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201 E. Fourth St.  
P.O. Box 2301  
Cincinnati, Ohio 45201-2301

October 21, 2004

Ms. Renee Jenkins  
Docketing Division Chief  
The Public Utilities Commission of Ohio  
180 East Broad Street, 13th floor  
Columbus, Ohio 43215-3793

Re: Case No. 04-1064-TP-CTR  
Approval of 4 Contracts to provide Prime Advantage and Business Access Line  
Services

Dear Ms. Jenkins:

Pursuant to section 4905.31(e) of the Revised Code, Cincinnati Bell Telephone is submitting an original and seven copies of the Telecommunications Application Form along with business contracts containing off-tariff rates and/or terms. Also enclosed is an affidavit of D. Scott Ringo Jr.

Any questions regarding this transmittal should be directed to me at 513-397-1296.

Sincerely,

Kathy Reid  
Regulatory Specialist  
Government Relations

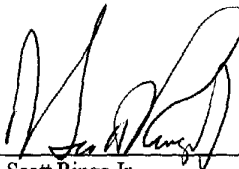
Attachment

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business  
Technician CH Date Processed 10/22/04

**AFFIDAVIT**

STATE OF OHIO                    )  
  )  
COUNTY OF HAMILTON        )     s.s.

I, D. Scott Ringo Jr., Assistant Secretary and Director of Regulatory Affairs at Cincinnati Bell Telephone Company being first duly sworn, state under oath that the total price of each contract submitted in this filing exceeds the total incremental cost of all regulated services under these same contracts.



\_\_\_\_\_  
D. Scott Ringo Jr.  
Assistant Secretary and Director of Regulatory Affairs

Sworn and subscribed before me  
this 21st day of October, 2004

  
Notary Public

**ANN JOUETT KINNEY**  
Attorney At Law  
Notary Public, State of Ohio  
My Commission Has No Expiration Date  
Section 147.03 R.C.

**The Public Utilities Commission of Ohio**  
**TELECOMMUNICATIONS APPLICATION FORM**

(Effective: 10/01/2004)

(Pursuant to Case Nos. 99-998-TP-COI and 99-563-TP-COI)

In the Matter of the Application of Cincinnati Bell Telephone

Company to file contracts containing off-tariff rates

Case No. 04 -1064 -**TP** - CTR

Name of Registrant(s) Cincinnati Bell Telephone

DBA(s) of Registrant(s) \_\_\_\_\_

Address of Registrant(s) 201 E. Fourth Street, Cincinnati, Ohio 45201-2301

Company Web Address www.cincinnati-bell.com

Regulatory Contact Person(s) Kathy Reid Phone (513)397-1296 Fax (513)723-9815

Regulatory Contact Person's Email Address Kathy.reid@cinbell.com

Contact Person for Annual Report D. Scott Ringo Phone (513)397-1354

Consumer Contact Information Tom McCloud Phone (513)397-1313

Date October 21, 2004 TRF Docket No. \_\_\_\_\_ - CT-TRF or 90 - 5013 - TP-TRF

Motion for protective order included with filing? ☐ Yes ☒ No

Motion for waiver(s) filed affecting this case? ☐ Yes ☒ No [Note: waiver(s) tolls any automatic timeframe]

Company Type (check all applicable): ☐ CTS (IXC) ☒ ILEC ☐ CLEC ☐ CMRS ☐ AOS

☐ Other (explain) \_\_\_\_\_

**NOTE:** This form must accompany all applications filed by telecommunication service providers subject to the Commission's rules promulgated in Case No. 99-998-TP-COI, as well as by ILECs filing an ARB or NAG case pursuant to the guidelines established in Case No. 96-463-TP-UNC. **It is preferable NOT to combine different types of filings, but if you do so, you must file under the process with the longest applicable review period.**

**I. Please indicate the reason for submitting this form (check one)**

- ☐ 1 (AAC) Application to Amend Certificate by a CLEC to modify Serving Area (0-day notice, 7 copies)
- ☐ 2 (ABN) Abandonment of all Services
  - ☐ a. CLEC (90-day approval, 10 copies) ☐ b. CTS (14-day approval, 10 copies) ☐ c. ILEC (**NOT** automatic, 10 copies)
- ☐ 3 (ACE) New Operating Authority for providers other than CMRS (30-day approval, 7 copies); *for CMRS, see item No. 15 on this page.*
  - ☐ a. Switched Local ☐ b. Non-switched local ☐ c. CTS ☐ d. Local and CTS ☐ e. Other (explain) \_\_\_\_\_
- ☐ 4 (ACO) LEC Application to Change Ownership (30-day approval, 10 copies)
- ☐ 5 (ACN) LEC Application to Change Name (30-day approval, 10 copies)
- ☐ 6 (AEC) Carrier-to-Carrier Contract Amendment to an agreement approved in a NAG or ARB case (30-day approval, 7 copies)  
*NOTE: see item 25 (CTR) on page two of this form for all other contract filings.*
- ☐ 7 (AMT) LEC Merger (30-day approval, 10 copies)
- ☐ 8 (ARB) Application for Arbitration (see 96-463-TP-COI for applicable process, 10 copies)
- ☐ 9 (ATA) Application for Tariff Amendment for Tier 1 Services, Application to Reclassify Service Among Tiers, or Change to Non-Tier Service
  - ☐ a. Tier 1 (and Carrier-to-Carrier tariff filings as set-forth in 95-845-TP-COI)
    - ☐ i. Pre-filing submittal (30-day pre-filing submittal with Staff and OCC; **Do Not Docket**, 4 copies)
    - ☐ ii. New End User Service which has been preceded by a 30-day pre-filing submittal with Staff for all submittals and also with OCC for Tier 1 residential services (0-day filing, 10 copies)
    - ☐ iii. New End User Service (**NOT** preceded by a 30-day filing submittal, 30-day approval, 10 copies)
    - ☐ iv. New Carrier-to-Carrier Service which has been preceded by a 30-day pre-filing with Staff (0-day filing, 10 copies)
    - ☐ v. Change in Terms and Conditions, textual revision, correction of error, etc. (30-day approval, 10 copies)
    - ☐ vi. Grandfather service (30-day approval, 10 copies)
    - ☐ vii. Initial Carrier-to-Carrier Services Tariff subsequent to ACE approval (60-day approval, 10 copies)
    - ☐ viii. *Withdrawal of Tier 1 service must be filed as an "ATW", not an "ATA" - see item 12, below*
  - ☐ b. Reclassification of Service Among Tiers (**NOT** automatic, 10 copies)
  - ☐ c. Textual revision with no effect on rates for non-specific or non-tier service (30-day approval, 10 copies)
- ☐ 10 (ATC) Application to Transfer Certificate (30-day approval, 7 copies)
- ☐ 11 (ATR) LEC Application to Conduct a Transaction Between Utilities (30-day approval, 10 copies)
- ☐ 12 (ATW) Application to Withdraw a Tier 1 Service
  - ☐ a. CLEC (60-day approval, 10 copies) ☐ b. ILEC (**NOT** automatic, 10 copies)
- ☐ 13 (CIO) Application for Change in Operations by Non-LEC Providers (0-day notice, 7 copies)
- ☐ 14 (NAG) Negotiated Interconnection Agreement Between Carriers (0-day effective, 90-day approval, 8 copies)
- ☐ 15 (RCC) For CMRS providers only to Register or to Notify of a Change in Operations (0-day notice, 7 copies)
- ☐ 16 (SLF) Self-complaint Application
  - ☐ a. CLEC only -Tier 1 (60-day automatic, 10 copies)
  - ☐ b. Introduce or increase maximum price range for Non-Specific Service Charge (60-day approval, 10 copies)
- ☐ 17 (UNC) Unclassified (explain) \_\_\_\_\_ (NOT automatic, 15 copies)
- ☐ 18 (ZTA) Tariff Notification Involving only Tier 2 Services  
*NOTE: Notifications do not require or imply Commission Approval.*
  - ☐ a. New End User Service (0-day notice, 10 copies)
  - ☐ b. Change in Terms and Conditions, textual revision, correction of error, etc. (0-day notice, 10 copies)

