

ITEM
220

Customer-specific Fibre Maintenance Services (Alberta only)

ITEM
220.1

Service Description

This Item 220 tariff governs the provision of maintenance services by the Company to the Customer on specific fibre strands (the Customer Strands) and related Support Structures owned by the Customer which are identified in the Item 220 Customer-specific Fibre Maintenance Agreement (the Item 220 Agreement) and which are located within a fibre optic telecommunications network (the System) in which the Company has acquired or will acquire Strands.

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The initial Customer is constructing the System for another party (the Successor Customer) and will be transferring the Customer Strands and the related Support Structures to the Successor Customer after which transfer, the Successor Customer will be deemed to be the Customer for the purposes of this Item 220 tariff with respect to the transferred Customer Strands and related Support Structures and the beneficiary of all the Customer's rights and subject to all of the Customer's obligations under this Item 220 tariff and the Item 220 Agreement, except for those obligations (see Item 220.2.27) which the Company, the Customer and the Successor Customer have agreed will remain with the initial Customer.

The maintenance services (the Maintenance Services) to be provided by the Company to the Customer pursuant to this Item are:

- Scheduled Maintenance Services:
 - a. Preventative cable maintenance, cable locating, cable inspection and preventative maintenance respecting the cable and support structures, including but not limited to at least annual inspection, repair or replacement of marker posts and signage, bridge troughing, conduits (where applicable) handholds, splice cases and manholes;
 - b. Visual inspection of the route at least once every calendar year; and
 - c. All cable locates referred to the Company by the Alberta One-Call program.

- Emergency Maintenance and Restoration Services:

Such emergency maintenance and restoration services as may be necessary in the event of an Emergency Event to inspect, assess and repair the Customer Strands and related Support Structures such that, to the extent possible, the Customer Strands continue to meet the agreed to fibre performance specifications, on a 7 days per week, 24 hours per day basis. Such work shall include all trenching, fibre interconnection and splicing work and all conduit, vault and pole replacement work.

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The Maintenance Services include non-forborne tariff items and forborne services as listed below:

1. The Company non-forborne labour rates: Network Diagnostic and Maintenance Services Tariff CRTC 18002, Item 1820). F
2. Forborne services: none.

The Company is not supplying, nor is the Company obligated to supply, maintenance services related to:

1. the optronics or electronics or optical or electrical equipment which may be required to use the Customer Strands; and
2. shelters in which the equipment described above in 1. is contained or any equipment owned by the Customer and used in connection with the operation of such shelters.

Definitions

For the purposes of this Item 220 tariff, capitalized terms shall have the meanings ascribed to them in the body of this tariff or any other applicable the Company tariff and in addition, the following terms shall have the meanings ascribed to them below:

“*Affiliate*”, for the purpose of this Item 200 and the associated Item 220 Agreement only, has the meaning specified in the Canada Business Corporations Act.

“*Business Day*” means a day, excluding Saturdays, Sundays and statutory holidays in the Province of Alberta.

“*Commencement Date*” means, with respect to a particular Segment, the later of:

- a. five (5) Business Days after the date the CRTC has an approval of this Item 220 tariff and the Item 220 Agreement in a form acceptable to each of the Company and the Customer; and
- b. five (5) Business Days after the date which is the earlier of:
 - i. the date that the Customer notifies the Company in writing that construction of the Segment has been completed and the Customer wishes the Company to commence providing Maintenance Services on the Segment on an interim basis prior to the Company acquiring Strands in the Segment; or
 - ii. the date that the Company acquires Strands in the Segment.

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“*Disposition*” means an assignment, grant of indefeasible right of use, sale, transfer, swap, lease, grant of rights of use or any other disposition.

“*Emergency Event*” means a failure of, or damage to, the Customer Strands or related Support Structures that adversely affects the operation of the Customer Strands but for clarity does not include relocation.

“*Interest Rate*” means a per annum rate equal to 12.68% per annum, compounded monthly.

