



**MASTER SERVICES AGREEMENT**

This Master Services Agreement (the "Agreement") is entered into by and between Cincinnati Bell Telephone Company LLC, on behalf of its' affiliates and subsidiaries, having its' principal place of business at 221 East Fourth Street, Cincinnati, Ohio 45202 (collectively "Cincinnati Bell"), and **Darrell Cox / DGN LWYR**, a(n) \_\_\_\_\_ corporation, having its principal place of business at 401 Madison Avenue, Covington, KY 41011 ("Customer").

**WITNESSETH**

WHEREAS, Cincinnati Bell and Customer desire to continue a long term business relationship covering the provision of a wide variety of telecommunications services by Cincinnati Bell to Customer for its locations on a contractual basis;

WHEREAS, the specific parameters and conditions of the provisions of those services and related goods will be set forth in separate documents attached hereto or executed from time to time (the "Schedules" or singularly, the "Schedule"); and

WHEREAS, Cincinnati Bell and Customer wish to set forth in this Agreement certain terms and provisions that will govern the Cincinnati Bell and Customer relationship and the Schedules;

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

**1. DEFINITIONS.**

The following definitions shall apply to this Agreement and, unless otherwise provided therein, shall also apply to the Schedules. The definitions shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The words "shall" and "will" are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other shall not mean a different degree or right or obligation for either Party. The use of the term "Agreement" shall be deemed to refer to the entire agreement between the Parties consisting of this Agreement and includes each Schedule.

1.1 Applicable Laws - means all applicable federal, state, and local statutes, laws, rules, regulations, codes, final and nonappealable orders, decisions, injunctions, judgments, awards and decrees that relate to a Party's obligations under this Agreement.

1.2 Information - means any writing, drawing, sketch, model, sample, data, computer program, software, verbal communication, e-mail, recording or documentation of any kind.

1.3 Party - means (i) Cincinnati Bell or (ii) Customer; and "Parties" means (i) and (ii).

1.4 Proprietary Information - means any information communicated, whether before, on or after the Effective Date, by a Party ("Disclosing Party") to the other Party ("Receiving Party"), pursuant to this Agreement and if written, is marked "Confidential" or "Proprietary" or by similar notice or if oral or visual, is identified as "Confidential" or "Proprietary" at the time of disclosure; or if by electronic transmission (including, but not limited to, facsimile or electronic mail) in either human readable or machine readable form, and is clearly identified at the time of disclosure as being "Proprietary" or "Confidential" by an appropriate and conspicuous electronic marking within the electronic transmission, which marking is displayed in human readable form along with any display of the "Proprietary" or "Confidential" information; or if by delivery of an electronic storage medium or memory device which is clearly identified at the time of disclosure as containing "Proprietary" or "Confidential" information by an appropriate and conspicuous marking on the storage medium or memory device itself and by an appropriate and conspicuous electronic marking of the stored "Proprietary" or "Confidential" information, which marking is displayed in human readable form along with any display of the "Proprietary" or "Confidential" information.



2. **SERVICES.**

The specific terms and conditions applicable to the particular services to be provided by Cincinnati Bell pursuant to this Agreement, including the description of the services to be provided and the obligations of each Party in connection therewith, applicable rates, fees, commissions and charges, termination rights, performance obligations and service parameters are or shall be set forth in the Schedules. Any future Schedules entered into between the parties shall reference and be governed by the terms of this Agreement. In the event of a conflict between the terms of this Agreement and a Schedule, the terms of the Schedule shall prevail.

3. **EQUIPMENT WARRANTY, USE AND MAINTENANCE.**

Cincinnati Bell will maintain the equipment used to provide service under the applicable Schedules, in good working order during the term specified in the applicable Schedule, subject to the exclusions set forth under Section four (4) entitled Warranty Exclusions. Customer will permit Cincinnati Bell access to equipment on Customer's premises used to provide service hereunder and Cincinnati Bell will comply with the Customer's security and safety regulations at Customer's site. Repair parts or replacement parts may be new, remanufactured or refurbished at the discretion of Cincinnati Bell. Customer will not make any modifications to the equipment used to provide service hereunder without the written permission of Cincinnati Bell and will pay the cost of any repairs necessitated by unauthorized work.

4. **WARRANTY EXCLUSIONS.**

4.1 The warranties provided under Section three (3) do not cover services required to repair damages, malfunctions or failures caused by: (a) Customer's failure to follow Cincinnati Bell's written operation or maintenance instructions provided to Customer; (b) Customer's unauthorized repair, modifications or relocation of equipment used to provide services hereunder, or attachment to such equipment of non- Cincinnati Bell equipment; and (c) abuse, misuse or negligent acts. Cincinnati Bell may perform services in such instances on a time and materials or contract basis.

4.2 Cincinnati Bell will not be liable to Customer or third parties for any claims, loss or expense of any kind or nature caused directly or indirectly by: (i) interruption or loss of use or loss of business; or (ii) any consequential, indirect, special or incidental damages suffered by Customer or third parties whatsoever.

4.3 EXCEPT AS SPECIFIED HEREIN AND ANY SCHEDULES, CINCINNATI BELL, ITS SUBCONTRACTORS AND SUPPLIERS (EXCEPT AS EXPRESSED IN WRITING BY THEM) MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. **TITLE OR RISK OF LOSS OF EQUIPMENT.**

5.1 For equipment sold and installed to Customer by Cincinnati Bell, title shall pass to Customer on the In-Service Date. Risk of loss shall pass at the time of delivery.

5.2 For all other equipment used in the provision of services under any of the Schedules, title shall remain solely with Cincinnati Bell, whether or not attached to or embedded in realty, unless otherwise agreed to in writing by the parties. Cincinnati Bell will bear the risk of loss or damage to the equipment used in the provision of service, except that Customer will be liable to Cincinnati Bell for the cost of repair or replacement of equipment lost or damaged as a result of Customer's negligence, intentional acts, unauthorized installation or maintenance or other causes within the control of customer, its employees, agents or subcontractors.

6. **TERM.**

This Agreement shall commence on the later date of execution by the parties below, and shall continue until all Schedule(s) have expired or been terminated. The term of each Schedule shall be as set forth therein.



7. **GOVERNING LAW.**

This Agreement shall be deemed to be a contract made under the laws of the State of Ohio, and the internal laws of such state shall govern the construction, interpretation and performance of this Agreement, without reference to conflicts of law provisions. Any legal action between the parties arising under this Agreement must be filed within two (2) years after the cause of the action arises.

8. **CONFIDENTIAL INFORMATION.**

During the term of this Agreement and for two years thereafter, neither party shall disclose any terms or pricing contained in this Agreement or any confidential information disclosed by the other party. Confidential information shall remain the property of the disclosing party and shall be labeled as either "Confidential" or "Proprietary".

9. **RESOLUTION OF DISPUTES.**

9.1 The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly through discussions between themselves at the operational level. In the event a resolution cannot be reached at the operational level, the disputing party shall give the other party written notice of the dispute and such controversy or claim shall be negotiated between appointed counsel or senior executives of the parties who have authority to settle the controversy. If the parties fail to resolve such controversy or claim within thirty (30) days of the disputing party's notice, either party may seek arbitration as set forth below.

9.2 Any controversy or claim arising out of or relating to this Agreement, or a breach of this Agreement, shall be finally settled by arbitration in Cincinnati, Ohio and shall be resolved under the laws of the State of Ohio without regard to choice of law provisions. The arbitration shall be conducted before a single arbitrator in accordance with the commercial rules and practices of the American Arbitration Association then in effect.

9.3 The arbitrator shall have the power to order specific performance if requested. Any award, order, or judgment pursuant to such arbitration shall be deemed final and binding and may be enforced in any court of competent jurisdiction. The parties agree that the arbitrator shall have no power or authority to make awards or issue orders of any kind except as expressly permitted by this Agreement, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. All such arbitration proceedings shall be conducted on a confidential basis. Each Party is responsible for its' own attorney's fees and other out-of-pocket costs incurred in connection with such arbitration.

10. **TERMS OF PAYMENT.**

Invoices for Services are due and payable in U.S. dollars within thirty (30) days of invoice date (Invoice Due Date). Payments not received within thirty (30) days of invoice date are considered past due. In addition to Cincinnati Bell undertaking any of the actions set forth in this Agreement, if any invoice is not paid when due, Cincinnati Bell may: (i) apply a late charge equal to 2% (or the maximum legal rate, if less) of the unpaid balance per month and/or (ii) take any action in connection with any other right or remedy Cincinnati Bell may have under this Agreement in law or in equity. Customer shall be in default if Customer fails to make payment as required and such failure remains uncured for five (5) calendar days after the Invoice Due Date. If Customer in good faith disputes any portion of any Cincinnati Bell invoice, Customer shall submit to Cincinnati Bell by the Invoice Due Date, full payment of the undisputed portion of any Cincinnati Bell invoice and written documentation identifying and substantiating the disputed amount. If Customer does not report a dispute within sixty (60) days following the date on the applicable invoice, Customer shall have waived its right to dispute that invoice. Cincinnati Bell and Customer agree to use their respective best efforts to resolve any dispute within thirty (30) days after Cincinnati Bell receives written notice of the dispute from Customer. Any disputed amounts resolved in favor of Customer shall be credited to Customer's account on the next invoice following resolution of the dispute. Any disputed amounts determined to be payable to Cincinnati Bell shall be due within (10) days of resolution of the dispute.



11. **TERMINATION.**

Notwithstanding the provisions regarding the Term and Termination Charges of each Schedule, and in addition to the parties' rights of termination specifically provided elsewhere in this Agreement, the following shall apply:

11.1 In the event that one party breaches any material obligation provided hereunder, excluding payment obligations, or in such Schedule (other than Customer's payment obligations), the other party shall give the breaching party written notice of the breach and request that the breach be cured ("Cure Notice"). If the breaching party fails to cure the specified breach within thirty (30) days of receipt of the Cure Notice (or such other mutually agreed upon time), the other party shall have the right to terminate the Schedule, effective upon five (5) days prior written notice to the breaching party ("Termination Notice"). The right of Cincinnati Bell and the Customer to terminate in any such case shall be in addition to any other rights and remedies they may have hereunder or at law or in equity.

11.2 A party may, at its option, terminate a Schedule effective immediately upon written notice upon the occurrence of an "Insolvency Event of Default" (as defined below) with respect to the other party. The occurrence of any one or more of the following events shall constitute an "Insolvency Event of Default": the other party admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors; any affirmative act of insolvency by the other party or the filing by or against the other party (which is not dismissed within ninety (90) days of any petition or action) under any bankruptcy, reorganization, insolvency arrangement, liquidation, dissolution or moratorium law, or any other law or laws for the relief of, or relating to, debtors; or the subjection of a material part of the other party's property to any levy, seizure, assignment or sale for or by any creditor, third party or governmental agency.

11.3 Customer shall have the right to terminate any Schedule for convenience at any time upon thirty (30) days prior written notice to Cincinnati Bell. The termination charge will apply and be considered, except as noted in Section 4 of the Schedules, to be liquidated damages and will be Cincinnati Bell's sole remedy against Customer for early termination, except for outstanding charges. The termination liability language contained within the applicable Schedule is not intended to indicate that the Commissions have approved or sanctioned the specific termination charges contained herein. Signatories to the Agreement shall be free to pursue whatever legal remedies they may have should a dispute arise.

11.4 One or more Schedules may be terminated by the Parties without causing a termination of this Agreement or other Schedules.

12. **INDEMNIFICATION.**

Each Party shall indemnify, defend and hold harmless the other Party and its parent company, affiliates, employees, directors, officers, and agents from and against all claims, demands, actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorney's fees) incurred as a result of claims for damage to property and/or personal injuries (including death) arising directly out of the performance of obligations under this Agreement. A Party shall notify the other Party and describe the claim or action within fourteen (14) days of becoming aware of the claim or action itself. Either Party may undertake the defense of any such claim or action and permit the other Party to participate therein. The settlement of any such claim or action by either Party without the other Party's prior written consent, shall release the other Party from its obligations hereunder with respect to such claim or action so settled.



13. **LIMITATIONS OF LIABILITY.**

Cincinnati Bell's liability arising out of: (i) the provision of Services; (ii) delays in the restoration of Services; or (iii) arising out of mistakes, accidents, omissions, interruptions, errors or defects in transmission, or delays caused by judicial or regulatory authorities, shall be subject to the limitations set forth below and in the applicable Tariff. IN NO EVENT SHALL CINCINNATI BELL BE LIABLE TO CUSTOMER, CUSTOMER'S OWN CUSTOMERS, OR ANY OTHER THIRD PARTY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY FOR ANY TYPE OF INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE, ACTUAL, SPECIAL, OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS, LOST REVENUES, OR LOST SAVINGS OF ANY KIND, ARISING OUT OF OR RELATING TO THIS AGREEMENT WHETHER OR NOT CINCINNATI BELL OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. FOR PURPOSES OF THIS SECTION, "CINCINNATI BELL" IS DEEMED TO INCLUDE CINCINNATI BELL TELEPHONE COMPANY LLC, CINCINNATI BELL WIRELESS LLC, CINCINNATI BELL ANY DISTANCE INC. AND THEIR RESPECTIVE SUBSIDIARIES AND AFFILIATES, AND THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUBCONTRACTORS AND SUPPLIERS OF EACH OF THEM.

The Parties hereto agree that the termination liabilities and the limitations on liability contained in this Agreement are fair and reasonable adjustments to the uncertain and difficult to ascertain damages which might arise under this Agreement and are intended to be reasonable allocations by the Parties of the business risks inherent in this Agreement.

14. **RESPONSIBILITIES OF EACH PARTY.**

Each Party has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of their respective employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Except for the limitations on liability as otherwise provided in this Agreement, each Party will be responsible for its own acts and those of its employees, agents, and contractors during the performance of that Party's obligations hereunder.

15. **SECURITY AND ACCESS.**

Employees and agents of Cincinnati Bell and its subsidiaries, while on the premises of Customer, will comply with all reasonable rules, regulations and security requirements of Customer.

16. **WORK ON CUSTOMER'S PREMISES.**

Cincinnati Bell shall comply with all applicable laws and will indemnify and hold Customer harmless from and against any claims, demands, suits, losses, damages, costs and expenses arising out of Cincinnati Bell's noncompliance with any such laws. If Cincinnati Bell's work under any Schedule involves operations by Cincinnati Bell on the premises of Customer, Cincinnati Bell shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work. Except to the extent such injury is the result of Customer's negligence or willful misconduct, Cincinnati Bell shall defend, indemnify and hold harmless Customer against any claims, demands, suits, losses, damages, costs and expenses which are proximately caused by Cincinnati Bell's employees or agents against Customer, or which are due from any negligent act or omission of Cincinnati Bell, including its employees, agents and subcontractors.

17. **CUSTOMER OBLIGATIONS.**

Prior to requesting repair service from Cincinnati Bell, Customer will use its best efforts, including but not limited to performing reasonable diagnostic tests, to verify whether any trouble with the Service is a result of the Customer's equipment or facilities. Customer shall be responsible for any such trouble resulting from the Customer's equipment or facilities. Customer will cooperate with any joint testing of the Service reasonably requested by Cincinnati Bell.



18. **SYSTEM MAINTENANCE.**

In the event Cincinnati Bell determines that it is necessary to interrupt Services or that there is a potential for Services to be interrupted for the performance of system maintenance, Cincinnati Bell will use good faith efforts to notify Customer prior to the performance of such maintenance and will schedule such maintenance during non-peak hours (midnight to 6:00 am. local time). In no event shall interruption for system maintenance constitute a failure of performance by Cincinnati Bell.

19. **SUBCONTRACTING.**

Cincinnati Bell may subcontract work to be performed under this Agreement, but shall retain responsibility for the work and will ensure that any subcontractor agrees to keep Customer's information confidential.

20. **CHANGES IN LAWS.**

This Agreement is predicated upon current state and federal laws and regulations. If new laws or regulations or new applications of current law and regulations affect this Agreement, either Party may request on thirty (30) days' written notice that one or more provisions be renegotiated consistent with the changed circumstances.

21. **FORCE MAJEURE.**

No party shall be held liable for any delay or failure in performance of any part of this Agreement, including any Schedule, caused by a force majeure condition, including fires, embargoes, explosions, power blackouts, earthquakes, volcanic action, floods, wars, water, the elements, labor disputes (such as a work stoppage), civil disturbances, government requirements, civil or military authorities, acts of God or a public enemy, inability to secure raw materials, inability to secure product of manufacturers or outside vendors, inability to obtain transportation facilities, acts or omissions of transportation common carriers, or other causes beyond its reasonable control whether or not similar to the foregoing conditions. If any force majeure condition occurs, the Party whose performance fails or is delayed because of such force majeure condition ("Delayed Party") shall promptly give written notice thereof to the other Party. The Delayed Party shall use all best efforts to avoid or mitigate performance delays despite a force majeure condition, and shall restore performance as soon as the force majeure condition is removed.

22. **GOOD FAITH PERFORMANCE.**

Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement, as the case may be.

23. **NO LICENSE.**

Except as expressly provided in this Agreement or a Schedule, no license under patents, copyrights, trademarks, service marks, trade names or other indicia of origins, or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

24. **AMENDMENTS; WAIVERS.**

Except as otherwise provided in this Agreement, no amendment or waiver of any provision of this Agreement, and no consent to any default under this Agreement, shall be effective unless the same shall be in writing and signed by an authorized official of the Party against whom such amendment, waiver or consent is claimed. In addition, no course of dealing or failure of any Party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.



25. **NOTICES.**

All notices, demands, requests, elections, or other communications provided under this Agreement or which may be given by one Party to the other Party under this Agreement and to the extent a notice relates to an alleged breach, termination, or other claim under a Schedule, such notice shall be made in writing (unless specifically provided otherwise herein) and unless otherwise specifically required by this Agreement to be delivered to another representative or point of contact, shall be (a) delivered personally, (b) delivered by express delivery service, (c) mailed, first class, certified mail postage prepaid, return receipt requested or (d) delivered by telecopy; provided that a confirmation copy is sent by the method described in (a), (b) or (c) of this Section, to the following addresses of the Parties:

To Cincinnati Bell:

Cincinnati Bell Telephone Company LLC  
Attn: Legal Counsel  
M/S 103-1290  
201 East Fourth Street  
Cincinnati, OH 45202

To Customer:

Darrell Cox / DGN LWYR  
Attn: \_\_\_\_\_  
401 Madison Avenue  
Covington, KY 41011

And

Cincinnati Bell Telephone Company LLC  
Attn: Acct Rep (Darrell Cox / DGN LWYR)  
M/S 347-300  
201 East Fourth Street  
Cincinnati, OH 45202

Changes in notice designation shall be made in writing and shall be deemed effective upon receipt. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) four (4) business days after mailing in the case of first class, certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

26. **NO RIGHTS TO THIRD PARTIES.**

This Agreement shall not be deemed to provide third parties with any remedy, claim, right of action or other right.

27. **SEVERABILITY.**

If any term, condition, or provision of this Agreement shall be invalid or unenforceable for any reason, such invalidity or unenforceability shall not invalidate or render unenforceable the remainder of this Agreement; and, unless such construction would be unreasonable, this Agreement shall be construed as if not containing the invalid or unenforceable provision or provisions and the rights and obligations of each Party shall be construed and enforced accordingly. If necessary to affect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible.

28. **ASSIGNMENT.**

Customer will not resell or permit any third party to use any of the services provided by Cincinnati Bell hereunder. Neither Customer nor Cincinnati Bell may assign this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. Neither party shall be required to obtain consent in the case of a sale of all or substantially all the assets of itself or an assignment to an entity directly or indirectly owning or controlling, owned or controlled by, or under common control with the assigning party. Notwithstanding the foregoing, each party shall retain the right to terminate this Agreement without further obligation or liability to the other party, its successors or assigns, if, in its sole and exclusive judgment any assignment or purported assignment by the one party is to be made to a competitor of the other party.



**29. ENTIRE AGREEMENT; CONTINUING OBLIGATIONS.**

29.1 This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof. All prior agreements, representations, statements, negotiations, understandings, proposals, and undertakings, oral or written, with respect to the subject matter thereof are superseded and replaced by the provisions of this Agreement.

29.2 Irrespective of any provision contained in this Agreement or in a Schedule to the contrary, the following provisions of this Agreement shall take precedence over, supersede and control any conflicting provision (or the absence of a provision) in each of the Schedules heretofore or hereinafter executed by the parties: Articles 8 through 10 and Articles 12 through 32.

29.3 Any liability or obligation of any Party to the other Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of any Party to make payments, any obligation of any Party under the provisions of Article 8 hereof regarding Confidential Information, Article 9 hereof regarding resolution of disputes, Articles 12 and 19 hereof regarding indemnification, and Article 13 regarding limitations on liability, and any provisions that, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, shall, in each case, survive cancellation or termination of this Agreement.

29.4 The rights and obligations under this Agreement shall survive any merger or sale of either party and shall be binding upon the successors and permitted assigns of each party.

29.5 Under federal law, Customer has a right, and Cincinnati Bell has a duty, to protect the confidentiality of information regarding the telecommunications services Customer buys from Cincinnati Bell, including the amount, type, and destination of Customer's service usage; the way Cincinnati Bell provides services to Customer; and Customer's calling and billing records. Together, this confidential information is described as Customer Propriety Network Information (CPNI). Customer hereby consents to Cincinnati Bell sharing its CPNI with Cincinnati Bell affiliates, subsidiaries and any other current or future direct or indirect subsidiaries of the Cincinnati Bell parent company as well as Cincinnati Bell agents and authorized sales representatives, to develop or bring new products or services to Customer's attention. This consent survives the termination of Customer's service and is valid until Customer affirmatively revokes or limits such consent.

**30. REGULATORY APPROVAL; TARIFFS.**

This Agreement is subject to applicable regulatory requirements. In the event of any conflict between the terms of this Agreement (including any Schedule(s)) and applicable regulatory requirements, such regulatory requirements will take precedence and be controlling, except with respect to the rates and any termination charges agreed to in any Schedule. The obligations of Cincinnati Bell and Customer under this Agreement may be contingent upon approval of this Agreement by applicable regulatory agencies, including the Public Utilities Commission of Ohio and Public Services Commission of Kentucky. The regulations and rates specified herein are in addition to applicable regulations and rates set forth in Cincinnati Bell's tariffs on file with regulatory agencies.