- ☐ c. Withdrawal of service (0-day notice, 10 copies)  
☐ 19 Other (explain) \_\_\_\_\_ (NOT automatic, 15 copies)

**THE FOLLOWING ARE TRF FILINGS ONLY, NOT NEW CASES (0-day notice, 3 copies)**

- ☐ 20 Introduction or Extension of Promotional Offering  
☐ 21 New Price List Rate for Existing Service  
☐ a. Tier 1 ☐ b. Tier 2  
☐ 22 Designation of Registrant's Process Agent(s)  
☐ 23 Update to Registrant's Maps  
☐ 24 Annual Tariff Option For Tier 2 Services - indicate which option you intend to adopt to maintain the tariff. NOTE, changing options is only permitted once per calendar year.  
☐ Paper Tariff ☐ Electronic Tariff. If electronic, provide the tariff's web address: \_\_\_\_\_

**THE FOLLOWING ARE CTR FILINGS ONLY, NOT NEW CASES (0-day notice, 7 copies)**

- x 25 Application to establish, revise, or cancel an end-user contract. (NOTE: see item 6 on page 1 of this form for carrier-to-carrier contract amendments)  
 CTR Docket No. 04 - 1064 - TP - CTR (Use same CTR number throughout calendar year)

**II. Please indicate which of the following exhibits have been filed. The numbers (corresponding to the list on page (1) and above) indicate, at a minimum, the types of cases in which the exhibit is required:**

<input type="checkbox"/>	[all]	A copy of any motion for waiver of O.A.C. rule(s) associated with this filing. NOTE: the filing of a motion for waiver tolls any automatic timeframe associated with this filing.
<input type="checkbox"/>	[3]	Completed Service Requirements Form.
<input type="checkbox"/>	[3, 9(vii)]	A copy of registrant's proposed tariffs. (Carrier-to-Carrier resale tariff also required if facilities-based)
<input type="checkbox"/>	[3]	Evidence that the registrant has notified the Ohio Department of Taxation of its intent to conduct operations as a telephone utility in the State of Ohio.
<input type="checkbox"/>	[3]	Brief description of service(s) proposed.
<input type="checkbox"/>	[3a-b,3d]	Explanation of whether applicant intends to provide <input type="checkbox"/> resold services, <input type="checkbox"/> facilities-based services, or <input type="checkbox"/> both resold and facilities-based services.
<input type="checkbox"/>	[3a-b,3d]	Explanation as to whether CLEC currently offers CTS services under separate CTS authority, and whether it will be including those services within its CLEC filing, or maintaining such CTS services under a separate affiliate.
<input type="checkbox"/>	[3a-b,3d]	Explanation of how the proposed services in the proposed market area are in the public interest.
<input type="checkbox"/>	[3a-b,3d]	Description of the proposed market area.
<input type="checkbox"/>	[3a-b,3d]	Description of the class of customers (e.g., residence, business) that the applicant intends to serve.
<input type="checkbox"/>	[3a-b,3d]	Documentation attesting to the applicant's financial viability, including the following: 1) An executive Summary describing the applicant's current financial condition, liquidity, and capital resources. Describe internally generated sources of cash and external funds available to support the applicant's operations that are the subject of this certification application. 2) Copy of financial statements (actual and pro forma income statement and a balance sheet). Indicate if financial statements are based on a certain geographical area(s) or information in other jurisdictions 3) Documentation to support the applicant's cash and funding sources.
<input type="checkbox"/>	[3a-d]	Documentation attesting to the applicant's technical and managerial expertise relative to the proposed service offering(s) and proposed service area.
<input type="checkbox"/>	[3a-d]	Documentation indicating the applicant's corporate structure and ownership.
<input type="checkbox"/>	[3a-b,3d]	Information regarding any similar operations in other states. Also, if this company has been previously certified in the State of Ohio, include that certification number.
<input type="checkbox"/>	[3a-b,3d]	Verification that the applicant will maintain local telephony records separate and apart from any other accounting records in accordance with the GAAP.
<input type="checkbox"/>	[3a-b,3d]	Verification of compliance with any affiliate transaction requirements.
<input type="checkbox"/>	[3a-b,3d]	Explanation as to whether rates are derived through (check all applicable): <input type="checkbox"/> interconnection agreement, <input type="checkbox"/> retail tariffs, or <input type="checkbox"/> resale tariffs.
<input type="checkbox"/>	[1,3a-b,3d]	Explanation as to which service areas company currently has an approved interconnection or resale agreement.
<input type="checkbox"/>	[3a-b,3d, 9a(i-iii)]	Explanation of whether applicant intends to provide Local Services which require payment in advance of Customer receiving dial tone.
<input type="checkbox"/>	[3a,3b,3d, 9a(i-iii)]	Tariff sheet(s) listing the services and associated charges that must be paid prior to customer receiving dial tone (if applicable).
<input type="checkbox"/>	[3a-b,3d,8]	Letters requesting negotiation pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 and a proposed timeline for construction, interconnection, and offering of services to end users.
<input type="checkbox"/>	[3-5,7,10-11,13]	Certification from Ohio Secretary of State as to party's proper standing (domestic or foreign corporation, authorized use of fictitious name, etc.). In transfer of certificate cases, the transferee's good standing must be established.
<input type="checkbox"/>	[3-4,7,10-11,13]	List of names, addresses, and phone numbers of officers and directors, or partners.
<input type="checkbox"/>	[3]	A sample copy of the customer bill and disconnection notice the applicant plans to utilize.
<input type="checkbox"/>	[1,4,9,10-13,16-21]	Copy of superseded tariff sheet(s) & price list(s), if applicable, marked as Exhibit A.
<input type="checkbox"/>	[1,4,9,10-13,16-21]	Copy of revised tariff sheets & price lists, marked as Exhibit B.
<input type="checkbox"/>	[3]	Provide a copy of any customer application form required in order to establish residential service, if applicable.
x	[1-2,4-7,9,12-13,16,18-23,25]	Description of and rationale for proposed tariff changes, including a complete description of the service(s) proposed or affected. Specify for each service affected whether it is <input type="checkbox"/> business; <input type="checkbox"/> residence; or <input type="checkbox"/> both. Also indicate whether it is a <input type="checkbox"/> switched or <input type="checkbox"/> dedicated service. Include this information in either the cover letter or Exhibit C.