“*JOP*” means the written joint operation policies and procedures agreed to by the Parties respecting the Segments, as may be updated, amended or restated by the Parties during the Term.

“*Party*” means each of the Company and the Customer and “*Parties*” shall mean either of them. F

“*Proportionate Share*” means with respect to the Customer, for each Segment, the proportion that A bears to B, where A equals the number of Customer Strands and B equals the total number of Strands in the Segment, as applicable.

“*Segment*” means a route segment containing Customer Strands for which Maintenance Services are to be provided by the Company under this Item 220 tariff and the Item 220 Agreement. |

“*Strand*” means a strand of fibre optic cable.

“*Successor Customer Transfer*” means, with respect to a particular Segment, the transfer and assignment by the Customer to the Successor Customer of the portion of the System and the Customer Strands comprising such Segment.

“*Support Structures*” means, collectively, all infrastructure (other than shelters) necessary to support Strands including, without limitation, cable sheathing, conduit, troughing, pedestals, slack containers, poles and any equipment related thereto, but excluding Strands.

“*Underlying Rights*” means collectively all easements, rights-of-way, leases, licenses, authorizations, permits, arrangements and other agreements, whether written or otherwise, relating to the grant of rights and interest in, or access to, the real property underlying the System (including without limitation the Customer Strands) and access to Support Structures in connection therewith.

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1. The Maintenance Services shall be provided under the terms and conditions of this tariff, General Terms of Service as specified in the Company General Tariff (CRTC 21461, Items 101 - 124) and the Item 220 Agreement. In the event of any conflict or inconsistency between this tariff and the provisions of any written or unwritten agreement or arrangement with the Customer relating to this service, the Company's tariffs shall prevail.

2. Initial Contract Period:

The Maintenance Services shall commence on 2005 02 23 (the effective date for the introduction of Item 220, as approved in Telecom Order CRTC 2005-73), and unless earlier terminated in accordance with the Item 220 Agreement, shall continue for a period of twenty (20) years from the date of the last Successor Customer Transfer of Customer Strands (such period is herein called the Term).

3. Renewal Term:

In the event the Customer desires to extend the Term, the Customer shall provide the Company with written notice not less than one hundred and eighty (180) days prior to the expiration of the then current term of the Item 220 Agreement. Any such renewal shall be for a term of five (5) years (the Renewal Term). Upon receipt of such notice, the Company shall review the costs associated with providing the Maintenance Services and the then current market rates for such Maintenance Services and the Company shall provide the Customer with a description of the Maintenance Fees for the Renewal Term and Parties shall negotiate in good faith to reach agreement on the revised maintenance fees for the Renewal Term.

4. The Company is hereby designated the exclusive provider of Maintenance Services and splicing and interconnection work on all Strands and Support Structures comprising the System for the Term.

5. Notwithstanding Item 220.2.4 but subject to Items 220.3.2.a to 220.3.2.d, the Customer shall be permitted at any time to resell the splicing or interconnection services and the Maintenance Services, or any of them. In no event shall the Company be liable to any customer of the Customer which receives resold or bundled Company splicing services, interconnection services or Maintenance Services and the Customer agrees to indemnify and save the Company and its Affiliates harmless from all costs and liabilities which the Company and its Affiliates may incur to any third party which receives resold or bundled Company splicing services, interconnection services or Maintenance Services in relation to such services or failure by the Company to deliver such services.

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Conditions of Service - Continued

6. The Customer shall pay the following maintenance fees to the Company for the Maintenance Services:
 - a. Commencing on the Commencement Date for a Segment, the Customer shall pay to the Company the fees described in Items 220.3.1 (the Maintenance Fees) applicable to such Segment during the Term.
 - b. The Customer shall pay to the Company the Resale Maintenance Fee (as such term is defined in Item 220.3.2.a(i) on each Third Party Acquired Segment (as such term is defined in Item 220.3.2.a) on a Segment-by-Segment basis in accordance with Items 220.3.2.a.