**31. EXECUTED IN COUNTERPARTS.**

This Agreement may be executed in any number of counterparts, each of whom shall be an original, but such counterparts shall together constitute but one and the same instrument.

**32. HEADINGS**

The titles and headings of Articles and Sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall in no way define, modify, or restrict the meaning or interpretation of the terms or provisions of this Agreement.

*[Signature Page To Follow]*



IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date last written below.

DARRELL COX / DGN LWYR

By: *Darrell A Cox*  
Signature  
Printed Name: Darrell Cox  
Title: PARTNER  
Date: 2-23-06

CINCINNATI BELL TELEPHONE COMPANY LLC

By: *Terri Hemmer*  
Printed Name: Terri Hemmer  
Title: Sales Manager  
Date: 2/24/06



**SCHEDULE 1  
FLAT BUSINESS LINE SERVICE**

**1. TERM**

Unless otherwise renewed or terminated in accordance with the provisions herein, the Term of this Schedule shall become effective based on the latter of the provisioning or activation date ("Effective Date") and shall continue for **thirty-six (36) months ("Term")**. After expiration of the initial term, this Schedule shall automatically renew at the current contract rate for twelve (12) month periods unless either party terminates this Schedule by providing thirty (30) days advance written and/or verbal notice of termination to the other party prior to the expiration of the then-current term. Notwithstanding the foregoing, Cincinnati Bell Telephone Company LLC ("CBT"), the service provider, reserves the right to adjust rates at any time after the expiration of the initial term upon sixty (60) days prior written notice to Customer, during which time Customer shall have the right to terminate the Schedule, without incurring termination charges, if Customer does not agree to stated rate adjustment. In the event Customer does not provide written and/or verbal notice of termination during the sixty (60) days period, Customer shall be deemed to accept the rate adjustment.

**2. DEFINITIONS**

Flat Business Line (1FB) – One flat rate analog business line. A phone line for which Customer pays a single monthly charge for and on which the Customer may make as many local phone calls as the Customer wishes during a month.

**3. SERVICES AND RATES**

Subject to the terms and conditions of the Master Services Agreement (hereinafter "Agreement") and this Schedule, CBT shall provide Customer with Flat Business Line ("1FB") Service and Customer shall pay CBT for such as follows:

<u>Service Description</u>	<u>USOC</u>	<u>Monthly Unit Price</u>
Flat Business Line	1FB	\$39.99

All prices and rates herein are exclusive of any surcharges, taxes, additional charges, optional features and any one-time nonrecurring charges unless otherwise noted. Any other regulated services not listed herein which are provided by CBT to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. CBT shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the Service. As of Agreement execution date, Customer's 1FB information is as follows:

<b>Bill To &amp; Service Address: 401 Madison Avenue, Covington, KY 41011 (BTN: 859-491-9088)</b>			
<u>Service Description</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Monthly Total</u>
Flat Business Line	1	\$39.99	\$39.99

**4. TERMINATION CHARGES**

In the event that 1FB Service under this Schedule is terminated by Customer for convenience or for reasons other than CBT's breach of this Schedule prior to the expiration of the Term, the Customer will pay a termination charge equal to all remaining amounts due or to become due, including but not limited to all monthly charges for which Customer would have been responsible if the Customer had not terminated prior to the expiration of the Term.

*[Signature Page To Follow]*



IN WITNESS WHEREOF, the Parties have caused their respective duly authorized representatives to execute this Flat Business Line Service Schedule as of the date(s) last written below.

DARRELL COX / DGN LWYR

By: *Darrell Cox*  
Signature  
Printed Name: Darrell Cox  
Title: PARTNER  
Date: 2-23-06

CINCINNATI BELL TELEPHONE COMPANY LLC

By: *Terri Hemmer*  
Signature  
Printed Name: Terri Hemmer  
Title: Sales Manager  
Date: 2/24/06



**SCHEDULE 2  
PRIME ADVANTAGE SERVICE**

**1. TERM**

Unless otherwise renewed or terminated in accordance with the provisions herein, the Term of this Schedule shall become effective based on the latter of the provisioning or activation date ("Effective Date") and shall continue for **thirty-six (36) months ("Term")**. After expiration of the initial term, this Schedule shall automatically renew at the current contract rate for twelve (12) month periods unless either party terminates this Schedule by providing thirty (30) days advance written and/or verbal notice of termination to the other party prior to the expiration of the then-current term. Notwithstanding the foregoing, Cincinnati Bell Telephone Company LLC ("CBT"), the service provider, reserves the right to adjust rates at any time after the expiration of the initial term upon sixty (60) days prior written notice to Customer, during which time Customer shall have the right to terminate the Schedule, without incurring termination charges, if Customer does not agree to stated rate adjustment. In the event Customer does not provide written and/or verbal notice of termination during the sixty (60) days period, Customer shall be deemed to accept the rate adjustment.

**2. DEFINITIONS**

Prime Advantage -- is a high-speed, high-capacity switched digital interface carrying 24 channels between customer's premise (ISDN compatible PBX, router, bridge, computer interface or other CPE) and a CBT central office. Each Prime Advantage facility consists of up to 23 bearer channels (B channels) for circuit-switched voice, video and data, and a separate delta channel (D channel) dedicated to perform monitoring and signaling for the B channels.

**3. SERVICES AND RATES**

Subject to the terms and conditions of the Master Services Agreement (hereinafter "Agreement") and this Schedule, CBT shall provide Customer with Prime Advantage Service ("PRI") Service and Customer shall pay CBT for such, as follows:

<u>Each Facility Monthly</u>	<u>Each 2-Way / DID Channel Monthly</u>	<u>Each Caller ID Monthly</u>	<u>DID # 20 Block Monthly</u>
<b>\$451.85</b>	<b>\$12.00</b>	<b>\$0.00</b>	<b>\$4.15</b>

All prices and rates herein are exclusive of Port, EUCL, 911, USF, surcharges, taxes and one-time charge unless otherwise noted. Any other regulated services not listed herein which are provided by CBT to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. CBT shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the PRI Service. As of Agreement execution date, Customer's PRI information is as follows:

<b>Bill To &amp; Service Address:</b> 401 Madison Avenue, Covington, KY 41011 (BTN: 859-491-9088)				
<u>(1) Facility Monthly</u>	<u>(12) Flat Rate 2-Way / DID Channels Monthly</u>	<u>(1) Caller ID Monthly</u>	<u>(1) DID # 20 Blocks Monthly</u>	<u>TOTAL Monthly</u>
\$451.85	\$144.00	\$0.00	\$4.15	<b>\$600.00</b>

**4. TERMINATION CHARGES**

**4.1** In the event that PRI Service (which includes the facility and/or channels) under this Schedule is terminated by Customer for convenience or for reasons other than CBT's breach of this Schedule prior to the expiration of the Term, the Customer will pay a termination charge equal to all remaining amounts due or to become due, including but not limited to all monthly charges for which Customer would have been responsible if the Customer had not terminated prior to the expiration of the Term.



4.2 If Customer removes one or more facility(s) and/or channel(s) from service prior to the expiration of the term hereof, Customer will pay to CBT a termination charge equal to all monthly charges for such facility(s), channel(s), and/or optional feature(s) for which Customer would have been responsible if the Customer had not terminated prior to the end of the expiration of the Term.

4.3 If nonrecurring charges associated with the installation of PRI Service are waived and the PRI Service is then terminated prior to completion of the then current Term, the Customer will become liable for payment of the waived charges.

IN WITNESS WHEREOF, the Parties have caused their respective duly authorized representatives to execute this Prime Advantage Service Schedule as of the date(s) last written below.

DARRELL COX / DGN LWYR

CINCINNATI BELL TELEPHONE COMPANY LLC

By: *Darrell Cox*  
Signature

By: *Terri Hemmer*  
Signature

Printed Name: DARRELL COX

Printed Name: Terri Hemmer

Title: PARTNER

Title: Sales Mgr

Date: 2-23-06

Date: 2/24/06



### SCHEDULE 3

#### ADSL INTERNET SERVICE

**1. TERM**

Unless otherwise renewed or terminated in accordance with the provisions herein, the Term of this Schedule shall become effective on the latter of the provisioning or activation date ("Effective Date") and shall continue for **thirty-six (36) months ("Term")**. If renegotiation of this Schedule does not occur before expiration, this Schedule will be automatically changed to month-to-month service, subject to the then current rates of this service and conditions of this Agreement. Either party may terminate the month-to-month service by giving thirty (30) days notice, no other penalties or termination fees will be due.

**2. DEFINITION**

**2.1 ZoomTown** - the Cincinnati Bell Telephone Company LLC ("CBT") brand name for ADSL (Asymmetric Digital Subscriber Line).

**2.2 Zoomtown Business Class ADSL** - uses ADSL, a technology that enables users to obtain high-speed access to the Internet over existing copper phone lines, without purchasing an additional line.

**2.3 Zoomtown Standard ADSL Service** - speed of 3Mbps/768Kbps. It includes FUSE as the ISP and four (4) dynamic IP addresses.

**2.4 Zoomtown Small Office ADSL Service** - speed of 3Mbps/768Kbps. It includes FUSE as the ISP and one (1) static IP address.

**2.5 Zoomtown Enterprise ADSL Service** - speed of 3Mbps/768Kbps. It includes FUSE as the ISP and five (5) static IP addresses.

**3. COMPUTER / EQUIPMENT REQUIREMENTS**

**3.1** In order to receive ADSL, Customer must have minimum computer requirements. Current information can be found on cincinnati-bell.com website or through a CBT sales representative.

**3.2** The following hardware and software must be installed on your computer system (collectively referred to as "Equipment") in order to receive ADSL: (1) ADSL Modem (provided by CBT); (2) telephone line microfilters, if needed (provided by CBT); (3) Ethernet Card, if needed (provided by CBT); (4) Network Interface Card; and (5) ZoomTown CD-Rom. Customer agrees that all of the Equipment listed below belongs to CBT. CBT grants you a non-exclusive, non-transferable limited license to use the Equipment to access CBT's/ZoomTown's network only for use in connecting from authorized locations in accordance with this Agreement. Loss, theft or physical damage to the Equipment is your responsibility.

**4. ACCESS TO ZOOMTOWN EQUIPMENT, SOFTWARE AND/OR FACILITIES**

Customer agrees that they will not access, or attempt to access any equipment, software (including reverse engineering, decompiling or disassembling the software or attempting in any manner to recreate the source code or object codes) or facilities (including remote computing systems) furnished in connection with this Agreement. Any attempt by Customer to access and/or subvert any such equipment, software or facilities without permission, and/or any attempts by Customer to subvert any network security measures of CBT/ZoomTown or any other network shall entitle CBT/ZoomTown to immediately terminate services without notice.



**5. SERVICES AND RATES**

5.1 Subject to the terms and conditions of the Master Service Agreement (hereinafter "Agreement") and this Schedule, CBT shall provide Customer with the following ADSL Internet Service offering:

<u>Service Description</u>	<u>USOC</u>	<u>Description</u>	<u>Unit Price</u>
Zoomtown Standard ADSL w/ FUSE (4 Dynamic IPs)	ZZR9J	3Mbps/768Kbps	\$ 50.00
Zoomtown Small Office ADSL w/ FUSE (1 Static IP)	WZER5	3Mbps/768Kbps	\$ 80.00
Zoomtown Enterprise ADSL w/ FUSE (5 Static IPs)	WZER6	3Mbps/768Kbps	\$150.00

5.2 All prices and rates are exclusive of surcharges, taxes, optional features and any one-time nonrecurring charges unless otherwise noted. Any other regulated services not listed herein which are provided by CBT to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. CBT shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the ADSL Internet Service. As of Agreement execution date, Customer's ADSL Internet Service information is as follows:

<b>Bill To &amp; Service Address:</b> 401 Madison Avenue, Covington, KY (BTN: 859-491-9088)			
<u>Service Description</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Monthly Total</u>
Zoomtown Standard ADSL w/ FUSE (4 Dynamic IPs)	1	\$50.00	\$50.00

**6. NETWORKING**

Due to the every growing complexity of networked computers, the ZoomTown Helpdesk cannot advise or assist with general networking setup. Customer inquiries will be directed to 3<sup>rd</sup> party computer technicians and network equipment manufacturers. During troubleshooting sessions where networked computers are present, the ZoomTown Helpdesk technician will ask the customer to disconnect their networked equipment from the ZoomTown equipment, and directly connect the ZoomTown hardware to one Windows based or Macintosh PC. Doing so will help the technician diagnose issues with the ZoomTown equipment at the customer's premises. *Failure to comply with the ZoomTown technician's request in this matter will release ZoomTown's responsibility for further diagnosis.*

**7. WARRANTIES**

The manufacturers warrant the ADSL modem, Telephone Line Microfilters, and Network Interface Card for one (1) year from initiation of service ("Manufacturer's Warranty"). Except for the Manufacturer's Warranty, the Equipment is provided on an "as is" basis without warranties of any kind, either express or implied, including the implied warranty that the Equipment is reasonably fit for the purpose for which it is to be used and the implied warranties of merchantability and fitness for a particular purpose, unless such warranties are legally incapable of exclusion. The manufacturer will perform warranty service, and Customer should follow their guidelines in invoking Customer rights under their warranties.

**8. ACCEPTABLE USE**

If ZoomTown becomes aware, through subscriber complaints or otherwise, of any Content that it, in its sole discretion, considers to be obscene, lewd, lascivious, excessively violent, harassing, harmful, offensive, or otherwise objectionable, ZoomTown shall have the right, but not the responsibility, to immediately remove such Content and/or to terminate Customer service without notice. This policy applies to any Content made available by you, your customers, or generally made available through Customer account. Customer is solely responsible for all information, communications, software, photos, video, graphics, music, sounds, and other material and services (collectively referred to as "Content") that is transmitted through your Account and/or make available on or through your Web site or any of your customer's web sites.



**9. TERMINATION CHARGES**

**9.1** In the event that Zoomtown Internet Service under this Schedule is terminated by Customer for convenience or for reasons other than CBT's breach of this Schedule prior to the expiration of the Term, the Customer will pay a termination charge equal to all remaining amounts due or to become due, including but not limited to all monthly charges for which Customer would have been responsible if the Customer had not terminated prior to the expiration of the Term for that Service.

**9.2** All terminations in Zoomtown Internet Service will result in IP addresses assigned to Customer(s) reverting back to ZoomTown.Com.

IN WITNESS WHEREOF, the Parties have caused their respective duly authorized representatives to execute this ADSL Internet Service Schedule as of the date(s) last written below.

**DARRELL COX / DGN LWYR**

**CINCINNATI BELL TELEPHONE COMPANY LLC**

By: *Darrell Cox*  
Signature  
Printed Name: Darrell Cox  
Title: PARTNER  
Date: 2-23-06

By: *Terri Hemmer*  
Signature  
Printed Name: Terri Hemmer  
Title: Sales Mgr  
Date: 2/24/06



**SCHEDULE 4**

**SWITCHED LONG DISTANCE SERVICE**

**1. TERM**

Cincinnati Bell Any Distance Inc. ("CBAD") will provide Switched Long Distance service as set forth in this Schedule. Unless otherwise renewed or terminated in accordance with the provisions herein, the Term of this Schedule shall become effective on the Service Activation Date ("Effective Date") and shall continue for **thirty-six (36) months ("Term")**. After expiration of the Initial Term, this Schedule shall automatically renew at the current contract rate for twelve (12) month periods unless either party terminates this Schedule by providing thirty (30) days advance written and/or verbal notice of termination to the other party prior to the expiration of the then-current term. Notwithstanding the foregoing, Cincinnati Bell Telephone Company LLC ("CBT"), the service provider, reserves the right to adjust rates at any time after the expiration of the Initial Term upon sixty (60) days prior written notice to Customer, during which time Customer shall have the right to terminate the Schedule, without incurring termination charges, if Customer does not agree to stated rate adjustment. In the event Customer does not provide written and/or verbal notice of termination during the sixty (60) days period, Customer shall be deemed to accept the rate adjustment.

**2. SERVICES AND RATES**

Subject to the terms and conditions of the Master Services Agreement (hereinafter "Agreement") and this Schedule, CBAD agrees to provide and Customer agrees to purchase the services as described in one or more Addenda attached (as applicable) and incorporated herein.

Addendum A -- Voice Services Supplement  
 Addendum B -- Outbound Letter of Agency  
 Addendum C -- Toll Free Letter of Agency

**3. PAYMENT TERMS**

CBAD shall send notice to Customer that service is ready for commercial use ("Service Activation Date") and billing will commence within five (5) business days thereafter. Invoices for services are due and payable in U.S. Dollars within thirty (30) days of the date on the invoice ("Invoice Due Date"). Pricing above does not include charges for taxes, fees, and surcharges, which shall be included in the invoices. Surcharges and fees are billed at rates specified in CBAD's filed tariffs, if applicable. If any invoice is not paid when due, CBAD may (i) apply a late charge equal to two (2) percent (or the maximum legal rate, if less) of the unpaid balance per month; and or (ii) require a deposit or other form of security ("Security Deposit"). Customer shall be in default if Customer fails to make payment as required and such failure remains uncured for five (5) calendar days after the Invoice Due Date. If Customer in good faith disputes any portion of any CBAD invoice, Customer shall submit to CBAD by the Invoice Due Date, full payment of the undisputed portion of any CBAD invoice and written documentation identifying and substantiating the disputed amount. If Customer does not report a dispute within sixty (60) days following the date on the applicable invoice, Customer shall have waived its right to dispute that invoice. CBAD and Customer agree to use their respective best efforts to resolve any dispute within thirty (30) days after CBAD receives written notice of the dispute from Customer. Any disputed amounts resolved in favor of Customer shall be credited to Customer's account on the next invoice following resolution of the dispute. Any disputed amounts determined to be payable to CBAD shall be due within (10) days of resolution of the dispute.

**4. TERMINATION CHARGES**

Either party may terminate this Schedule or disconnect, in whole or in part, any services hereunder at any time and without cause upon thirty days(s) prior written notice to the other party. Notwithstanding the foregoing, if Customer terminates any service prior to the end of a Service Term, Customer shall reimburse CBAD for all costs of the implementation of such service(s). If Customer terminates any service prior to end of its term after service is activated, Customer shall pay the following fees if applicable: (i) all unpaid charges for service previously rendered; (b) fifty percent (50%) of the CBAD Long Distance service plan monthly recurring charges multiplied by the number of months remaining in the term; (c) one hundred percent (100%) of Customer's local access fees multiplied by the number of months remaining in the term; and (d) a pro-rata payback of all fees/charges previously waived by CBAD. The termination charges stated herein are liquidated damages and not a penalty.



<b>CBAD – Addendum A – Voice Services Supplement</b>	Customer Initials <i>DC</i>	Date 2-23-06
--	--------------------------------	-----------------

- 1. Minimum Service Term.** Notwithstanding Section 2, of the Agreement, service orders for Switched Voice Services submitted under this Agreement will have a minimum Service Term of **36 months**.
- 2. Interstate/Intrastate Switched Voice Usage Rate.** In consideration for Customer's Service Term Commitment, CBAD will provide a per minute rate as set forth in the table in Section 3 below for Customer's interstate/intrastate switched outbound and inbound voice service usage. The interstate/intrastate switched voice usage rate applies to Customer's interstate/intrastate long distance service originating and terminating in the continental United States.
- 3. Minimum Monthly Voice Commitment:** Beginning with the first month after the Service Activation Date, Customer's Minimum Monthly Voice Commitment ("Minimum Commitment") usage of CBAD's voice services will be measured after application of all discounts and in accordance with the Service Term. Calling card, non-recurring charges, feature charges, taxes, fees, and other surcharges do not contribute to Customer's Minimum Commitment. If during any month of a Service Term Customer's usage of CBAD voice services are less than the Minimum Commitment, Customer will pay to CBAD the difference between Customer's Minimum Commitment and Customer's actual usage of CBAD voice services.

<b>Minimum Commitment</b>	<b>Out Of Bucket Charge</b>
\$20.00	\$0.06/minute

Notwithstanding the foregoing, the table below reflects the rates for Hawaii, Alaska and the US Virgin Islands regardless of Minimum Commitment.

<b>36 Month Service Term</b>
\$0.18/minute

- 4. International Voice Usage Rates.** CBAD's international voice service usage rates, which vary by country, are subject to change upon thirty (30) days written notice. To view the international voice service usage rates, please visit CincinnatiBell.com or the specified web address as follows:  
<http://www.cincinnatiBell.com/business/longdistance/international/?id=universal3>

**5. Optional Services**

Service	36 Month Service Term
800 Numbers	\$ 2.50 per number
800 Directory Assistance Listing	\$25.00 per number
Toll Free "Payphone Blocking"	\$25.00 per number*

\* Additional \$200.00 one-time set-up charge. This feature will block all calls to the Customer's toll free number(s) listed below from payphones when the LEC/CLEC sends the payphone indicator in the call setup message. If the LEC/CLEC does not provide the payphone indicator CBAD cannot block the payphone calls. Therefore, the Customer is responsible for all payphone surcharges for all calls made from payphones to their toll free number(s) that couldn't be blocked by CBAD. CBAD agrees to add the toll free "payphone blocking" feature on the following Customer toll free numbers:

- 6. Call Increments and Rounding.** Non-calling card interstate and intrastate outbound and inbound calls are billed in thirty (30) second increments with six (6) second additional increments thereafter. International outbound with the exception of **Mexico** will be billed in thirty (30) second increments with six (6) second additional increments thereafter. Calls to Mexico will be billed in sixty (60) second increments with sixty (60) second additional increments thereafter. All calls are rounded up to the nearest cent. Customer can view billing call detail records at <https://care.anydistance.com>.

- 7. Calling Card Rates.** The domestic calling card rate is \$0.23 per minute with a \$0.69 surcharge per call. In addition to the per minute rate and standard surcharge, calling card calls placed from coin telephones will incur an additional \$0.60 surcharge per call. Calling card calls are billed in full minute increments. Surcharges are subject to change upon thirty (30) days written notice.

- 8. Scope.** CBAD (i) shall use reasonable commercial efforts to commence provisioning of services to Customer on or before the Service Activation Date, which is scheduled to be the first date of order activation; and (ii) is authorized to act as Customer's agent in placing orders with other carriers in order to provide telecommunications services, if requested. Usage charges shall be based on (i) the rates for services set forth herein, as applicable; and (ii) actual usage of CBAD's network from establishment of a connection between the calling telephone and the called telephone to termination, as determined in CBAD's sole discretion.



