

RESOLUTION NO. 37-15
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Paul Gresham ON THE 15th DAY OF
June, 2015.

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A PURCHASE AGREEMENT WITH AT&T GLOBAL SERVICES FOR A POLICE DEPARTMENT 911 PHONE SYSTEM WITHOUT COMPETITIVE BIDDING.

WHEREAS, the Centerville Police Department presently uses a Positron (Lifeline 100) 911 phone system; and

WHEREAS, the Positron system is no longer supported by the manufacturer; and

WHEREAS, the Centerville Police Department and the Kettering Police Department requested AT&T Global Services to develop a joint 911 system to improve redundancy for both agencies; and

WHEREAS, the Cassidian (Airbus) Vesta 4 system is NENA (National Emergency Number Association) i3 compliant; and

WHEREAS, the Vesta 4 system is specifically designed to be geo-diverse and split between multiple agencies, greatly increasing redundancy; and

WHEREAS, this Council hereby determines that the most economical method of securing a state of the art 911 phone system is to upgrade its present system which would be in the best interests of the citizens of Centerville; and

WHEREAS, the Vesta 4 system is the only product that is specifically designed to be geo-diverse without modification; and

WHEREAS, this Council further finds that since AT&T Global Services is the sole source of the desired equipment which is compatible, competitive bidding would be a useless act and would not benefit the City and its citizens; and

WHEREAS, the cost for the desired equipment and services for up to five (5) years is an amount not to exceed \$163,129.60; and

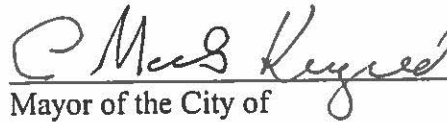
WHEREAS, a contract with time-sensitive signatures is required for the acceptance of the agreement.

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

Section 1. That the City Manager of the City of Centerville be and is hereby authorized to execute the agreement with AT&T Global Services for the desired equipment in an amount not to exceed \$163,129.60 for a five (5) year total cost. A draft form copy of said Master Agreement and Addendum is attached hereto as Exhibit "A". The City Manager is further authorized to do any and everything necessary in order to execute said agreement that is substantially consistent therein and ensure that the provisions of said agreement are carried into effect.

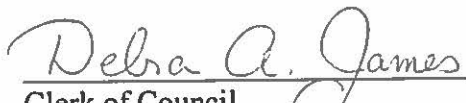
Section 2. This resolution shall become effective at the earliest date allowed by law.

PASSED THIS 15th day of June, 2015.



Mayor of the City of
Centerville, Ohio

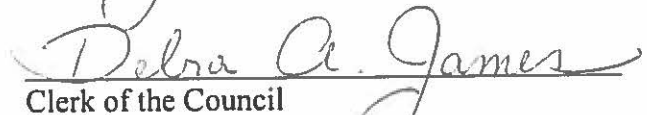
ATTEST:



Clerk of Council
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Resolution No. 37-15, passed by the Council of the City of Centerville, Ohio on the 15th day of June, 2015.



Clerk of the Council

Approved as to form, consistency
With the Charter and Constitutional Provisions.
Department of Law
Scott A. Liberman
Municipal Attorney

Master Agreement

This Master Agreement (the "Agreement") is between SBC Global Services, Inc. dba AT&T Global Services, a Delaware corporation with offices at One AT&T Plaza, Dallas, Texas 75202, on behalf of itself and those Affiliates identified in those Addenda, Attachments, Orders, and/or SOWs that may be entered into from time to time and incorporated by reference into this Agreement (individually and collectively, "AT&T") and ("Customer"), a Michigan government agency, with offices at , is effective on the date of last execution ("Effective Date"). AT&T and Customer are sometimes referred to herein collectively as the "Parties" or individually as a "Party."

References to "Agreement" refer to this Agreement, any applicable tariff or guidebook, and the documents listed in the Addendum and Attachment List, including any Statement of Work ("SOW"). New or revised Addenda, Attachments, Orders, and/or Statements of Work must be signed by Customer and AT&T Affiliate. The following order of precedence applies to the documents comprising an Agreement: (1) any applicable guidebook and tariff(s), (2) Addenda (and related SOWs and Attachments), (3) this Agreement, and (4) Orders.

Notices from a Party concerning this Agreement must be written and delivered to the other Party at the address(es) below (i) in person, (ii) by certified mail, return receipt requested, (iii) by traceable overnight delivery, or (iv) by facsimile, electronically confirmed and followed immediately by U.S. Mail. Notice will be effective upon delivery.

To Customer:

Fax:
Attention:

To AT&T: AT&T Sales Team – Contract Notice
23500 Northwestern Hwy. C-200
Southfield, MI 48075
Fax: 248 423-5349
Attention: AT&T Account Team for

SO AGREED by the Parties' respective authorized signatories:

		AT&T GLOBAL SERVICES	
By:	_____	By:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Date:	_____	Date:	_____

CONFIDENTIAL INFORMATION

This Agreement is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their companies.

