attached and subject to receipt of the fees therein specified.

2. Attached as Appendix A are particulars respecting the Member, required by the Supplier, and the Member covenants that the information contained therein is true and correct as of the date hereof.

3. In accordance with the provisions of Appendix B attached, the Member shall be classified as a _____(specify category) and the applicable joining fees shall be _____payable upon execution of this Agreement.

4. All notices, requests, demands and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given only if personally delivered, mailed by pre paid mail or sent by facsimile to the parties as follows: to the Supplier at:

BC ONE CALL LIMITED,
Suite 222, 4259 Canada Way
Burnaby, B.C.
V5G 1H1

Fax: (604) 451-7983

and to the Member at:

Fax (____) ____-____

Any notice in writing given in the matter set out above shall be deemed given if and when personally delivered, or if mailed in the manner herein provided, shall be deemed given five days after posting. If any said notice is sent by facsimile transmission, it shall be deemed received the next day following said transmission. NOTE Notifications will be transmitted as set out in the attached Terms and Conditions.

5. The Terms and Conditions, Appendix A Member Information Form, Appendix B Member Fees and Appendix C BC One Call Ticket Format, are to be read into and form part of this Agreement and the whole shall constitute the contract between the parties.

IN WITNESS WHEREOF the parties hereto have executed this Agreement by the hands of their duly authorized representatives.

SUPPLIER:
BC ONE CALL LIMITED

Per: _____
Signature of authorized representative

Name and title of person signing

MEMBER:

Per: _____
Signature of authorized representative

Name title of person signing

Note:- In order for BC One Call to process your new membership promptly, please return the signed and dated document to:

**BC One Call Limited
C/o Darlene Dyson
Suite 222, 4259 Canada Way,
Burnaby, B.C.
V5G 1H1**

TERMS AND CONDITIONS

1. INTERPRETATION

1.1 In this Agreement and in all Appendices attached hereto, unless the contrary is expressly stated:

- (a) "Activation Date" shall mean that date on which the Member is a part of the System and capable of receiving Notifications which date shall be thirty [30] days following Supplier's receipt of Member's Data in accordance with paragraph 3.2 or such earlier date as the Supplier advises the Member in writing;
- (b) "After Hours" means those hours of each and every day excluding Operating Hours;
- (c) "Agreement" shall mean this Agreement and all Appendices attached to and which form a part of this Agreement as it may be amended from time to time in accordance with the terms hereof and the expressions "herein", "hereof", "above" and "below" and similar expressions refer to this Agreement and where applicable, to the appropriate Appendices hereto;
- (d) "Authorized Subcontractor" shall mean a subcontractor with whom the Supplier has contracted to perform the obligations of the Supplier herein (excluding those described in paragraphs 2.1 and 2.2) in accordance with the provisions of paragraph 2.3 below;
- (e) "Call Centre" means the facility to be manned and maintained by the Supplier in order to provide the Call Centre Services;
- (f) "Call Centre Services" shall mean the services described as such in paragraph 2.3 below;
- (g) "Data" shall mean information and material, which shall remain the property of the Member, provided from time to time by the Member to the Supplier as to the location of the Underground Facilities which are the property of, or under the control of, the Member;
- (h) "Data Base" shall mean a geographic grid system created and maintained by the Supplier to contain the Data supplied by the Member to the Supplier;
- (i) "Destination Code" shall mean an alphanumeric code which identifies the specific reception location for Notifications to the Member, recognizing that the Member may have more than one Destination Code;

- (j) "EDT Member" means a Member who receives Notifications by electronic data transmission to a terminal on the Member's premises;
- (k) "Emergency Locate Request" shall mean an incoming call from an Excavator requesting location of Underground Facilities where the excavation is to effect a repair or replacement of an essential service, the Excavator is on site or en route to the site and the Excavator states that the situation is an emergency;
- (l) "Excavator" shall mean those persons including Members who call the Toll Free Telephone Number to determine the location of Underground Facilities in the Province of British Columbia;
- (m) "FAX Transmission Member" shall mean a Member who receives Notifications by data communication to a facsimile machine at a particular Destination Code;
- (n) "Homeowner" shall mean the owner or tenant of a residential lot or farm whose request for locations is restricted to that particular residential lot or farm and who is functioning as an Excavator on that private property;
- (o) "Identification Number" shall mean a numeric code number which is assigned to each Excavator, excluding Homeowners, at the time of his or her first Locate Request;
- (p) "Information" shall mean information with respect to the Member's organization as detailed in the Member Information Form, attached as Appendix "A" hereto;
- (q) "Law" shall mean the Laws in force in the Province of British Columbia and as amended from time to time;
- (r) "Locate Request" shall mean an incoming communication from an Excavator utilizing the Toll-free Telephone Number which advises the Supplier of the Excavator's intent to disturb the ground at a particular location;
- (s) "Notification" shall mean an outgoing transmission, from the Supplier to the Member, which advises the Member of an Excavator's intent to disturb the ground and provides relevant particulars about the Excavator and the location of the site substantially in the form of Appendix C attached;