5. **NO RESALE**

Services provided hereunder are for Customer's own use and shall not be resold or provided to third parties for profit.

6. **AUTOMATIC DIALER DEVICES**

Customer acknowledges and agrees that use of autodialers, predictive dialers or other devices that generate automated outbound calls in conjunction with products and services provided under this Agreement is strictly prohibited. CBAD may, in its sole discretion, suspend service for issued pertaining to network congestion due to Customer's use of these devices, revise the pricing herein, or immediately terminate service under this Agreement immediately.

7. **MAINTENANCE CHARGES AND ANCILLARY FEES**

CBAD shall maintain its network; however, if Customer requests CBAD to send maintenance personnel to perform troubleshooting, who determines that the maintenance required was caused by Customer or Customer's equipment, additional reasonable charges will apply.

8. **RATE ADJUSTMENT**

If Customer's voice traffic disproportionately terminates to and/or originates in high cost areas, CBAD will provide Customer notice and thirty (30) days to correct its voice traffic. CBAD reserves the right to adjust Customer's rates during this thirty-day period. If Customer does not comply with CBAD's notice and elects not to continue to receive services with the rate adjustment, Customer may terminate this Agreement upon thirty (30) days written notice to CBAD, provided that Customer shall remain liable for all usage charges incurred prior to such termination as well as all termination charges as set forth in Section 4.

IN WITNESS WHEREOF, the Parties have caused their respective duly authorized representatives to execute this Switched Long Distance Service Schedule as of the date(s) last written below.

**DARRELL COX / DGN LWYR**

**CINCINNATI BELL ANY DISTANCE INC.**

By: *Darrell Cox*  
Signature

By: *Terri Hemmer*  
Signature

Printed Name: DARRELL COX

Printed Name: Terri Hemmer

Title: PARTNER

Title: Sales Mgr

Date: 2-23-06

Date: 2/24/06



**CBAD – Addendum B**  
**LETTER OF AUTHORIZATION FOR LOCAL AND / OR LONG DISTANCE TELEPHONE SERVICE**

Thank you for choosing Cincinnati Bell Telephone Company LLC ("CBT") as your local exchange carrier and / or Cincinnati Bell Any Distance ("CBAD"), as your long distance carrier. To begin providing service to you, CBT and / or CBAD are required to obtain proof that you have authorized a change in your telephone service from your current provider(s) to CBT and / or CBAD. This letter of authorization ("LOA") also grants CBT permission to access your customer service records as necessary and will be maintained by CBT and / or CBAD as a record of your order. Please complete this form and return it to CBT as soon as possible.

Name: DARRELL A. COX

Title: PARTNER

Name of Account / Business: DARRELL A. COX DGN LWYR

City/State/Zip: 401 Madison Ave Covington, KY 41011

I appoint CBT as the local exchange carrier and / or CBAD as the long distance carrier for the number listed below. The identified number is listed in my name and / or I am authorized to change the telephone service for the number. I authorized CBT to act as my agent to transfer all local exchange service(s) billed to my primary telephone number from my current local exchange carrier to CBT. I authorize CBAD to be the long-distance provider for the number listed below and appoint CBAD to act as my agent to ensure that my local telephone company makes the connections necessary for me to use CBAD service. I understand that any telephone number billed to my primary telephone number is included in this LOA and that service from my current local exchange and long distance carriers for the number(s) will be cancelled as indicated below. I understand that my local telephone company may charge me a fee for changing my long distance provider to CBAD and that I can consult with my carrier to determine if a fee applies to the change. I also authorize CBT to remove any PIC freezes currently on the account and add the PIC freeze back to the account after my service is changed.

Please list the primary telephone number for which CBT and CBAD are authorized to provide service. Also, please indicate the type of service requested-local exchange service, intraLATA service (i.e. "local" or in-region long distance), and interLATA (i.e. long distance service beyond the region).

Primary Billing Telephone number: 859-491-9084

(Please check all that apply):

Local Exchange  IntraLATA  InterLATA  PIC all Lines to CBAD CIC 0654

CBT and CBAD may use this information to process a credit check on all new customers. If sections of this form are not completed, your order may be delayed.

Telephone Number(s)	Current Service Provider / Carrier
859-491-9088	SPRINT ↓
491-0830	
491-9854	
491-0049	
491-9044	
491-6035	
491-6036	
491-6041	
491-6045	
491-9044	

If applicable, check box  to indicate attachment with additional telephone numbers.

Customer Signature: Darrell Cox

Date: 2, 23, 06



**ADDENDUM C – TOLL FREE LETTER OF AGENCY**

**TOLL FREE SERVICE  
LETTER OF AUTHORIZATION TO CHANGE  
RESPONSIBLE ORGANIZATION**

I appoint Cincinnati Bell Any Distance Inc. ("CBAD") as my authorized agent for my toll-free services. As my agent, CBAD is authorized to act on my behalf in all matters related to portability, and will make any necessary changes with the "Responsible Organizations" to ensure proper routing of my calls for the following toll-free number(s). [CBAD Resp Org ID is DBC03]

Customer Name <b>DARRELL A. COX</b>	Service Provider Name CINCINNATI BELL ANY DISTANCE INC.
Customer Address: <b>401 MADISON AVE</b>	Sales Representative Name: <i>[Signature]</i>
City <b>COVINGTON</b> State <b>KY</b> Zip Code <b>40111</b>	Sales Representative Signature: <i>[Signature]</i>
Authorized Name Printed: <b>DARRELL COX</b>	Signature Date: <b>3/15/06</b>
Authorized Signature: <i>[Signature]</i>	
Signature Date:	

**(Internal Use Only)**

SAS Order #: 3868209

SAS Submitter's Name: Shirley Harms

SAS Submitter's TN#: 3971625

Check applicable below:	Yes	No
*If applicable, please submit appropriate form(s)		
*Time of Day Routing		✓
Canadian Origination	✓	
*Directory Assistance		✓
*Area Code Blocking		✓

<u>8XX NUMBER</u>	<u>Ring-in Telephone Number</u>	<u>Current Carrier</u>
877-441-6041	859-441-9088	SPRINT
- -	- -	
- -	- -	
- -	- -	
- -	- -	
- -	- -	





## Pricing Agreement

Customer Eagle Manufacturing			Service Provider Cincinnati Bell Telephone Company LLC (Cincinnati Bell)			Agreement No. 22805		
Address 7100 Industrial Road			Address 221 East Fourth Street			Order No.		
			PO Box 2301			Service Provider Contact Lisa Brown		
City	State	Zip Code	City	State	Zip Code	Telephone No.		
Florence	KY	41042	Cincinnati	OH	45201	513-397-5822		

A. Service Pricing								
Qty	Units	Description	Term	Clauses	Per Unit Monthly	Monthly	Per Unit One-time	One-time
<b>Service Address:</b> 7100 Industrial Road Florence KY								
23	Each	Two Way/DID Channels	36 Months		8.47	194.81	0.00	0.00
5	Each	DID 20# Blocks	36 Months		0.00	0.00	0.00	0.00
1	Each	Caller ID	36 Months		0.04	0.04	0.00	0.00
1	Each	PRI Facility	36 Months	41	505.15	505.15	0.00	0.00
			<b>Total</b>			700.00		0.00

Confidential Statement

DATE OF PRINT: February 14, 2006

Contract #: 22805

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## Pricing Agreement

In addition to Agreement charges, customers will incur all regulated charges mandated by the Regulatory Commissions with jurisdiction over Cincinnati Bell.

All prices and rates are exclusive of any surcharges and taxes.

The Agreement shall become effective on the latter of the provisioning or activation date ("Effective Date").

Installation/One-time charge does not cover premise technician work outside of the hours 8 a.m. to 5 p.m.

The term "Cincinnati Bell" shall be deemed to mean the Service Provider on behalf of its affiliates and subsidiaries.

Facsimile signatures to this Agreement and any additional documents incorporated herein shall be deemed to be binding upon the parties.

CUSTOMER'S SIGNATURE ACKNOWLEDGES THAT CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS ATTACHED TO THIS AGREEMENT AND THESE TERMS AND CONDITIONS APPLY TO THIS ORDER AND ANY SUBSEQUENT ORDERS ACCEPTED BY CINCINNATI BELL. CUSTOMER'S SIGNATURE ACKNOWLEDGES AUTHORIZATION FOR CINCINNATI BELL TO REQUEST CREDIT INFORMATION FROM ANY CREDIT REPORTING AGENCY OR SOURCE.			
CUSTOMER			
Name of Authorized Representative (Print)	Title	Signature of Authorized Representative	Date
GARY STABBS	Purchasing Mgr.	<i>[Signature]</i>	2/17/2006
SERVICE PROVIDER			
Name of Authorized Representative (Print)	Title	Signature of Authorized Representative	Date
Michelle Hill	Sales Manager	<i>[Signature]</i>	2/17/06

Confidential Statement

DATE OF PRINT: February 14, 2006

Contract #: 22805

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Supplement

Customer (Legal Name of Company) Eagle Manufacturing	Agreement Number 22805
Cincinnati Bell Contact Lisa Brown	Date February 14, 2006

This is a Supplement to the Original Agreement referred to above (the "Agreement") between Cincinnati Bell and/or its subsidiaries ("Cincinnati Bell") and the Customer above.

In the event of any inconsistencies between the Agreement and this Supplement, the terms and conditions of this Supplement shall prevail.

The parties hereby covenant and agree as follows:

Unless otherwise defined in this Supplement, capitalized terms shall have the meaning ascribed thereto in the Agreement;

41. TERMS AND CONDITIONS

A. TERM

After expiration of the initial term as stated on the Pricing Agreement sheet, this Agreement shall automatically renew at the current contract rate for twelve (12) month periods unless either party terminates this Agreement by providing thirty (30) days advance written and/or verbal notice of termination to the other party prior to the expiration of the then-current term. Notwithstanding the foregoing, Cincinnati Bell Telephone Company LLC ("CBT"), an affiliate of Cincinnati Bell, reserves the right to adjust rates at any time after the expiration of the initial term upon sixty (60) days prior written notice to Customer, during which time Customer shall have the right to terminate the Agreement, without incurring termination charges, if Customer does not agree to stated rate adjustment. In the event Customer does not provide written and/or verbal notice of termination during the sixty (60) day period, Customer shall be deemed to accept the rate adjustment.

B. DEFINITIONS

Prime Advantage -- is a high-speed, high-capacity switched digital interface carrying 24 channels between customer's premise (ISDN compatible PBX, router, bridge, computer interface or other CPE) and a CBT central office. Each Prime Advantage facility consists of up to 23 bearer channels (B channels) for circuit-switched voice, video and data, and a separate delta channel (D channel) dedicated to perform monitoring and signaling for the B channels.

C. SERVICES AND RATES

- .1 Prime Advantage service will be provided as specified on the attached Pricing Agreement.
- .2 If Customer cancels, in whole or in part, any requested addition, rearrangement, relocation or other modification to Prime Advantage prior to completion thereof, Customer will reimburse CBT for the actual expenses incurred by CBT in connection with such modification prior to CBT's receipt of notice of cancellation; provided, however, the amount of such reimbursement will not exceed the service, construction, installation, termination and other charges for which Customer would have otherwise been responsible.
- .3 Customer will be responsible for all taxes, assessments or other charges (excluding taxes based on CBT's net income) imposed upon or relating to the provision or use of the products and services provided hereunder.
- .4 Any other regulated services not listed herein which are provided by CBT to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. CBT shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the Prime Advantage service.

DATE OF PRINT: February 14, 2006 Contract # 22805





### Supplement

Customer (Legal Name of Company) Eagle Manufacturing	Agreement Number 22805
Cincinnati Bell Contact Lisa Brown	Date February 14, 2006

#### D. TERMINATION CHARGES

.1 In the event that Prime Advantage service (which includes the facility, channels and optional features) under this Agreement is terminated by Customer for convenience or for reasons other than CBT's breach of this Agreement prior to the expiration of the Term, the Customer will pay a termination charge equal to all remaining amounts due or to become due, including but not limited to all monthly charges for which Customer would have been responsible if the Customer had not terminated prior to the expiration of the Term.

.2 If Customer removes one or more facility(s), channel(s) and/or optional feature(s) from service prior to the expiration of the term hereof, Customer will pay to CBT a termination charge equal to all monthly charges for such facility(s), channel(s), and/or optional feature(s) for which Customer would have been responsible if the Customer had not terminated prior to the end of the expiration of the Term.

.3 If nonrecurring charges associated with the installation of Prime Advantage service are waived and the Prime Advantage service is then terminated prior to the expiration of the Term, the customer will become liable for payment of the waived charges.

Customer Initials	Date
CB	2/17/2006

DATE OF PRINT: February 14, 2006

Contract # 22805

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## TERMS AND CONDITIONS

### 1. DEFINITIONS.

The following definitions shall apply to this Agreement and, unless otherwise provided therein, shall also apply to the Supplements. The definitions shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The words "shall" and "will" are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other shall not mean a different degree or right or obligation for either Party. The use of the term "Agreement" shall be deemed to refer to the entire agreement between the Parties consisting of this Agreement and includes each Supplement.

1.1 Applicable Laws - means all applicable federal, state, and local statutes, laws, rules, regulations, codes, final and nonappealable orders, decisions, injunctions, judgments, awards and decrees that relate to a Party's obligations under this Agreement.

1.2 Information - means any writing, drawing, sketch, model, sample, data, computer program, software, verbal communication, e-mail, recording or documentation of any kind.

1.3 Party - means (i) Cincinnati Bell parent company, its affiliates and subsidiaries (collectively "Cincinnati Bell") or (ii) Customer; and "Parties" means (i) and (ii).

1.4 Proprietary Information - means any Information communicated, whether before, on or after the Effective Date, by a Party ("Disclosing Party") to the other Party ("Receiving Party"), pursuant to this Agreement and if written, is marked "Confidential" or "Proprietary" or by similar notice or if oral or visual, is identified as "Confidential" or "Proprietary" at the time of disclosure; or if by electronic transmission (including, but not limited to, facsimile or electronic mail) in either human readable or machine readable form, and is clearly identified at the time of disclosure as being "Proprietary" or "Confidential" by an appropriate and conspicuous electronic marking within the electronic transmission, which marking is displayed in human readable form along with any display of the "Proprietary" or "Confidential" information; or if by delivery of an electronic storage medium or memory device which is clearly identified at the time of disclosure as containing "Proprietary" or "Confidential" information by an appropriate and conspicuous marking on the storage medium or memory device itself and by an appropriate and conspicuous electronic marking of the stored "Proprietary" or "Confidential" information, which marking is displayed in human readable form along with any display of the "Proprietary" or "Confidential" information.

### 2. SERVICES.

The applicable rates, fees, commissions and charges for a particular service to be provided by Cincinnati Bell pursuant to the Supplement(s) will be on the Pricing Agreement sheet. Any other regulated services not listed on the Supplements which are provided by Cincinnati Bell to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. Cincinnati Bell shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the Supplement Service. The specific terms and conditions applicable to the particular services to be provided by pursuant to this Agreement, including the description of the services to be provided and the obligations of each Party in connection therewith, termination rights, performance obligations and service parameters are or shall be set forth in the Supplement(s). Any future Supplements entered into between the parties shall reference and be governed by the terms of this Agreement. In the event of a conflict between the terms of this Agreement and a Supplement, the terms of the Supplement shall prevail.

### 3. EQUIPMENT WARRANTY, USE AND MAINTENANCE.

If applicable, Cincinnati Bell will maintain the equipment used to provide service under the applicable Supplements, in good working order during the term specified on the Pricing Agreement sheet, except CPE provided as part of any LAN Advantage service, subject to the exclusions set forth under Section four (4) entitled Warranty Exclusions. Customer will permit Cincinnati Bell access to equipment on Customer's premises used to provide service hereunder and Cincinnati Bell will comply with the Customer's security and safety regulations at Customer's site. Repair parts or replacement parts may be new, remanufactured or refurbished at the discretion of Cincinnati Bell. Customer will not make any modifications to the equipment used to provide service hereunder without the written permission of Cincinnati Bell and will pay the cost of any repairs necessitated by unauthorized work.

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4. **WARRANTY EXCLUSIONS.**

4.1 The warranties provided under Section three (3) do not cover services required to repair damages, malfunctions or failures caused by: (a) Customer's failure to follow Cincinnati Bell's written operation or maintenance instructions provided to Customer; (b) Customer's unauthorized repair, modifications or relocation of equipment used to provide services hereunder, or attachment to such equipment of non-Cincinnati Bell equipment; and (c) abuse, misuse or negligent acts. Cincinnati Bell may perform services in such instances on a time and materials or contract basis.

4.2 Cincinnati Bell will not be liable to Customer or third parties for any claims, loss or expense of any kind or nature caused directly or indirectly by: (i) interruption or loss of use or loss of business; or (ii) any consequential, indirect, special or incidental damages suffered by Customer or third parties whatsoever.

4.3 EXCEPT AS SPECIFIED HEREIN AND ANY SUPPLEMENTS, CINCINNATI BELL, ITS SUBCONTRACTORS AND SUPPLIERS (EXCEPT AS EXPRESSED IN WRITING BY THEM) MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. **TITLE OR RISK OF LOSS OF EQUIPMENT.**

5.1 For equipment sold and installed to Customer by Cincinnati Bell, title shall pass to Customer on the In-Service Date. Risk of loss shall pass at the time of delivery.

5.2 For all other equipment used in the provision of services under any of the Supplements, title shall remain solely with Cincinnati Bell, whether or not attached to or embedded in realty, unless otherwise agreed to in writing by the parties. Cincinnati Bell will bear the risk of loss or damage to the equipment used in the provision of service, except that Customer will be liable to Cincinnati Bell for the cost of repair or replacement of equipment lost or damaged as a result of Customer's negligence, intentional acts, unauthorized installation or maintenance or other causes within the control of customer, its employees, agents or subcontractors.

6. **GOVERNING LAW.**

This Agreement shall be deemed to be a contract made under the laws of the State of Ohio, and the internal laws of such state shall govern the construction, interpretation and performance of this Agreement, without reference to conflicts of law provisions. Any legal action arising under this Agreement must be filed (and thereafter maintained) in a state or federal court located in Hamilton County, Ohio within two (2) years after the cause of action arises.

7. **CONFIDENTIAL INFORMATION.**

During the term of this Agreement and for two years thereafter, neither party shall disclose any terms or pricing contained in this Agreement or any confidential information disclosed by the other party. Confidential information shall remain the property of the disclosing party and shall be labeled as either "Confidential" or "Proprietary".

8. **RESOLUTION OF DISPUTES.**

8.1 The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly through discussions between themselves at the operational level. In the event a resolution cannot be reached at the operational level, the disputing party shall give the other party written notice of the dispute and such controversy or claim shall be negotiated between appointed counsel or senior executives of the parties who have authority to settle the controversy. If the parties fail to resolve such controversy or claim within thirty (30) days of the disputing party's notice, either party may seek arbitration as set forth below.

8.2 Any controversy or claim arising out of or relating to this Agreement, or a breach of this Agreement, shall be finally settled by arbitration in Cincinnati, Ohio and shall be resolved under the laws of the State of Ohio without regard to choice of law provisions. The arbitration shall be conducted before a single arbitrator in accordance with the commercial rules and practices of the American Arbitration Association then in effect.

8.3 The arbitrator shall have the power to order specific performance if requested. Any award, order, or judgment pursuant to such arbitration shall be deemed final and binding and may be enforced in any court of competent jurisdiction. The parties agree that the arbitrator shall have no power or authority to make awards or issue orders of any kind except as expressly permitted by this Agreement, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. All such arbitration proceedings shall be conducted on a confidential basis. The arbitrator may, as part of the arbitration award, permit the substantially prevailing party to recover all or part of its attorney's fees and other out-of-pocket costs incurred in connection with such arbitration.



9. **TERMS OF PAYMENT.**

Invoices for Services are due and payable in U.S. dollars within thirty (30) days of invoice date. Payments not received within thirty (30) days of invoice date are considered past due. In addition to Cincinnati Bell undertaking any of the actions set forth in this Agreement, if any invoice is not paid when due, Cincinnati Bell may: (i) apply a late charge equal to 1-1/2% (or the maximum legal rate, if less) of the unpaid balance per month; (ii) require an additional Security Deposit or other form of security; and/or (iii) take any action in connection with any other right or remedy Cincinnati Bell may have under this Agreement in law or in equity. If the Customer believes they have been incorrectly billed, Customer should contact the Cincinnati Bell business office within sixty (60) days @ (513) 566-5050 to initiate a billing review. Invoices for non-regulated services not disputed within sixty (60) days will not be subject to dispute thereafter.

10. **TERMINATION.**

Notwithstanding the provisions regarding the Term and Termination Charges of each Supplement, and in addition to the parties' rights of termination specifically provided elsewhere in this Agreement, the following shall apply:

10.1 In the event that one party breaches any material obligation provided hereunder, excluding payment obligations, or in such Supplement (other than Customer's payment obligations), the other party shall give the breaching party written notice of the breach and request that the breach be cured ("Cure Notice"). If the breaching party fails to cure the specified breach within thirty (30) days of receipt of the Cure Notice (or such other mutually agreed upon time), the other party shall have the right to terminate the Supplement, effective upon five (5) days prior written notice to the breaching party ("Termination Notice"). The right of Cincinnati Bell and the Customer to terminate in any such case shall be in addition to any other rights and remedies they may have hereunder or at law or in equity.

10.2 A party may, at its option, terminate a Supplement effective immediately upon written notice upon the occurrence of an "Insolvency Event of Default" (as defined below) with respect to the other party. The occurrence of any one or more of the following events shall constitute an "Insolvency Event of Default": the other party admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors; any affirmative act of insolvency by the other party or the filing by or against the other party (which is not dismissed within ninety (90) days of any petition or action) under any bankruptcy, reorganization, insolvency arrangement, liquidation, dissolution or moratorium law, or any other law or laws for the relief of, or relating to, debtors; or the subjection of a material part of the other party's property to any levy, seizure, assignment or sale for or by any creditor, third party or governmental agency.