Master Agreement Terms and Conditions

1. DEFINITIONS

- 1.1 "Affiliate" means an entity that controls, is controlled by, or is under common control with a Party.
- 1.2 "Confidential Information" means ideas, know-how, trade secrets, computer programs, technical information, and other confidential information which is disclosed by a disclosing Party to a receiving Party under this Agreement. The terms of this Agreement shall be deemed Confidential Information by the Parties.
- 1.3 "Cutover" occurs (except as otherwise described herein or in an Addendum/Attachment/SOW) (a) for a Service when the Service is first provisioned or otherwise available for Customer's use at any single Site; and/or (b) for Equipment when the Equipment is delivered to the carrier for shipment, or if installation by AT&T is provided as part of the Services, then upon AT&T's installation of the Equipment.
- 1.4 "Equipment" means equipment that AT&T sells or leases to Customer under this Agreement.
- 1.5 "Software" means computer programs and related object code licensed by AT&T to Customer, including any software licensed with or separately from Equipment.
- 1.6 "Normal Business Hours" means Monday through Friday, 8:00 a.m. to 5:00 p.m. (local time), excluding AT&T recognized holidays.
- 1.7 "Order" means any purchase order for Equipment or Services that references this Agreement (or an Addendum).
- 1.8 "Service(s)" means any or all services provided by AT&T, as further described in this Agreement or an Addendum.
- 1.9 "Site(s)" means Customer locations where AT&T is to perform Services.

2. SERVICE-SPECIFIC TERMS AND CONDITIONS

- 2.1 Limitation on Service; Applicability of Tariffs. Service is offered subject to the availability and operational limitations of the necessary systems, facilities, and equipment. Except as otherwise specified in an Addendum, regulated Services (e.g., local or long distance telephone service) are subject to applicable tariffs and/or guidebooks (generally available at www.sbc.com or from an AT&T sales representative). Customer and any Customer end-user use of Service shall at all times comply with applicable laws, regulations and any AT&T written or electronic instructions for use.
- 2.2 Payment and Billing. Customer will pay AT&T (i) the monthly fees and nonrecurring charges set forth in the applicable Addendum (or, in the case of regulated services, at the charges set forth in the applicable tariff and/or guidebook), and (ii) applicable taxes, surcharges, and recovery fees (including universal service fees), and customs and duties. Except as otherwise provided in the applicable Addendum, (i) billing commences on Cutover; (ii) payment is due within 30 days after the date of invoice; and (iii) payment is subject to AT&T's credit requirements and AT&T may require a security deposit to ensure prompt payment. Customer will advise AT&T of any billing dispute within 30 days after receipt of invoice or the invoice shall be deemed correct. In addition to recovering attorneys' fees and costs of collection, AT&T may assess a late payment fee equal to (i) the lesser of 1.5% per month or the maximum amount allowed by law for Equipment or non-regulated Services, and (ii) as prescribed by the applicable tariff or guidebook for regulated Services. If Customer pays electronically, Customer agrees to pay using Automated Clearing House (ACH) which shall include remittance information.

3. GENERAL TERMS AND CONDITIONS

- 3.1 Term and Termination. This Agreement will start on the Effective Date and remain in effect until terminated by either Party as provided herein (the "Term"). Each Addendum is coterminous with this Agreement, unless the Addendum specifies a different term. Upon expiration of the term specified, each Addendum shall remain in effect on a month-to-month basis at AT&T's then current monthly pricing. Customer, and AT&T (in the case of Services that are no longer under a term commitment), may terminate this Agreement or an Addendum without cause and for convenience upon 30 days' prior written notice. If Customer terminates an Addendum with a specified term or term commitment, Customer shall pay the termination liability (i) specified in the Addendum; or (ii) if no termination liability is specified, an amount equal to (a) 50% of the remaining monthly recurring charges due under the Addendum; and (b) any charges imposed on AT&T by any third party as a result of Customer's early termination. Customer may cancel an Order for Equipment prior to Cutover, subject to payment of any non-recoverable restocking fees or costs incurred by AT&T. Customer may not cancel an Order for Equipment after Cutover.
- 3.2 Termination for Breach. This Agreement (or applicable Addendum) may be terminated immediately by either Party or AT&T may suspend performance hereunder or thereunder, upon written notice to the other Party if the other Party (i) is in material breach (including but not limited to failure to make timely undisputed payments) and such failure or breach is not remedied within 30 days after the terminating Party provides written notice to the breaching Party specifically describing such breach; (ii) ceases to carry on business as a going concern, becomes the object of voluntary or involuntary bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets; (iii)

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Master Agreement Terms and Conditions

engages in fraud, criminal conduct, or willful misconduct; or (iv) breaches the confidentiality obligations under this Agreement.