7. The Customer shall prepay the Scheduled Maintenance Fees (as such term is defined in Item 220.3.1.a) for each Segment for the period commencing on the Commencement Date for the Segment and ending five (5) years from the date of the last Successor Customer Transfer of Customer Strands (such period being called the Prepaid Period). The Customer shall make such prepayment:
 - a. if the Commencement Date is triggered by the Company acquiring Strands in the Segment, concurrently with the closing of the acquisition of the Strands by the Company; or
 - b. if the Commencement Date is triggered by the Customer requesting early delivery of the Maintenance Services, as described in part b. of the definition of Commencement Date in Item 220.1, within ten (10) Business Days following the Commencement Date. The prepayment shall be calculated using an annual discount rate of ten percent (10%)

8. Upon expiry of the Prepaid Period (see Item 220.2.7) and for the balance of the Term, the Scheduled Maintenance Fees for each Segment shall be calculated on an annual basis and shall be payable by the Customer monthly in advance, following receipt of the Company invoice. The Company shall invoice the Customer for the Scheduled Maintenance Fees on a monthly basis, which invoice shall be due and payable in full within thirty (30) days from the invoice date.

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9. Upon the last Successor Customer Transfer of Customer Strands, the Company shall prepare and provide to the Customer a reconciliation statement which trues up the Scheduled Maintenance Fee prepayments made by the Customer to the Company pursuant to Item 220.2.7 as of such date on a Segment-by-Segment basis against the aggregate amount of the Scheduled Maintenance Fees payable for each Segment for the Prepaid Period (see Item 220.2.7), for the purposes of calculating the additional payment required from the Customer so that the Customer will have prepaid the Scheduled Maintenance Fees for all Segments for the entire Prepaid Period. The Company shall invoice the Customer for the amount owing and such invoice shall be due and payable in full within thirty (30) days from the invoice date. F

10. Subject to this Item 220.3.2.d, the Company shall provide the Customer with an invoice for the Customer's Proportionate Share of the costs associated with Emergency Maintenance and Restoration Services (see Item 220.1) on each Segment as and when such costs are incurred by the Company. If the Customer's Proportionate Share of the costs associated with Emergency Maintenance and Restoration Services with respect to a particular incident are reasonably anticipated by the Company to exceed \$50,000, before proceeding the Company shall advise the Customer of such proposed expenditure in accordance with the process set out in the JOP. The Company's out of pocket costs shall be invoiced on a cost plus fifteen percent (15%) basis. The Company's standard time and labour charges (per the Company Tariff CRTC 18002, Item 1820) shall apply with respect to work undertaken by the Company. The Company shall invoice the Customer for the Customer's Proportionate Share of the costs associated with such Emergency Maintenance and Restoration Services, and such invoices shall be due and payable within thirty (30) days of the invoice date, subject to the right of the Customer to in good faith dispute an invoice in accordance with Item 220.2.15. The Company shall provide supporting documentation confirming the costs incurred by the Company in connection with the provision of Emergency Maintenance and Restoration Services with any invoice delivered by the Company.

11. During the Term, any applicable Resale Maintenance Fees shall be calculated on an annual basis and shall be payable by the Customer monthly in advance, following receipt of the Company invoice. The Company shall invoice the Customer for the Resale Maintenance Fees on a monthly basis, which invoice shall be due and payable in full within thirty (30) days from the invoice date.