10.3 Customer shall have the right to terminate any Supplement for convenience at any time upon thirty (30) days prior written notice to Cincinnati Bell. The termination charge will be considered to be liquidated damages and will be Cincinnati Bell's sole remedy against Customer for early termination, except for outstanding charges. The termination liability language contained within the applicable Supplement is not intended to indicate that the Commissions have approved or sanctioned the specific termination charges contained herein. Signatories to the Agreement shall be free to pursue whatever legal remedies they may have should a dispute arise.

10.4 One or more Supplements may be terminated by the Parties without causing a termination of this Agreement or other Supplements.

11. **INDEMNIFICATION.**

Customer shall indemnify, defend and hold harmless Cincinnati Bell and its parent company, affiliates, employees, directors, officers, and agents from and against all claims, demands, actions, causes of actions, damages, liabilities, losses, and expenses (including reasonable attorney's fees) incurred as a result of claims for damage to property and/or personal injuries (including death) arising directly out of the performance of obligations under this Agreement. A party shall notify the other party and describe the claim or action within fourteen (14) days of becoming aware of the claim or action itself. Customer may undertake the defense of any such claim or action and permit Cincinnati Bell to participate therein. The settlement of any such claim or action by Customer without Cincinnati Bell's prior written consent, shall release the Cincinnati Bell from its obligations hereunder with respect to such claim or action so settled.

12. **RESPONSIBILITIES OF EACH PARTY.**

Each Party has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of their respective employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Except for the limitations on liability as otherwise provided in this Agreement, each Party will be responsible for its own acts and those of its employees, agents, and contractors during the performance of that Party's obligations hereunder.

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13. **LIMITATIONS OF LIABILITY.**

Cincinnati Bell's liability arising out of the provision of: (i) the provision of Services; (ii) delays in the restoration of Services; or (iii) arising out of mistakes, accidents, omissions, interruptions, errors or defects in transmission, or delays caused by judicial or regulatory authorities, shall be subject to the limitations set forth below and in the applicable Tariff. IN NO EVENT SHALL CINCINNATI BELL BE LIABLE TO CUSTOMER, CUSTOMER'S OWN CUSTOMERS, OR ANY OTHER THIRD PARTY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY FOR ANY TYPE OF INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE, ACTUAL, SPECIAL, OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS, LOST REVENUES, OR LOST SAVINGS OF ANY KIND, ARISING OUT OF OR RELATING TO THIS AGREEMENT WHETHER OR NOT CINCINNATI BELL OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. FOR PURPOSES OF THIS SECTION, "CINCINNATI BELL" IS DEEMED TO INCLUDE CINCINNATI BELL'S PARENT COMPANY, AND ITS RESPECTIVE AFFILIATES AND SUBSIDIARIES, AND THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUBCONTRACTORS AND SUPPLIERS OF EACH OF THEM.

The Parties hereto agree that the termination liabilities and the limitations on liability contained in this Agreement are fair and reasonable adjustments to the uncertain and difficult to ascertain damages which might arise under this Agreement and are intended to be reasonable allocations by the Parties of the business risks inherent in this Agreement.

14. **SECURITY AND ACCESS.**

Employees and agents of Cincinnati Bell and its subsidiaries, while on the premises of Customer, will comply with all reasonable rules, regulations and security requirements of Customer.

15. **WORK ON CUSTOMER'S PREMISES.**

Cincinnati Bell shall comply with all applicable laws and will indemnify and hold Customer harmless from and against any claims, demands, suits losses, damages, costs and expenses arising out of Cincinnati Bell's noncompliance with any such laws. If Cincinnati Bell's work under any Supplement involves operations by Cincinnati Bell on the premises of Customer, Cincinnati Bell shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work. Except to the extent such injury is the result of Customer's negligence or willful misconduct, Cincinnati Bell shall defend, indemnify and hold harmless Customer against any claims, demands, suits, losses, damages, costs and expenses which are proximately caused by Cincinnati Bell's employees or agents against Customer, or which are due from any negligent act or omission of Cincinnati Bell, including its employees, agents and subcontractors.

16. **CUSTOMER OBLIGATIONS.**

Prior to requesting repair service from Cincinnati Bell, Customer will use its best efforts, including but not limited to performing reasonable diagnostic tests, to verify whether any trouble with the Service is a result of the Customer's equipment or facilities. Customer shall be responsible for any such trouble resulting from the Customer's equipment or facilities. Customer will cooperate with any joint testing of the Service reasonably requested by Cincinnati Bell.

17. **SYSTEM MAINTENANCE.**

In the event Cincinnati Bell determines that it is necessary to interrupt Services or that there is a potential for Services to be interrupted for the performance of system maintenance, Cincinnati Bell will use good faith efforts to notify Customer prior to the performance of such maintenance and will schedule such maintenance during non-peak hours (midnight to 6:00 am. local time). In no event shall interruption for system maintenance constitute a failure of performance by Cincinnati Bell.

18. **SUBCONTRACTING.**

Cincinnati Bell may subcontract work to be performed under this Agreement, but shall retain responsibility for the work.

19. **CHANGES IN LAWS.**

This Agreement is predicated upon current state and federal laws and regulations. If new laws or regulations or new applications of current law and regulations affect this Agreement, either Party may request on thirty (30) days' written notice that one or more provisions be renegotiated consistent with the changed circumstances.



20. **FORCE MAJEURE.**

No party shall be held liable for any delay or failure in performance of any part of this Agreement, including any Supplement, caused by a force majeure condition, including fires, embargoes, explosions, power blackouts, earthquakes, volcanic action, floods, wars, water, the elements, labor disputes (such as a work stoppage), civil disturbances, government requirements, civil or military authorities, acts of God or a public enemy, inability to secure raw materials, inability to secure product of manufacturers or outside vendors, inability to obtain transportation facilities, acts or omissions of transportation common carriers, or other causes beyond its reasonable control whether or not similar to the foregoing conditions. If any force majeure condition occurs, the Party whose performance fails or is delayed because of such force majeure condition ("Delayed Party") shall promptly give written notice thereof to the other Party. The Delayed Party shall use all best efforts to avoid or mitigate performance delays despite a force majeure condition, and shall restore performance as soon as the force majeure condition is removed.

21. **GOOD FAITH PERFORMANCE.**

Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement, as the case may be.

22. **NO LICENSE.**

Except as expressly provided in this Agreement or a Supplement, no license under patents, copyrights, trademarks, service marks, trade names or other indicia of origins, or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

23. **AMENDMENTS; WAIVERS.**

Except as otherwise provided in this Agreement, no amendment or waiver of any provision of this Agreement, and no consent to any default under this Agreement, shall be effective unless the same shall be in writing and signed by an authorized official of the Party against whom such amendment, waiver or consent is claimed. In addition, no course of dealing or failure of any Party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.

24. **NOTICES.**

All notices, demands, requests, elections, or other communications provided under this Agreement or which may be given by one Party to the other Party under this Agreement and to the extent a notice relates to an alleged breach, termination, or other claim under a Supplement, such notice shall be made in writing (unless specifically provided otherwise herein) and unless otherwise specifically required by this Agreement to be delivered to another representative or point of contact, shall be (a) delivered personally, (b) delivered by express delivery service, (c) mailed, first class, certified mail postage prepaid, return receipt requested or (d) delivered by telecopy and shall be deemed effective upon receipt; provided that a confirmation copy is sent by the method described in (a), (b) or (c) of this Section. Notices shall be addressed to the parties at the addresses set forth on the Pricing Agreement sheet.

Changes in notice designation shall be made in writing and shall be deemed effective upon receipt. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) four (4) business days after mailing in the case of first class, certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

25. **NO RIGHTS TO THIRD PARTIES.**

This Agreement shall not be deemed to provide third parties with any remedy, claim, right of action or other right.

26. **SEVERABILITY.**

If any term, condition, or provision of this Agreement shall be invalid or unenforceable for any reason, such invalidity or unenforceability shall not invalidate or render unenforceable the remainder of this Agreement; and, unless such construction would be unreasonable, this Agreement shall be construed as if not containing the invalid or unenforceable provision or provisions and the rights and obligations of each Party shall be construed and enforced accordingly. If necessary to affect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible.



27. **ASSIGNMENT.**

Customer will not resell or permit any third party to use any of the services provided by Cincinnati Bell hereunder. Neither Customer nor Cincinnati Bell may assign this agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. Cincinnati Bell shall not be required to obtain consent in the case of a sale of all or substantially all the assets of Cincinnati Bell or an assignment to an entity directly or indirectly owning or controlling, owned or controlled by, or under common control with the assigning party. Notwithstanding the foregoing, Cincinnati Bell shall retain the right to terminate this Agreement without further obligation or liability to Customer, its successors or assigns, if, in its sole and exclusive judgment any assignment or purported assignment by Customer is to be made to a competitor of Cincinnati Bell.

28. **ENTIRE AGREEMENT; CONTINUING OBLIGATIONS.**

28.1 This Agreement, includes Pricing Agreement, Terms & Conditions and Supplements, constitutes the entire Agreement between the Parties concerning the subject matter hereof. All prior agreements, representations, statements, negotiations, understandings, proposals, and undertakings, oral or written, with respect to the subject matter thereof are superseded and replaced by the provisions of this Agreement.

28.2 Irrespective of any provision contained in this Agreement or in a Supplement to the contrary, the following provisions of this Agreement shall take precedence over, supercede and control any conflicting provision (or the absence of a provision) in each of the Supplements heretofore or hereinafter executed by the parties: Articles 6 through 9 and Articles 11 through 30.

28.3 Any liability or obligation of any Party to the other Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of any Party to make payments, any obligation of any Party under the provisions of Article 7 hereof regarding Confidential Information, Article 8 hereof regarding resolution of disputes, Articles 11 and 18 hereof regarding indemnification, and Article 13 regarding limitations on liability, and any provisions that, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, shall, in each case, survive cancellation or termination of this Agreement.

28.4 The rights and obligations under this Agreement shall survive any merger or sale of either party and shall be binding upon the successors and permitted assigns of each party.

28.5 Under federal law, Customer has a right, and Cincinnati Bell has a duty, to protect the confidentiality of information regarding the telecommunications services Customer buys from Cincinnati Bell, including the amount, type, and destination of Customer's service usage; the way Cincinnati Bell provides services to Customer; and Customer's calling and billing records. Together, this confidential information is described as Customer Proprietary Network Information (CPNI). Customer hereby consents to Cincinnati Bell sharing its CPNI with Cincinnati Bell affiliates, subsidiaries and any other current or future direct or indirect subsidiaries of the Cincinnati Bell parent company as well as Cincinnati Bell agents and authorized sales representatives, to develop or bring to new products or services to Customer's attention. This consent survives the termination of Customer's service and is valid until Customer affirmatively revokes or limits such consent.

29. **REGULATORY APPROVAL; TARIFFS.**

This Agreement is subject to applicable regulatory requirements. In the event of any conflict between the terms of this Agreement and applicable regulatory requirements, such regulatory requirements will take precedence and be controlling. The obligations of Cincinnati Bell and Customer under this Agreement may be contingent upon approval of this Agreement by applicable regulatory agencies, including the Public Utilities Commission of Ohio and Public Services Commission of Kentucky. The regulations and rates specified herein are in addition to applicable regulations and rates set forth in Cincinnati Bell's tariffs on file with regulatory agencies.

30. **EXECUTED IN COUNTERPARTS.**

This Agreement may be executed in any number of counterparts, each of whom shall be an original, but such counterparts shall together constitute but one and the same instrument.

31. **HEADINGS.**

The titles and headings of Articles and Sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall in no way define, modify, or restrict the meaning or interpretation of the terms or provisions of this Agreement.

<i>CM</i>	<i>3/17/2006</i>
Customer Initials	Date

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## Pricing Agreement

Customer GRAHAM PACKAGING Plastic Products, Inc.			Service Provider Cincinnati Bell Telephone Company LLC (Cincinnati Bell)			Agreement No. 22958		
Address 2401 Pleasant Valley Road			Address 221 East Fourth Street			Order No.		
			PO Box 2301			Service Provider Contact Elaine Davis		
City York	State PA	Zip Code 17402	City Cincinnati	State OH	Zip Code 45201	Telephone No. 5133979973		

A. Service Pricing								
Qty	Units	Description	Term	Clauses	Per Unit Monthly	Monthly	Per Unit One-time	One-time
<b>Service Address:</b> 8283 DIXIE HIGHWAY FLORENCE KY								
23	Each	Two Way/DID Channels	36 Months		12.81	294.63	21.00	483.00
4	Each	DID 20# Blocks	36 Months		0.05	0.20	19.25	77.00
1	Each	Caller ID	36 Months		0.02	0.02	0.00	0.00
1	Each	PRI Facility	36 Months	41	505.15	505.15	640.00	640.00
<b>Total</b>						800.00		1,200.00

Confidential Statement

DATE OF PRINT: February 17, 2006

Contract #: 22958

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## Pricing Agreement

In addition to Agreement charges, customers will incur all regulated charges mandated by the Regulatory Commissions with jurisdiction over Cincinnati Bell.

All prices and rates are exclusive of any surcharges and taxes.

The Agreement shall become effective on the latter of the provisioning or activation date ("Effective Date").

Installation/One-time charge does not cover premise technician work outside of the hours 8 a.m. to 5 p.m.

The term "Cincinnati Bell" shall be deemed to mean the Service Provider on behalf of its affiliates and subsidiaries.

Facsimile signatures to this Agreement and any additional documents incorporated herein shall be deemed to be binding upon the parties.

CUSTOMER'S SIGNATURE ACKNOWLEDGES THAT CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS ATTACHED TO THIS AGREEMENT AND THESE TERMS AND CONDITIONS APPLY TO THIS ORDER AND ANY SUBSEQUENT ORDERS ACCEPTED BY CINCINNATI BELL. CUSTOMER'S SIGNATURE ACKNOWLEDGES AUTHORIZATION FOR CINCINNATI BELL TO REQUEST CREDIT INFORMATION FROM ANY CREDIT REPORTING AGENCY OR SOURCE.			
<b>CUSTOMER</b>			
Name of Authorized Representative (Print)	Title	Signature of Authorized Representative	Date
Graham Packaging Plastic Products, Inc. Jay W. Hereford	Vice President	<i>Jay W. Hereford</i>	3-10-06
<b>SERVICE PROVIDER</b>			
Name of Authorized Representative (Print)	Title	Signature of Authorized Representative	Date
Don Doerflin	Sales Vice Pres.	<i>Don Doerflin</i>	3-14-06





## TERMS AND CONDITIONS

### 1. DEFINITIONS.

The following definitions shall apply to this Agreement and, unless otherwise provided therein, shall also apply to the Supplements. The definitions shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The words "shall" and "will" are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other shall not mean a different degree or right or obligation for either Party. The use of the term "Agreement" shall be deemed to refer to the entire agreement between the Parties consisting of this Agreement and includes each Supplement.

1.1 Applicable Laws - means all applicable federal, state, and local statutes, laws, rules, regulations, codes, final and nonappealable orders, decisions, injunctions, judgments, awards and decrees that relate to a Party's obligations under this Agreement.

1.2 Information - means any writing, drawing, sketch, model, sample, data, computer program, software, verbal communication, e-mail, recording or documentation of any kind.

1.3 Party - means (i) Cincinnati Bell parent company, its affiliates and subsidiaries (collectively "Cincinnati Bell") or (ii) Customer; and "Parties" means (i) and (ii).

1.4 Proprietary Information - means any Information communicated orally, visually, electronically or in writing, whether before, on or after the Effective Date, by a Party ("Disclosing Party") to the other Party ("Receiving Party"), pursuant to this Agreement. Proprietary Information shall not, however, include (a) information that is or becomes a part of the public domain through no act or omission of the Receiving Party; or (b) was in Receiving Party's lawful possession prior to the disclosure and had not been subject to any limitation on disclosure.

### 2. SERVICES.

The applicable rates, fees, commissions and charges for a particular service to be provided by Cincinnati Bell pursuant to the Supplement(s) will be on the Pricing Agreement sheet. Any other regulated services not listed on the Supplements which are provided by Cincinnati Bell to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. Cincinnati Bell shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the Supplement Service. The specific terms and conditions applicable to the particular services to be provided by pursuant to this Agreement, including the description of the services to be provided and the obligations of each Party in connection therewith, termination rights, performance obligations and service parameters are or shall be set forth in the Supplement(s). Any future Supplements entered into between the parties shall reference and be governed by the terms of this Agreement. In the event of a conflict between the terms of this Agreement and a Supplement, the terms of the Supplement shall prevail.

### 3. EQUIPMENT WARRANTY, USE AND MAINTENANCE.

If applicable, Cincinnati Bell will maintain the equipment used to provide service under the applicable Supplements, in good working order during the term specified on the Pricing Agreement sheet, except CPE provided as part of any LAN Advantage service, subject to the exclusions set forth under Section four (4) entitled Warranty Exclusions. Customer will permit Cincinnati Bell access to equipment on Customer's premises used to provide service hereunder and Cincinnati Bell will comply with the Customer's security and safety regulations at Customer's site. Repair parts or replacement parts may be new, remanufactured or refurbished at the discretion of Cincinnati Bell. Customer will not make any modifications to the equipment used to provide service hereunder without the written permission of Cincinnati Bell and will pay the cost of any repairs necessitated by unauthorized work.

### 4. WARRANTY EXCLUSIONS.

4.1 The warranties provided under Section three (3) do not cover services required to repair damages, malfunctions or failures caused by: (a) Customer's failure to follow Cincinnati Bell's written operation or maintenance instructions provided to Customer; (b) Customer's unauthorized repair, modifications or relocation of equipment used to provide services hereunder, or attachment to such equipment of non-Cincinnati Bell equipment; and (c) abuse,

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misuse or negligent acts. Cincinnati Bell may perform services in such instances on a time and materials or contract basis.

4.2 Cincinnati Bell will not be liable to Customer or third parties for any claims, loss or expense of any kind or nature caused directly or indirectly by: (i) interruption or loss of use or loss of business; or (ii) any consequential, indirect, special or incidental damages suffered by Customer or third parties whatsoever.

4.3 EXCEPT AS SPECIFIED HEREIN AND ANY SUPPLEMENTS, CINCINNATI BELL, ITS SUBCONTRACTORS AND SUPPLIERS (EXCEPT AS EXPRESSED IN WRITING BY THEM) MAKE NO WARRANTIES, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIM ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

5. **TITLE OR RISK OF LOSS OF EQUIPMENT.**

5.1 For equipment sold and installed to Customer by Cincinnati Bell, title shall pass to Customer on the In-Service Date. Risk of loss shall pass at the time of delivery

5.2 For all other equipment used in the provision of services under any of the Supplements, title shall remain solely with Cincinnati Bell, whether or not attached to or embedded in realty, unless otherwise agreed to in writing by the parties. Cincinnati Bell will bear the risk of loss or damage to the equipment used in the provision of service, except that Customer will be liable to Cincinnati Bell for the cost of repair or replacement of equipment lost or damaged as a result of Customer's gross negligence, intentional acts, unauthorized installation or maintenance or other causes within the control of customer, its employees, agents or subcontractors.

6. **GOVERNING LAW.**

This Agreement shall be deemed to be a contract made under the laws of the Commonwealth of Pennsylvania, and the internal laws of such state shall govern the construction, interpretation and performance of this Agreement, without reference to conflicts of law provisions. Any legal action arising under this Agreement must be filed (and thereafter maintained) within two (2) years after the cause of action arises.

7. **CONFIDENTIAL INFORMATION.**

During the term of this Agreement and for two (2) years thereafter, neither Party shall disclose any terms or pricing contained in this Agreement or any Proprietary Information of the Disclosing Party. Proprietary Information shall remain the property of the Disclosing Party.

8. **RESOLUTION OF DISPUTES.**

8.1 The Parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly through discussions between themselves at the operational level. In the event a resolution cannot be reached at the operational level, the disputing Party shall give the other Party written notice of the dispute and such controversy or claim shall be negotiated between appointed counsel or senior executives of the Parties who have authority to settle the controversy. If the Parties fail to resolve such controversy or claim within thirty (30) days of the disputing Party's notice, either Party may seek arbitration as set forth below.

8.2 Any controversy or claim arising out of or relating to this Agreement, or a breach of this Agreement, shall be finally settled by arbitration in York, Pennsylvania and shall be resolved under the laws of the Commonwealth of Pennsylvania without regard to choice of law provisions. The arbitration shall be conducted before a single arbitrator in accordance with the commercial rules and practices of the American Arbitration Association then in effect.

8.3 The arbitrator shall have the power to order specific performance if requested. Any award, order, or judgment pursuant to such arbitration shall be deemed final and binding and may be enforced in any court of competent jurisdiction. The Parties agree that the arbitrator shall have no power or authority to make awards or issue orders of any kind except as expressly permitted by this Agreement, and in no event shall the arbitrator have the authority to make any award that provides for punitive or exemplary damages. All such arbitration proceedings shall be conducted on a confidential basis. The arbitrator may, as part of the arbitration award, permit the substantially prevailing Party to recover all or part of its attorney's fees and other out-of-pocket costs incurred in connection with such arbitration.

9. **TERMS OF PAYMENT.**

Invoices for Services are due and payable in U.S. dollars within thirty (30) days of invoice date. Payments not received within thirty (30) days of invoice date are considered past due. In addition to Cincinnati Bell undertaking any of the actions set forth in this Agreement, if any invoice is not paid when due, Cincinnati Bell may: (i) apply a late charge equal to 1-1/2% (or the maximum legal rate, if less) of the unpaid balance per month; (ii) require an additional Security Deposit or other form of security; and/or (iii) take any action in connection with any other right or remedy Cincinnati



Bell may have under this Agreement in law or in equity. If the Customer believes it has been incorrectly billed, Customer should contact the Cincinnati Bell business office within sixty (60) days @ (513) 566-5050 to initiate a billing review. Invoices for non-regulated services not disputed within sixty (60) days will not be subject to dispute thereafter.

10. **TERMINATION.**

Notwithstanding the provisions regarding the Term and Termination Charges of each Supplement, and in addition to the Parties' rights of termination specifically provided elsewhere in this Agreement, the following shall apply:

10.1 In the event that one Party breaches any material obligation provided hereunder, excluding payment obligations, or in such Supplement (other than Customer's payment obligations), the other Party shall give the breaching Party written notice of the breach and request that the breach be cured ("Cure Notice"). If the breaching Party fails to cure the specified breach within thirty (30) days of receipt of the Cure Notice (or such other mutually agreed upon time), the other Party shall have the right to terminate the Supplement, effective upon five (5) days prior written notice to the breaching Party ("Termination Notice"). The right of Cincinnati Bell and the Customer to terminate in any such case shall be in addition to any other rights and remedies they may have hereunder or at law or in equity.