- 3.3 **Force Majeure.** Except in the case of payment of amounts due, neither Party will be liable to the other Party for any failure of performance due to any cause beyond that Party's reasonable control, including acts of God, fire, explosion, vandalism, terrorism, cable cut, storm, or other similar occurrence, any law, order, regulation, direction, action, or request by any government, civil, or military authority, national emergencies, insurrections, riots, wars, labor difficulties, supplier failures, shortages, breaches, or delays, or preemption of existing Service to restore Service in compliance with the regulatory rules and regulations, or, in the case of AT&T, delays caused by Customer or Customer's service or equipment vendors.
- 3.4 **Assignment.** Neither this Agreement (including any Addendum) nor any interest therein may be assigned, sublet, or in any manner transferred by Customer without the prior written consent of AT&T. Any attempted assignment or transfer in contravention of the preceding sentence will be void. AT&T may assign or subcontract any portion of the Services to be performed without Customer's prior written approval.
- 3.5 **Use of Confidential Information.** During the Term, each Party may obtain Confidential Information from the other Party. Written or other tangible Confidential Information must at the time of disclosure be identified and labeled as Confidential Information belonging to the disclosing Party. When disclosed orally or visually, Confidential Information must be identified as confidential at the time of the disclosure, with subsequent confirmation in writing within 15 days after disclosure. Neither Party may during the Term and for 3 years thereafter disclose any of the other Party's Confidential Information to any third party. Neither Party may use the other Party's Confidential Information except to perform its duties under this Agreement. The Confidential Information restrictions will not apply to Confidential Information that is (i) already known to the receiving Party, (ii) becomes publicly available through no wrongful act of the receiving Party, (iii) independently developed by the receiving Party without benefit of the disclosing Party's Confidential Information, or (iv) disclosed by the disclosing Party to a third party without an obligation of confidentiality. Upon termination of this Agreement or an applicable Addendum, each Party will return the other Party's Confidential Information.
- 3.6 **Customer Information; Access and Safe Working Environment.** AT&T may rely on any information provided by Customer and assumes no liability for any damages or costs that result from errors or omissions in such information. Customer shall provide AT&T with timely access to Customer information, facilities or equipment as AT&T reasonably requires to provide the Services and keep AT&T informed on developments in Customer's business or operations that may impact Service. AT&T may share Customer information and Confidential Information (including billing and usage information for Services purchased) with AT&T Affiliates and inform Customer of other AT&T product/service offerings. Customer shall maintain the Site in a suitable and safe working environment, free of Hazardous Materials. Customer represents and warrants that the area of the Site where AT&T performs Services is free of Hazardous Materials. AT&T does not handle, remove or dispose of, nor does AT&T accept any liability for, any Hazardous Materials at the Site. Customer shall pay AT&T for any damages, costs, fines or penalties AT&T incurs as result of the presence or release of such Hazardous Materials. If AT&T encounters any such Hazardous Materials, AT&T may terminate this Agreement or suspend performance until Customer removes and cleans up at its expense Hazardous Materials in accordance with this Agreement and applicable law. For purposes hereof, "Hazardous Materials" means any substance whose use, transport, storage, handling, disposal, or release is regulated to any law related to pollution, protection of air, water, or soil, or health and safety.
- 3.7 **Publicity.** During the Term, AT&T may refer to Customer, orally and in writing, as a customer of AT&T and may publish a press release announcing in general terms that AT&T and Customer have entered into this Agreement and AT&T may in general terms describe the activities contemplated hereunder. Any other reference to one Party by the other Party requires written consent of the first Party.
- 3.8 **Limitation of Liability.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES RELATED TO LOST PROFITS, TOLL FRAUD, LOSS OF USE, AND LOSS OF DATA, OR FAILURE TO REALIZE SAVINGS OR BENEFITS) ARISING UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS. EXCEPT AS OTHERWISE PROVIDED IN ANY APPLICABLE TARIFF OR GUIDEBOOK, THE TOTAL AGGREGATE LIABILITY OF AT&T, ITS SUPPLIERS, LICENSORS, AFFILIATES, DIRECTORS, OFFICERS, AND/OR EMPLOYEES UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO PROVEN DIRECT DAMAGES NOT TO EXCEED AMOUNTS ACTUALLY PAID BY CUSTOMER DURING THE 3-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CIRCUMSTANCES GIVING RISE TO THE FIRST CLAIM FOR DAMAGES UNDER THIS AGREEMENT.

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Master Agreement Terms and Conditions