<input type="checkbox"/>	[1,2,4,9a(v-vi), 5,10,16,18(b-c), 21]	Specify which notice procedure has been/will be utilized: <input type="checkbox"/> direct mail; <input type="checkbox"/> bill insert; <input type="checkbox"/> bill notation or <input type="checkbox"/> electronic mail. NOTE: <input type="checkbox"/> Tier 1 price list increases must be within an approved range of rates. <input type="checkbox"/> SLF Filings – Do NOT send customer notice until it has been reviewed and approved by Commission Staff
<input type="checkbox"/>	[2,4-5,9a(v), 9b, 10,12-13,16, 18(b-c),20-21]	Copy of real time notice which has been/will be provided to customers. NOTE: SLF Filings – Do NOT send customer notice until it has been reviewed and approved by Commission Staff
<input type="checkbox"/>	[1,2,5,9a(v),11-13, 18, 21 (increase only)]	Affidavit attesting that customer notice has been provided.
<input type="checkbox"/>	[2,12]	Copy of Notice which has been provided to ILEC(s).
<input type="checkbox"/>	[2,12]	Listing of Assigned (NPA) NXX's where in the LECs (NPA) NXX's would be reassigned.
<input type="checkbox"/>	[2,4,10,12-13,]	List of Ohio exchanges specifically involved or affected.
<input type="checkbox"/>	[14]	The interconnection agreement adopted by negotiation or mediation.
<input type="checkbox"/>	[15]	For commercial mobile radio service providers, a statement affirming that registrant has obtained all necessary federal authority to conduct operations being proposed, and that copies have been furnished by cellular, paging, and mobile companies to this Commission of any Form 401, 463, and / or 489 which the applicant has filed with the Federal Communications Commission.
<input type="checkbox"/>	[15]	Exhibits must include company name, address, contact person, service description, and evidence of registration with the Ohio Secretary of State.
<input type="checkbox"/>	[24]	Affidavit that total price of contract exceeds total cost of all regulated services.
<input type="checkbox"/>	[5,13]	New title sheet with proposed new company name.
<input type="checkbox"/>	[1,3,13]	For CLECs, List of Ohio Exchanges the applicant intends to serve (Use spreadsheet from: <a href="http://www.puc.state.oh.us/puco/forms/form.cfm?doc_id=357">http://www.puc.state.oh.us/puco/forms/form.cfm?doc_id=357</a> ).
<input type="checkbox"/>	[1,3a-b,3d,7, 10,13, 23]	Maps depicting the proposed serving and calling areas of the applicant.  <b>If Mirroring Large ILEC</b> exchanges for both serving area and local calling areas: • <b>Serving area</b> must be clearly reflected on an Ohio map attached to tariffs and textually described in tariffs by noting that it is reflecting a particular large ILEC/CLEC territory, and listing the involved exchanges. • <b>Local calling areas</b> must be clearly reflected on an Ohio map attached to the tariffs, and/or clearly delineated in tariffs, including a complete listing of each exchange being served and all exchanges to which local calls can be made from each of those exchanges.  <b>If Self-defining</b> serving area and/or local calling area as an area other than that of the established ILEC exchange(s): • <b>Serving Area</b> must be clearly reflected on an Ohio map attached to the tariffs, and textually described in tariffs by listing the involved exchanges. • <b>Local Calling Areas</b> must be described in the tariff through textual delineation and clear maps. Maps for self-defined serving <b>and</b> local calling areas are required to be traced on United States Geological Survey topography maps. These maps are the Standard Topographic Quadrangle maps, 7.5 minute 1:24,000.
<input type="checkbox"/>		Other information requested by the Commission staff.
<input type="checkbox"/>	[3]	Initial certification that includes Tier 2 Services, indicate which option you intend to adopt to maintain the tariff: <input type="checkbox"/> Paper Tariff <input type="checkbox"/> Electronic Tariff - If electronic, provide the web address for the tariff:

III. Registrant hereby attests to its compliance with the following requirements in the Service Requirements Form, as well as all pertinent entries and orders issued by the Commission with respect to these issues. Further, registrant hereby affirms that it will maintain with its TRF docket an up-to-date, properly marked, copy of the Service Requirements Form available for public inspection.

**MANDATORY REQUIREMENTS FOR ALL BASIC LOCAL EXCHANGE AND CTS PROVIDERS:**

- ☒ Sales tax
- ☒ Minimum Telephone Service Standards (MTSS)
- ☒ Surcharges

**MANDATORY REQUIREMENTS FOR ALL BASIC LOCAL EXCHANGE PROVIDERS:**

- ☒ I+ IntraLATA Presubscription

**SERVICE REQUIREMENTS FOR PROVISION OF CERTAIN SERVICES (CHECK ALL APPLICABLE):**

- ☐ Discounts for Persons with Communication Disabilities and the Telecommunication Relay Service [Required if toll service provided]
- ☐ Emergency Services Calling Plan [Required if toll service provided]
- ☐ Alternative Operator Service (AOS) requirements [Required for all providing AOS (including inmate services) service]
- ☐ Limitation of Liability Language [Required for all who have tariff language that may limit their liability]
- ☐ Termination Liability Language [Required for all who have early termination liability language in their tariffs]
- ☐ Service Connection Assistance (SCA) [Required for all LECs]
- ☐ Local Number Portability and Number Pooling [Required for facilities-based LECs]
- ☐ Package Language [Required for tariffs containing packages or service bundles containing both local and toll and/or non-regulated services]

*Send your completed Application Form, including all required attachments as well as the required number of copies, to:*

**Public Utilities Commission of Ohio**  
**Attention: Docketing Division** *(or to the Telecommunications Division Chief if a prefiling submittal)*  
**180 East Broad Street, Columbus, OH 43215-3793**

- IV. List names, titles, phone numbers, and addresses of those persons authorized to respond to inquiries from the Consumer Services Department on behalf of the applicant regarding end-user complaints:

Tom McCloud, Regulator Specialist, (513)397-1312

- V. List names, titles, phone numbers, and addresses of those persons authorized to make and/or affirm or verify filings at the Commission on behalf of the applicant:

*NOTE: An annual report is required to be filed with the Commission by each company on an annual basis. The annual report form will be sent for completion to the address and individual(s) identified in this Section unless another address or individual is so indicated.*

- VI. List Name(s), DBA(s) and PUCO Certification Number(s) of any affiliates you have operating in Ohio under PUCO authority, whether Telecommunication or other. (If needed, use a separate sheet and check here: ☐)

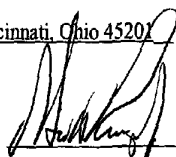
#### **AFFIDAVIT**

##### ***Compliance with Commission Rules and Service Standards***

I am an officer of the applicant corporation, Cincinnati Bell Telephone Company, and am authorized to make this statement on its behalf. I attest that these tariffs comply with all applicable rules, including the Minimum Telephone Service Standards (MTSS) for the state of Ohio. I understand that tariff notification filings do not imply Commission approval and that the Commission's rules, including the Minimum Telephone Service Standards, as modified and clarified from time to time, supersede any contradictory provisions in our tariff. We will fully comply with the rules of the state of Ohio and understand that noncompliance can result in various penalties, including the suspension of our certificate to operate within the state of Ohio.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 21, 2004 at 201 E. Fourth Street, Cincinnati, Ohio 45201  
(Date) (Location)



Assistant Secretary October 21, 2004

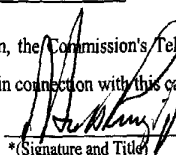
\*(Signature and Title)

(Date)

***\* This affidavit is required for every tariff-affecting filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.***

#### **VERIFICATION**

I, D. Scott Ringo Jr. verify that I have utilized, verbatim, the Commission's Telecommunications Application Form and that all of the information submitted here, and all additional information submitted in connection with this case, is true and correct to the best of my knowledge.