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12. In addition to the amounts payable pursuant to Items 220.2.6 to 220.2.11, the Customer shall be responsible to pay directly or reimburse the Company for all other reasonable sums, costs, fees and expenses as a result of any work performed by the Company at the request of the Customer under the Item 220 Agreement (including interconnection and splicing work which is not part of Emergency Maintenance and Restoration Services) which does not comprise part of the Maintenance Services and which has been pre-approved in writing by the Customer. The Company's out of pocket expenses shall be invoiced on a cost plus fifteen percent (15%) basis. The Company's standard time and labour charges (per TCI Tariff CRTC 18002, Item 1820) shall apply with respect to work undertaken by the Company. The Company shall invoice the Customer for all such reasonable sums, costs, fees and expenses, after the work has been performed by the Company, which invoices shall be due and payable within thirty (30) days of the invoice date (provided that the work covered by the invoice has been authorized by the Customer). The Company shall provide supporting documentation confirming costs incurred by the Company in connection with the provision of such work by the Company.
13. If the Customer fails to pay the Company any amount due and payable under this Agreement when due then (other than amounts which the Customer is in good faith contesting pursuant to Item 220.2.15), then in addition to any other rights and remedies that the Company may have, the Customer shall pay interest on such unpaid amount at the Interest Rate. Notwithstanding the foregoing, no interest shall accrue on any payment that is disputed in good faith by the Customer pursuant to Item 220.2.15 while such dispute is pending. If such dispute is later resolved in favour of the Company, such amount shall bear interest from the date when due until paid at the Interest Rate, both before and after any court judgment or arbitration award in respect of the same.
14. The fees, rates and charges specified in this Item 220 tariff and Item 220 Agreement do not include any sales taxes levied in respect of the provision of Maintenance Services or any other service delivered by the Company under this Item 220 tariff and the Item 220 Agreement. The Customer shall be responsible for and shall pay as and when due in accordance with applicable laws any and all sales taxes levied in respect of the Maintenance Services or other services. To the extent any sales taxes are paid by the Customer to the Company, the Company shall remit or cause to be remitted to the applicable taxing authority such sales taxes on a timely basis in accordance with applicable laws.

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15. The Customer may in good faith dispute any charges or fees invoiced by the Company to the Customer under this Item 220 tariff or the Item 220 Agreement by providing written notice of a dispute to the Company within ninety (90) days of receipt of the invoice. Such dispute notice shall specify the applicable invoice(s) and charges under the invoice(s) which the Customer is disputing. Upon resolution of the dispute:
- a. if some or all the invoiced amount is agreed or determined to have been properly payable by the Customer, then the Customer shall forthwith pay any balance owing to the Company together with interest at the Interest Rate on such balance calculated from the date the amount was originally owing; and
 - b. if some or all of the invoiced amount is agreed or determined not to have been properly payable by the Customer, then the Company shall forthwith refund or credit the Customer for any amount which was paid by the Customer in respect of such invoiced amount together with interest at the Interest Rate on such amount calculated from the date the amount was originally paid by the Customer to the Company.
16. Subject to Items 220.2.17 to 220.2.18, each Party (the Indemnifying Party) shall indemnify and save harmless each other Party and its respective Affiliates and their respective employees, officers, directors and contractors from and against any and all losses, claims, damages, liabilities, and costs, incurred or suffered by such other Party and its respective Affiliates and their respective employees, officers, directors and contractors by reason of, resulting from or in connection with, or arising out of:
- a. the breach of any representation, warranty or covenant of the Indemnifying Party set out in the Item 220 Agreement;
 - b. the negligence or wilful misconduct of the Indemnifying Party in connection with the subject matter of this Item 220 tariff and the Item 220 Agreement;
 - c. any claims by third parties arising from or in connection with performance of the Indemnifying Party's obligations under this Item 220 tariff or the Item 220 Agreement; and

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- d. any claims of infringement made by a third party against an Indemnified Party of any patent, copyright, trade-mark, service mark, trade name, or proprietary right of the third party alleged to have occurred because of the provision by the Indemnifying Party of any products or services pursuant to this Item 220 tariff and the Item 220 Agreement where the Indemnifying Party is the creator or manufacturer of such service or product. Where the product or service is acquired by the Indemnifying Party from a third party supplier, the Indemnifying Party's sole obligation shall be to flow through to the Indemnified Party any representations, warranties or conditions which the Indemnifying Party receives from its third party supplier, to the extent that the Indemnifying Party is entitled to do so under its arrangements with the third party supplier.

For the purposes of this Item 220.2.16, costs include reasonable lawyers' fees and expenses, reasonable accountants' fees and expenses, court costs and all other reasonable out-of-pocket expenses.