- 3.9 Warranties; Disclaimer of Other Warranties. With respect to maintenance or professional Services, AT&T warrants that the Services will be performed in a professional and workmanlike manner. AT&T further warrants that it has good title to the Equipment and that the Equipment will perform in accordance with the manufacturer's published specifications during the warranty period set forth by such manufacturer and AT&T will use commercially reasonable efforts to subrogate any AT&T claims or rights against the Equipment manufacturer to Customer. AT&T makes no warranties and assumes no liability for any defects or nonconformities caused by non-AT&T approved modifications or alterations; misuse, accident or neglect; or Customer failure to comply with AT&T or AT&T vendor specifications or requirements for use. These warranties do not cover and AT&T has no responsibility for (a) installation, maintenance or operation of non-AT&T provided equipment or software or impairment caused by such equipment/software; (b) compatibility of such equipment/software with AT&T-provided Equipment or Software; or (c) modifications, alternations or repairs to Equipment or Software by persons other than AT&T or its authorized agents. EXCEPT FOR THE FOREGOING, OR AS EXPRESSLY SET FORTH IN AN ADDENDUM, AT&T MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES RELATED TO THE MATERIALS, SERVICE, EQUIPMENT OR SOFTWARE, ALL OF WHICH ARE PROVIDED "AS IS" TO THE FULL EXTENT PERMITTED BY LAW.
- 3.10 Indemnities. Customer will indemnify and defend AT&T, its directors, officers, employees, agents and their successors ("Agents") from and against any and all third party claims and related loss, liability, damage and expense, including attorneys' fees, (collectively "Damages") arising from improper use of Services or information or any content or data transmitted over any AT&T network or facilities. AT&T will indemnify and defend Customer and its Agents from and against any Damages finally awarded or paid in settlement based on a claim that any Service, or AT&T-provided Equipment and Software (collectively, "Materials"), infringe a U.S. patent or copyright. If a final injunction or judgment is awarded against Customer prohibiting use of Service/Materials by reason of infringement of a U.S. patent or copyright, AT&T will at its option and expense either (a) procure the right for Customer to continue using the Service/Materials; (b) obtain and deliver equivalent non-infringing Service/Materials; or (c) terminate the infringing Service/Materials and refund to Customer amounts paid for infringing Service/Materials, less a reasonable charge for use. An indemnified Party shall provide the indemnifying Party with notice for any claim of indemnity and the indemnifying Party shall have complete authority to assume the sole defense and settlement of such claim. The indemnified Party may participate in the settlement or defense at its own expense and shall reasonably cooperate to facilitate the defense and settlement of such claims.
- 3.11 Equipment. To the extent that Customer purchases Equipment under an Addendum/Attachment/SOW, the following additional terms apply: AT&T will deliver the Equipment FOB shipping point, freight prepaid and charged. Title to the Equipment and all risk of loss to the Equipment shall pass to Customer at Cutover. Upon Cutover, AT&T hereby grants to Customer a personal, nontransferable, non-exclusive license to use the Software on or with the corresponding Equipment and AT&T (or its licensors) shall retain and continue to own all right, title and interest in any Software and all copies. Customer will furnish any conduit, holes, wireways, wiring, plans, equipment, space, power/utilities, and all other items reasonably required to perform installation and other Services related to the Equipment and obtain any necessary licenses, permits and consents to do so. Customer has 30 days after Cutover to test the Equipment and provide AT&T with written notice if the Equipment is defective and does not conform to manufacturer's specifications. AT&T will repair or replace (at its option and expense) any such non-conformity and if the Equipment fails to conform after a reasonable number of attempts to do so, AT&T will (at its option and expense) provide replacement Equipment or refund payments for non-conforming Equipment. AT&T is not responsible for and shall have no liability for, or any impairment caused by (a) any non-conformity caused by improper use or environmental or electrical conditions or attachment of non-AT&T or manufacturer materials or devices; or (b) installation, operation or maintenance of non-AT&T hardware/software. Customer is responsible for ensuring that such non-AT&T hardware/software is compatible with the Services, Equipment or Software. If Customer does not deliver a written certificate of acceptance or written notice of non-conformity within 30 days after Cutover, the Equipment shall be deemed accepted.
- 3.12 Miscellaneous. This Agreement sets forth the entire understanding of the Parties and supersedes any and all prior agreements, representations, and understandings relating to the subject matter hereof. No modifications or subsequent agreements concerning the subject matter of this Agreement will be effective unless made in writing and signed by the Parties. The parties agree that this transaction may be conducted by electronic means. AT&T shall not be bound by any electronic or pre-printed terms additional to, or different from, those in this Agreement that may appear in Customer's form documents, orders, acknowledgments or other communications. Customer shall not resell any Services without AT&T's written consent. Any legal action arising under this Agreement must commence within 2 years after the cause of action arises. AT&T, its employees, agents, and representatives are not employees, servants, partners, or joint venturers of or with Customer. AT&T is an independent contractor and will at all times direct, control, and supervise all of its employees. This Agreement will be governed by the laws of Texas, without regard to its conflicts of law rules. The Parties specifically disclaim the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act. If any provision of this Agreement is determined to be invalid or unenforceable, this Agreement will be construed as if it did not contain such provision. The failure of a Party to insist upon strict performance of any provision of this Agreement in any one or more instances will not be construed as a waiver or relinquishment of such provision and the same will remain in full force and effect.

CONFIDENTIAL INFORMATION

This Agreement is for use by authorized employees of the parties hereto only and is not for general distribution within or outside their companies.

Addendum and Attachment List

This Addendum and Attachment List to the Master Agreement (the "List") between AT&T and Customer, current as of the Effective Date, is incorporated into the Agreement by this reference. All Addenda and Attachments shall be attached to the Agreement.