Assistant Secretary October 21, 2004

\*(Signature and Title)

(Date)

***\*Verification is required for every filing. It may be signed by counsel or an officer of the applicant, or an authorized agent of the applicant.***

FIAT Business vs. <sup>PL</sup>  
~~Service~~ Service Agreement

CSA  
(09/01)

Customer Name [REDACTED]		CINCINNATI BELL TELEPHONE CO		Contract No	
Address [REDACTED]		Address 201 East Fourth Street P.O. Box 2301		Order No	
City [REDACTED]	State [REDACTED]	City Cincinnati,	State Ohio	Zip Code [REDACTED]	Zip Code 45201
Customer Billing Telephone Number [REDACTED]				CBT Contact Peggy Kelly	
				Telephone No (513)397-0896	
Check Appropriate Transaction Type: <input checked="" type="checkbox"/> Term Plan <input type="checkbox"/> Month-To-Month					
Feature Package(s) Optional Feature(s) Description <i>Flat Business</i>		USOC	Term (Months)	Quantity	Monthly Charge
<del>5 HUNTING</del> LINES			36	7	\$ 226.66
5 HUNTING / 2 NON HUNTING					\$ 0.00
Remarks RENEWAL-SPECIAL PRICING--/36 MONTHS			Subtotal		\$ 226.66
ADDING FAX LINE/FREE INSTALLATION			Subtotal From Attached Additional Pages		\$ 0.00
Secondary Service Location (Address)			Grand Total		\$ 226.66
Street					\$ 0.00
City State Zip Code			All Prices and Rates Are Exclusive of Tax, Service Line, Hunting and End User Common Line Charges		

CUSTOMER'S SIGNATURE ACKNOWLEDGES THAT CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS AGREEMENT AND THESE TERMS AND CONDITIONS APPLY TO THIS ORDER AND ANY SUBSEQUENT ORDERS ACCEPTED BY CBT. CUSTOMER'S SIGNATURE ACKNOWLEDGES AUTHORIZATION FOR CBT TO REQUEST CREDIT INFORMATION FROM ANY CREDIT REPORTING AGENCY OR SOURCE.

Cincinnati Bell Telephone Company

Received By: *Georgy Kelly*

Accepted By: *Terri Hemmer*

Terri Hemmer  
(Typed or Printed Name)  
Sales Manager  
(Title)  
201 E 4<sup>TH</sup> STREET  
Address  
Cincinnati, Oh 45202  
City State Zip Code

9/13/04  
(Date)

[Redacted Address]  
(Address)  
[Redacted] State [Redacted] Zip Code  
(Customer)  
By: [Redacted Signature]  
(Authorized Customer Signature)  
(Typed Or Printed Name And Title)  
9/8/2004  
(Date)



**Cincinnati Bell Telephone 1FB Products & Services Agreement  
Terms & Conditions**

1. **Payment Terms.** Invoices for Services are due and payable in U.S. dollars within thirty (30) days of Customer's receipt of invoice (unless otherwise indicated in the Credit Requirements Supplement). Payments not received within thirty (30) days of Customer's receipt of invoice are considered past due. In addition to CBT underwriting 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 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 Supplier may have under this Agreement in law or in equity. If the Customer believes they have been incorrectly billed, Customer should contact the CBT 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.
2. **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 CBT in its sole and absolute discretion, then CBT may demand that Customer deposit with CBT a security deposit or increase the amount of deposit (the "Security Deposit"), as the case may be, pursuant to CBT'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 CBT hereunder.
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.
4. **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 (1FB Service Agreement Order Form) of this Agreement.
5. **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.
6. **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.
7. **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.
8. **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 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.

9. **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 logo, 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 Telephone network," (ii) "Customer utilizes Cincinnati Bell Telephone's facilities," (iii) "Cincinnati Bell Telephone provides only the network facilities," and/or (iv) "Cincinnati Bell Telephone is our network provider."
10. **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 CBT to any lender to secure borrowings by CBT or any of its Affiliates; (ii) either party may assign all its rights and obligations hereunder to any Affiliate; and (iii) any subsidiary of CBT may assign any amounts due from Customer to CBT 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.
11. **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.
12. **Legal Construction.** In the event of any conflict between the provisions of these Terms and Conditions and the applicable Supplement, or Exhibit, the conflict shall be resolved by reference to the following order of priority of interpretation: a) Exhibit; b) Supplement; and c) Terms and Conditions. Notwithstanding the foregoing no Exhibit requiring execution shall be binding unless and until it has been duly executed.
13. **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.
14. **Disclaimer Of Warranties.** Unless otherwise provided, CBT 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 SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES BY CBT ARE HEREBY EXCLUDED AND DISCLAIMED. For purposes of this Section, the term "CBT" shall be deemed to include CBT, its affiliates, shareholders, directors, officers and employees, and any person or entity assisting CBT in its performance pursuant to this Agreement.

15. **Limitation of Liability.** CBT'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 CBT 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 CBT OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL CBT BE LIABLE TO CUSTOMER FOR ANY AMOUNT IN EXCESS OF THE AGGREGATE AMOUNT CBT HAS PRIOR TO SUCH TIME COLLECTED FROM CUSTOMER WITH RESPECT TO SERVICES DELIVERED HEREUNDER.

16. **System Maintenance.** In the event CBT 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, CBT 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 CBT.

17. **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 order 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").

18. **FCC Permits, Authorizations And Filings.** CBT 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 CBT cannot obtain all necessary federal, state, or local authority to provide Services hereunder, CBT 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.

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".

20. **Force Majeure.** CBT 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.

21. **Business Downstream.** In the event of a business downturn beyond Customer's control, a corporate divestiture, or a network optimization using other services provided by CBT, any of which significantly reduces the volume of services required by Customer to meet its revenue and/or volume commitments under this Agreement (notwithstanding Customer's best efforts to avoid such a shortfall), CBT and Customer will use reasonable efforts to develop a mutually agreeable alternative proposal that will satisfy the concerns of both parties and comply with all applicable legal and regulatory requirements. By way of example, and not limitation, such alternative proposal may include changes in pricing, non-recurring charges, revenue and/or volume commitments, discounts, or multi-year service commitments.

22. **Technology Upgrade.** If at any time during the Term of this Agreement Customer desires to migrate to a new telecommunications service provided by CBT, that Customer and CBT agree would meet Customer's needs more efficiently than the services hereunder, CBT will amend this Agreement to include such service upon request of Customer.

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, CBT shall have the right to immediately suspend and/or terminate any or all Services hereunder without notice to Customer.

A. In the event of a Customer Default for any reason, CBT may: (i) suspend Services to Customer; (ii) cease accepting or processing orders for Services; (iii) withhold delivery of Call Detail Records (if applicable); and/or (iv) terminate this Agreement. If a Customer Default results in service termination, without cause, except as noted in section B below, prior to the expiration of the term, the Customer will pay to CBT 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 applicable 12 or 24 month term payment plan. Customer agrees to pay CBT's reasonable expenses (including attorney and collection fees) incurred in enforcing CBT's rights in the event of a Customer default.

B. Customer may terminate one (1) line for every ten (10) lines in service without termination fee. For example, a Customer with ten (10) lines may terminate one (1) line without termination fee, a Customer with twenty (20) lines may terminate two (2) lines without termination fee, a Customer with thirty (30) lines may terminate three (3) lines without termination fee, and so on.

C. If nonrecurring charges associated with the installation of a Service are waived and the service is then terminated prior to completion of the 12-month minimum service period or the VTPF contract period, the customer will become liable for payment of the waived charges.

D. In the event of a CBT 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.

Commission approval of the termination liability for IFB contracts, as described above, is not intended to indicate that the Commission has approved or sanctioned any terms or provisions contained therein. Signatories to such contracts shall be free to pursue whatever legal remedies they may have should a dispute arise.

24. **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.

25. **Obligations Several And Not Joint.** Each party shall be responsible only for its own performance under the Agreement (including any attachments, exhibits, schedules or addenda) and not for that of any other party.

26. **Amendments / Riders.** This Agreement may only be modified or supplemented by an instrument in writing executed by each party.