- (t) "Operating Hours" means between the hours of 0700 and 1700, Monday through Friday, exclusive of the following holidays: New Year's Day, Good Friday, Easter Monday, Victoria Day, Canada Day, August Civic Holiday (B.C. Day), Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day and any other civic, provincial or federal holiday declared from time to time;
- (u) "Owner" shall mean any owner or operator of Underground Facilities in the Province of British Columbia who has entered into a Member's Agreement with the Supplier.
- (v) "Priority Locate Request" shall mean a Locate Request in which the Excavator is giving less than eight hours notice of his intent to disturb the ground;
- (w) "Routine Locate Request" shall mean a Locate Request in which the Excavator is giving at least three full working days notice of his intent to disturb the ground;
- (x) "Services" shall mean the services to be provided by the Supplier to the Member as described in section 2 below, including, without limitation, the "Call Centre Services".
- (y) "Short Notice Locate Request" shall mean a Locate Request in which the Excavator is giving more than eight hours notice but less than three full working days notice of his intent to disturb the ground;
- (z) "Standard Single Telephone Line" shall mean an ordinary telephone line of voice or data quality as required, which line shall service only the Member's printer or facsimile machine, as the case maybe;
- (aa) "System" shall mean the computer hardware and software and telecommunications systems operated by the Supplier to provide the Call Centre Service to Excavators and Members;
- (bb) "Ticket Number" shall mean a numeric code number which is assigned to each Locate Request for reference and record keeping purposes;
- (cc) "Toll Free Telephone Number" shall mean collectively: the toll free telephone number for receiving long distance calls at the Call Centre and the local number and cellular number for receiving local calls, such numbers currently being 1-800-474-6886 (Toll Free), 604 257-1940 (Vancouver local) and *6886 (Cellular);

- (dd) "Underground Facility" shall mean any facility buried or placed below the ground for use in connection with the storage or conveyance of electronic, telephonic or telegraphic communications, water, sewage, cablevision, electric energy, oil, gas or other substances and includes but is not limited to pipes, conduits, ducts, cables, wires, valves, manholes, catch basins and attachments to these items owned or operated by the Member; and
- (ee) "Voice Transmission Member" shall mean a Member who receives Notifications by voice telephone communication at a particular Destination Code.

1.2 The article and paragraph headings contained in this Agreement and in all Schedules attached hereto are for convenience of reference only and shall not affect the construction or interpretations of the provisions hereof.

2. OBLIGATIONS OF THE SUPPLIER

In consideration of payment of the Fees specified in Appendix B by the Member and subject to the Member complying with its obligations set out in section 3 below, the Supplier shall provide the Services to the Member, which shall consist of the following:

- 2.1 **PROMOTION PROGRAM.** The Member acknowledges the advantages to it of an advertising, promotion and liaison program (the "Program"), which would:
 - (a) Recruit additional owners or operators of Underground Facilities in the province of British Columbia to enter into Member agreements with the Supplier in order to achieve economies of scale and wider use of the Toll Free Telephone Number by Excavators;
 - (b) Advertise and promote, on behalf of all Owners, use by Excavators of the Call Centre and Toll Free Telephone Number in order that persons in British Columbia are aware of the Toll Free Telephone Number and call before they dig; and
 - (c) Liaise with government and other regulatory bodies regarding owners and operators of Underground Facilities in relation to persons digging or excavating.

2.2 **TERMS.** The Supplier shall utilize a portion of the Fees collected by all Owners to fund such a Program on the following terms and conditions;

- (a) the Supplier reserves the right to place and develop all advertising, promotion and liaison efforts in connection with the Program either directly or through an advertising agency or other subcontractor retained or formed for such purpose;
- (b) the Member understands and acknowledges that all advertising and promotion undertaken as part of the Program (whether detailed herein or otherwise) is intended to maximize general public recognition of the Call Centre and the Toll Free Telephone Number for the benefit of all Owners including the Member and the Supplier undertakes no obligation to ensure that any particular Owner including the Member will benefit directly or pro-rata from the placement or conduct of such advertising and promotion; and
- (c) the Member acknowledges that a portion of the Fees shall be disbursed, as the Supplier determines appropriate, to assist in all aspects of the marketing and promotion of the Toll Free Telephone Number and the Call Centre including, without limitation, the following purposes: public relations, promotional and advertising programs, government representation and owner and operator recruitment as Members; and
- (d) the Member acknowledges that all copyrights in the advertising and promotion undertaken as part of the Program shall be the property of the Supplier. Notwithstanding the foregoing, neither the Supplier nor any subcontractor (including an Authorized Subcontractor) or agent of the Supplier shall use or display Member's name, trademark, logos or any proprietary marks or designations of the Member without its prior written consent.

2.3 **CALL CENTRE SERVICES.** The Supplier shall do the following (collectively the "Call Centre Services"):

2.3.1 DATA BASE AND DATA

- (a) Initial Data: Following receipt of the initial Data from the Member pursuant to paragraph 3.2 below, the Supplier shall within ten days enter such Data into the Data Base.
- (b) Verification: Within four days following input of the initial Data, the Supplier shall post this data on the BC One Call online validation site (linked from the bconecall.ca web site). showing the version of the Member's Data input into the Data Base by the Supplier.
- (c) Revisions: Within ten days of receipt of the notification that the data has been posted on the BC One Call validation site, the Member shall advise the Supplier in writing or via email of any changes, additions or deletions to the Data Base required to accurately reflect the initial Data submitted by the Member.
- (d) Revision of Initial Data: Within six days of receipt of the Member information specified in paragraph 2.3.1 (c) above, the Supplier shall amend the Data Base in accordance with said information provided by the Member and provide a revised notice to the Member. It shall then be the responsibility of the Member to ensure that the Supplier's information accurately reflects the Data of the Member.
- (e) Updating: At least once each year the supplier will send a notification to each member requesting that the member validate their data on the BC One Call validation site. Within fourteen days of receipt of such notification, the Member shall advise the Supplier in writing or via email of any changes, additions or deletions to the Data Base required to more accurately reflect the location of the Member's Underground Facilities including, without limitation, any additional Underground Facilities installed by the Member within the preceding year.
- (f) Revisions. Within fourteen days of receipt of information provided by the Member pursuant to paragraph (e) above, the Supplier shall update the Data Base to reflect such information.