1

911 CPE Addendum

This List may be amended from time to time in writing and signed by the Parties.

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**SBC PremierSERVSM Voice CPE Support Services
Addendum To Master Agreement**

Addendum No. _____

This Addendum ("Addendum"), entered into by SBC Global Services, Inc. dba AT&T Global Services (on behalf of SBC DataComm dba AT&T DataComm* ("AT&T") and _____ ("Customer") and effective as of the date last signed below ("Effective Date"), is an attachment to that certain Master Agreement ("Agreement") dated _____ between the parties thereto. The definitions contained in the Agreement are herein incorporated by reference.

Customer Name:

Customer Billing Address:

Customer Billing Number:

Location of Equipment (Delivery/Installation Site Address):

Date of Submission: _____ **Lessor:** _____

Delivery Date: _____ **Installation/Cutover Date:** _____

Purchase Order Number: _____

PURCHASE PRICE

1. Total Price of Equipment.....
 2. Total Charge for Installation/Cutover
 3. Total Purchase Price
- * Taxes & Shipping will be listed separately on the invoice.

PAYMENT TERMS¹ (select one based on criteria below)

	<input type="checkbox"/> <u>Option 1</u>	<input type="checkbox"/> <u>Option 2</u>	<input type="checkbox"/> <u>Option 3</u>	<input type="checkbox"/> <u>Option 4</u>	<u>\$ Due</u>
	_____ <i>Initial here</i>	_____ <i>Initial here</i>	_____ <i>Initial here</i>	_____ <i>Initial here</i>	
Down Payment: 50%		25%	25%	()	
Delivery:			50%	()	
Cutover: 50%		75%	25%	()	_____
TOTAL:					_____

¹ Option 1 is the standard billing terms for business sales. Option 2 is used for large businesses or other businesses who are purchasing over \$16,000 and have been in business at least 2 years with DAB Paydex of > 60. Option 3 is only allowed if the Purchase Price is over \$50,000 and the scheduled cutover date is more than 60 days after execution of this Addendum. Option 4 is for non-standard billing and payment term requests and is subject to the approval of credit verification. All options are subject to Credit Approval.

SELECTION OF SBC PremierSERVSM MAINTENANCE AND SERVICE PLANS:

SBC PremierSERVSM Voice CPE Support Services Maintenance Plan (For Warranty see Section 5):

Complete Essential Dedicated Custom

ACCEPT - Customer Initials: _____ DECLINE - Customer Initials: _____

Initial Term: (____) Years From: _____ To: _____ Maintenance Price: _____

Payment Terms (default is annual):

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SBC PremierSERVSM Voice CPE Support Services

Addendum To Master Agreement

Prepayment Annual Semi-Annual Quarterly Monthly Financing

This Addendum may be withdrawn by AT&T if not signed and returned by the Customer within sixty (60) days from the Date of Submission referred to above.

Special Terms and Conditions for PSAP – LAN Configurations or Installations:

CUSTOMER WARRANTS TO AT&T AND ALL 911 EMERGENCY SERVICE USERS THAT THE 911 EQUIPMENT AND/OR SERVICES BEING PROVIDED HEREUNDER, OR PREVIOUSLY SUPPLIED BY AT&T, IS NOT CONNECTED AND WILL NOT BE CONNECTED TO ANY LOCAL AREA NETWORK ("LAN") OR ANY OTHER COMPUTER NETWORK OUTSIDE OF AT&T'S CONTROL, INCLUDING WITHOUT LIMITATION THE NATIONAL CRIME INFORMATION CENTER NETWORK ("CIC") OR SIMILAR NETWORK; PROVIDED, HOWEVER, THAT CUSTOMER MAY CONNECT SAID EQUIPMENT AND/OR SERVICES TO THE CIC OR SIMILAR NETWORK IF AND ONLY IF SUCH CONNECTION IS EXPRESSLY APPROVED IN WRITING BY AT&T, WHICH APPROVAL SHALL BE IN AT&T'S SOLE DISCRETION. AT&T RELIES ON THIS REPRESENTATION BY CUSTOMER IN AGREEING TO INSTALL AND/OR MAINTAIN SAID EQUIPMENT AND ALL SERVICES THEREON.