27. **Authentic Signature.** Both parties agree that a fax signature constitutes an authentic signature on this Agreement and any additional order forms, supplements, attachments, addenda, exhibits or amendments incorporated herein.

Customer Initials UB



## 1FB Service Agreement Order Form

Customer Name			CINCINNATI BELL TELEPHONE CO			Contract No		
Address			201 East Fourth Street			Order No		
P.O. Box 2301			City			State		
City			State			Zip		
Cincinnati			Ohio			45202		
CBT Contact			Peggy Kelly			Telephone No		
513-397-0896								

Feature Package(s) Optional Feature(s) Description	USOC	Term (Months)	Quantity	Monthly Charge	PK Installation One-Time Charge
Flat Business Line	1FB	36	12	\$520.00	\$0.00
Hunting		36	87	\$27.00	\$0.00

Remarks	Subtotal	Subtotal From Attached Additional Pages	Grand Total
Special Pricing of \$40.00 a Line and \$5.50 hunting. <i>we change monthly + no longer same total entity then we get right at first refund to 10 months pricing or release them without penalty PK</i>	518.50 <del>564.00</del> PK \$0.00	4518.50 <del>564.00</del> PK	\$0.00

Secondary Service Location (Address)	All Prices and Rates Are Exclusive of Tax, Service Line, Hunting and End User Common Line Charges
Street	
City State Zip Code	

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 CBT. CUSTOMER'S SIGNATURE ACKNOWLEDGES AUTHORIZATION FOR CBT TO REQUEST CREDIT INFORMATION FROM ANY CREDIT REPORTING AGENCY OR SOURCE.

Customer	CINCINNATI BELL TELEPHONE COMPANY
Signature	Signature: <i>Terri Hemmer</i>
Date: 9/29/04	Date: 9/29/04

**Cincinnati Bell Telephone 1PB Products & Services Agreement  
Terms & Conditions**

1. **Payment Terms.** Invoices for Services are due and payable in U.S. dollars within thirty (30) days of Customer's receipt of invoice (unless otherwise indicated in the Credit Requirements Supplement). Payments not received within thirty (30) days of Customer's receipt of invoice are considered past due. In addition to CBT 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 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 Supplier may have under this Agreement in law or in equity. If the Customer believes they have been incorrectly billed, Customer should contact the CBT 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.
2. **Additional Assurances.** If at any time during the term of this Agreement there is a material adverse change in Customer's financial condition, business prospects, or payment history, which shall be determined by CBT in its sole and absolute discretion, then CBT may demand that Customer deposit with CBT a security deposit or increase the amount of deposit (the "Security Deposit"), as the case may be, pursuant to CBT'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 CBT hereunder.
3. **General 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.
4. **Notice.** 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 (1PB Service Agreement Order Form) of this Agreement.
5. **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.
6. **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.
7. **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.
8. **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 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.
9. **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 Telephone network," (ii) "Customer utilizes Cincinnati Bell Telephone's facilities," (iii) "Cincinnati Bell Telephone provides only the network facilities," and/or (iv) "Cincinnati Bell Telephone is our network provider."
10. **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 CBT to any lender to secure borrowings by CBT or any of its Affiliates; (ii) either party may assign all its rights and obligations hereunder to any Affiliate; and (iii) any subsidiary of CBT may assign any amounts due from Customer to CBT 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.
11. **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.
12. **Legal Construction.** In the event of any conflict between the provisions of these Terms and Conditions and the applicable Supplement, or Exhibit, the conflict shall be resolved by reference to the following order of priority of interpretation: a) Exhibit; b) Supplement; and c) Terms and Conditions. Notwithstanding the foregoing no Exhibit requiring execution shall be binding unless and until it has been duly executed.
13. **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.
14. **Disclaimer Of Warranties.** Unless otherwise provided, CBT 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 SERVICE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES BY CBT ARE HEREBY EXCLUDED AND DISCLAIMED. For purposes of this Section, the term "CBT" shall be deemed to include CBT, its affiliates, shareholders, directors, officers and employees, and any person or entity assisting CBT in its performance pursuant to this Agreement.

15. **Limitation of Liability.** CBT'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 CBT 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 CBT OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL CBT BE LIABLE TO CUSTOMER FOR ANY AMOUNT IN EXCESS OF THE AGGREGATE AMOUNT CBT HAS PRIOR TO SUCH TIME COLLECTED FROM CUSTOMER WITH RESPECT TO SERVICES DELIVERED HEREUNDER.
16. **System Maintenance.** In the event CBT 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, CBT 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 CBT.
17. **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 order 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").
18. **FCC Permits, Authorization And Filings.** CBT 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 CBT cannot obtain all necessary federal, state, or local authority to provide Services hereunder, CBT 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.
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".
20. **Force Majeure.** CBT 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.
21. **Business Downtime.** In the event of a business downturn beyond Customer's control, a corporate divestiture, or a network optimization using other services provided by CBT, any of which significantly reduces the volume of services required by Customer to meet its revenue and/or volume commitments under this Agreement (notwithstanding Customer's best efforts to avoid such a shortfall), CBT and Customer will use reasonable efforts to develop a mutually agreeable alternative proposal that will satisfy the concerns of both parties and comply with all applicable legal and regulatory requirements. By way of example, and not limitation, such alternative proposal may include changes in pricing, non-recurring charges, revenue and/or volume commitments, discounts, or multi-year service commitments.
22. **Technology Upgrade.** If at any time during the Term of this Agreement Customer desires to migrate to a new telecommunications service provided by CBT, that Customer and CBT agree would meet Customer's needs more efficiently than the services hereunder, CBT will amend this Agreement to include such service upon request of Customer.
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, CBT shall have the right to immediately suspend and/or terminate any or all Services hereunder without notice to Customer.
- A. In the event of a Customer Default for any reason, CBT may: (i) suspend Services to Customer; (ii) cease accepting or processing orders for Services; (iii) withhold delivery of Call Detail Records (if applicable); and/or (iv) terminate this Agreement. If a Customer Default results in service termination, without cause, except as noted in section B below, prior to the expiration of the term, the Customer will pay to CBT 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 applicable 12 or 24 month term payment plan. Customer agrees to pay CBT's reasonable expenses (including attorney and collection fees) incurred in enforcing CBT's rights in the event of a Customer default.
- B. Customer may terminate one (1) line for every ten (10) lines in service without termination fee. For example, a Customer with ten (10) lines may terminate one (1) line without termination fee, a Customer with twenty (20) lines may terminate two (2) lines without termination fee, a Customer with thirty (30) lines may terminate three (3) lines without termination fee, and so on.
- C. If nonrecurring charges associated with the installation of a Service are waived and the service is then terminated prior to completion of the 12-month minimum service period or the VTPP contract period, the customer will become liable for payment of the waived charges.
- D. In the event of a CBT 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.
- Commission approval of the termination liability for 1PB contracts, as described above, is not intended to indicate that the Commission has approved or sanctioned any terms or provisions contained therein. Signatories to such contracts shall be free to pursue whatever legal remedies they may have should a dispute arise.
24. **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.
25. **Obligations Severed And Not Joint.** Each party shall be responsible only for its own performance under the Agreement (including any attachments exhibits, schedules or addenda) and not for that of any other party.
26. **Amendments / Riders.** This Agreement may only be modified or supplemented by an instrument in writing executed by each party.
27. **Authentic Signature.** Both parties agree that a fax signature constitutes an authentic signature on this Agreement and any additional order forms, supplements, attachments, addenda, exhibits or amendments incorporated herein.