10.2 A Party may, at its option, terminate a Supplement effective immediately upon written notice upon the occurrence of an "Insolvency Event of Default" (as defined below) with respect to the other Party. The occurrence of any one or more of the following events shall constitute an "Insolvency Event of Default": the other Party admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors; any affirmative act of insolvency by the other Party or the filing by or against the other Party (which is not dismissed within ninety (90) days of any petition or action) under any bankruptcy, reorganization, insolvency arrangement, liquidation, dissolution or moratorium law, or any other law or laws for the relief of, or relating to, debtors; or the subjection of a material part of the other Party's property to any levy, seizure, assignment or sale for or by any creditor, third party or governmental agency.

10.3 Customer shall have the right to terminate any Supplement for convenience at any time upon thirty (30) days prior written notice to Cincinnati Bell. The termination charge will be considered to be liquidated damages and will be Cincinnati Bell's sole remedy against Customer for early termination, except for outstanding charges. The termination liability language contained within the applicable Supplement is not intended to indicate that the Commissions have approved or sanctioned the specific termination charges contained herein. Signatories to the Agreement shall be free to pursue whatever legal remedies they may have should a dispute arise.

10.4 One or more Supplements may be terminated by the Parties without causing a termination of this Agreement or other Supplements.

11. **INDEMNIFICATION.**

In the event that a claim is made against Customer or Cincinnati Bell, or if either should become involved in litigation or arbitration because of claims, loss, liability, or expense arising out of Cincinnati Bell's activities, Cincinnati Bell shall indemnify and hold Customer, its workers' compensation carrier and its general liability carriers harmless from such claims, loss, liability, and expense, including attorneys' fees and workers compensation benefits. The parties specifically acknowledge and agree that Cincinnati Bell shall indemnify and hold Customer, its workers' compensation carrier, and its general liability carrier harmless against any and all claim or claims brought by the agents, workmen, servants or employees of Cincinnati Bell for any alleged negligence caused or created in whole or in part by Customer, and/or any injuries caused or created in whole or in part by any machinery, equipment, products, or structures owned, leased or maintained by Customer, including but not limited to any death, injuries or illnesses occurring during the assignment which fall within the jurisdiction of applicable Workers' Compensation laws and regulation if the claimant was subject to the provisions thereof. This Agreement to indemnify and hold harmless Customer, its workers' compensation carrier and its general liability carriers shall include the cost of providing a defense for any claim, including but not limited to the cost of additional premiums and all costs associated with the claim and payment of any award, liability, wage loss or medical payments.

12. **RESPONSIBILITIES OF EACH PARTY.**

Each Party has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of their respective employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing such matters. Except for the limitations on liability as otherwise provided in



this Agreement, each Party will be responsible for its own acts and those of its employees, agents, and contractors during the performance of that Party's obligations hereunder.

13. **LIMITATIONS OF LIABILITY.**

Cincinnati Bell's liability arising out of the provision of: (i) the provision of Services; (ii) delays in the restoration of Services; or (iii) arising out of mistakes, accidents, omissions, interruptions, errors or defects in transmission, or delays caused by judicial or regulatory authorities, shall be subject to the limitations set forth below and in the applicable Tariff. IN NO EVENT SHALL CINCINNATI BELL BE LIABLE TO CUSTOMER, CUSTOMER'S OWN CUSTOMERS, OR ANY OTHER THIRD PARTY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY FOR ANY TYPE OF INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE, ACTUAL, SPECIAL, OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS, LOST REVENUES, OR LOST SAVINGS OF ANY KIND, ARISING OUT OF OR RELATING TO THIS AGREEMENT WHETHER OR NOT CINCINNATI BELL OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. FOR PURPOSES OF THIS SECTION, "CINCINNATI BELL" IS DEEMED TO INCLUDE CINCINNATI BELL'S PARENT COMPANY, AND ITS RESPECTIVE AFFILIATES AND SUBSIDIARIES, AND THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUBCONTRACTORS AND SUPPLIERS OF EACH OF THEM.

The Parties hereto agree that the termination liabilities and the limitations on liability contained in this Agreement are fair and reasonable adjustments to the uncertain and difficult to ascertain damages which might arise under this Agreement and are intended to be reasonable allocations by the Parties of the business risks inherent in this Agreement.

14. **SECURITY AND ACCESS.**

Employees and agents of Cincinnati Bell and its subsidiaries, while on the premises of Customer, will comply with all reasonable rules, regulations and security requirements of Customer.

15. **WORK ON CUSTOMER'S PREMISES.**

Cincinnati Bell shall comply with all applicable laws and will indemnify and hold Customer harmless from and against any claims, demands, suits losses, damages, costs and expenses arising out of Cincinnati Bell's noncompliance with any such laws. If Cincinnati Bell's work under any Supplement involves operations by Cincinnati Bell on the premises of Customer, Cincinnati Bell shall take all necessary precautions to prevent the occurrence of any injury to person or property during the progress of such work.

16. **CUSTOMER OBLIGATIONS.**

Prior to requesting repair service from Cincinnati Bell, Customer will use its best efforts, including but not limited to performing reasonable diagnostic tests, to verify whether any trouble with the Service is a result of the Customer's equipment or facilities. Customer shall be responsible for any such trouble resulting from the Customer's equipment or facilities. Customer will cooperate with any joint testing of the Service reasonably requested by Cincinnati Bell.

17. **SYSTEM MAINTENANCE.**

In the event Cincinnati Bell determines that it is necessary to interrupt Services or that there is a potential for Services to be interrupted for the performance of system maintenance, Cincinnati Bell will use good faith efforts to notify Customer prior to the performance of such maintenance and will schedule such maintenance during non-peak hours (midnight to 6:00 am. local time). In no event shall interruption for system maintenance constitute a failure of performance by Cincinnati Bell.

18. **SUBCONTRACTING.**

Cincinnati Bell may subcontract work to be performed under this Agreement, but shall retain responsibility for the work.

19. **CHANGES IN LAWS.**

This Agreement is predicated upon current state and federal laws and regulations. If new laws or regulations or new applications of current law and regulations affect this Agreement, either Party may request on thirty (30) days' written notice that one or more provisions be renegotiated consistent with the changed circumstances.



20. **FORCE MAJEURE.**

No Party shall be held liable for any delay or failure in performance of any part of this Agreement, including any Supplement, caused by a force majeure condition, including fires, embargoes, explosions, power blackouts, earthquakes, volcanic action, floods, wars, water, the elements, labor disputes (such as a work stoppage), civil disturbances, government requirements, civil or military authorities, acts of God or a public enemy, inability to secure raw materials, inability to secure product of manufacturers or outside vendors, inability to obtain transportation facilities, acts or omissions of transportation common carriers, or other causes beyond its reasonable control whether or not similar to the foregoing conditions. If any force majeure condition occurs, the Party whose performance fails or is delayed because of such force majeure condition ("Delayed Party") shall promptly give written notice thereof to the other Party. The Delayed Party shall use all best efforts to avoid or mitigate performance delays despite a force majeure condition, and shall restore performance as soon as the force majeure condition is removed.

21. **GOOD FAITH PERFORMANCE.**

Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement, as the case may be.

22. **NO LICENSE.**

Except as expressly provided in this Agreement or a Supplement, no license under patents, copyrights, trademarks, service marks, trade names or other indicia of origins, or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

23. **AMENDMENTS; WAIVERS.**

Except as otherwise provided in this Agreement, no amendment or waiver of any provision of this Agreement, and no consent to any default under this Agreement, shall be effective unless the same shall be in writing and signed by an authorized official of both Parties. In addition, no course of dealing or failure of any Party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of such term, right or condition.

24. **NOTICES.**

All notices, demands, requests, elections, or other communications provided under this Agreement or which may be given by one Party to the other Party under this Agreement and to the extent a notice relates to an alleged breach, termination, or other claim under a Supplement, such notice shall be made in writing (unless specifically provided otherwise herein) and unless otherwise specifically required by this Agreement to be delivered to another representative or point of contact, shall be (a) delivered personally, (b) delivered by express delivery service, (c) mailed, first class, certified mail postage prepaid, return receipt requested or (d) delivered by telecopy and shall be deemed effective upon receipt; provided that a confirmation copy is sent by the method described in (a), (b) or (c) of this Section. Notices shall be addressed to the parties at the addresses set forth on the Pricing Agreement sheet.

Changes in notice designation shall be made in writing and shall be deemed effective upon receipt. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) four (4) business days after mailing in the case of first class, certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

25. **NO RIGHTS TO THIRD PARTIES.**

This Agreement shall not be deemed to provide third parties with any remedy, claim, right of action or other right.

26. **SEVERABILITY.**

If any term, condition, or provision of this Agreement shall be invalid or unenforceable for any reason, such invalidity or unenforceability shall not invalidate or render unenforceable the remainder of this Agreement; and, unless such construction would be unreasonable, this Agreement shall be construed as if not containing the invalid or unenforceable provision or provisions and the rights and obligations of each Party shall be construed and enforced accordingly. If necessary to affect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible.

27. **ASSIGNMENT.**

Confidential

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Customer will not resell or permit any third party to use any of the services provided by Cincinnati Bell hereunder. Neither Customer nor Cincinnati Bell may assign this agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed. Neither Party shall be required to obtain consent of the other Party in the case of a sale of all or substantially all of its assets (whether by merger, transfer of assets or equity interests) or an assignment to an entity directly or indirectly owning or controlling, owned or controlled by, or under common control with the assigning Party. Notwithstanding the foregoing, Cincinnati Bell shall retain the right to terminate this Agreement without further obligation or liability to Customer, its successors or assigns, if, in its sole and exclusive judgment any assignment or purported assignment by Customer is to be made to a competitor of Cincinnati Bell.

**28. ENTIRE AGREEMENT; CONTINUING OBLIGATIONS.**

**28.1** This Agreement, includes Pricing Agreement, Terms & Conditions and Supplements, constitutes the entire Agreement between the Parties concerning the subject matter hereof. All prior agreements, representations, statements, negotiations, understandings, proposals, and undertakings, oral or written, with respect to the subject matter thereof are superseded and replaced by the provisions of this Agreement.

**28.2** Irrespective of any provision contained in this Agreement or in a Supplement to the contrary, the following provisions of this Agreement shall take precedence over, supercede and control any conflicting provision (or the absence of a provision) in each of the Supplements heretofore or hereinafter executed by the parties: Articles 6 through 9 and Articles 11 through 30.

**28.3** Any liability or obligation of any Party to the other Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of any Party to make payments, any obligation of any Party under the provisions of Article 7 hereof regarding Confidential Information, Article 8 hereof regarding resolution of disputes, Articles 11 and 18 hereof regarding indemnification, and Article 13 regarding limitations on liability, and any provisions that, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, shall, in each case, survive cancellation or termination of this Agreement.

**28.4** The rights and obligations under this Agreement shall survive any merger or sale of either Party and shall be binding upon the successors and permitted assigns of each Party.

**28.5** Under federal law, Customer has a right, and Cincinnati Bell has a duty, to protect the confidentiality of information regarding the telecommunications services Customer buys from Cincinnati Bell, including the amount, type, and destination of Customer's service usage; the way Cincinnati Bell provides services to Customer; and Customer's calling and billing records. Together, this confidential information is described as Customer Proprietary Network Information (CPNI). Customer hereby consents to Cincinnati Bell sharing its CPNI with Cincinnati Bell affiliates, subsidiaries and any other current or future direct or indirect subsidiaries of the Cincinnati Bell parent company as well as Cincinnati Bell agents and authorized sales representatives, to develop or bring to new products or services to Customer's attention. This consent survives the termination of Customer's service and is valid until Customer affirmatively revokes or limits such consent.

**29. INSURANCE COVERAGE**

Cincinnati Bell shall throughout the term of the Agreement, effect and maintain workers' compensation insurance to protect Customer against claims under workers' compensation acts for injuries to the Cincinnati Bell's servants, employees or agents; excess liability insurance in an amount not less than \$1,000,000.00 per occurrence; general liability insurance in an amount not less than \$2,000,000.00 per occurrence; and an automobile liability policy (with non-owned and hired vehicle coverage) in an amount not less than \$1,000,000.00 per accident. All such insurance policies shall name Customer as an additional insured and shall provide that Customer shall receive at least thirty (30) days prior written notice of cancellation. Within ten (10) days of the signing of the Agreement, Cincinnati Bell shall provide Customer with certificates of insurance evidencing such coverage. Cincinnati Bell further agrees to sign any Alternate Employer Endorsements which are required by its insurers as a condition to naming Customer as an additional insured and to attach said Endorsements to the certificates of insurance.

**30. REGULATORY APPROVAL; TARIFFS.**

This Agreement is subject to applicable regulatory requirements. In the event of any conflict between the terms of this Agreement and applicable regulatory requirements, such regulatory requirements will take precedence and be controlling. The obligations of Cincinnati Bell and Customer under this Agreement may be contingent upon approval of this Agreement by applicable regulatory agencies, including the Public Utilities Commission of Ohio and Public Services Commission of Kentucky. The regulations and rates specified herein are in addition to applicable regulations and rates set forth in Cincinnati Bell's tariffs on file with regulatory agencies.

**31. EXECUTED IN COUNTERPARTS.**

Confidential

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This Agreement may be executed in any number of counterparts, each of whom shall be an original, but such counterparts shall together constitute but one and the same instrument.

32. HEADINGS.

The titles and headings of Articles and Sections of this Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall in no way define, modify, or restrict the meaning or interpretation of the terms or provisions of this Agreement.

<i>gud</i>	<i>3-10-06</i>
Customer Initials	Date

Confidential

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## Pricing Agreement

Customer MORGAN KEEGAN & CO INC			Service Provider Cincinnati Bell Telephone Company LLC (Cincinnati Bell)			Agreement No. 22912		
Address 50 N FRONT,3RD			Address 221 East Fourth Street			Order No.		
FLR			PO Box 2301			Service Provider Contact Taren Kinebrew		
City	State	Zip Code	City	State	Zip Code	Telephone No.		
MEMPHIS	TN	38103	Cincinnati	OH	45201			

A. Service Pricing								
Qty	Units	Description	Term	Clauses	Per Unit Monthly	Monthly	Per Unit One-time	One-time
<b>Service Address:</b> 100 E Rivercenter Blvd Ste 410 Covington KY								
2	Each	DID 20# Blocks	24 Months		0.04	0.08	0.00	0.00
23	Each	Standard Channels	24 Months		13.77	316.71	0.00	0.00
1	Each	Caller ID	24 Months		0.01	0.01	0.00	0.00
1	Each	PRI Facility	24 Months	41	533.20	533.20	0.00	0.00
<b>Total</b>						850.00		0.00

Confidential Statement

DATE OF PRINT: February 16, 2006

Contract #: 22912

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## Pricing Agreement

In addition to Agreement charges, customers will incur all regulated charges mandated by the Regulatory Commissions with jurisdiction over Cincinnati Bell.

All prices and rates are exclusive of any surcharges and taxes.

The Agreement shall become effective on the latter of the provisioning or activation date ("Effective Date").

Installation/One-time charge does not cover premise technician work outside of the hours 8 a.m. to 5 p.m.

The term "Cincinnati Bell" shall be deemed to mean the Service Provider on behalf of its affiliates and subsidiaries.

Facsimile signatures to this Agreement and any additional documents incorporated herein shall be deemed to be binding upon the parties.

CUSTOMER'S SIGNATURE ACKNOWLEDGES THAT CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS ATTACHED TO THIS AGREEMENT AND THESE TERMS AND CONDITIONS APPLY TO THIS ORDER AND ANY SUBSEQUENT ORDERS ACCEPTED BY CINCINNATI BELL. CUSTOMER'S SIGNATURE ACKNOWLEDGES AUTHORIZATION FOR CINCINNATI BELL TO REQUEST CREDIT INFORMATION FROM ANY CREDIT REPORTING AGENCY OR SOURCE.			
CUSTOMER			
Name of Authorized Representative (Print)	Title	Signature of Authorized Representative	Date
Charles McCallister	First VP, Revenue	<i>[Signature]</i>	2-16-06
SERVICE PROVIDER			
Name of Authorized Representative (Print)	Title	Signature of Authorized Representative	Date
Terri Hemmer	Sales Mgr	Terri Hemmer	2-23-06

Confidential Statement

DATE OF PRINT: February 16, 2006

Contract #: 22912

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Supplement

Customer (Legal Name of Company) MORGAN KEEGAN & CO INC	Agreement Number 22912
Cincinnati Bell Contact Taren Kinebrew	Date February 16, 2006

This is a Supplement to the Original Agreement referred to above (the "Agreement") between Cincinnati Bell and/or its subsidiaries ("Cincinnati Bell") and the Customer above.

In the event of any inconsistencies between the Agreement and this Supplement, the terms and conditions of this Supplement shall prevail.

The parties hereby covenant and agree as follows:

Unless otherwise defined in this Supplement, capitalized terms shall have the meaning ascribed thereto in the Agreement;

41. TERMS AND CONDITIONS

A. TERM

After expiration of the initial term as stated on the Pricing Agreement sheet, this Agreement shall automatically renew at the current contract rate for twelve (12) month periods unless either party terminates this Agreement by providing thirty (30) days advance written and/or verbal notice of termination to the other party prior to the expiration of the then-current term. Notwithstanding the foregoing, Cincinnati Bell Telephone Company LLC ("CBT"), an affiliate of Cincinnati Bell, reserves the right to adjust rates at any time after the expiration of the initial term upon sixty (60) days prior written notice to Customer, during which time Customer shall have the right to terminate the Agreement, without incurring termination charges, if Customer does not agree to stated rate adjustment. In the event Customer does not provide written and/or verbal notice of termination during the sixty (60) day period, Customer shall be deemed to accept the rate adjustment.

B. DEFINITIONS

Prime Advantage -- is a high-speed, high-capacity switched digital interface carrying 24 channels between customer's premise (ISDN compatible PBX, router, bridge, computer interface or other CPE) and a CBT central office. Each Prime Advantage facility consists of up to 23 bearer channels (B channels) for circuit-switched voice, video and data, and a separate delta channel (D channel) dedicated to perform monitoring and signaling for the B channels.

C. SERVICES AND RATES

- .1 Prime Advantage service will be provided as specified on the attached Pricing Agreement.
- .2 If Customer cancels, in whole or in part, any requested addition, rearrangement, relocation or other modification to Prime Advantage prior to completion thereof, Customer will reimburse CBT for the actual expenses incurred by CBT in connection with such modification prior to CBT's receipt of notice of cancellation; provided, however, the amount of such reimbursement will not exceed the service, construction, installation, termination and other charges for which Customer would have otherwise been responsible.
- .3 Customer will be responsible for all taxes, assessments or other charges (excluding taxes based on CBT's net income) imposed upon or relating to the provision or use of the products and services provided hereunder.
- .4 Any other regulated services not listed herein which are provided by CBT to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. CBT shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the Prime Advantage service.

DATE OF PRINT: February 16, 2006 Contract # 22912





Supplement

Customer (Legal Name of Company) MORGAN KEEGAN & CO INC	Agreement Number 22912
Cincinnati Bell Contact Taren Kinebrew	Date February 16, 2006

D. TERMINATION CHARGES

.1 In the event that Prime Advantage service (which includes the facility, channels and optional features) under this Agreement is terminated by Customer for convenience or for reasons other than CBT's breach of this Agreement prior to the expiration of the Term, the Customer will pay a termination charge equal to all remaining amounts due or to become due, including but not limited to all monthly charges for which Customer would have been responsible if the Customer had not terminated prior to the expiration of the Term.

.2 If Customer removes one or more facility(s), channel(s) and/or optional feature(s) from service prior to the expiration of the term hereof, Customer will pay to CBT a termination charge equal to all monthly charges for such facility(s), channel(s), and/or optional feature(s) for which Customer would have been responsible if the Customer had not terminated prior to the end of the expiration of the Term.

.3 If nonrecurring charges associated with the installation of Prime Advantage service are waived and the Prime Advantage service is then terminated prior to the expiration of the Term, the customer will become liable for payment of the waived charges.

Customer Initials	Date
	2-16-06

DATE OF PRINT: February 16, 2006 Contract # 22912





## 1FB Total Access for Business Service Agreement

Customer Name <b>R P PLUMBING &amp; MECHANICAL</b>			CINCINNATI BELL TELEPHONE COMPANY LLC ("Cincinnati Bell")			Contract No. 23704		
Address 67 N MAIN ST			Address 201 East Fourth Street, P.O. Box 2301			Sales Rep Name Telephone No. MONIKA SUGIMOTO 513-397-1760		
City	State	Zip Code	City	State	Zip Code	Sales Rep Code		
WALTON	KY	41094	Cincinnati	OH	45201	CBT1795		
Primary Contact		Telephone No.	Customer E-Mail Address			Customer BTN		
ROB PRATHER		859-485-1809	N/A			859-485-1809		

Tax Exempt: <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes							If "Yes", tax exempt #	
Service Description	USOC / PEC	Term (Months)	Quantity	Unit Price	Monthly Price	Installation / One-Time Charge		
Flat Business (1FB) Access Line	TAF03	36	1	\$135.00	\$135.00	\$0		
<b>Other Services:</b>								
• CBAD Anytime Plan: 100		36	1	\$10.00	\$10.00	\$0		
• Internet Service: STANDARD		36	1	\$50.00	\$50.00	\$0		
• CBW Plan: 4000 MIN SHARED	R34	36	1	\$149.99	\$149.99	\$0		
• Wireless MSF per user			4	\$10.00	\$40.00			
• GOD – Pay Per Use Internet - \$.03/KB			5	\$0.00	\$0.00			
• Unlimited Wireless M2M per User			5	\$0.00	\$0.00			
• Audio/Web Conferencing:		0	1		\$0.00	\$0		
• Phone System: n/a		36	0 Lines	0 Stations	\$0			
• New Wire Runs: n/a								
• Reusable Wire Runs: n/a								
• Estimated Post Warranty Maintenance		*		\$n/a				
Secondary Service Location Name				Subtotal		\$384.99	\$	
Street Address				Subtotal From Attached / Additional Pages				
City	State	Zip Code	<b>Grand Total</b>		<b>\$384.99</b>	<b>\$</b>		

**NOTES:**

- \* Goes in to effect immediately after the Phone System rental term expires at the beginning 37th month.
- Any new wiring past the network demarcation point will be billed on a separate bill based on a time and materials basis.
- The term "Cincinnati Bell" shall be deemed to be Cincinnati Bell Telephone Company LLC on behalf of its' affiliates and subsidiaries.
- All prices and rates herein are exclusive of any surcharges, taxes, additional features and one-time charges unless otherwise noted.
- This Agreement shall become effective on the latter of the provisioning or activation date ("Effective Date").
- The components of the 1FB Total Access Service are not to be split among multiple Customers or locations.
- Installation / One-Time Charge does not cover premise technician work outside of the normal business hours of 8 a.m. to 5 p.m.
- If applicable: (i) Customer must purchase any extra equipment separately; and (ii) Post Warranty Maintenance pricing is an estimate.
- Facsimile signatures to this Agreement and any additional documents incorporated herein shall be deemed to be binding upon the parties.