- (g) Responsibility and Records: The Supplier assumes no responsibility for the accuracy of the Data supplied by the Member. The Supplier shall be responsible in the event that the Supplier fails to transmit a Notification to the Member when the Member's Data reflects Underground Facilities in the area described by the Excavator or if the Supplier fails to advise the Excavator that the Member has Underground Facilities in that area.

2.3.2 OPERATION AND PROCEDURES

- (a) Receipt of Excavator Calls: Following the Activation Date, the Supplier shall operate the Call Centre such that during the Operating Hours operators shall be available to receive telephone calls from Excavators on the Toll Free Telephone Number inquiring, inter alia, about the location of the Member's Underground Facilities. The Supplier shall be and remain the "customer of record" with respect to the Toll Free Telephone Number. The Supplier will provide a number of consecutive lines to handle incoming inquiries with a minimum of hold time and shall answer all such calls quickly and efficiently. Separate telephone lines shall be maintained by the Supplier in order to conduct the normal administrative activities of the Call Centre.
- (b) After Hours: During After Hours the Supplier shall provide a connection through call forwarding provisions to a live call center where the answering operator will take calls and information and create a ticket as per the normal daytime operating process. If the caller indicates he or she is calling to advise that an Underground Facility has been damaged or calling to obtain an Emergency Locate Request, or calling to advise of some other emergency situation related to an Underground Facility, the operator shall:
 - (i) attempt to determine from the caller what facility has been damaged and, from the data base, determine what Members have Underground Facilities in the area described by the Caller;

- (ii) if Members have facilities in the area, the Supplier shall transmit the information obtained to the Members at such Member's emergency telephone numbers as specified in the Member Information Form (Appendix A);
- (c) **Planned Excavation Date:** The Suppliers' operators shall ask the Excavator the date on which he or she plans to begin excavation activities. If the Excavator will not be commencing excavation activities within time lines designated by the member companies, the Supplier shall not accept the Excavator's Locate Request except where the Excavator specifies in that phone call that the Excavator requires the location of the Member's Underground Facilities to be marked above ground for planning or design purposes only.
- (d) **Ticket Numbers:** The Supplier shall assign a Ticket Number to each Locate Request.
- (e) **Member Notification:** The Supplier shall determine in accordance with the Member's Data, whether the Member has Underground Facilities located in the geographic area described by the Excavator. In the event the Supplier determines the Member has Underground Facilities located in such area, the Supplier will so advise the Excavator and shall provide Notification to the Member in accordance with the following schedule:
 - (i) Emergency Locate Requests shall be transmitted by the Supplier to the Member within five minutes of receipt of the Locate Request. In addition, the Supplier shall telephone the Member to advise of the Notification within ten minutes of receipt of the Locate Request.
 - (ii) Priority Locate Requests shall be transmitted by the Supplier to the Member within fifteen minutes of receipt of the Locate Request;
 - (iii) Short Notice Locate Requests shall be transmitted by the Supplier to the Member within thirty minutes of receipt of the Locate Request; and
 - (iv) Routine Locate Requests shall be transmitted by the Supplier to the Member within two hours of receipt of the Locate Request.

- (f) Destination Code: Each Notification shall be assigned a Destination Code and the Ticket Number, being the same Ticket Number assigned to the Locate Request originating from the Excavator's call.
- (g) Transmission of Notification to Member: Notifications shall be transmitted to the Member by voice telephone communication, electronic data communication or electronic mail. The Member may choose an option and acquire and install the necessary equipment needed to receive such transmissions. It shall be the responsibility of the Member to ensure its equipment is properly maintained and repaired such that it is capable of receiving Notifications during Operating Hours.

The Supplier, at his sole discretion, may introduce other methods of communicating Notifications to the Member to improve efficiency and to take advantage of technological advances.

- (h) Information to Caller: After obtaining the requisite information from the Excavator to complete a Locate Request, the Supplier shall advise each Excavator of the following:
 - (i) whether the Member appears to have Underground Facilities located in the geographical area described by the Excavator;
 - (ii) if so, advise the Excavator that the Member will be notified by the Supplier and the Excavator will be further advised not to commence any digging, excavating or similar work in the area until contacted by the Member or by any other Owners the Supplier has advised the Excavator have Underground Facilities in the area; and
 - (iii) That the Excavator remains responsible to contact any other parties who may have Underground Facilities in the described area.
- (i) Excavator Identification: Each Excavator, except for a Homeowner, shall be assigned an Identification Number to permit his or her future identification, maintain information relative to his or her identity and reduce the length of time of future Locate Request calls.