Customer Initials



Telephone

PRIME Advantage<sup>SM</sup> Agreement

(1/05)

Customer Name [REDACTED]		CINCINNATI BELL TELEPHONE CO.	Contract No.
Address [REDACTED]		Address 201 East Fourth Street, P.O. Box 2301	Order No.
City State Zip Code [REDACTED]		City State Zip Code Cincinnati, Ohio 45201	CBT Contact Kim Taylor
Bfn:			Telephone No. 513-397-5942

Check Appropriate Transaction Type: ☐ MTM (12 Months) ☒ 24 Month ☐ 36 Month ☐ 60 Month

Feature Package (s) Optional Feature (s) Description	USOC	Term (Months)	Quantity	Monthly Charge	Installation/ One-Time Charge
PRIME ADVANTAGE	ZPT1X	24	1	\$ 505.15	\$ 0.0
TWO-WAY/DID TRUNKS	DZECX	24	23	136.55	0.0
DID 20# BLOCKS	DZHPG	24	2	8.30	0.0
CALLER ID	ZCN	24	1	0.00	0.0
			0	0.00	0.0

In addition to contract charges, customers will incur all regulated charges mandated by the Regulatory Commissions with jurisdiction over CBT.

Remarks PRI T1 Contract for Cincinnati Office	Subtotal	\$ 650.00	\$ 0.0
Secondary Service Location (Address)	Grand Total	\$ 650.00	\$ 0.0
Street	All Prices and Rates Are Exclusive of Tax, Service Line, Hunting and End User Common Line Charges.		
City State Zip Code	Installation/One-time charge does not cover premise technician work outside of the hours 8 a.m. to 5 p.m.		

CUSTOMER'S SIGNATURE ACKNOWLEDGES THAT CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS AGREEMENT AND THESE TERMS AND CONDITIONS APPLY TO THIS ORDER AND ANY SUBSEQUENT ORDERS ACCEPTED BY CBT. CUSTOMER'S SIGNATURE ACKNOWLEDGES AUTHORIZATION FOR CBT TO REQUEST CREDIT INFORMATION FROM ANY CREDIT REPORTING AGENCY OR SOURCE. PRIME Advantage is a registered service mark of Cincinnati Bell Telephone.

Cincinnati Bell Telephone Company	
Received By:	[Signature]
Accepted By:	[Signature]
Brian Andrews	
(Typed Or Printed Name)	
Business Account Manager	
(Title)	
221 East Fourth Street	
Address	
Cincinnati Ohio 45202	
City State Zip Code	
January 14, 2004	
(Date)	
By:	[Signature]
(Authorized Customer Signature)	
(Typed Or Printed Name And Title)	
(Date)	9/7/04

**PRIME Advantage<sup>SM</sup>**  
**Terms and Conditions**  
Rev 8.11.03

**1. Tariff Coverage**

This PRIME Advantage offering is provided pursuant to the provisions of the Company's General Exchange Tariff filed with and approved by the Public Utilities Commission of Ohio and the Public Service Commission of Kentucky. The following conditions, while not all inclusive, are among those controlled by the General Exchange Tariff:

- a) If customer terminates a PRIME Advantage Service (which includes the facility, channels and optional features) prior to completion of the 12-month minimum service period or the VTTP contract period, they will be subject to termination charges.
- b) Conditions and regulations concerning the Variable Term Payment Plan (VTTP).
- c) Periods of service, including the 12-month minimum period of service. Service periods of 24 months, 36 months and 60 months are also available.
- d) Conditions and regulations concerning upgrades from existing analog trunk service to PRIME Advantage, and applicable non-recurring charges.
- e) Billing for this service.
- f) Limitations of liability.

The General Exchange Tariffs are available for inspection at any company business office.

**2. Changes in Service or Rates**

Rates shown are those in effect on this date. Quantities shown are based upon information given by the Customer to Company on this date. In the event of (1) a change in the quantity of service requested by Customer and/or (2) the rates shown are not those in effect at the time of installation, an attachment will be provided to Customer by Company which will reflect the actual quantities and rates in effect for this service as installed and billed.

**3. Subsequent Customer Orders**

Additional channels, or facilities can be added to PRIME Advantage service pursuant to the provisions of this Agreement and the company's General Exchange Tariff.

Additional orders can be coterminous with original expiration date. This contract applies to any additions matching the original expiration date. Additions with new expiration dates will require a new separate contract.

Charges for services not described herein including, but not limited to, service lines, private lines, and other terminal equipment and services are in addition to those specified herein.

 Customer Initials

#### 4. Termination Charges

- a) If a Customer terminates service, without cause, prior to the expiration of the term, the Customer will pay to CBT 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 applicable 12, 24, 36 or 60-month term payment plan.
- b) 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 applicable 12, 24, 36 or 60-month term payment plan.
- c) If nonrecurring charges associated with the installation of a Service are waived and the service is then terminated prior to completion of the 12-month minimum service period or the VTPP contract period, the customer will become liable for payment of the waived charges.
- d) Commission approval of the termination liability for PRIME Advantage contracts, as described above, is not intended to indicate that the Commission has approved or sanctioned any terms or provisions contained therein. Signatories to such contracts shall be free to pursue whatever legal remedies they may have should a dispute arise.

#### 5. Contract Expiration

If renegotiation of this contract does not occur before expiration, customer will be automatically changed to month-to-month service, subject to the rates and conditions of that service.

#### 6. Upgrades

Customers wishing to upgrade existing analog trunk service or TRUNK Advantage to PRIME Advantage will not be charged installation for the number of existing trunks/channels that are moved to PRIME Advantage. Initial charges for facilities, features, and additional channels will still apply.

Customers wishing to upgrade existing TRUNK Advantage service to PRIME Advantage can terminate their current contract without penalty under the condition that a new PRIME Advantage contract is signed.

Customers wishing to change existing PRIME Advantage service to TRUNK Advantage service can terminate their current contract without penalty under the condition that a new TRUNK Advantage contract is signed. All installation charges for TRUNK Advantage service will apply.

#### 7. Compliance with Tariff

Customer agrees to comply with all of the provisions of the General Exchange Tariffs applicable to this service. In the event of any conflict between the provisions of this agreement and the Company's General Exchange Tariffs, the provisions of the General Exchange Tariffs will take precedence and be controlling.



Customer Initials



#### Additional Terms

General terms and conditions for PRIME Advantage contracts are explained in the tariff. This explanation is for clarification and situations outside of those covered by the general terms and conditions.

- If tariffed rates go up before the expiration of a customer's contract, the customer will remain at the lower contracted rates until contract expiration.
- If tariffed rates go down before the expiration of a customer's contract, they will have the option to recast their contract for another 12-month minimum, 24-month, 36-month, or 60-month service period at the new tariffed rates. This is not an automatic process, it must be customer initiated.
- If the PRIME Advantage facility is maintained, a customer may add, delete or change channels from their existing service without a new contract.
- If a customer wishes to add facilities to their current service, a new contract should be signed. There are two scenarios a customer can choose from:
  - 1) The new contract can end coterminously with the original contract and follow the same rate structure. If this is the case, it must be stated in the remarks section of the contract, and referred to the original contract number. Be sure to state the date of expiration.
  - 2) The new contract can be separate with its own expiration date and rates following the current tariffed rate structure.
- If the Customer believes they have been incorrectly billed, Customer should contact the CBT 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.
- If a customer moves their business to another location within our operating territory prior to the expiration of their contract, the contract will move with them. They will not suffer termination penalties unless they lessen the number of PRIME Advantage facilities at the new location. The contract will continue with the original expiration date and rate structure. The customer will be subject to all normal installation and service charges associated with moving the service.