17. In no event shall any Party's aggregate liability arising out of, or in connection with:

- a. breach or breaches of this Item 220 tariff or the Item 220 Agreement; or
- b. breach or breaches of contract, breach of warranty, tort, negligence, strict liability or any other theory of liability relating to the subject matter of this Agreement, or to a Party's performance or non-performance of its obligations under this Item 220 tariff or the Item 220 Agreement

exceed an amount equal to the aggregate Maintenance Fees and Resale Maintenance Fees actually paid to the Company and received by the Company under the Item 220 Agreement for the twelve (12) month period preceding the date of the event or events giving rise to the liability. For greater certainty, a failure by the Customer to pay Maintenance Fees, Resale Maintenance Fees or other service fees to the Company under the Item 220 Agreement shall not constitute a breach within the scope of Items 220.2.17.a and b above, and accordingly:

- i. the Customer shall not be entitled to rely on the limitation of liability contained in this Item 220.2.17 for such an event; and
- ii. Maintenance Fees, Resale Maintenance Fees or other service fees paid by the Customer to the Company under this Agreement shall not be credited against the liability of the Customer under the foregoing limitation of liability.

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18. No Party shall be liable to any other Party for loss of profits or revenue and any special, indirect, punitive or consequential damages including, but not limited to, cost of capital, or claims of contractors, suppliers, clients or customers, whether foreseeable or not, arising out of, or in connection with any:

- a. breach of this Item 220 tariff or Item 220 Agreement; or
- b. breach of contract, breach of warranty, tort, negligence, strict liability or any other theory of liability relating to the subject matter of this Item 220 tariff or the Item 220 Agreement, or to the Party's performance or non-performance of its obligations under this Item 220 tariff or the Item 220 Agreement.

19. No claim for losses or damages whatsoever in connection with this Item 220 tariff or the Item 220 Agreement shall be made more than two (2) years after the date that the event giving rise to such claim is known or reasonably should have been known to the Party making such claim, and no claim for indemnity under this Article shall be made more than two (2) years after the first notice of any claim received by the Party claiming under such indemnity provision.

20. The Company may subcontract any or all of the Company's duties or obligations to the Customer under this Item 220 tariff or the Item 220 Agreement to a qualified third party contractor, provided that the Company shall remain obligated to the Customer during the Term of complying with any such duties or obligations, and shall be liable for any acts or omissions of such qualified third party contractor.

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21. Any Party may terminate the Maintenance Services and the Item 220 Agreement, and its obligations thereunder, if any other Party fails in a material respect to perform its obligations under the Item 220 Agreement, where such failure has not been remedied within sixty (60) days after delivery of written notice of default to the non-defaulting Party, or where such failure is not capable of being remedied within a sixty (60) day period, within such longer time as is appropriate, provided the defaulting Party is continuing in good faith during such time to remedy the failure.

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22. Notwithstanding Item 220.2.21, if the Customer fails to pay the Company an amount payable under this Item 220 tariff and the associated Item 220 Agreement (other than any amount which the Customer is in good faith disputing pursuant to Item 220.2.15) within ten (10) days of written notice from the Company that such amount is overdue, then the Company:
- a. shall be entitled to immediately suspend all or a portion of the Maintenance Services and any other work being undertaken by the Company under this Item 220 tariff and the Item 220 Agreement upon delivery of written notice to the Customer;
 - b. shall be entitled to terminate the Item 220 Agreement and the Maintenance Services in its entirety if the Customer is in arrears on the Maintenance Fees for Scheduled Maintenance Services for ninety (90) days or longer upon delivery of written notice to the Customer; and
 - c. may pursue any other remedies which it may have at law or under the Item 220 Agreement.
23. If the Company is providing Maintenance Services on a particular Segment as a result of a request by the Customer to provide interim Maintenance Services prior to the Company acquiring Strands on the Segment (see Item 220.1 “*Commencement Date*” definition, b.i), and the Company does not acquire Strands from the Customer on the Segment for any reason within the time agreed to by the Company and the Customer, then the Company may terminate the Maintenance Services on such Segment upon providing the Customer with ninety (90) days prior written notice. The Company shall refund the Customer the amount of any Maintenance Fees which the Customer has prepaid for the Segment, less the Maintenance Fees for the months during which the Company delivered the interim Maintenance Services to the Customer, within seven (7) days of the Company terminating the Maintenance Services.
24. The obligation of the Company to provide Maintenance Services is subject, in all respects, to the Underlying Rights and any access restrictions respecting the System or the lands on which the System is located imposed by the Underlying Rights or by applicable landowners or governmental authorities.