AT&T MAINTAINS A STRICT POLICY ("PSAP NETWORK SECURITY POLICY") THAT IT WILL INSTALL 911 EQUIPMENT ONLY IN A SECURE PSAP LAN, AND ONLY WHERE SUCH LANS ARE NOT CONNECTED TO ANY OTHER COMPUTER NETWORK OUTSIDE OF AT&T'S CONTROL. AT&T WILL NOT INSTALL OR TERMINATE A PSAP LAN TO A FIREWALL. AT&T WILL IDENTIFY THE DEMARCATION POINT FOR THE PSAP LAN, BEYOND WHICH CUSTOMER AGREES THAT AT&T IS NOT RESPONSIBLE. IN THE EVENT CUSTOMER CONNECTS ITS PSAP LAN TO ANY OTHER COMPUTER NETWORK, CONTRARY TO AT&T'S EXPRESS PSAP NETWORK SECURITY POLICY (WHICH CUSTOMER ACKNOWLEDGES IT HAS RECEIVED AND READ), AND THE PSAP LAN IS INFECTED OR DAMAGED AS A RESULT OF SUCH ACTIONS, THEN ALL WARRANTIES, AND MAINTENANCE AND SERVICE PROVISIONS OF THIS AGREEMENT SHALL BE NULL AND VOID AND AT&T DISCLAIMS ANY LIABILITY WHATSOEVER RELATING TO ANY PSAP LAN WHICH CUSTOMER OR ITS AGENTS CONNECT TO ANY OTHER COMPUTER NETWORK CONTRARY TO THE PSAP NETWORK SECURITY POLICY.

UNDER SUCH CIRCUMSTANCES, AT&T WILL PROVIDE REPAIR SERVICES FOR THE PSAP LAN AT CUSTOMER'S REQUEST, WHICH WILL BE BILLED ON A TIME AND MATERIAL BASIS AT AT&T'S THEN-PREVAILING RATES. CUSTOMER FURTHER AGREES TO INDEMNIFY AND SAVE AT&T HARMLESS FOR ANY DAMAGES TO OR CLAIMS BY ANY THIRD PARTY AGAINST AT&T WHICH ARISE IN WHOLE OR IN PART FROM CUSTOMER'S CONNECTION OF THE 911 EQUIPMENT AND/OR SERVICES BEING PROVIDED HEREUNDER TO ANY LAN OR ANY OTHER COMPUTER NETWORK OUTSIDE OF AT&T'S CONTROL, INCLUDING WITHOUT LIMITATION THE NATIONAL CIC.

SO AGREED by the Parties' respective authorized signatories:

* "SBC DataComm dba AT&T DataComm" as used herein refers to: SBC DataComm, Inc. dba AT&T DataComm, a Delaware corporation; and to SBC DataComm, a d/b/a name registered to Southwestern Bell Telephone Company in Missouri, Oklahoma, and Texas, and to Pacific Bell Telephone Company in California.

SO AGREED by the Parties' respective authorized signatories:

	AT&T GLOBAL SERVICES ON BEHALF OF ITS AFFILIATES
--	---

By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

NOTE: The Parties' signatures on this Addendum are not necessary when this Addendum is incorporated by reference in the Master Agreement on the Master Agreement's Effective Date. This Addendum must always be associated with a Master Agreement and may not be executed as a standalone agreement.

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SBC PremierSERVSM Voice CPE Support Services

Addendum To Master Agreement

Attachments:

- 1. Statements of Work e.g. SOW, SCOW, PIG
- 2. Bill of Materials for Equipment and Services
- 3. Invoicing Schedule and Payment Terms
- 4. Implementation Timeline
- 5. Certificate of Acceptance
- 6. Other: [_____]

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SBC PremierSERVSM Voice CPE Support Services
Addendum To Master Agreement

1. SCOPE

This Addendum covers AT&T's sale of voice customer premise equipment ("CPE" or "Equipment") (under the attached Bill of Materials, Order or other applicable document), installation and/or maintenance Service for such Equipment to be provided by AT&T under the Maintenance Plan identified above (the Maintenance Plan"), and as further described below. The Equipment is further described in the attached Bill of Materials, Order, SOW, Equipment listing or other applicable attachment. This Addendum also covers any Orders issued under this Addendum, as well as any additions or replacement to the Equipment or Service.