- (j) Records and Verification: The Supplier shall maintain in accordance with the following provisions, records and verifications of its activities as follows:
 - (i) The Supplier shall voice record all Locate Requests (including for clarity the supplier's responses thereto) and shall store such recordings for a minimum period of three years;
 - (ii) The Supplier shall retain and store, for a minimum of seven years, a record of all Locate Requests, Notifications and all documents comprising the Member's Data; and
 - (iii) At the conclusion of each regular working day, a list of all Ticket Numbers sent to each EDT Member Destination Code and Fax Member Destination Code shall be transmitted by the Supplier to those Destination Codes to allow such Member to verify that all Notifications for the preceding twenty-four hour period were in fact received.
All such records and verifications pertaining to the Member shall be made available to the Member upon request and within a reasonable period of time.
- (k) Notification of Damage: The Supplier shall transmit to the Member any advice received by the Supplier that an Underground Facility has been damaged, immediately upon its receipt, to the Member at such Member's emergency telephone number, as specified in the Member Information Form (Appendix A);

2.4 **INSURANCE.** Without restricting the generality of section 5 - Indemnification, the Supplier shall provide, maintain and pay for the insurance coverages specified in this paragraph 2.4 – Insurance. Unless otherwise stipulated, the duration of each insurance policy shall be from the Effective Date of the Agreement until expiration of the term of the Agreement.

2.4.1 **GENERAL LIABILITY INSURANCE.** Commercial General Liability Insurance in the name of the Supplier and any Authorized Subcontractor of the Supplier shall be placed with limits of not less than \$10 million, Canadian Funds, applicable to any single occurrence of personal injury or property damage in relation to the provision of Call Centre Services and operation of the Call Centre and having a property damage deductible not exceeding \$2,500. To achieve the desired limit, umbrella or excess liability insurance may be used.

2.4.2 **INSURANCE PROVISIONS.** Each Comprehensive General Liability Insurance Policy specified in this section shall:

- (a) be underwritten by insurers licensed to carry on business in the Province of British Columbia; and
- (b) contain provisions extending coverage to cover contractual liability.

2.5 **CONFIDENTIALITY COVENANTS.** The Data provided by the Member shall remain strictly confidential and the Supplier shall not disclose, save as is required in providing the Services or otherwise pursuant to this Agreement, any Data to any person other than to an Authorized Subcontractor of the Supplier as contemplated in paragraph 2.7 below. The Supplier shall take reasonable precautions against the Data being used or acquired by any person, in any event at a minimum exercising the same degree of care as the Supplier uses in preserving the confidentiality of its own confidential information of a similar type. The Member's Data and the Member's Data contained in the Data Base may be disclosed only in a blended manner that does not highlight or distinguish the confidential information provided by a particular Member.

2.5.1 **EXCEPTION.** The Supplier shall, with respect to each Member's Data disclosed to it, be permitted to disclose all or part of such information without liability to the Member as follows:

- (a) if the Supplier is required by applicable Law, or is ordered by a Court or other Governmental Body of competent jurisdiction to disclose such information;
- (b) such information was previously known to the receiving party free of any obligation to the Supplier to keep it confidential; or
- (c) such information has been previously publicly disclosed.

- 2.6 **INTELLECTUAL PROPERTY.** The Supplier covenants that all computer software, computer hardware, telecommunications equipment or other intellectual property used by it in connection with the Call Centre shall in no way infringe upon any patent, copyright, trademark or other proprietary interest of any other owner, operator or member of any similar system and the Supplier shall indemnify and hold harmless the Member in respect of any loss, damage, liability, claim, costs or expenses, including legal fees and expenses sustained by or brought against the Member in connection with utilizing the services of the Supplier.
- 2.7 **AUTHORIZED SUBCONTRACTOR.** Notwithstanding the provisions of paragraph 7.1 below, the Supplier may, assign all of its rights and obligations hereunder (excepting paragraphs 2.1 and 2.2) to a Subcontractor who has been authorized and approved by the Supplier in writing (an "Authorized Subcontractor"). The Supplier hereby approves Accu-Link Call Centres Inc. as an Authorized Subcontractor as contemplated in the foregoing sentence. The Member hereby also acknowledges that pursuant to a Subcontract Agreement between Accu-Link Call Centres Inc. as Subcontractor and the Supplier, the obligations of the Supplier thereunder (excepting paragraphs 2.1 and 2.2) have been assigned to and assumed by Accu-Link Call Centres Inc. The Supplier hereby authorizes and directs the Member to provide to Accu-Link Call Centres Inc. the Data, any verification or updating of the Data, the Member Information Form and copies of any notices or communications given pursuant to the provisions of this Agreement. The Member acknowledges such direction and authorization and will provide such Data and communications in accordance with same. The Member will cooperate in all respects with the Authorized Subcontractor in connection with provision of Services by the Authorized Subcontractor. Notwithstanding the foregoing, the Member's approval of any subcontractor hereunder shall not create any contractual relationship between Member and the subcontractor or relieve Supplier of its sole responsibility for all acts or omissions of its subcontractors.

3. **OBLIGATIONS OF THE MEMBER**

The Member shall:

- 3.1 **FEES.** Pay all applicable charges as set out in Appendix B hereto, and as further specified in the Agreement to which these Terms and Conditions are attached, as and when due.
- 3.2 **PROVISION OF DATA.** Provide to the Supplier in the format stipulated by the Supplier forthwith following the Effective Date, the Data that shall include the following:
- (a) the location of the Member's Underground Facilities.