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25. Notwithstanding anything contained in this Item 220 tariff or the Item 220 Agreement, the Company's obligation to provide the Customer with Maintenance Services shall be subject to the deterioration of characteristics of the Customer Strands and related Support Structures that occurs principally by reason of the passage of time. F
26. If the Company recovers any amount from a third party in respect of damage affecting a Segment which is caused as a result of an Emergency Event and the Customer has paid the Company the Customer's Proportionate Share of the cost of Emergency Maintenance and Restoration Costs in connection with the Emergency event in accordance with Item 220.3.1.c, the Company shall reimburse or, at the Company's option, credit the Customer for the Customer's Proportionate Share of the amount recovered by the Company, such reimbursement or credit not to exceed the amount actually paid by the Customer to the Company under Item 220.3.1.c in connection with the Emergency Event. |
27. The following obligations respecting a Segment shall remain with the initial Customer after the transfer of the Segment to the Successor Customer: |
- a. The initial Customer shall continue to be responsible for the prepayment to the Company of the Scheduled Maintenance Fees on each Segment for the Prepaid Period in accordance with Item 220.2.7. |
 - b. The initial Customer shall be responsible for the payment of Resale Maintenance Fee prior to Item 220.3.2.b coming into effect. |

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Rates

The Customer shall pay to the Company the following rates and charges and is subject to all applicable terms and conditions of the Company’s tariffs, including this Item 220 tariff. Such rates and charges are in addition to any other rates and charges that may be applicable.

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1. Maintenance Fees:

- a. Scheduled Maintenance Fee (see Item 220.1): for Scheduled Maintenance Services, the amount of \$325.00 per route kilometre (Route-Km) for the Customer Strands per year, which amount shall be subject to a consumer price index (CPI) increase on the fifth (5th) anniversary date of the Agreement and each subsequent fifth (5th) anniversary date of the Agreement for the remainder of the Term. For clarity, this fee (the Scheduled Maintenance Fee) shall be calculated and payable as follows:

Scheduled Maintenance Fees			
Year since introduction of Item 220	Rate Effective Date	Per Route-Km per year (Notes 1, 2 & 3)	CPI Increase (Note4)
Years 1 to 5	2005 02 23	\$325.00	N/A
Year 6 onward	To be filed		Yes

N/A – Not applicable.

- b. Fees for Scheduled Maintenance Services which exceed specified cost amounts: Subject to Item 220.3.2.d, for any Scheduled Maintenance Services which require the Company to incur a cost exceeding \$10,000 plus sales taxes per item or an aggregate total of \$100,000 plus sales taxes per year, the Customer’s Proportionate Share of such costs based on a cost plus fifteen percent (15%) model for the portion of the costs exceeding \$10,000 plus sales taxes per item or the costs exceeding a total of \$100,000 plus sales taxes per year; and
- c. Fees for Emergency Maintenance and Restoration Services (see Item 220.1): Subject to Item 220.3.2.d, for Emergency Maintenance and Restoration Services, the Customer’s Proportionate Share of the costs associated with such services in accordance with Item 220.2.10. (see also Item 220.2.26)