 Customer Initials



**MASTER SERVICE AGREEMENT**  
**Contract # THER-5XSSFS**

This Master Service Agreement (the "Agreement"), is entered into by and between Cincinnati Bell Telephone Company, an Ohio corporation, having its principal place of business at 201 East Fourth Street, Cincinnati, Ohio 45202 ("CBT"), and [REDACTED] (n) OHIO corporation, having its principal place of business at 555 [REDACTED] ("Customer").

**WITNESSETH**

WHEREAS, CBT and Customer desire to continue a long term business relationship covering the provision of a wide variety of telecommunications services by CBT 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, CBT and Customer wish to set forth in this Agreement certain terms and provisions that will govern the CBT 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) CBT 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.

### **SERVICES.**

The specific terms and conditions applicable to the particular services to be provided by CBT 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. The particular services to be provided by CBT pursuant to such separate Schedules shall include, but are not limited to the following services:

- Prime Advantage
- LAN Advantage
- Internet (FUSE Dedicated)
- Long Distance (CBAD Dedicated)
- Metroplex

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

CBT will maintain the equipment used to provide service under the applicable Schedules, in good working order during the term specified in the applicable Schedule, except Customer premise equipment ("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 CBT access to equipment on Customer's premises used to provide service hereunder and CBT 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 CBT. Customer will not make any modifications to the equipment used to provide service hereunder without the written permission of CBT and will pay the cost of any repairs necessitated by unauthorized work.

### **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 CBT'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-CBT equipment; and (c) abuse, misuse or negligent acts. CBT may perform services in such instances on a time and materials or contract basis.

4.2 CBT 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, CBT, 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 CBT, 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 CBT, whether or not attached to or embedded in realty, unless otherwise agreed to in writing by the parties. CBT will bear the risk of loss or damage to the equipment used in the provision of service, except that Customer will be liable to CBT 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.

The Agreement terms and conditions shall be effective for an initial period of thirty-six (36) months. If renegotiation of this Agreement does not occur before expiration, it will be automatically changed to a month-to-month term. 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. 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.

10. 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 CBT 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 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 CBT may have under this Agreement in law or in equity. If the Customer believes they have been incorrectly billed, Customer should contact the CBT 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.

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 CBT 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 CBT. The termination charge will be considered to be liquidated damages and will be CBT'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.**

Customer shall indemnify, defend and hold harmless CBT 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 CBT to participate therein. The settlement of any such claim or action by Customer without CBT's prior written consent, shall release the CBT from its obligations hereunder with respect to such claim or action so settled.

**13. LIMITATIONS OF LIABILITY.**

CBT'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 CBT 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 CBT OR CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. FOR PURPOSES OF THIS SECTION, "CBT" IS DEEMED TO INCLUDE CINCINNATI BELL TELEPHONE COMPANY, AND ITS 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 CBT 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.

CBT 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 CBT's noncompliance with any such laws. If CBT's work under any Schedule involves operations by CBT on the premises of Customer, CBT 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, CBT shall defend, indemnify and hold harmless Customer against any claims, demands, suits, losses, damages, costs and expenses which are proximately caused by CBT's employees or agents against Customer, or which are due from any negligent act or omission of CBT, including its employees, agents and subcontractors.

17. CUSTOMER OBLIGATIONS.

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 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 CBT.

18. SYSTEM MAINTENANCE.

In the event CBT 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, CBT 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 CBT.

19. SUBCONTRACTING.

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

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 CBT:

Cincinnati Bell Telephone Company  
Attn: Contract Manager  
Room 102-1136  
201 East Fourth Street  
Cincinnati, Ohio 45202

To Customer:

Ohio Valley Flooring  
Attn: \_\_\_\_\_  
5555 Murray Avenue  
Cincinnati, Ohio 45227

and

Cincinnati Bell Telephone Company  
Attn: Sales Manager (Ohio Valley Flooring's Acct)  
Room 102-1136  
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 CBT hereunder. Neither Customer nor CBT may assign this agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. CBT shall not be required to obtain consent in the case of a sale of all or substantially all the assets of CBT 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, CBT 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 CBT.

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, supercede and control any conflicting provision (or the absence of a provision) in each of the Schedules heretofore or hereinafter executed by the parties: Articles 7 through 10 and Articles 12 through 31.

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.

30. REGULATORY APPROVAL; TARIIFS.

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 CBT 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 CBT's tariffs on file with regulatory agencies.

31. BUSINESS DOWNTURN.

In the event of a business downturn beyond Customer's control, a corporate divestiture, or a network optimization using other services provided by CBT, any of which significantly reduces the volume of services required by Customer, with the result that Customer will be unable to meet its revenue and/or volume commitments under this Agreement (notwithstanding Customer's best efforts to avoid such a shortfall), CBT and Customer will use reasonable efforts to develop a mutually agreeable alternative proposal that will satisfy the concerns of both parties and comply with all applicable legal and regulatory requirements. By way of example, and not limitation, such alternative proposal may include changes in pricing, non-recurring charges, revenue and/or volume commitments, discounts, or multi-year service commitments.

32. TECHNOLOGY UPGRADE.

If at any time during the Term of this Agreement Customer desires to migrate to a new telecommunications service provided by CBT, that Customer and CBT agree would meet Customer's needs more efficiently than the services hereunder, CBT will amend this Agreement to include such service upon request of Customer.

33. 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.

34. 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.

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

[REDACTED]  
By: [REDACTED]  
Signature  
Printed Name: [REDACTED]  
Title: [REDACTED]  
8-17-2004

CINCINNATI BELL TELEPHONE COMPANY

By: [Signature]  
Signature  
Printed Name: Jeremy Geiser  
Title: Sales Manager  
Date: 8/17/04

**SCHEDULE 1 TO MASTER SERVICE AGREEMENT  
BETWEEN [REDACTED] AND CBT  
PRIME ADVANTAGE SERVICE AGREEMENT**

**1. TERM**

Unless otherwise renewed or terminated in accordance with the provisions herein, the Term of this Schedule shall become effective on the provisioning 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 rates and conditions of that service.

**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.

**SERVICES AND RATES**

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

**Murray Avenue Location:**

(1)	(2)	(3)	(4)	
<u>Each Facility</u>	<u>Each 2-Way / DID Channels</u>	<u>Each Caller ID</u>	<u>Each DID # 20 Blocks</u>	<u>TOTAL Monthly Each (Based On 1 Each Of (1) &amp; (3), 9 Each of (4), and 23 of (2))</u>
\$430.84	\$9.70	\$0.00	*\$0.00	653.94

- \* Additional DID # 20 Blocks @ \$4.15/ea.
- \*\* Installation charges waived.
- \*\*\* Additional Port, EUCL, 911 & USF charges estimated at \$66.14/mo.

**Bethany Road Location:**

(1)	(2)	(3)	(4)	
<u>Each Facility</u>	<u>Each 2-Way / DID Channels</u>	<u>Each Caller ID</u>	<u>Each DID # 20 Blocks</u>	<u>TOTAL Monthly Each (Based On 1 Each Of (1) &amp; (3), 4 Each of (4), and 23 of (2))</u>
\$430.84	\$9.70	\$0.00	*\$0.00	653.94

- \* Additional DID # 20 Blocks @ \$4.15/ea.
- \*\* Installation charges waived.
- \*\*\* Additional Port, EUCL, 911 & USF charges estimated at \$66.14/mo.

All prices and rates are exclusive of Port, EUCL, 911, USF, surcharges and taxes. 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.

#### 4. TERMINATION CHARGES

4.1 In the event that PRI Service (which includes the facility, channels and optional features) 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), 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.