- (b) the name of any population center, defined as City, town, new town, village, summer village, hamlet, locality or settlement in "Gazetteer of Canada (British Columbia)" published by Energy Mines and Resources, Canada in which the Underground Facility is situated; and
- (c) such other descriptions of the location of the Underground Facility as may be required by the Supplier to accommodate Data Bases using other than the quarter section as the smallest defined area of land.

- 3.3 **UPDATING.** Provide to the Supplier, forthwith and as requested by the Supplier, notification of any changes in, deletions from or additions to the Data such that the Data provided to the Supplier is current and accurate at all times.
- 3.4 **VERIFICATION.** Provide to the Supplier, notwithstanding the provisions of paragraph 3.3 above annually during the continuance of the Agreement, verification, in a form satisfactory to the Supplier acting reasonably, of the Data as reflected in Data Base in accordance with the provisions of paragraph 2.3.1 above.
- 3.5 **RESPONSE.** Respond to each Notification from the Supplier by contacting the Excavator described in the Notification in a timely manner.
- 3.6 **EQUIPMENT.** Ensure its equipment for receiving Notifications from the Supplier is operative at the commencement of each working day and ensure it has sufficient paper, ribbon, or other necessary facilities or equipment to be able to receive Notifications and information forwarded by the Supplier. The Member shall be responsible for its costs related to owning and maintaining its respective receiving units and associated connecting networks.

4. TERMINATION

- 4.1 **EVENT OF DEFAULT.** In the event one party does not fulfill its obligations hereunder in any material manner, the other party may send a written notice to the party in default stating the nature of the default. If the defaulting party has not corrected such default within 20 days from receipt of the Notice, the other party may terminate this Agreement by sending the defaulting party no less than 10 days prior written notice of its intention to do so.
- 4.2 **TERMS TO SURVIVE.** The provisions of this agreement which by their context are intended to survive termination shall survive notwithstanding such termination including, without limitation, the provisions of paragraphs 2.5, 2.6, 4.6, 4.7 and section 5.

- 4.3 **INSOLVENCY.** Notwithstanding the foregoing, this Agreement may be terminated by either of the parties upon the happening of any one or more of the following events:
- (a) the other party is liquidated, wound-up or dissolved, either voluntarily or involuntarily;
 - (b) the other party commits an act of bankruptcy or insolvency as defined by the Bankruptcy Act of Canada or a petition, assignment, arrangement, reorganization or proposal in Bankruptcy is filed by or against the other party; or
 - (c) the other party makes an assignment for the general benefit of its creditors.
- 4.4 **FEES ON TERMINATION.** Notwithstanding termination of this Agreement, the Member shall be responsible to the Supplier for all fees payable in connection with the Services accruing up to and including the date of termination. Such fees shall be payable within 30 days of such termination occurring.
- 4.5 **NO REFUND.** In the event that this Agreement is terminated in accordance with the provisions of this section 4, there shall be no refund or credit to the Member of any joining fees.
- 4.6 **RETURN OF DATA.** Subject to the requirements to retain records pursuant to paragraph (2.3.2), forthwith following termination, the Supplier shall return to the Member all Data provided by the Member to the Supplier, and, upon receipt of a written request from the Member shall delete from its Data Base all information relevant to the Member.
- 4.7 **TRANSITION.** The parties hereto shall act reasonably in order to effect a smooth transition from the Call Centre facilities to any system or facilities to be utilized by the Member with respect to Excavator inquiries relating to location of the Member's Underground Facilities following termination.

5. INDEMNIFICATION

- 5.1 The Supplier shall indemnify and in addition, hold harmless the Member, and its directors, officers, employees, agents or servants in respect of any loss, damage, liability, penalty, fine, claim, cause of action or cost, including, without limitation, reasonable legal fees on a solicitor-client basis, of every nature and kind whatsoever, sustained by or brought against the Member attributable to a negligent act or omission, willful misconduct or breach of obligations under this Agreement by the Supplier. or any of its subcontractors (including an Authorized Subcontractor), agents or representatives.
- 5.2 The Member shall indemnify and, hold harmless the Supplier, and its directors, officers, employees, agents or servants in respect of any loss, damage, liability, penalty, fine, claim, cause of action or cost, including, without limitation, reasonable legal fees on a solicitor-client basis, of every nature and kind whatsoever, sustained by or brought against the Supplier attributable to a negligent act or omission, willful misconduct or breach of obligations under this Agreement by the Member. or any of its subcontractors (including an Authorized Subcontractor), agents or representatives .

6. PROCEDURE OF INDEMNIFICATION AGAINST THIRD PARTIES CLAIMS

- (a) Where a party becomes aware of any demand or claim, which could be a cause of indemnification that it wishes to make, it must promptly notify the other party of its intention to make a claim.
- (b) Promptly upon receipt by either the Supplier or the Member (herein referred to as the "Indemnatee") of notice of any third party claim in respect of which this Indemnatee proposes to demand indemnification from a party of this Agreement (the "Indemnitor"), the Indemnatee shall give notice to that effect to the Indemnitor with reasonable promptness.
- (c) The Indemnitor shall have the right by notice to the Indemnatee not later than 30 days after receipt of the notice described in (a) to assume the control of the defence, compromise or settlement of the third party claim, provided that such assumption shall, by its terms, be without cost to the Indemnatee.