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- Note 1: See Item 220.2.7 for Scheduled Maintenance Fee applicable to Prepaid Period.
- Note 2: Upon expiration of the Prepaid Period, this rate component is payable on a monthly basis per Item 220.2.8.
- Note 3: The Scheduled Maintenance Fees shall be prorated for any portion of a year during which they are payable.
- Note 4: For the purposes of Item 220.3.1.a, CPI shall mean the Consumer Price Index published by Statistics Canada or its successor for all goods and services (Alberta), or if Statistics Canada or its successor ceases to publish such index, a comparable index agreed to by the Parties acting reasonably published by Statistics Canada or its successor or another recognized entity in Canada. (The CPI increase applicable at year 6 shall be calculated based on the yearly CPI for each of the previous 5 years, compounded on a yearly basis respectively. Same calculation applies to the CPI increase for each of the subsequent 5-year period.)

2. Resale Maintenance Fee:

- a. The Customer agrees that if the Customer makes a Disposition of a Strand or Strands on a Segment (a Third Party Acquired Segment) to any Person other than the Successor Customer (a Third Party Purchaser) and the Company does not provide maintenance services directly to the Third Party Purchaser on the Strand or Strands pursuant to a signed maintenance agreement between the Company and the Third Party Purchaser, then:
- i. In addition to the fees described in Item 220.3.1.a, the Customer shall pay to the Company the amount of \$225.00 per route kilometre (Route-Km) per year for the Third Party Acquired Segment (the Resale Maintenance Fee), payable per Item 220.2.11.
- ii. The Resale Maintenance Fee shall not be subject to a CPI adjustment and shall commence immediately upon the Disposition of the Strand or Strands to the Third Party Purchaser and be applicable for either the term of the Disposition (if the Disposition is not a sale) or the remaining portion of the Term (if the Disposition is a sale), regardless of whether or not the Customer receives maintenance fees from the Third Party Purchaser.

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- iii. For clarity, a Disposition of Customer Strands on a Segment prior to the Commencement Date for the Segment shall still constitute a Disposition for the purposes of this Item 220.3.2.a, however, payment of the Resale Maintenance Fee would not commence until the Commencement Date for the Segment.
 - iv. The Customer shall provide the Company with written notice of a Disposition by the Customer immediately upon completing the Disposition and where the Disposition is not a sale, the Customer will include the length of the term of the Disposition in the notice to the Company.
- b. Notwithstanding Item 220.3.2.a, if a Segment has been transferred to the Successor Customer and the portion of the Item 220 Agreement covering such Segment has been assumed by the Successor Customer, then the Successor Customer shall be responsible for the payment to the Company of any Resale Maintenance Fee associated with the Segment effective ten (10) years from the Commencement Date for such Segment.
- c. For greater clarity:
- i. The obligation of the Customer to pay the Company a Resale Maintenance Fee on a Segment shall be triggered on the first Disposition of any Strand or Strands on the Segment, and where the Company is receiving the Resale Maintenance Fee on a Segment, any subsequent Disposition of a Strand or Strands by the Customer on the same Segment to another Third Party Purchaser shall not trigger another Resale Maintenance Fee on that Segment (i.e., the maximum Resale Maintenance Fee payable to the Company on any particular Segment shall be \$225.00 per route kilometer per year); and
 - ii. The Resale Maintenance Fee shall be calculated and payable by the Customer on a Segment-by-Segment basis if and when the Resale Maintenance Fee is triggered on the Segment.

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- d. Upon the Resale Maintenance Fee becoming payable on a particular Segment, the additional fees described in Items 220.3.1.b and 220.3.1.c which would otherwise be payable by the Customer for Maintenance Services for the Customer Strands on the Segment will be covered by the payment to the Company of the Resale Maintenance Fee on such Segment for the then remaining portion of the Term. If the Company ceases to receive the Resale Maintenance Fee on a Segment for any reason during the Term (including, without limitation, the termination or expiry of the term of a Disposition by the Customer), the obligation of the Customer to pay the additional fees described in Items 220.3.1.b and 220.3.1.c shall immediately recommence for the Customer Strands on the Segment and continue for the period during which the Company is not receiving the Resale Maintenance Fee on the Segment.
- e. Other Charges: see Item 220.2.12.

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