2. AT&T SERVICE AND SERVICE EXCLUSIONS

- A. During the term of the Maintenance Plan, AT&T will repair Equipment that malfunctions due to wear and tear resulting from normal use in accordance with standard operating instructions. Items excluded from coverage under the Maintenance Plan are headsets, portable telephones (cordless/wireless), answering machines, Contact Center servers, UPS systems, power conditioners and power supplies (including batteries and chargers), consumables and any Software which is at a revision level not supported by the Software licensor. AT&T does not remove or recycle batteries.
- B. The Maintenance Plan and any and all warranties provided to Customer in this Addendum or the Master Agreement do not cover malfunctions or defects resulting from abnormal or nonstandard uses or conditions including, but not limited to, the following types of causes: failure to provide a suitable environment for the Equipment, including exposure to improper temperature, humidity, chemicals or airborne agents, Customer abuse, misuse or use contrary to standard operating instructions; improper electrical voltages or currents; power or lightning surges or power interruption; improper storage or placement of the Equipment; damage caused by unauthorized attachments or modification; use with or interconnection of the Equipment to incompatible electrical or mechanical devices; and the installation, maintenance or disassembly, repair or alteration of the Equipment by any person other than AT&T, or an entity expressly approved by AT&T in writing; or Forced Majeure occurrences. In such excepted cases, Customer will pay AT&T in accordance with AT&T's then prevailing rates in connection with diagnosing such excepted problems and for any resulting repairs. Customer (i) is solely responsible for adequately backing up data and ensuring that its networks/systems are secured against unauthorized intrusion; and (ii) acknowledges that CPE/Software that supports telephony over Transmission Control Protocol/Internet Protocol (TCP/IP) may experience certain compromises in performance, reliability and security even when performing as warranted and that failure to follow manufacturer/licensor recommendations may make such compromises more acute.
- C. AT&T's maintenance Service provided under the Maintenance Plan shall include preventive and remedial maintenance, as required by the CPE manufacturer's specifications or by AT&T. Replacement parts and products may be new or equivalent to new in performance. Such parts and products will be furnished on an exchange basis and the returned parts and products will become the property of AT&T. AT&T's preventive and remedial maintenance Service obligations hereunder do not include, and AT&T is not otherwise obligated to provide replacement parts, software releases, second tier help desk support, updates, or maintenance Service resulting in CPE functionality which exceeds that expressly provided in manufacturers' or suppliers' specifications at the time such product was installed (including Year 2000 functionality).
- D. AT&T makes no guarantee as to parts availability on Equipment that has been discontinued by its manufacturer. In the event a manufacturer discontinues producing any Equipment or in the event the Equipment has outlived the manufacturer's suggested product life cycle, AT&T shall continue to provide Service under the Maintenance Plan for as long as parts are available on a commercially reasonable basis. In the event repair parts are not readily available, AT&T shall advise Customer and Customer shall have the option to replace the Equipment with a similar product at AT&T's then prevailing rates. In the event Customer declines to authorize such replacement, AT&T shall delete such Equipment from this Addendum and cease providing Service for such Equipment, and AT&T will issue, if applicable, a pro-rata refund for such deletion. Additionally, Customer agrees to pay any additional charges that may be incurred by AT&T for product support services from the manufacturer for products that are manufacturer discontinued or have been placed into "end of life" status.
- E. The periodic charges specified herein include all the stated maintenance Service performed at any time in connection with Emergencies and Non-Emergencies during Normal Business Hours. An "Emergency" is defined as any malfunction that leaves Customer unable to place or receive calls through the CPE, or any other failure agreed to in writing by the Parties.
- F. Service performed outside of Normal Business Hours or outside the scope of the Maintenance Plan will be charged on a per occurrence basis billed in fifteen (15) minute increments with a minimum of two (2) hours at AT&T's then

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prevailing hourly or premium hourly rate including travel time to and from Customer's Site. Customer shall also be responsible for travel and living expenses, when required. Provisioning of such Service shall be at the discretion of AT&T and shall be subject to the availability of personnel and parts, if applicable.

- G. In the event AT&T responds to Customer's request for Service and AT&T reasonably determines that the problem was not caused by the Equipment maintained herein, Customer will be responsible for additional charges for such response at AT&T's then prevailing rates.
- H. AT&T's responsibility with respect to its obligation to provide maintenance Service under this Addendum shall be limited to the Customer's side of the CPE residing on the Demarcation Point ("Demarcation Point" is defined as the point between facilities controlled or owned by the local telephone carrier and those facilities controlled or owned by Customer). Maintenance Services include maintenance as described herein for: (i) the CPE and/or associated system software stated herein; and (ii) such other equipment and/or software which is subsequently added to this Addendum by an Order, attachment or other applicable document. In the event that AT&T responds to Customer's request for Service and Customer's claim of CPE malfunction is due to problems on the local telephone utility's side of the Demarcation Point due to malfunctions in equipment or software other than that covered by this Addendum, Customer will be responsible for additional charges for such response in accordance with AT&T's then prevailing rates.
- I. AT&T may suspend performance or terminate this Addendum if Customer fails to pay all amounts due by the applicable due date and such failure is not cured within 10 days of receiving AT&T's notice of non-payment.

3. SHIPPING AND DELIVERY

- A. All shipping, transportation and delivery charges for the Equipment, including expedites, shall be paid by Customer. AT&T shall use commercially reasonable efforts to deliver the Equipment by the delivery date specified in this Addendum. Customer may, upon written notice to AT&T no later than ten (10) days prior to delivery, postpone the delivery, installation or Cutover dates specified in this Addendum one (1) time.
- B. Such postponement shall not exceed thirty (30) days from the originally scheduled delivery, installation or Cutover dates and is subject to price changes.

4. INSTALLATION AND CUTOVER

In the event AT&T connects the Equipment or installs the Software on such Customer owned equipment, AT&T shall not be liable for any damage to such Customer owned equipment, unless due to AT&T's sole negligence. AT&T shall use commercially reasonable efforts to complete installation and Cutover of the Equipment by the dates specified in this Addendum. Cutover shall be deemed accomplished upon connection to the telephone network to place and receive calls. Cutover of Equipment that is not dependent on the telephone network will occur when the Equipment is operational.