- (d) Upon the assumption of control by the Indemnitor as aforesaid, the Indemnitor shall at its expense diligently proceed with the defence, compromise or settlement of the third party claim at Indemnitor's sole expense, including employment of counsel reasonably therewith, the Indemnitee shall cooperate fully, but at the expense of the Indemnitor, to make available to the Indemnitor all pertinent information and witnesses under the Indemnitee's control, make such assignments and take such other steps as in the opinion of counsel for the Indemnitor are necessary to enable the Indemnitor to conduct such defence, provided always that the Indemnitee shall be entitled to reasonable security from the Indemnitor for any expense, costs or other liabilities to which it may be or may become exposed by reason of such cooperation.
- (e) The final determination of such third party claim, including all related costs and expenses, will be binding and conclusive upon the parties hereto and the Indemnitee as to the validity or invalidity, as the case may be, of such third party claim against the Indemnitor hereunder.
- (f) Should the Indemnitor fail to give notice to the Indemnitee as provided in subparagraph (c), the Indemnitee shall be entitled to make such settlement of the third party claim as in its sole discretion may appear advisable, and such settlement or any other final determination of the third party claim shall be binding upon the Indemnitor.

7. **ASSIGNMENT**

- 7.1 **PROHIBITION.** Subject to the provisions of paragraph 2.7 above, neither party may assign their rights or obligations under this Agreement, or any part thereof without the express written consent of the other given in writing. Such consent not to be unreasonably withheld. Any prohibited assignment shall be null and void. No assignment shall operate to release the assigning party from its obligations hereunder.

8. EXCUSABLE DELAY

Notwithstanding anything to the contrary contained in this Agreement, if either party is prevented or delayed from complying with any of the terms of this Agreement and such failure is occasioned by any cause beyond its reasonable control including, without limitation, the operation of any Law, regulation or order of government or any other duly constituted authority, labour dispute or disturbance, strike, lock out, riot, war, interference by civil or military authority or act of God, but excluding only finances, then that party shall not be liable to the other party for any damage or loss to person or property or costs or charges associated therewith or occasioned thereby and the time for performance of the parties obligations under this Agreement shall be extended by a period of time equal to the time required to remove or remedy the excusable delay; provided always that should the Member be prevented, through excusable delay as set out herein, from providing Data to the Supplier in accordance with the terms hereof, the Supplier may at its sole discretion, refuse to give out to Excavators information as to the Underground Facilities which are the property of the Member, until such time as the excusable delay is remedied and the Data supplied by the Member to the Supplier is verified in accordance with the provisions of paragraph 2.3.1.

9. GENERAL

- 9.1 **AMENDMENT.** This Agreement may only be amended by further written agreement executed and delivered by both parties.
- 9.2 **WAIVER.** Except as otherwise provided herein, no term or provision, nor any representation, warranty or condition herein granted shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any such consent or waiver shall not constitute a consent to, waiver of, or excuse for any other similar, different or subsequent breach.
- 9.3 **UNENFORCEABLE TERMS.** If any term, covenant or condition of this Agreement or the application thereof to any party or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement or application of such term, covenant or condition to a party or a circumstance other than those to which it is held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant or condition shall be valid and shall be enforceable to the fullest extent permitted by Law.
- 9.4 **WHOLE AGREEMENT.** The parties acknowledge that the Agreement contains the whole of the agreement between the parties as to the subject matter herein contained.

9.5 **ENUREMENT.** This Agreement shall apply and enure to the benefit of and be binding upon the permitted successors and assigns of the parties hereto provided always that nothing in this paragraph shall impair any of the foregoing provisions prohibiting assignment of this Agreement without the written consent of the other party.

9.6 **SINGULAR, PLURAL AND GENDER.** Wherever the singular and the masculine are used throughout this Agreement, the same shall be construed as meaning the plural or feminine or neuter where the context so requires.

9.7 This agreement shall be governed by, and construed in accordance with, the Laws of the Province of British Columbia and the Laws of Canada applicable therein.

10. **TERM**

10.1 This Agreement shall commence on the Effective Date and shall be for a term of one year. Thereafter this agreement shall automatically be renewed for an additional period of one year, unless prior to January 31 in any given calendar year either party provides notice in writing to the other that it does not wish to renew the terms of this Agreement. In the event such notice is provided, Services hereunder will cease to be provided on the last day of February following receipt of such notice.

APPENDIX A
BC ONE CALL
MEMBER INFORMATION FORM

BC One Call relies on this information for the ticket notification process. As a member of BC One Call it is your responsibility to ensure all the information is accurate.