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

**SCHEDULE 2 TO MASTER SERVICE AGREEMENT  
BETWEEN  
[REDACTED] AND CBT  
LAN ADVANTAGE SERVICE AGREEMENT**

**1. TERM**

Unless otherwise renewed or terminated in accordance with the provisions herein, the Term of this Schedule shall become effective on the provisioning 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 rates and conditions of that service.

**2. DEFINITIONS**

**2.1 LAN Advantage®** - the engineering, installation, maintenance and repair services provided by CBT to Customer necessary to interconnect multiple LANs to form a MAN for data transmission.

**2.2 Customer's location** - a location specified by the customer for the purposes of terminating network such as the customer's premises or the building where the off-premises extension terminates.

**2.3 Demarcation Point** - 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 LAN Advantage® service presented by CBT to Customer.

**2.4 Local Area Network (LAN)** - a network connecting computers and other peripheral equipment for data communications over a limited geographical area, usually within a single building or among a few buildings.

**2.5 Metropolitan Area Network (MAN)** - a network connecting computers and other peripheral equipment for data communications over a larger geographical area than a LAN, usually within a city or region.

**2.6 Permanent Virtual Circuits (PVC)** - a static logical connection used in packet and cell switched networks between two end points. Permanent Virtual Circuits support long-term ongoing connections between data termination equipment. Permanent logical paths are assigned exclusively to each permanent circuit in the network.

**3. SERVICES AND RATES**

**3.1** Subject to the terms and conditions of the Master Service Agreement and this Schedule, CBT shall provide Customer with LAN Advantage® service ("LAN Advantage®") and Customer shall pay CBT for LAN Advantage® at the applicable monthly rate for the type of LAN Advantage® (and any optional features for LAN Advantage®) selected by the Customer, as indicated on LAN Advantage Customer Agreement ("Attachment A") to this Schedule. In addition, Customer shall pay to CBT the applicable per port nonrecurring charge set forth on Attachment A. 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 LAN Advantage®.

**3.2** Customer may move the location of its LAN Advantage® to a location where sufficient central office capacity and outside plant facilities are available and retain the current contract term and monthly rates, but initial nonrecurring charges will be reapplied. The termination charges outlined in Schedule 6 are applicable if Customer terminates this LAN Advantage® because of a move to a location where sufficient central office capacity or outside plant facilities are not available.

#### 4. PROVISIONING

4.1 CBT will provide LAN Advantage® for one or more of the following types of LANs, as specified by Customer on the Attachment A: (i) Ethernet LANs operating at a Native Mode of 1.544 Mbps, (ii) Ethernet LANs operating at a Native Mode of 10 Mbps, and (iii) Ethernet LANs operating at a Native Mode of 100 Mbps (iv) Ethernet LANs operating at a Native Mode of 1000 Mbps (a.k.a., GigE or 1 Gigabit), (v) Mbps LANs using FDDI operating at a Native Mode of 100 Mbps, Permanent Virtual Circuits (PVC), facilities redundancy, and the other "optional" features relating to LAN Advantage® set forth on the attached Attachment A are also available to Customer at rates, terms and conditions to be agreed upon.

4.2 CBT will provision LAN Advantage® in proper working order on CBT's side of the Demarcation Point by the agreed upon installation date.

4.3 If a major outage to CBT's network occurs, including LAN Advantage® CBT will use reasonable efforts to restore LAN Advantage® 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.

4.4 CBT will furnish Customer with a telephone number, which Customer will use to report any trouble with LAN Advantage®.

4.5 Unless otherwise agreed in writing, CBT will provide LAN Advantage® for data transmission only.

4.6 The electrical signals of LAN Advantage® operate in compliance with the following American National Standard Institute ("ANSI") or IEEE standards: (i) for Ethernet LANs operating at a Native Mode of 384 Kbps, 768 Kbps, 1.544 Mbps, 3 Mbps, 4.5 Mbps, 6 Mbps, 10 Mbps, IEEE Standard 802.3 or 100 Mbps and 1000 Mbps (a.k.a., GigE or 1 Gigabit), IEEE Standard 802.3u (Carrier Sense Multiple Access with Collision Detection (CSMA/CD) Access Method and Physical Layer Specifications) and (ii) for LANs using FDDI operating at a Native Mode of 100 Mbps, ANSI Standard X3T9.5 (Media Access Control, Control, Physical Layer and Physical Medium Dependent).

4.7 LAN Advantage® supports the following interfaces: (i) RJ45 10 base T and 100 base T connections, for Ethernet LANs operating at Native Mode of 384 Kbps, 768 Kbps, 1.544 Mbps, 3 Mbps, 4.5 Mbps, 6 Mbps, 10 Mbps or 100 Mbps, and (ii) SX or LX Gigabit Interface Connectors for Ethernet LANs operating at a Native Mode of 1000 Mbps (a.k.a., GigE or 1 Gigabit), and (iii) ST, SC and MIC connections for LANs using FDDI operating at a Native Mode of 100 Mbps.

4.8 An initial port is required in order to provide LAN Advantage® to a Customer's location. Additional ports are only available to a Customer's location with at least one initial port.

4.9 Additional port discounts do not apply to different customers at the same location.

4.10 The Customer must subscribe to the initial port in order to subscribe to an additional port. If the initial port is terminated at a Customer's location, then all LAN Advantage® will be terminated at that location unless Customer wants to re-specify one of the additional ports as the initial port with the appropriate rates applied. An additional port can be terminated without terminating the initial port to a Customer's location.

4.11 If the Customer subsequently orders an additional port and the contract period for the initial port has not expired, then the following applies: a) the contract period selected for an additional port must be equal or shorter than the remaining contract for the initial port or b) the contract period for the initial port will be extended to be coterminous with the contract period selected for the additional ports.

5. REPAIR – RESPONSE TIME

5.1 CBT will use its best efforts to repair any inoperable LAN Advantage® port within four (4) hours after a reactive or proactive trouble ticket is opened with CBT that such port is inoperable. If such port remains inoperable for more than eight (8) hours after a trouble ticket has been opened, 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. The total amount of all credits for any one (1) 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 damages resulting from such inoperable port.

5.2 Performance Standards of the LAN Advantage Network are as follows:

	<u>Response Time</u>
Mean time to respond at the port level	30 minutes
Mean time to repair at the port level	2 hours

Response Time shall mean that CBT is aware of the problem, and a ticket is opened either reactively or proactively and CBT is beginning to take action to resolve the issue.

6. MAINTENANCE

When a Customer reports a trouble to CBT and the problem is not found in the CBT's facilities, the Customer is responsible for a payment of Maintenance of Service charge for the period of time from when the technician is dispatched to when the work is completed. The Maintenance of Service charges are as follows:

- a) \$ 31.50 for the first 15 minutes or fraction thereof
- b) \$ 9.00 for each additional 15 minutes or fraction thereof

If CBT personnel initially fail to find trouble in CBT facilities, but later discover that the trouble was indeed facilities related, then Maintenance of Service charges will not apply.

Cincinnati Bell Telephone can continue to test/diagnose the problem on the Customer's premises at the rate of \$175.00 per hour, billable in half-hour increments, with a two (2) hour minimum.

Cincinnati Bell Telephone can also be contracted to engineer and optimize the Customer's network by working on the Customer's premises. The rate for this enhanced service is \$250.00 per hour, billable in half-hour increments, with a two (2) hour minimum. This service would typically be independent of a trouble shooting dispatch, or in conjunction with a major problem/initiative, and would be initiated by the Customer.

7. TERMINATION CHARGES

7.1 In the event that LAN Advantage® 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.

**7.4** If nonrecurring charges associated with the installation of LAN Advantage® are waived and the LAN Advantage® is then terminated prior to the expiration of the Term, the customer will become liable for payment of the waived charges.