5. WARRANTY AND WARRANTY EXCLUSIONS

- A. Unless otherwise provided within Bill of Materials, Statement of Work or other attachment, the "Warranty Period" for Equipment shall be twelve (12) months (and in the case of AT&T-provided Software related to the Equipment, ninety (90) days (or such longer period provided by AT&T's applicable Software licensor)) from the date of delivery to the carrier for shipment, or from the date of installation when AT&T provides installation (or from such other date as determined by the applicable Equipment/Software manufacturer/licensor). AT&T warrants that during the Warranty Period, the CPE/Software shall materially conform to the manufacturer's/licensor's published specifications. If Customer notifies AT&T of a material defect during the Warranty Period, AT&T shall, at AT&T's sole option, repair or replace the Equipment/Software, free of charge to Customer. AT&T's repair or replacement of CPE/Software shall be Customer's sole remedy for breach of the warranty as stated herein. All warranty Services will be performed during Normal Business Hours.
- B. During the Warranty Period, any change in the location of CPE must be performed by AT&T and shall be at Customer's expense.
- C. Customer may request maintenance Service twenty-four (24) hours a day, seven (7) days a week by calling AT&T. If Customer's problem is an Emergency, AT&T will use reasonable commercial efforts to respond to Customer's report of a malfunction by dispatching a technician to the Site or by beginning remote diagnosis, as appropriate within two (2) business hours for PBX systems and four (4) business hours for key, hybrid or any other system, and will complete the appropriate repairs as soon as reasonably practical. Remote diagnostics require customer provided access line and remote access device on all covered equipment with capabilities.
- D. In the event the problem is a non-Emergency, AT&T shall use reasonable commercial efforts, within eight (8) business hours after Customer's problem is reported, to either: (i) commence repair or replacement from a remote location, (ii) dispatch Service personnel to Customer's site, or (iii) ship replacement CPE as soon as practical, provided, however, Customer must return the defective CPE within ten (10) days or AT&T shall invoice Customer for the full replacement cost. AT&T reserves the right to inspect all defective CPE and AT&T shall have final determination of the status of such CPE.

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6. MAINTENANCE AND SERVICE PLAN DESCRIPTION

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(i) AT&T shall provide maintenance Services, including parts, for CPE as well as any intra-building distribution cables provided by AT&T in connection with the CPE listed hereto, which may include wire, terminals, protectors or connectors;

(ii) Customer may request maintenance Service twenty-four (24) hours a day, seven (7) days a week by calling AT&T. If Customer's problem is an Emergency, AT&T will use reasonable commercial efforts to respond to Customer's report of a malfunction by dispatching a technician to the Site or by beginning remote diagnosis, as appropriate, within two (2) hours for PBX systems and four (4) hours for key, hybrid or any other system, and will complete the appropriate repairs as soon as reasonably practical; **Remote diagnostics require customer provided access line and remote access device on all covered equipment with capabilities.** (iii) In the event the problem is a non-Emergency, AT&T shall use reasonable commercial efforts, within eight (8) business hours after Customer's problem is reported, to either: (1) commence repair or replacement from a remote location, (2) dispatch service personnel to Customer's Site, or (3) ship replacement CPE as soon as practical, provided, however, Customer must return the defective CPE within ten (10) days or AT&T shall invoice Customer for the full replacement cost. AT&T reserves the right to inspect all defective CPE and AT&T shall have final determination of the status of such CPE.

7. AGENCY

During the term of this Addendum, Customer will not permit any other person to maintain, repair or modify the CPE or to connect any other equipment. To the extent necessary for AT&T to perform its Services under this Addendum, Customer agrees that AT&T will be Customer's Site agent to represent Customer in any dealings with any telephone company or government agency with respect to CPE maintenance provided hereunder. Customer assumes all ongoing responsibility of directory listings, credit cards, system security, billing arrangements and other items not related to Equipment or Services provided by AT&T unless expressly stated otherwise under this Addendum or some other express written agreement between Customer and AT&T.

8. CHANGE IN EQUIPMENT

AT&T will have the right and option of conducting periodic equipment reviews for additions and/or deletions which may have occurred and all service pricing shall be adjusted accordingly. In the event that Customer terminates this Addendum, or reduces the grade of Services provided hereunder prior to expiration of the term(s) herein, the 50% early termination liabilities set forth in the Master Services Agreement will apply unless otherwise noted.

9. RENEWAL

Unless terminated by either Party upon at least thirty (30) days written notice prior to expiration of the then existing Term, and to avoid Service interruption, the then current Term of any services included in this Addendum shall automatically extend for consecutive one (1) year Term(s) at AT&T's then current pricing for such Services. Upon extension of any Maintenance or Service Plan, the services provided by AT&T shall remain unchanged (except with respect to pricing) unless both Parties agree in writing to any changes at the time of extension. AT&T may only increase the price of the Maintenance or Service Plans provided herein at: (i) the expiration of the initial term; (ii) commencement of any subsequent extension term; or (iii) the time Equipment is changed, upgraded or added to this Addendum. AT&T will provide Customer with a 30 day notice of such increases.

END OF DOCUMENT

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