1.0 Legal name of Corporation : _____

2.0 Province of Incorporation: _____

3.0 Corporate headquarters address:

Street _____

City _____ Prov _____ Postal Code _____

Mailing _____

City _____ Prov _____ Postal Code _____

4.0 Signing authority for document execution:

Name _____

Title _____

Name _____

Title _____

5.0 Contact person for general correspondence with **BC ONE CALL**:

Name _____

Title _____

Mailing _____

City _____ Prov. _____ Postal Code _____

Telephone () _____ Cell () _____

Fax () _____

E-Mail _____

6.0 Contact person for database correspondence with BC ONE CALL:

Name _____

Title _____

Mailing _____

City _____ Prov _____ Postal Code _____

Telephone () _____ Cell () _____

Fax () _____

E-mail _____

Please indicate relevant infrastructure:

Sewer Electrical Street Lighting Water

Gas Oil Telephone Cable Lines

Other _____

7.0 Contact person for BC ONE CALL ticket notifications:

Name _____

Title _____

Telephone () _____

Fax () _____

E-mail _____

Receiving Phone/Fax/Printer Number () _____

Alternate Contact person _____

8.0 Emergency or Priority locate request notifications:

8.1 During regular office hours

Contact person _____

Telephone () _____ Cell () _____

8.2 Is someone available to respond to Emergency and Priority locate requests between 12:00 PM and 1:00 PM? Yes _____ No _____

8.3 If no to above:

Alternate Contact person _____

Telephone () _____ Cell () _____

8.4 After regular office hours:

Contact person _____

Telephone () _____ Cell () _____

9.0 Dig-Up Notifications:

9.1 During regular office hours

Contact Person _____

Telephone () _____

9.2 Is someone available to respond to Dig-Up notifications between 12:00

PM and 1:00 PM? Yes _____ No _____

9.3 If no to above:

Alternate Contact Person _____

Telephone () _____

9.4 After regular office hours:

Contact Person _____

Telephone () _____

9.5 Dig Up number to be given to caller:

Telephone () _____

10.0 Office Closures:

10.1 Is your office closed on statutory and general holidays?

BC statutory and general holidays include: New Years Day, Good Friday, Easter Monday, Victoria Day, Canada Day, BC Day, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day.

Yes _____ No _____ If No, circle Applicable Holidays

10.2 Is your office closed during any other regular business hours?

Date(s) and Reason(s) _____

10.3 What are your regular business hours? _____

10.4 Is your office open for business on Saturdays or Sundays?

Yes _____ No _____

Contact Person or Department if open for business _____

Telephone () _____

11.0 **As a Member of BC ONE CALL and User of the One Call Service it is your responsibility to respond to each notification in a positive and timely manner**

12.0 This form is normally sent for verification on your anniversary date of joining each year. It is your responsibility to advise **BC ONE CALL** of any changes to this information throughout the current year.

13.0 If you have any questions concerning this form please contact **BC ONE CALL** at (604) 257-1900.

14.0 Person who prepared and submitted this information:

Name _____

Title _____

Telephone () _____

Fax () _____

E-mail _____

15.0 Please return this form to:

BC ONE CALL

Suite 222

4259 Canada Way

Burnaby, BC

V5G 1H1

Tel: (604) 257-1900

Fax: (604) 451-7983

E-Mail: info@bconecall.bc.ca

16.0 Received by **BC ONE CALL**:

Name _____

Date _____

**BC ONE CALL
Appendix "B"
FEES**

1 MEMBER CATEGORIES

- 1.1** For the purpose of determining joining fees, the Member shall be classified, at the sole discretion of the Supplier, into one of the following categories:
- (a) **Municipalities**, which are defined as cities, towns, new towns, villages, summer villages, counties, municipal districts and improvement districts with joining fees determined by the Supplier from time to time having regard to population, subject to minimum and maximum amounts;
 - (b) **Utilities**, which are defined as water supply and distribution systems, gas distribution systems, electrical distribution systems, telephone systems and cable television systems with joining fees determined by the number of customers, subject to minimum and maximum amounts.
 - (c) **Pipelines**, which are defined as oil and gas explorers, developers, producers, processors, refiners, pipeline transmission companies, product transporting companies, pipeline operators, irrigation districts, trunk sewer systems and trunk water main systems with joining fees determined by the length of buried pipe, subject to minimum and maximum amounts.
 - (d) **Plants**, which are defined as gas processing plants and compressor stations with joining fees set at a flat rate; and,
 - (e) **Others**, which may be defined from time to time by and at the discretion of the Supplier.

For Members who are not Shareholders the Member shall be classified, by the Supplier, into the Member category that best represents the Member's main business activities.

- 1.2 Shareholders (Optional when Joining)** For Members who wish to become a Shareholder of the Supplier ("Shareholders") and who have been approved by the Board of Directors of the Supplier and have agreed to be bound by the Unanimous Shareholders Agreement, may become a Shareholder upon payment of the joining fees consisting of the purchase of one share per Member at a subscription cost of one (1) dollar per share and which share has a cancellation (redemption) value of one (1) dollar in accordance with such Unanimous Shareholders Agreement and the lump sum

joining fee in effect from time to time, which lump sum joining fee is currently \$30,000. Prospective Shareholders acknowledge that representation on the board of directors of the Supplier is subject to availability of a board seat.

2 **FEES**

- 2.1 A one time joining fee shall be paid to the Supplier by the Member on the Effective Date. This fee is specified in section 4 of this Appendix B.
- 2.2 The Member shall be invoiced quarterly, by the Supplier, for Notifications to the Member, during that quarter. the fee for each Notification shall be in accordance with paragraph 4.2 below of this Appendix B. Payment shall be due within thirty (30) days of receipt of the invoice by the Member.
- 2.3 In the situation where the Member, or an independent Excavator working for the Member, places a Locate Request which would result in a Notification to the Member, the Member will be forwarded such Notifications but not be charged for them (in accordance with section 4 of this Appendix B)
- 2.4 The Member shall not be charged for any Notifications or other transmissions that relate to the set up, checking or maintenance of the Call Centre Systems.