**REMARKS:** SPECIAL PRICING (OFM AGREEMENT # 23704). ADDED 1 FB, CBAD, ZT, AND 5 CBW UNITS

CUSTOMER'S SIGNATURE ACKNOWLEDGES THAT CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS ATTACHED HERETO AND THESE TERMS AND CONDITIONS APPLY TO THIS ORDER AND ANY SUBSEQUENT ORDERS ACCEPTED BY CINCINNATI BELL. CUSTOMER'S SIGNATURE ACKNOWLEDGES AUTHORIZATION FOR CINCINNATI BELL TO REQUEST CREDIT INFORMATION FROM ANY CREDIT REPORTING AGENCY OR SOURCE.

("Customer")	Cincinnati Bell Telephone Company LLC
Signature:	Signature:
Printed Name: Laura Stubling	Printed Name: Greg Wheeler
Title: Office Manager	Title: Sales Mgr



Date: \_\_\_\_\_ Date: 3/30/04



GENERAL TERMS & CONDITIONS

- 1. Term. Unless otherwise renewed or terminated in accordance with the provisions herein, the Term of this Agreement shall become effective on the latter of the provisioning or in-service date ("Effective Date") and shall continue as stated on the signature/pricing page ("Term"). After expiration of the initial Term, (i) the 1FB Access Line portion of this Agreement and Dedicated Fuse Optional feature, if applicable, shall automatically renew at the current contract rate for twelve (12) month periods unless either party terminates this Agreement by providing thirty (30) days advance written and/or verbal notice of termination to the other party prior to the expiration of the then-current term and (ii) the optional features portion shall automatically change to month-to-month at the then current monthly rates. Notwithstanding the foregoing, Cincinnati Bell reserves the right to adjust the 1FB Total Access rates at any time after the expiration of the initial term upon sixty (60) days prior written notice to Customer, during which time Customer shall have the right to terminate the Agreement, without incurring termination charges, if Customer does not agree to stated rate adjustment. In the event Customer does not provide written and/or verbal notice of termination during the sixty (60) days period, Customer shall be deemed to accept the rate adjustment.
2. Payment Terms. Invoices for Services are due and payable in U.S. dollars within thirty (30) days of invoice date (Invoice Due Date). Payments not received within thirty (30) days of invoice date are considered past due. In addition to Cincinnati Bell undertaking any of the actions set forth in this Agreement, if any invoice is not paid when due, CBT may: (i) apply a late charge equal to 2% (or the maximum legal rate, if less) of the unpaid balance per month and/or (ii) take any action in connection with any other right or remedy Cincinnati Bell may have under this Agreement in law or in equity. Customer shall be in default if Customer fails to make payment as required and such failure remains uncured for five (5) calendar days after the Invoice Due Date. If Customer in good faith disputes any portion of any Cincinnati Bell invoice, Customer shall submit to Cincinnati Bell by the Invoice Due Date, full payment of the undisputed portion of any Cincinnati Bell invoice and written documentation identifying and substantiating the disputed amount. If Customer does not report a dispute within sixty (60) days following the date on the applicable invoice, Customer shall have waived its right to dispute that invoice. Cincinnati Bell and Customer agree to use their respective best efforts to resolve any dispute within thirty (30) days after Cincinnati Bell receives written notice of the dispute from Customer. Any disputed amounts resolved in favor of Customer shall be credited to Customer's account on the next invoice following resolution of the dispute. Any disputed amounts determined to be payable to Cincinnati Bell shall be due within (10) days of resolution of the dispute.
3. Governing Law. This Agreement shall be construed and enforced in accordance with, and the validity and performance hereof, shall be governed by the laws of the State of Ohio without regard to its principles of choice of law. Any legal action between the parties arising under this Agreement must be filed within two (2) years after the cause of the action arises.
4. Waiver Of Breach Or Violation Not Deemed Continuing. The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach hereof.
5. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given as of the date of delivery or confirmed facsimile transmission. To be effective, Notices must be delivered to the address set forth on the signature page of this Agreement.
6. Additional Assurances. If at any time during the term of this Agreement there is a material and adverse change in Customer's financial condition, business prospects, or payment history, which shall be determined by Cincinnati Bell in its sole and absolute discretion, then Cincinnati Bell may demand that Customer deposit with Cincinnati Bell a security deposit or increase the amount of deposit (the "Security Deposit"), as the case may be, pursuant to Cincinnati Bell's standard terms and conditions, as security for the full and faithful performance of Customer of the terms, conditions, and covenants of this Agreement; provided, however, that in no event shall the amount of the Security Deposit ever exceed two (2) months' estimated or actual Usage Charges and other amounts payable by Customer to Cincinnati Bell hereunder.
7. Bankruptcy. In the event of the bankruptcy or insolvency of either party or if either party shall make any assignment for the benefit of creditors or take advantage of any act or law for relief of debtors, the other party to this Agreement shall have the right to terminate this Agreement without further obligation or liability on its part.
8. Business Relationship. This Agreement shall not create any agency, employment, joint venture, partnership, representation, or fiduciary relationship between the parties. Neither party shall have the authority to, nor shall any party attempt to, create any obligation on behalf of the other party.
9. Indemnity.
A. Each party shall indemnify, defend, release, and hold harmless the other party, their affiliates, directors, officers, employees, workers, and agents from and against any action, claim, cost damage, demand, loss, penalty, or expense including but not limited to attorneys' fees, expert witness fees, and costs (collectively "Claims") imposed upon either party by reason of damages to property or personal injuries, including death, as a result of an intentional or negligent

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act or omission on the part of the indemnifying party in connection with the performance of this Agreement or other activities relating to the Service, the property, or the facilities which are the subject of this Agreement. In the event a Claim relates to the negligence of both parties, the relative burden of the Claim shall be attributed equitably between the parties in accordance with the principles of comparative negligence.

B. The term "property" as used in this section shall include real, personal, tangible, and intangible property, including but not limited to, data, proprietary information, intellectual property, trademarks, copyrights, patents, and knowledge.

C. The term "personal injuries" shall also include claims of libel, slander, or invasion of privacy, arising, directly or indirectly, out of the provision of Service pursuant to this Agreement.

D. In the event any action shall be brought against the indemnified party, such party shall immediately notify the indemnifying party in writing, and the indemnifying party, upon the request of the indemnified party, shall assume the cost of the defense thereof on behalf of the indemnified party and its Affiliates and shall pay all expenses and satisfy all judgments which may be incurred by or rendered against the indemnified party or its Affiliates in connection therewith, provided that the indemnified party shall not be liable for any settlement of any such action effected without its written consent.

E. This Indemnification section shall survive termination of this Agreement, regardless of the reason for termination.

10. **Authorized Use of Name.** Without the other party's prior written consent, neither party shall: (i) refer to itself as an authorized representative of the other in promotional, advertising, or other materials; or (ii) use the other party's logos, trade marks, service marks, carrier identification codes (CICs), or any variations thereof in any of its promotional, advertising, or other materials, or in any activity using or displaying the other party's name or the Service(s) to be provided hereunder. Both parties agree to change or correct at their own expense any material or activity the affected party determines to be inaccurate, misleading, or otherwise objectionable under this section. Customer is authorized to use the following statements in its sales literature: (i) "Customer utilizes the Cincinnati Bell network," (ii) "Customer utilizes Cincinnati Bell's facilities;" (iii) "Cincinnati Bell provides only the network facilities;" and/or (iv) CINCINNATI BELL is our network provider."
11. **Assignment.** Neither party hereto may assign this Agreement without the express written consent of the other party hereto, which consent shall not be unreasonably withheld. Notwithstanding the foregoing: (i) a security interest in this Agreement may be granted by Cincinnati Bell to any lender to secure borrowings by Cincinnati Bell or any of its Affiliates; (ii) either party may assign all its rights and obligations hereunder to any Affiliate; and (iii) any subsidiary of Cincinnati Bell may assign any amounts due from Customer to Cincinnati Bell for billing purposes. Affiliate, as used herein, is defined as any entity controlled by, in control of, or under common control with the assigning party hereunder.
12. **Binding Arbitration.** The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Agreement promptly through discussions between themselves at the operational level. In the event resolution cannot be reached, such dispute shall be negotiated between appointed counsel or senior executives of the parties who have authority to settle the dispute. The disputing party shall give the other party written notice of the dispute and if the parties fail to resolve the dispute within thirty (30) days either party may seek arbitration. All disputes arising out of or relating to this Agreement shall be finally settled by binding arbitration in Cincinnati, Ohio and shall be resolved under the laws of the State of Ohio.
13. **Legal Construction.** In the event of any conflict between the provisions of these Terms and Conditions and the applicable Supplements, the conflict shall be resolved by reference to the following order of priority of interpretation: a) Supplement(s) Terms & Conditions and b) General Terms and Conditions.
14. **No Personal Liability.** Each action or claim of any party arising under or relating to this Agreement shall be made only against the other party as a corporation, and any liability relating thereto shall be enforceable only against the corporate assets of such party.
15. **Disclaimer Of Warranties.** Unless otherwise provided, CINCINNATI BELL MAKES NO WARRANTY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS, OR FITNESS FOR ANY PURPOSE OF ANY PRODUCT OR SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES BY CINCINNATI BELL ARE HEREBY EXCLUDED AND DISCLAIMED. For purposes of this Section, the term "Cincinnati Bell" shall be deemed to include all affiliates and subsidiaries thereof, shareholders, directors, officers and employees, and any person or entity assisting Cincinnati Bell in its performance pursuant to this Agreement.
16. **Limitation of Liability.** Cincinnati Bell's liability arising out of the provision of: (i) the provision of Services; (ii) delays in the restoration of Services; or (iii) arising out of mistakes, accidents, omissions, interruptions, errors or defects in transmission, or delays caused by judicial or regulatory authorities, shall be subject to the limitations set forth below and in the applicable Tariff. IN NO EVENT SHALL CINCINNATI BELL BE LIABLE TO CUSTOMER, CUSTOMER'S OWN CUSTOMERS, OR ANY OTHER THIRD PARTY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY FOR ANY TYPE OF INDIRECT, CONSEQUENTIAL, INCIDENTAL, RELIANCE, ACTUAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR FOR ANY LOST PROFITS, LOST REVENUES, OR LOST SAVINGS OF ANY KIND, ARISING OUT OF OR RELATING TO THIS AGREEMENT WHETHER OR NOT CINCINNATI BELL OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL CINCINNATI BELL BE LIABLE TO CUSTOMER FOR ANY AMOUNT IN EXCESS OF THE AGGREGATE AMOUNT CINCINNATI BELL HAS PRIOR TO SUCH TIME COLLECTED FROM CUSTOMER WITH RESPECT TO SERVICES DELIVERED HEREUNDER.



17. **System Maintenance.** In the event Cincinnati Bell determines that it is necessary to interrupt Services or that there is a potential for Services to be interrupted for the performance of system maintenance, Cincinnati Bell will use good faith efforts to notify Customer prior to the performance of such maintenance and will schedule such maintenance during non-peak hours (midnight to 6:00 am. local time). In no event shall interruption for system maintenance constitute a failure of performance by Cincinnati Bell.
18. **Subject To Laws.** This Agreement is subject to, and Customer agrees to comply with, all applicable federal, state and local laws, and regulations, rulings, and orders of governmental agencies, including but not limited to, the Communications Act of 1934, the Telecommunications Act of 1996, the Rules and Regulations of the Federal Communications Commission ("FCC"), state public utility or service commissions (PSC), and tariffs. Customer further agrees to obtain and maintain any and all required certifications, permits, licenses, approvals, or authorizations of the FCC and/or PSC and/or any governmental body, including, but not limited to regulations applying to feature group termination and Letter of Agencies ("LOAs).
19. **Confidential Information.** During the term of this Agreement and for two years thereafter, neither party shall disclose any terms or pricing contained in this Agreement or any confidential information disclosed by the other party. Confidential information shall remain the property of the disclosing party and shall be labeled as either "Confidential" or "Proprietary". Under federal law, Customer has a right, and Cincinnati Bell has a duty, to protect the confidentiality of information regarding the telecommunications services Customer buys from Cincinnati Bell, including the amount, type, and destination of Customer's service usage; the way Cincinnati Bell provides services to Customer; and Customer's calling and billing records. Together, this confidential information is described as Customer Propriety Network Information (CPNI). Customer hereby consents to Cincinnati Bell sharing its CPNI with Cincinnati Bell affiliates, subsidiaries and any other current or future direct or indirect subsidiaries of the Cincinnati Bell parent company as well as Cincinnati Bell agents and authorized sales representatives, to develop or bring to new products or services to Customer's attention. This consent survives the termination of Customer's service and is valid until Customer affirmatively revokes or limits such consent.
20. **FCC Permits, Authorization And Filings.** Cincinnati Bell shall take all necessary and appropriate steps, as soon as possible, to procure the necessary authorizations and approvals, if any, from the FCC or any other federal or state agency required to deliver the Services hereunder to Customer. In the event that Cincinnati Bell cannot obtain all necessary federal, state, or local authority to provide Services hereunder, Cincinnati Bell shall promptly give written notice thereof to Customer and such notice shall constitute termination of this Agreement without further liability or obligation of either party.
21. **Force Majeure.** Cincinnati Bell shall not be liable for any failure of performance hereunder due to causes beyond its reasonable control including, but not limited to: acts of God, fire, explosion, vandalism, cable cut, flood, storm, or other similar catastrophe; any law, order, regulation, direction, action or request of the United States government or of any other government, including state and local governments having jurisdiction over either of the parties, or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or more of said governments, or of any civil or military authority; national emergencies; insurrections; riots; wars; or strikes, lock outs, or work stoppages.
22. **Survival.** The covenants and agreements of Customer contained in this Agreement with respect to payment of amounts due, confidentiality, liability, and indemnification shall survive any termination of this Agreement. The rights and obligations under this Agreement shall survive any merger or sale of either party and shall be binding upon the successors and permitted assigns of each party.
23. **Events Of Default.** A "Default" shall occur if (a) Customer fails to make payment as required under this Agreement and such failure remains uncorrected for five (5) calendar days after written notice from Supplier; or (b) either party fails to perform or observe any material term or obligation (other than making payment) contained in this Agreement, and any such failure remains uncorrected for thirty (30) calendar days after written notice from the non-defaulting party informing the defaulting party of such failure. If Customer uses the Services for any unlawful purpose or in any unlawful manner, Cincinnati Bell shall have the right to immediately suspend and/or terminate any or all Services hereunder without notice to Customer.
  - In the event of a Customer Default for any reason, Cincinnati Bell may: (i) suspend Services to Customer; (ii) cease accepting or processing orders for Services; (iii) withhold delivery of Call Detail Records (if applicable); (iv) remove phone system equipment (if applicable) and/or (v) terminate this Agreement. If this Agreement is terminated due to a Customer Default, Customer shall pay the following early termination penalty(s):
    - a) **1FB Total Access** - termination charge equal to all remaining amounts due or to become due. If applicable:
      - b) **CBAD "Long Distance"** – See attached Supplement.
      - c) **Internet** – See attached Supplement.
      - d) **CBW "Wireless"** – See attached Supplement.
      - e) **Audio/Web Conferencing** – See attached Supplement.
      - f) **Phone System** – See attached Supplement.

Customer agrees to pay Cincinnati Bell's reasonable expenses (including attorney and collection fees) incurred in enforcing Cincinnati Bell's rights in the event of a Customer default



- In the event of a Cincinnati Bell Default, Customer may terminate this Agreement without penalty. Customer will, however, remain liable for all charges incurred for Services provided prior to Customer's termination of this Agreement.

24. **Non-Solicitation; No Hiring.** For the Term of this Agreement (including all renewals hereto) and for a period of one (1) year thereafter, both parties agree not to hire, directly solicit, or accept direct solicitation through employment or otherwise, of any of the other party's employees or agents with whom it has had contact in the course of any of the services which are subject of this Agreement, unless the hiring party obtains the prior written consent of the other party. Should a party hire an employee or agent of the other party through employment or otherwise within this time period without the other party's prior written consent, the hiring party shall immediately pay as liquidated damages to the other party an amount equal to the employee's or agent's then current annual compensation, and any reasonable attorney's fees incurred by the other party in enforcing this Agreement. The restrictions in this Section shall not preclude the parties from employing any such person who contacts the other party through his or her own initiative or pursuant to a generally circulated public advertisement or other employment search.
25. **Upgrade.** If a Customer, who is currently under a term payment plan, wishes to upgrade to a larger bundle, they may do so without incurring termination charges or non-recurring charges. The Customer will be required to choose a term payment plan that is equal to or greater than their current term payment plan.
26. **Obligations Several And Not Joint.** Each party shall be responsible only for its own performance under the Agreement (including any supplements, attachments, exhibits, schedules or addenda) and not for that of any other party.
27. **Amendments / Riders.** This Agreement may only be modified or supplemented by an instrument in writing executed by each party.
28. **Invalidity.** Invalidity of one or more terms and conditions herein will not render invalid any of the other terms and conditions of this Agreement.
29. **Independent Contractor; Work on Customer's Premises.** If any purchase of products or services involves work by Cincinnati Bell on Customer's premises, Cincinnati Bell comply with all safety and security regulations of Customer that are communicated in writing to Cincinnati Bell prior to beginning such work.
30. **Miscellaneous.**
- 30.1 This Agreement and all Supplements constitutes the entire agreement between Customer and Cincinnati Bell with respect to the Products and Services, and no covenant, condition or other term or provision may be waived or modified orally.
- 30.2 This Agreement shall be binding upon and inure to the benefit of Cincinnati Bell and Customer and their respective successors and assigns.
- 30.3 If any term or provision of this Agreement or any Supplement is, to any extent, invalid or unenforceable, the remainder of this Agreement and/or Supplement shall not be affected thereby, and each provision of this Agreement and/or Supplement shall be valid and enforced to the fullest extent permitted by law.
- 30.4 No waiver of any of the terms and conditions hereof shall be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. Any waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given. The waiver by Cincinnati Bell or Customer of any breach of any obligation of Customer or Cincinnati Bell respectively shall not be deemed a waiver of such obligation or of any subsequent breach of the same or any other obligation. The subsequent acceptance of monthly payments hereunder by Cincinnati Bell shall not be deemed a waiver of any prior existing breach of Customer regardless of Cincinnati Bells' knowledge of such prior existing breach at the time of acceptance of such payments. The rights afforded Cincinnati Bell and Customer under this Paragraph 30.4 shall not be deemed to be exclusive, but shall be in addition to any rights or remedies provided by law.
- 30.5 The obligations, which Customer is required to perform during the term of this Agreement, shall survive the expiration or other termination of this Agreement and/or Supplement, but only to the extent that such obligations remain unperformed as of the termination of this Agreement and/or Supplement.
31. **Entire Agreement.** Customer acknowledges and agrees that no employee, officer, agent or representative of Cincinnati Bell has the authority to make any representations, statements or promises in addition to or in any way different than those contained in this Agreement, and that Customer is not entering into this Agreement in reliance upon any representation, statement or promise of Cincinnati Bell except as expressly stated herein.



**CBAD – LONG DISTANCE SUPPLEMENT**

Customer Initials

Date

MS

3/30/06

1. **No Resale.** Services provided hereunder are for Customer's own use and shall not be resold or provided to third parties for profit.
2. **Automatic Dialer Devices.** Customer acknowledges and agrees that use of autodialers, predictive dialers or other devices that generate automated outbound calls in conjunction with products and services provided under this Agreement is strictly prohibited. Cincinnati Bell Any Distance Inc. ("CBAD"), the service provider, may in its sole discretion, suspend service for issued pertaining to network congestion due to Customer's use of these devices, revise the pricing herein, or immediately terminate service under this Agreement immediately.
3. **Maintenance Charges And Ancillary Fees.** CBAD shall maintain its network; however, if Customer requests CBAD to send maintenance personnel to perform troubleshooting, who determines that the maintenance required was caused by Customer or Customer's equipment, additional reasonable charges will apply.
4. **Rate Adjustment.** If Customer's voice traffic disproportionately terminates to and/or originates in high cost areas, CBAD will provide Customer notice and thirty (30) days to correct its voice traffic. CBAD reserves the right to adjust Customer's rates during this thirty-day period. If Customer does not comply with CBAD's notice and elects not to continue to receive services with the rate adjustment, Customer may terminate this Agreement upon thirty (30) days written notice to CBAD, provided that Customer shall remain liable for all usage charges incurred prior to such termination as well as all termination charges as set forth in Section 10.
5. **Interstate/Intrastate Switched Voice Usage.** In consideration for Customer's Service Term Commitment on the signature page, CBAD will provide the Customer interstate/intrastate switched outbound and inbound voice service. The interstate/intrastate switched voice charge applies to Customer's interstate/intrastate long distance service originating and terminating in the continental United States.
6. **International Voice Usage Rates.** CBAD's international voice service usage rates, which vary by country, are subject to change upon thirty (30) days written notice. To view the international voice service usage rates, please visit CincinnatiBell.com or the specified web address as follows:  
<http://www.cincinnatiBell.com/business/longdistance/international/?id=universal3>
7. **Call Increments And Rounding.** Non-calling card interstate and intrastate outbound and inbound calls are billed in thirty (30) second increments with six (6) second additional increments thereafter. International outbound with the exception of **Mexico** will be billed in thirty (30) second increments with six (6) second additional increments thereafter. Calls to Mexico will be billed in sixty (60) second increments with sixty (60) second additional increments thereafter. All calls are rounded up to the nearest cent. Customer can view billing call detail records at <https://care.anydistance.com>.
8. **Calling Card Rates.** The domestic calling card rate is \$0.23 per minute with a \$0.69 surcharge per call. In addition to the per minute rate and standard surcharge, calling card calls placed from coin telephones will incur an additional \$0.60 surcharge per call. Calling card calls are billed in full minute increments. Surcharges are subject to change upon thirty (30) days written notice.
9. **Scope.** CBAD (i) shall use reasonable commercial efforts to commence provisioning of services to Customer on or before the Service Activation Date, which is scheduled to be the first date of order activation; and (ii) is authorized to act as Customer's agent in placing orders with other carriers in order to provide telecommunications services, if requested. Usage charges shall be based on (i) the rates for services set forth on the signature page and herein, as applicable; and (ii) actual usage of CBAD's network from establishment of a connection between the calling telephone and the called telephone to termination, as determined in CBAD's sole discretion
10. **Termination Charges.** Either party may terminate this Agreement or disconnect, in whole or in part, any services hereunder at any time and without cause upon thirty (30) days prior written notice to the other party. Notwithstanding the foregoing, if Customer terminates any service prior to the end of a Service Term, Customer shall reimburse CBAD for all costs of the implementation of such service(s). If Customer terminates any service prior to end of its term after service is activated, Customer shall pay the following fees if applicable: (i) all unpaid charges for service previously rendered; (b) one hundred percent (100%) of the CBAD Long Distance service plan monthly recurring charges, stated on the signature page, multiplied by the number of months remaining in the term; (c) one hundred percent (100%) of Customer's local access fees multiplied by the number of months remaining in the term; and (d) a pro-rata payback of all fees/charges previously waived by CBAD. The termination charges stated herein are liquidated damages and not a penalty.