3 **CHARGEABLE NOTIFICATIONS**

- 3.1 The Member shall be charged for each Notification in accordance with section 4 of this Appendix B except where a Notification meets the criteria of section 3 of this Appendix B.
- 3.2 The Member shall be charged for each Relocate, and Update in accordance with paragraph 4.2 of this Appendix B.
- 3.3 The Member shall not be charged for a correction or a retransmission.
- 3.4 In the situation where an Excavator requests that the Member be notified of a Locate Request when that Member does not appear to have buried plant at that location according to the Data in the Data Base, the Member will be notified and charged for a Notification in accordance with section 4 of this Appendix B.

4 FEE SCHEDULE

4.1 **JOINING FEES.** The joining fees for each category of Member shall be as shown in the following table.

MEMBER CATEGORY	JOINING FEE
Shareholder	as per 1.1 (a) above
Municipalities	1-5,000 (population) = \$100 5,001-25,000 = \$500 25,001-100,000 = \$1,500 Over-100,000 = \$2,500
Utilities	1-5,000 (customers) = \$100 5,001-25,000 = \$500 25,001-100,000 = \$1,500 Over-100,000 = \$2,500
Pipelines	\$2.00 per km of pipe minimum \$100 maximum \$2,500
Plants	\$100

4.2 **NOTIFICATION FEES -** Effective January 1, 2009, the fee to be remitted by a Member for each Notification transmitted to that Member shall be \$3.25. In consultation with BC One Call, a member may elect to pay notification fees on a monthly or quarterly basis. In addition, should a member receiving minimal notifications during the year wish to avoid accounting costs during the year, that member may elect to pay annually in advance with an adjustment for actual at the end of twelve (12) months.

4.3 **NOTIFICATION FEES - ANNUAL DETERMINATION.** Provided the Supplier first provides written notification to the Member in accordance with this paragraph, the Supplier may increase or decrease Notification fees payable by the Member on the following basis:

- (a) annually, in December of each calendar year, the board of directors of the Supplier will determine if the Notification fees are sufficient to cover the costs of providing the Call Centre Services and the Program to all Members;

- (b) in the event there is a disparity between Notification fees generated and such costs, having regard to any excess or deficiency anticipated for the current calendar year, the Supplier shall prescribe the Notification Fees applicable for the forthcoming calendar year in order to eliminate such excess or deficiency in the forthcoming year;
- (c) the Supplier shall, on or before the 7th day of January advise the Member in writing if it will be increasing Notification fees for the current calendar year;
- (d) In the event the Member, following receipt of such notice determines it does not wish the Supplier to continue to supply Call Centre Services to the Member, the Member must provide written notice of non-renewal in accordance with the Terms and Conditions section 4 Termination and section 10 - Term.

5 DEFINITIONS

5.1 In this Appendix "B":

- (a) "Cancellation" shall mean an outgoing transmission from the Supplier to the Member which advises the Member that an Excavator has cancelled an extant Notification;
- (b) "Correction" shall mean an outgoing transmission from the Supplier to the Member which advises the Member that an Excavator has revised the information on an extant Notification;
- (c) "Relocate" shall mean an outgoing transmission from the Supplier to the Member which advises the Member that an Excavator requests that previously marked locations be marked again;
- (d) "Retransmission" shall mean an outgoing transmission from the Supplier to the Member at the request of the Member, which transmission is a duplication or retransmission of a previous transmission;

- (e) "Update" shall mean an outgoing transmission from the Supplier to the Member which advises the Member that an Excavator has changed the site location on an extant Notification, which transmission shall cause the transmission of a Cancellation for the extant Notification and the generation of a new Ticket Number.

Appendix "C"

BC ONE CALL TICKET FORMAT

1 BC ONE CALL

NOTICE OF INTENT TO EXCAVATE 2 ROUTINE LOCATE

3 Ticket no: 1999330801

4 Sending To: BC1 CALL 5 Code: NOANSW01 6 Sequence: 0052

7 Original Call Date:08/13/2000 8 Time: 13:39:36 9 Op: 30

Transmit Date: 08/13/2000 Time: 13:42:19 Op: 30

10 Work to Begin Date: 08/19/2000 Time: 13:42:19

11 Excavator: DYSON ENTERPRISES

Contact Name: JANET ANDERSON

Contact Phone:(604) 257-1900

Cell Phone: (604) 451-2323

Pager:

12 Alt.Contact: JOHN DYSON

Alt. Phone: (604) 657-9056

13 Fax Phone:(604) 657-8746

14 Place: GIBSONS

15 Comments:

16 Address At/From: 805 Address To: 809

Street: NORTH RD

Nearest Intersecting Street: REED RD

Second Intersecting Street:

17 Additional Dig Information:

PRIV PROP - REAR OF BLDG

18 Remarks:

CALLER STATES: AREA IS MARKED IN WHITE PAINT

19 Type of Work: REPAIR WATER LINE

20 Depth: 1 MTR Length: UNKNOWN Width: UNKNOWN

Direction: UNKNOWN

PLEASE CONTACT CALLER TO CONFIRM LOCATES COMPLETED

21 Work Being Done For: DYSON ENTERPRISES

22 Also Notified: TELUS TERASEN GIBSONS