<b>CBT – INTERNET SUPPLEMENT</b>	Customer Initials <i>LS</i>	Date <i>4/30/06</i>
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**1. Definitions.**

- 1.1 Internet - Defined as a Network of Global Computers as defined in 1996 running on Transmission Control Protocol (TCP), on top of Internet Protocol Version Four (IPv4).
- 1.2 ZoomTown - the Cincinnati Bell Telephone Company LLC ("CBT") brand name for ADSL (Asymmetric Digital Subscriber Line).
- 1.3 Business Class DSL - uses ADSL, a technology that enables users to obtain high-speed access to the Internet over existing copper phone lines, without purchasing an additional line.
- 1.4 Standard ADSL Service – speed of 3 Mbps/768Kbps. It includes FUSE as the ISP and 4 dynamic IP addresses.
- 1.5 Small Office ADSL Service – speed of 1.5 Mbps/768Kbps and 3Mbps/768Kbps. It includes FUSE as the ISP and 1 static IP address.
- 1.6 Enterprise ADSL Service – speed of 1.5 Mbps/768Kbps and 3Mbps/768Kbps. It includes FUSE as the ISP and 5 static IP address.
- 1.7 FUSE Dedicated Internet Access - Defined as the engineering, configuration, installation, maintenance and repair services provided by CBT to Customer necessary to interconnect Customer's network to the FUSE Dedicated Internet Access network for passage to the Internet for data transmission.
- 1.8 Demarcation Point - Defined as the point of physical separation of CBT's network, and associated responsibilities, from Customer's network and associated responsibilities. The location of the Demarcation Point shall be the physical interface for FUSE Dedicated Internet Access service presented by CBT to Customer.

**2. Provision Of FUSE Dedicated Internet Access.**

- 2.1 CBT will provide FUSE Dedicated Internet Access service as specified on the Pricing Agreement sheet. Other "optional" features relating to FUSE Dedicated Internet Access are also available to Customer if requested and agreed upon by both parties.
- 2.2 Subject to Section 3, below, CBT's provision of FUSE Dedicated Internet Access will include the maintenance and repair required to maintain the FUSE Dedicated Internet Access service in proper working order on CBT's side of the Demarcation Point.
- 2.3 FUSE Dedicated Internet Access will be available twenty-four (24) hours per day, seven (7) days per week, except as required to update, enhance, maintain and/or repair FUSE Dedicated Internet Access. CBT reserves the right to perform these tasks, as needed, during the off-peak hours, normally on Sundays from 12:00 a.m. to 6:00 a.m. Downtime due to scheduled maintenance is not subject to the Repair and Response policies in Section 3. If maintenance affects Customer, CBT will use reasonable efforts to notify Customer in advance.
- 2.4 If a major outage to CBT's network occurs, including FUSE Dedicated Internet Access, CBT will use its' best efforts to restore FUSE Dedicated Internet Access service as soon as reasonably possible, subject to any federal or state laws or regulations that may specify priority for restoration of telephone service, including without limitation, the National Security Emergency Preparedness Telecommunications Service Priority System.
- 2.5 CBT will furnish Customer with a telephone number that Customer will use to report any trouble with FUSE Dedicated Internet Access (1-800-FUSENET (387-3638), Option 4).
- 2.6 CBT will furnish Customer with Internet Protocol (IP) addresses within five (5) business days of receipt of executed Agreement.
- 2.7 Unless otherwise agreed in writing, CBT will provide FUSE Dedicated Internet Access service for TCP/IP based communication protocols for transmission across the Internet only.
- 2.8 The electrical signals of FUSE Dedicated Internet Access will operate in compliance with the following American National Standard Institute ("ANSI") or IEEE standards for Ethernet LANs operating at a Native Mode of 10/100 Mbps, IEEE Standard 802.3 (Carrier Sense Multiple Access with Collision Detection (CSMA/CD) Access Method and Physical Layer Specifications).

**3. Repair – Response Time.**

- 3.1 CBT guarantees the availability of Customer's network through the FUSE Dedicated Internet Access network and to the Internet 99.9% of the time. This availability will be determined by verification that Customer's network is "reachable" 99.9% of the times checked from the furthest point in CBT's FUSE Dedicated Internet Access network. For each 1% below the 99.9% stated availability, CBT will credit customer \$100.00. This guarantee only applies to FUSE Dedicated Internet Access. The physical transport is not included.
- 3.2 CBT will use its best efforts to repair any inoperable FUSE Dedicated Internet Access port within four (4) hours (residential-based dedicated Integrated Services Digital Network [ISDN] excluded) after Customer has notified BT that such port is inoperable or it has come to the attention of CBT that Customer's port is inoperable. If such port remains inoperable for more than eight (8) hours after Customer has notified CBT that such port is inoperable, CBT will credit Customer's account for an amount equal to one-thirtieth (1/30) of the applicable monthly charge for such port. The same credit will apply for each additional eight (8) hour period that the port remains inoperable.
- 3.3 The total amount of all credits for any one inoperable port will not exceed the monthly port charge for such inoperable port. The credit referred to herein shall be CBT's entire liability and Customer's exclusive remedy for any

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damages resulting from such inoperable port. The above-mentioned Repair and Response policies do not apply to any CBT facility outages (ISDN, T1, Frame Relay Network, LAN Advantage, Integrated Advantage).

**4. Customer's Obligations.**

4.1 Customer acknowledges billing for FUSE Dedicated Internet Access – Total Access will commence when CBT's transport facility is provisioned and facility channels are turned up for local service.

4.2 Customer will furnish, at its expense, such space, electrical power and environmental conditioning at Customer's premises as CBT may reasonably require in connection with performing its obligations hereunder. Customer will permit CBT reasonable access to Customer's premises, in accordance with Customer's normal security procedures, in connection with providing service hereunder.

4.3 Customer will provide, install and maintain, at its expense, all equipment and facilities necessary for LAN interconnection on the Customer's side of the Demarcation Point. Customer shall be responsible for insuring that the operating characteristics of such equipment and facilities are compatible with CBT's FUSE Dedicated Internet Access and conform to the Technical Reference Specifications furnished by CBT to Customer in connection with this Agreement.

4.4 Customer will cause its electrical signals at the Demarcation Point to conform to the applicable ANSI or IEEE standards set forth in Section 2.8, above. Customer shall furnish any additional equipment or facilities necessary to comply with such standards at their expense.

4.5 Without the prior written consent of CBT, Customer will not access, or attempt to access, any equipment or facilities furnished by CBT in connection with this Agreement. Customer agrees to use Internet access only for lawful purposes. Any content that CBT in its sole discretion considers being obscene, lewd, lascivious, filthy, excessively violent, harassing, harmful, offensive or otherwise objectionable shall entitle CBT to immediately terminate service without notice. Similarly, conduct by Customer that in CBT's sole discretion restricts or inhibits any other Internet Service Provider, subscriber, person or entity from using or enjoying FUSE or another service will not be permitted and shall entitle CBT to immediately terminate service without notice. Examples of such conduct include, but are not limited to, sending of Unsolicited Commercial Email (UCE), Unsolicited Bulk Email (UBE) or "SPAM", Commercial advertisements in USENET News groups not intended for that purpose, attempts to access remote computing systems without permission, port scanning and any attempts to subvert any network security measures of FUSE or any other network. Customer will indemnify and hold harmless CBT, its officers, directors, employees and agents, from and against any loss or expense, of whatever nature, arising out of any unauthorized access to any equipment or facilities furnished by CBT in connection with this Agreement.

4.6 Prior to requesting repair service from CBT, Customer will use its best efforts, including but not limited to performing reasonable diagnostic tests, to verify whether any trouble with the FUSE Dedicated Internet Access service is a result of the Customer's equipment or facilities. Customer shall be responsible for any such trouble resulting from the Customer's equipment or facilities. Customer will cooperate with any joint testing of FUSE Dedicated Internet Access reasonably requested by CBT.

**5. Procedures Regarding Third Party Complaints.** If CBT receives a complaint that any content provided by Customer through the use of FUSE, or provided by any party using Customer's account as permitted by this contract, infringes any copyright, trademark, service mark, or other intellectual property right of any third party; or constitutes fraud, false advertising, or misrepresentation; or constitutes libel, slander, or invasion of the right of privacy or publicity of any third party; or otherwise violates the terms of this contract; CBT reserves the right to take appropriate action including, without limitation, (i) taking down the offending material in compliance with the Digital Millennium Copyright Act, 17 U.S.C. § 512, (ii) removing or disabling Customer's access to the FUSE service, and/or (iii) terminating Customer's Subscription, with or without prior notice to Customer.

**6. Title To Equipment And Facilities.** All equipment and facilities used by CBT in providing FUSE Dedicated Internet Access hereunder will remain the sole property of CBT, whether or not attached to or embedded in realty, unless otherwise agreed to in writing by the parties with respect to specific equipment.

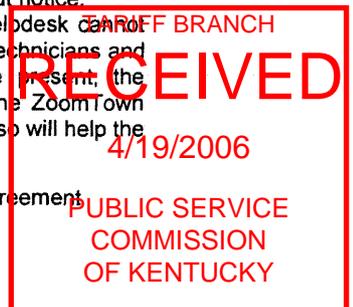
**7. Computer / Equipment Requirements.**

7.1 In order to receive ADSL, Customer must have minimum computer requirements. Current information can be found on cincinnati@bell.com website or through a CBT sales representative.

7.2 The following hardware and software must be installed on your computer system (collectively referred to as "Equipment") in order to receive ADSL: (1) ADSL Modem (provided by CBT); (2) telephone line microfilters, if needed (provided by CBT); (3) Ethernet Card, if needed (provided by CBT); (4) Network Interface Card; and (5) ZoomTown CD-Rom. Customer agrees that all of the Equipment listed below belongs to CBT. CBT grants you a non-exclusive, non-transferable limited license to use the Equipment to access CBT's/ZoomTown's network only for use in connecting from authorized locations in accordance with this Agreement. Loss, theft or physical damage to the Equipment is your responsibility.

**8. Access To Zoomtown Equipment, Software And/Or Facilities.** Customer agrees that they will not access, or attempt to access any equipment, software (including reverse engineering, decompiling or disassembling the software or attempting in any manner to recreate the source code or object codes) or facilities (including remote computing systems) furnished in connection with this Agreement. Any attempt by Customer to access and/or subvert any such equipment, software or facilities without permission, and/or any attempts by Customer to subvert any network security measures of CBT/ZoomTown or any other network shall entitle CBT/ZoomTown to immediately terminate services without notice.

**9. Networking.** Due to the every growing complexity of networked computers, the ZoomTown Helpdesk cannot advise or assist with general networking setup. Customer inquiries will be directed to 3<sup>rd</sup> party computer technicians and network equipment manufacturers. During troubleshooting sessions where networked computers are present, the ZoomTown Helpdesk technician will ask the customer to disconnect their networked equipment from the ZoomTown equipment, and directly connect the ZoomTown hardware to one Windows based or Macintosh PC. Doing so will help the



technician diagnose issues with the ZoomTown equipment at the customer's premises. *Failure to comply with the ZoomTown technician's request in this matter will release ZoomTown's responsibility for further diagnosis.*

10. **Warranties.** The manufacturers warrant the ADSL modem, Telephone Line Microfilters, and Network Interface Card for one (1) year from initiation of service ("Manufacturer's Warranty"). Except for the Manufacturer's Warranty, the Equipment is provided on an "as is" basis without warranties of any kind, either express or implied, including the implied warranty that the Equipment is reasonably fit for the purpose for which it is to be used and the implied warranties of merchantability and fitness for a particular purpose, unless such warranties are legally incapable of exclusion. The manufacturer will perform warranty service, and Customer should follow their guidelines in invoking Customer rights under their warranties.

11. **Acceptable Use.** If ZoomTown becomes aware, through subscriber complaints or otherwise, of any Content that it, in its sole discretion, considers to be obscene, lewd, lascivious, excessively violent, harassing, harmful, offensive, or otherwise objectionable, ZoomTown shall have the right, but not the responsibility, to immediately remove such Content and/or to terminate Customer service without notice. This policy applies to any Content made available by you, your customers, or generally made available through Customer account. Customer is solely responsible for all information, communications, software, photos, video, graphics, music, sounds, and other material and services (collectively referred to as "Content") that is transmitted through your Account and/or make available on or through your Web site or any of your customer's web sites.

12. **Termination Charges.**

12.1 In the event that Internet service under this Agreement is terminated by Customer for convenience or for reasons other than CBT's breach of this Schedule prior to the expiration of the Term, the Customer will pay a termination charge equal to all remaining amounts due or to become due, including but not limited to all monthly charges for which Customer would have been responsible if the Customer had not terminated prior to the expiration of the Term for that Service.

12.2 All terminations in Internet service will result in IP addresses assigned to Customer(s) reverting back to CBT.



**CBW – WIRELESS SUPPLEMENT**

Customer Initials

Date

*[Handwritten initials]*  
*9/30/06*

1. **Distribution.** Cincinnati Bell Wireless LLC's ("CBW"), initial delivery of cellular phone equipment will be made to the Customer employee population over a scheduled period of time (to be determined) so as not to adversely affect the business operations of Customer. CBW will provide each Customer employee with (a) his/her corporate cellular phone, (b) training on the functions of the equipment, and (c) specifics surrounding the service including but not limited to local area coverage, billing and roaming/long distance charges.

2. **Availability/Interruption.** Service is available to Customer's phone when it is within the operating range of the CBW system and may be available outside of that area in other participating carrier service areas. Service maybe subject to transmission limitations or interruptions caused by Customer nonpayment, service area limitations, (such as cell site availability), customer equipment or its installation, weather, atmospheric, magnetic, environmental, topographic and other like conditions.

3. **Unauthorized Usage.** Customer may not program the number into any equipment other than the phone or change the electronic serial number (ESN) or Equipment Identifier (EID) of the phone. In the event Customer's equipment is lost, stolen, or otherwise absent from the Customer's possession or control, Customer shall be liable for all usage and toll, long distance and roaming charges originating from Customer's cellular number until the loss, theft or other occurrence is reported to CBW.

4. **Use Of Service/Phone Number.** Customer agrees not to use the phone or Service for any unlawful or abusive purpose or in any way, which damages CBW property or interferes with or disrupts our system or other users. Customer will comply with all laws while using the Service and will not transmit any communication, which would violate any laws, court order, or regulation, or would likely be offensive to the recipient. Customer is responsible for all content Customer transmits through their phone. CBW has the right to interrupt or restrict Service to Customer number, without notice to Customer, if CBW suspects fraudulent or abusive activity, or in our efforts to combat fraudulent use. Resale of Service is prohibited without prior written contractual arrangements with CBW and any required regulatory approvals. Customer is responsible for ensuring that their phone is compatible with CBW Service and meets federal standards. Customer phone may contain pre-installed software necessary to use Service. By using Service, Customer agrees to abide by the terms and conditions of any applicable software license.

5. **Services And Rates.**

5.1 The monthly charge shown for a usage based (per minute) plan will only be a projection – monthly charges billed will be based on actual usage and minutes.

5.2 Pricing Agreement discounts apply only to the total number of devises specified. All additional devices will be at either the percentage off specified on the wireless device exhibit or suggested retail pricing.

6. **Billing And Payment.** Bills for charges payable by Customer will generally be rendered monthly in a format CBW chooses, which may change from time to time. Billing cycles do not necessarily correspond to calendar months, and may vary in length. When a billing cycle covers less than or more than a full month, CBW may make reasonable adjustments and prorations. If Customer authorizes payment by credit card, no additional notice or consent will be required for billings to that credit card or account. Payment of all charges is due upon receipt of invoice.

7. **Account Information.** Any person able to provide your name, address, the last four digits of your social security number, and the number is authorized by Customer to receive information about and make changes to your account, including adding new numbers. Under federal law, Customer has a right, and CBW has a duty, to protect the confidentiality of information about the amount, type and destination of Customers wireless service usage (CPNI). Customer consents to CBW sharing your CPNI with Cincinnati Bell, its affiliates and its contractors, to develop or bring to your attention any products and services. This consent survives the termination of Customer's Service and is valid until Customer removes it.

8. **CBW Internet Unlimited Data.** The end-user's principal residence must be within an eligible CBW area. For corporate responsibility customers, the end-user's principal residence or principal business address must be within an eligible CBW area. (Please ask your Sales Representative for address verification.) Eighty Percent (80%) of all usage on the CBW Internet Unlimited Data plan must be within CBWs' local service area. The CBW Internet Unlimited Data Plan may be used with wireless devices for the following purposes: (i) Internet browsing; (ii) e-mail; (iii) intranet access (including access to corporate intranets, e-mail and individual productivity applications like customer relationship management, sales force and field service automation). This plan may not be used with service devices or with host computer applications. Such prohibited uses include, but are not limited to, Web camera posts or broadcasts, continuous JPEG file transfers, automatic data feeds, telemetry applications, automated functions or any other machine-to-machine applications (i.e. FTP). Data sessions cannot be used as a substitute for private lines or frame relay connections. CBW reserves the right to deny or terminate service, without notice, to any person that uses CBWs' network in any manner prohibited above or when usage adversely impacts the CBW network or service levels. Roaming charges (outside the CBW and AWS networks) will be billed at \$0.015/kbyte. International roaming (outside the US and Canada) will be billed at \$0.02/Kbyte. BlackBerry devices may require an additional software purchase (Blackberry Enterprise Server). Acceptance of Web Client End User Agreement may be required.

9. **Termination.** Customer may terminate a cellular number within the first thirty (30) days of activation without penalty. If after thirty (30) days activation and prior to contract expiration a cellular number is terminated by Customer for



any reason, or terminated by CBW for cause, then Customer will pay, in CBW's sole discretion, an early termination fee of up to \$150.00 per cellular number terminated, in addition to any promotion amounts (specifically related to each terminated cellular number) applied to Customer's account, including, but not limited to: free airtime minutes, equipment, waiver or reduction of any one-time or recurring charge.

<b>CBAD – AUDIO/WEB CONFERENCING SUPPLEMENT</b>	Customer Initials <i>KEB</i>	Date <i>3/30/06</i>
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**1. Definitions.**

1.1 On-Demand Audio Conferencing - Available 24x7x365 via local and toll free access domestically and internationally, you can host a meet-me style audio conference call anytime from anywhere. Have up to 100 participants on the call and have access to features such as operator assistance, roll call, name recording and conference recording. Customers are billed for each minute of use per participant on the call.

1.2 Operator Attended Conferencing - For high profile calls, schedule an operator attended conference and have your participants greeted by a professionally trained operator with your own custom greeting script. The operator can transcribe participant information; conduct polling sessions and even moderate question and answer sessions. You can have an unlimited number of callers on the bridge with as little as 72 hours notice.

1.3 Web Conferencing Lite (www.cinbell.com/weblite) - Use Web Conferencing Lite to share Word, Excel or PowerPoint documents with up to 100 people over the Internet. Use the same access codes for your web conference as you do for your audio conference. Features chat, transparent pointer, pass control and slide navigation control.

1.4 Web Conferencing Pro (www.cinbell.com/webpro) - In addition to all of the features of Web Conferencing Lite, Pro allows you to share applications. Share any application running on your desktop – and even pass control to your participants to enjoy the highest level of secure online collaboration available.

1.5 Customer Self-Serve Portal (www.cinbell.com/conferencing/admin) - All conferencing services share online administration and reporting through the Cincinnati Bell Any Distance Inc. ("CBAD") Customer Self-Serve Portal. Here you can change account details, add Chairperson accounts, download call recordings and view reporting on each employee's conferencing account. As a CBAD Audio/Web Conferencing customer, you get all of the administration tools with none of the hassle of having to contact anybody to make routine changes to your account.

**2. Customer Responsibilities.**

2.1 Client shall be solely responsible for all access to the Audio/Web Conferencing Service (hereinafter "Service") through Client's own local or long distance carrier as applicable. Client agrees to comply with CBAD's policies respecting the Service as provided from time to time, or to which you are directed when using the Service. While using the Service, Client shall not transmit or otherwise distribute information constituting or encouraging conduct that would constitute a criminal offense or give rise to civil liability, or otherwise use the Service in a manner which is contrary to law or CBAD's policies. In addition, without incurring liability, CBAD may immediately and without notice: (i) discontinue or suspend the Services; (ii) cancel a request for Services; or (iii) temporarily block service to a particular authorization code, if it deems such action is necessary, either to prevent Improper Use or to protect against fraud or the commission of suspected illegal activities, or to otherwise protect its personnel, agents, facilities or services.

2.2 Client agrees to pay the charges, including applicable taxes (collectively the "Charges"), incurred in connection with the provision of and/or use of the Service through Client's Account in accordance with the rates and terms established by CBAD for the Service. For conference calls involving one hundred (100) or more participants, in the event Client overestimates or overbooks the number of participants for Service, Client agrees to pay \$1.50 per participant in connection with such overestimate/overbooking.

3. Suspension Or Restriction Of Service. CBAD may suspend or restrict the use of Service at any time if (i) the operations or efficiency of the Service is impaired by the use of the Account; or (ii) any amount is past due from Customer to CBAD; or (iii) there has been or is any breach of these Terms. CBAD shall have no responsibility to notify any third party of such termination or suspension. Any termination of this Supplement shall not relieve Customer from termination charges or any amounts owing or other liability accruing hereunder prior to the time that such termination becomes effective

4. Limitation Of Liability. In the event of any breach by CBAD, its affiliates or its agents including any breach of a fundamental term or any negligence, Client's exclusive remedy shall be to receive from CBAD payment for actual and direct damages to the lesser of an amount equal to the charges paid hereunder by Client to CBAD in the last three (3) months, or to a refund of charges for the affected Service proportionate to the length of time the problem existed.

**5. Services And Rates.**

**A. Total Access Audio Conferencing Rates**

<i>On-Demand Audio Conferencing Minimum Commitment in terms of Minutes per Month*</i>	<i>Local/ Direct Dial Inbound (513) 621-7481</i>	<i>Domestic Toll-Free / Domestic Outbound (877) 278-7481</i>	<i>International Toll-Free - Inbound</i>	<i>Operator Attended Toll Free Dial-In</i>	<i>Operator Attended Domestic Dial-Out</i>
<i>No Commitment</i>	\$ 0.140	\$ 0.160	\$ 0.380	\$ 0.340	\$ 0.440
<i>250</i>	\$ 0.135	\$ 0.155	\$ 0.380	\$ 0.335	\$ 0.440
<i>500</i>	\$ 0.130	\$ 0.150	\$ 0.380	\$ 0.330	\$ 0.440
<i>750</i>	\$ 0.125	\$ 0.145	\$ 0.380	\$ 0.325	\$ 0.440
<i>1,000</i>	\$ 0.120	\$ 0.140	\$ 0.380	\$ 0.320	\$ 0.440



**B. Total Access Web Conferencing Rates**

<b>Web Conferencing Minimum Commitment in terms of Minutes per Month*</b>	<b>Web Conferencing Lite</b>	<b>Web Conferencing PRO</b>
No Commitment	\$ 0.120	\$ 0.180
250	\$ 0.115	\$ 0.175
500	\$ 0.110	\$ 0.170
1,000	\$ 0.105	\$ 0.165

\* Monthly charges billed will be based on actual usage and minutes. Charges are per participant, per minute per call.

5.2 There is a maximum of ten (10) Chairpersons per account and each Chairperson would receive sixty (60) free minutes per month. These minutes are reflective of each minute used by each participant on a conference call. Ex: Chairperson sets up a call with 6 people that lasts 20 minutes. The first 10 minutes of the call would be free for the Chairperson (10 minutes x 6 participants = 60 minutes) and the next 10 minutes would be charged at normal "per minute" rate.

5.3 Additional surcharges & taxes apply plus any one-time nonrecurring charges unless otherwise noted. Any other regulated services not listed herein which are provided by CBAD to Customer, shall be governed by the rates, terms, and conditions of the appropriate tariff. CBAD shall comply with all applicable laws, rules, regulations, ordinances, and codes (collectively, "Legal Requirements") in connection with the provision of the Service.

5.4 CBAD reserves the right to examine Customer's credit record and to require a deposit or other security, including payment by credit card, before it provides or continues Audio Service to Customer. Should CBAD at any time consider a credit deposit to be insufficient, a further credit deposit may be required. CBAD will determine, at its discretion, how Customer's deposit or other security will be allocated to satisfy outstanding amounts owed by Customer to CBAD. By subscribing to the Audio Service, Customer authorizes CBAD to investigate Customer's creditworthiness and agrees, from time to time, to provide appropriate authorizations and financial information as CBAD may reasonably request for this purpose.

**6. Customer Contact/Account Owner**

**6.1 Primary:**

Contact Name:	Telephone No.
Contact E-Mail Address:	
Billing Contact Name:	Billing Telephone No.
Billing Contact E-Mail Address:	

**6.2 Chairpersons:**

1.

Contact Name:	Telephone No.
Address:	E-Mail Address:

2.

Contact Name:	Telephone No.
Address:	E-Mail Address:

7. **Termination.** Rates in this Supplement are in consideration of Customer's Commitment Level(s) (Section 5A & 5B) above; in the event Customer does not meet its Commitment Level(s), as defined herein, by the end of each twelve (12) month period, Customer will pay CBAD the difference between the applicable Commitment Level and the total amount paid for Services during the previous year (the "Twelve Month True-Up").



<b>PHONE SYSTEM SUPPLEMENT</b>	Customer Initials	Date
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1. **Deliverables.** Deliverables are listed on signature page. All implementation services will be provided to Customer by either an onsite Cincinnati Bell Telecommunications Services LLC ("CBTS") technician or a remote CBTS Partner Programmer depending on the installation requirements.
2. **Equipment Use; No Rights of Ownership.** Customer acknowledges that CBTS is providing equipment as identified on the signature page ("Equipment") and software required for the Equipment to operate as part of this service for the specified term. In addition, Customer acknowledges that the Equipment and software belongs to CBTS and therefore none of the Equipment constitutes Customer property nor does Customer have any claims to title or ownership of the Equipment or software. Customer shall not permit any Equipment to be installed in, or used, stored or maintained with, any real property in such a manner or under such circumstances that any person might acquire any right in such Equipment paramount to the rights of CBTS by reason of such Equipment being deemed to be real property or a fixture thereon. Customer shall, promptly upon the reasonable request of CBTS, obtain a written acknowledgment from the owner, landlord and/or mortgagee of the premises at which the Equipment is located that such owner, landlord and/or mortgagee will not at any time assert any interest in such Equipment or that such Equipment constitutes part of real property. Customer shall, at CBTS' request, affix to the Equipment in a prominent place any tags, decals or plates furnished by CBTS indicating CBTS' ownership and Customer shall not permit their removal or concealment.
3. **Equipment Location; Inspection.** Customer will at all times keep the equipment in its sole possession and control. The Equipment shall not be moved from the location(s) stated in this Agreement without the prior written consent of CBTS with the exception of handsets, which may be moved within Customer's premises without notifying CBTS. CBTS technicians must move all other equipment, which will incur a T&M cost to Customer. CBTS shall have free access to the Equipment at all reasonable times for the purpose of inspection. Customer shall immediately notify CBTS of all details concerning any damage to, or loss of, the Equipment arising out of any event or occurrence whatsoever including, but not limited to, the alleged or apparent improper functioning or operation of the Equipment.
4. **No Alterations.** Customer may not make alterations, including the removal of components, or add attachments to the Equipment.
5. **Upgrades.** CBTS at its sole discretion may upgrade or replace the equipment as long as the initial functionality is, at a minimum, maintained.
6. **Proper Use; Maintenance.** Customer shall not use the Equipment in any manner or for any purpose for which the Equipment is not designed or reasonably suitable. Customer shall comply with all governmental laws and regulations regarding the operation and use of the Equipment. CBTS shall, during the term of this Agreement, keep the Equipment in good working order and condition, and ensure that qualified personnel perform all necessary maintenance and repairs. REPLACEMENT PARTS MAY BE NEW, USED, REMANUFACTURED OR REFURBISHED. Any removed parts will become the property of CBTS. Warranty work will be performed during normal business hours, Monday through Friday, 8:00am to 5:00pm Eastern Standard Time excluding CBTS' holidays.
7. **Warranties.** CBTS PROVIDES THE EQUIPMENT "AS IS" AND, NOT BEING THE MANUFACTURER OF THE EQUIPMENT, MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE EQUIPMENT'S MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
8. **Risk of Loss on Customer; Insurance.** Until the Equipment is returned to CBTS at the end of the term, Customer assumes responsibility for all risks of physical damage to or loss or destruction of the Equipment. During the term of this Agreement, Customer, at its own expense, shall keep in effect an insurance policy, which insures against all risks of loss or damage to the Equipment from every cause whatsoever and is in an amount not less than the replacement cost of the Equipment. CBTS, its successors and assigns shall be named as additional insureds and loss payees on such policies, which shall be written by an insurance company of recognized responsibility which is reasonably acceptable to CBTS. Customer hereby irrevocably appoints CBTS as Customer's attorney-in-fact coupled with an interest to make claim for, receive payment of, and execute any and all documents that may be required to be provided to the insurance carrier in substantiation of any such claim for loss or damage under such all risk insurance policy, and to endorse Customer's name to any and all drafts or checks in payment of the loss proceeds. Such policy shall provide that no less than thirty (30) days written notice shall be given CBTS prior to cancellation of such policy for any reason. Evidence of such insurance coverage shall be furnished to CBTS no later than the installation date. In the event sufficient evidence of such insurance coverage is not provided to CBTS on or before the installation date, CBTS shall have the option of obtaining insurance coverage on behalf of the Customer and billing Customer an additional amount for such coverage.
9. **Damage to or Loss of Equipment.** If any piece of Equipment is rendered unusable as a result of any physical damage to, or loss or destruction of, the Equipment, or title thereto shall be taken by any governmental authority under power of eminent domain or otherwise, Customer shall give CBTS immediate notice hereof and this Supplement shall continue in full force and effect without any abatement of monthly charges. CBTS shall determine, within fifteen (15) days after the date of occurrence of any such damage or destruction, whether such Equipment can be repaired. In the event that the piece of Equipment cannot be repaired or such Equipment was lost, destroyed or title thereto taken, Customer shall pay to CBTS the present undepreciated value of the Equipment within fifteen (15) days of such assessment. Upon


  
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 OF KENTUCKY

payment of such amount, Customer's obligations to pay further monthly charges will end with respect to such piece of Equipment (but not with respect to any remaining Equipment or services).

10. **End of Term; Equipment Return.** Unless Customer purchases the Equipment as explained in Section 11, at the termination of this Agreement and/or Supplement for all Equipment, CBTS shall have the right to enter Customer premises during normal business hours on the pre-scheduled de-installation date to pick up the equipment. The Equipment must be in the same operating order, repair, condition and appearance as on the installation date, reasonable wear and tear only excepted.

11. **Purchase of Equipment.** The customer may, at their option, purchase the equipment. The purchase price is the fair value of the equipment after month thirty-two (32) of the Agreement. The fair value is estimated to be equal to four (4) month's payment and will be billed in four (4) equal installments beginning in month thirty-three (33). If Customer exercises the option to purchase, CBTS shall transfer title to Customer "as-is, where-is," without representation or warranty of any kind. Following such Equipment purchase by Customer, the monthly fees for subsequent months will only include maintenance charges, i.e., no charges for the Equipment and software. If the Customer chooses not to purchase the equipment, they will need to notify CBTS in writing prior to the beginning of month thirty (30) of the Agreement.

12. **Maintenance.**

12.1 Maintenance includes preventive maintenance as deemed appropriate by CBTS and remedial maintenance, including replacement parts, required for Products used under normal operating conditions.

12.2 CBTS may access your system remotely for the purpose of performing repairs to Products during maintenance situations. Customer will cooperate with CBTS in such situations by making remote access available to CBTS for this purpose. If a Customer location is outside of CBTS' local operating territory, which includes Greater Cincinnati and Greater Dayton, Customer will provide, at Customer's expense, a telephone line into the switch that will be used solely for this purpose.

12.3 Maintenance does not cover repair for damages or malfunctions caused by: (1) use of non-CBTS furnished equipment, software or facilities with the Products; (2) unauthorized modification of the Product; (3) Customer's failure to follow installation, operation or maintenance instructions, including Customer's failure to permit CBTS timely remote access to the Products; (4) failure or malfunction of equipment, software, or facilities not serviced by CBTS; (5) actions of non-CBTS personnel; or (6) Force Majeure conditions as stated in this Agreement. If Customer requests, CBTS at its sole option may perform repair or other services not covered by this Maintenance to Customer's Product at CBTS' standard rates for such service.

12.4 Customer agrees to notify CBTS prior to moving a Product from the location where it is installed. Additional charges may apply if CBTS incurs additional costs in providing Maintenance as a result of the move.

12.5 Post Warranty Maintenance is a minimum of twelve (12) months and automatically renews annually for twelve (12) month periods.

13. **Termination of Maintenance Following Purchase.** Customer may terminate maintenance of Equipment it has purchased pursuant to Section 11 at any time by giving CBTS a minimum of thirty (30) days advance written notice, however there will be a termination charge equal to all remaining amounts due or to become due, including but not limited to all monthly charges for which Customer would have been responsible if the Customer had not terminated prior to the end of the initial or renewal term.

14. **No Resale.** Services provided hereunder are for Customer's own use and shall not be resold or provided to third parties.

15. **Remote Access.** All systems that are to be installed by CBTS are required to have remote capabilities. This includes the hardware (modem), and phone line(s) that will allow CBTS personnel to remotely administer, troubleshoot, and repair systems.

16. **Implementation Timing.** For CBTS-installed products, CBTS will use diligent efforts to begin installation on the date scheduled by CBTS and Customer. If no such date is scheduled, CBTS will schedule delivery and installation based on CBTS' normal product delivery and installation intervals. If Customer is unable or unwilling to have the products installed on the originally scheduled installation date, CBTS may initiate billing for amounts due hereunder as of the originally scheduled installation date. Product prices may change if Customer delays installation by more than thirty (30) days after the originally scheduled installation date. In such case, Customer may be billed the CBTS prices or charges in effect on the actual date of installation unless CBTS has elected to initiate billing as of the originally scheduled installation date. If Customer delays delivery or installation by more than thirty (30) days after the originally scheduled delivery date or installation date, CBTS may, at its option, cancel the order and/or bill Customer for Cancellation charges as set forth in this Agreement.

17. **Site Preparedness.** Customer agrees, at its sole expense, to provide the proper environment and electrical and telecommunications connections for the products. Customer is responsible for notifying CBTS of the presence of any hazardous material (e.g., asbestos) on its premises prior to the commencement of installation (or other services). Customer is also responsible for the removal of any such hazardous material or correction of any hazardous condition that affects CBTS' obligations under this Agreement. Customer agrees to allow CBTS to perform personal air monitoring of CBTS employees while they are performing work activities on Customer's premises. Customer also agrees to allow CBTS to perform surface wipe samples to determine if asbestos dust (or any other hazardous material) exists in the work area. Installation (or other services) will be delayed until Customer removes or corrects the hazardous condition. CBTS



shall not be liable to Customer as a result of any such delays. Customer is responsible for any revisit charges that may be incurred as a result of not having their facility in a ready state at the time onsite work is scheduled to be initiated.

**18. Implementation Services.**

**18.1 Hardware Installation.** Hardware installation includes the placement and testing of all CBTS-provided systems and/or adjuncts (excluding wiring and reuse of telephone sets). This service also includes the unpacking and removal of all packing materials. Customer is responsible for the provisioning and placement of any power source(s) (AC and/or DC).

**18.2 Trunk Installation and Cross Connects.** A CBTS installation technician will install and test each analog and digital trunk. If network problems are detected, it is Customer's responsibility to perform further troubleshooting and resolve the problems. The network facility's point of demarcation must be in the switch equipment room. This service includes the placement of cross-connects in the switch room that are utilized at the Main Distribution Field (MDF) between the Partner station and trunk ports and the station and trunk terminations (e.g., where the station wires terminate on the 110 hardware in the switch room and the trunks terminate on an RJ-21 or 110-hardware provided by the facilities (trunks) vendors. Cross-connects in intermediate wire closets (e.g., vertical riser cable or horizontal tie cable), or campus inter-building "black" cable or fiber optic cable, is the responsibility of Customer or its cabling vendor. Customer is required to provide CBTS with cable pair, jack number, station number, and device type.

**18.3 Set Installation.** CBTS will install end-user sets including unpacking, installation, and testing of the default configuration. This service does not include software installation on Customer's PC.

**18.4 Set Configuration.** CBTS will work with the customer to determine the configuration of each set and will provide customer with appropriate button labels. Remaining buttons will not be labeled.

**18.5 Acceptance Testing.** Once configured to Customer's specifications as defined in this SOW, CBTS will perform acceptance tests. This ensures proper installation as outlined in this SOW. Any problems encountered as a result of installation will be corrected by CBTS.N

**18.6 Normal Work Hours.** These implementation services will be performed from 8:00am to 5:00pm local time, Monday through Friday, with cut over from 7:00am to 7:00pm local time, Monday through Friday, excluding CBTS' designated holidays. Any work performed outside Normal Work Hours as defined above will incur incremental premium charges.

**18.7** CBTS may subcontract work to be performed under this SOW, but shall retain responsibility for the work.

**19. Post-Implementation Training.** Following installation, CBTS will provide up to one (1) hour of End-user & Administrator Training. The End-user Training covers basic set/system features and includes use of the voicemail system. The System Administration training will cover basic adds, moves and changes. Additional training will be billed at \$100/hour with a two (2) hour minimum.

**20. Post-Implementation Technical Support.** For five (5) days following training as described above, CBTS will provide up to a maximum of two (2) total hours of remote software support at no charge to Customer. If Customer experiences any problems, please contact CBTS at (513) 397-9473 Option 2. CBTS will determine whether the issue is in or out of maintenance scope. If deemed to be out of scope, troubleshooting and resolution performed by CBTS will be billed at \$50/half-hour.

**21. Customer Responsibilities.**

21.1 Provide single point of contact with decision-making and approval authority.

21.2 Facilitate onsite and remote access as required. All access must be provided in a timely manner, or CBTS will not be held liable for any delay in implementation.

21.3 Provide onsite suitable working environment for CBTS technicians when requested.

21.4 Be responsible for any third party vendor's timely performance so as not to delay CBTS' work schedule.

21.5 Any Customer PCs/servers that are to be used with Partner applications need to be fully operational prior to the CBTS technician's onsite date for implementation.

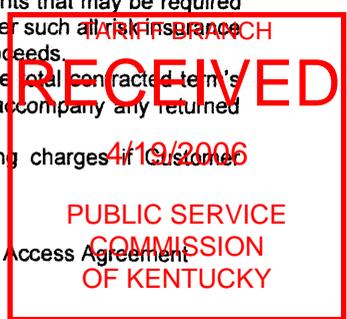
21.6 Provide marked floor plans of area for placement of sets.

21.7 Meet all space and power requirements for the equipment prior to installation.

21.8 For all equipment residing on Customer premises, until the equipment is returned to CBTS at the end of the services term, Customer is responsible for all risks of physical damage to, destruction or loss of the equipment, howsoever caused. Customer, at its own expense, shall keep in effect all risk and public liability insurance policies covering the equipment provided by CBTS under this Supplement. Customer's insurance policy shall insure against all risks of loss or damage from every cause whatsoever and shall be for an amount not less than the replacement cost of the equipment. CBTS, its successors and assigns shall be named as additional insureds and loss payees on such policies, which shall be written by an insurance company of recognized responsibility which is reasonably acceptable to CBTS. Evidence of such insurance coverage shall be furnished to CBTS no later than the installation date of the equipment. Such policy shall provide that no less than thirty (30) days written notice shall be given CBTS prior to cancellation of such policy for any reason. Customer hereby irrevocably appoints CBTS as Customer's attorney-in-fact coupled with an interest to make claim for, receive payment of, and execute any and all documents that may be required to be provided to the insurance carrier in substantiation of any such claim for loss or damage under such all-risk insurance policy, and to endorse Customer's name to any and all drafts or checks in payment of the loss proceeds.

**22. Cancellation Fees.** CBTS will assess a cancellation fee of twenty percent (25%) of the total contracted term's service price for any order cancelled after placement. All manuals and software media must accompany any returned equipment.

**23. Change of Installation Location.** There may be additional Installation and shipping charges if Customer changes the installation location.



24. **Product Warranty Exclusions.** In no event will CBTS' obligation to request the manufacturer repair or replace any product, or to refund any purchase price, extend to damage, malfunctions or performance problems caused by: (i) unauthorized modification to a product; (ii) use of improper equipment, software or facilities with the product; (iii) Customer's failure to follow installation, operation or maintenance instructions; (iv) failure or malfunction of equipment, software or facilities not provided or serviced by CBTS; (v) actions of non-CBTS personnel; or (vi) Force Majeure conditions as defined in this Agreement. Customer agrees to notify CBTS prior to moving a product from the location where it is installed. Additional charges may apply if CBTS incurs additional costs in providing warranty service as a result of the equipment move.

25. **Software Licenses.** All software sold, distributed, licensed or supplied by CBTS will be sold, distributed, licensed or supplied subject to applicable license agreements between the software publisher or licensor of the software and Customer. CBTS will convey to Customer the requisite license rights to purchased software products as applicable. In the event that any of the software is subject to shrinkwrap, on screen or similar license agreements that must be accepted during any installation or configuration service performed for Customer by CBTS, Customer authorizes CBTS to accept the terms of such agreements on behalf of Customer.

26. **Assumption of Risk.** Customer recognizes that the use of computer products entails a certain risk of loss of magnetically stored data, and that industry standards dictate Customer's systematic use of products and/or services that provide comprehensive backup of data so as to prevent loss. Customer assumes all risk of loss of its magnetically stored data in any way related to or resulting from the provision of products and/or services hereunder and hereby releases CBTS from any liability for loss of such data unless Customer is using CBTS' data center-based data storage and/or data backup services. Customer also acknowledges that it is solely responsible for ensuring that its networks and systems are adequately secured against unauthorized intrusion even when the product(s) performs as warranted.

27. **Termination Charges.** Customer may, at any time and without cause, terminate this Agreement or any service order upon thirty (30) days written notice to CBTS provided, however, that Customer shall pay to CBTS: (i) all charges for services previously rendered; (ii) a termination charge equal to all remaining amounts due or to become due up to (a) month thirty-two (32) if equipment is returned or (b) month thirty-six (36) if equipment is not returned; (iii) a premise visit charge to recover and remove equipment (if applicable); and (iv) a pro-rata payback of all fees/charges previously waived by CBTS.

