

A RESOLUTION ACCEPTING THE PROPOSAL OF CEQUEL COMMUNICATIONS PERTAINING TO DATA COMMUNICATIONS AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, The City of Branson is approving a contract with Cequel Communications pertaining to Metro Ethernet and Dedicated Internet services; and

WHEREAS, Cequel Communications has been recommended for approval by staff; and

WHEREAS, the Board of Aldermen desires to award the contract.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the contract with Cequel Communications pertaining to Data Communications as specified in the related specifications and substantial conformity with the terms shown on Exhibit "1" attached in the amount not to exceed \$127,200.00 and incorporated by this reference as set out here in full, together with such changes therein as shall be approved by the officers of the City executing same which are consistent with the provisions and intent of this legislation and necessary, desirable, convenient or proper in order to carry out the matters herein authorized. The Mayor, City Administrator, and other appropriate City officials are hereby authorized to execute the Agreement and such additional documents and take any and all actions necessary, desirable, convenient or prudent in order to carry out the intent of this legislation.

Section 2: This resolution shall be in full force and effect after its passage and approval.

ADOPTED, by the Board of Aldermen of the City of Branson, Missouri, this 14th day of November, 2023.



Larry D. Milton
Mayor

ATTEST:



Hillary Briand
City Clerk

APPROVED AS TO FORM:



City Attorney

Office Use Only
 MASTER CONTRACT NUMBER:
 C2023-0212



Service Agreement/ Order Form

Date: 9/6/2023

Customer Information

Customer Status: Existing Customer

Customer Name: Branson City Hall - Fiber Master

Billing Address: 110 W Maddux St BRANSON MO 65616
Street Address Suite City State Zip Code

Billing Contact: Chad Forester Phone 417-337-8599 Email cforster@bransonmo.gov

Order Contact: Chad Forester Phone 417-337-8599 Email cforster@bransonmo.gov

Optimum Contact: David Phipps Phone _____ Email david.phipps@alticeusa.com

Optimum Services

The above Customer agrees to the ordering of the following Services:

Order Type: Renewal - Service Upgrade Service Location Type: LIT 'A' Location: 110 CROSBY ST, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>									
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 40%;"></th> <th style="width: 15%;">Individual Monthly Recurring Charge</th> <th style="width: 10%;">Quantity</th> <th style="width: 15%;">Total Monthly Recurring Charge</th> <th style="width: 20%;">Non Recurring Charge</th> </tr> </thead> <tbody> <tr> <td>1 Optical Ethernet 10G Intra 10Gb</td> <td style="text-align: center;">\$720.00</td> <td style="text-align: center;">1</td> <td style="text-align: center;">\$720.00</td> <td style="text-align: center;">\$0.00</td> </tr> </tbody> </table>		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge	1 Optical Ethernet 10G Intra 10Gb	\$720.00	1	\$720.00	\$0.00
	Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge						
1 Optical Ethernet 10G Intra 10Gb	\$720.00	1	\$720.00	\$0.00						

Order Type: Renewal Service Location Type: LIT 'A' Location: 251 BRANSON MEADOWS DR, BRANSON, MO 65616 Demarc: main Equipment	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>									
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	Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge						
2 Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00						

Order Type: Renewal Service Location Type: LIT 'A' Location: 625 STOCKSTILL LN, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>									
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	Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge						
3 Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00						

Order Type: Renewal Service Location Type: LIT 'A' Location: 2855 FALL CREEK RD, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>									
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	Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge						
4 Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00						

Order Type: Renewal Service Location Type: LIT 'A' Location: 3718 FALL CREEK RD, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>									
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	Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge						
5 Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00						

Order Type: Renewal Service Location Type: LIT 'A' Location: 521 CLIFF DR, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>
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		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge
6	Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00

Order Type: Renewal Service Location Type: 'A' Location: 601 COMPTON DR, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>
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		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge
7	Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00

Order Type: ADD Service Location Type: 'A' Location: 3500 KEETER ST, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>
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		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge
8	Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00

Order Type: Renewal - Service Upgrade Service Location Type: LIT 'A' Location: 616 W W PACIFIC ST, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>
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		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge
9	Optical Ethernet 10G Intra 10Gb	\$720.00	1	\$720.00	\$0.00

Order Type: Renewal - Service Upgrade Service Location Type: LIT 'A' Location: 1500 BRANSON HILLS PKWY, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>
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		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge
10	Optical Ethernet 10G Intra 10Gb	\$720.00	1	\$720.00	\$0.00

Order Type: Renewal - Service Upgrade Service Location Type: LIT 'A' Location: 296 Buena Vista Rd, Branson, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>
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		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge
11	Optical Ethernet 10G Intra 10Gb	\$720.00	1	\$720.00	\$0.00

Order Type: ADD Service Location Type: 'A' Location: 2255 GREYNA RD, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment room Type II: <input type="checkbox"/>
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		Individual Monthly Recurring Charge	Quantity	Total Monthly Recurring Charge	Non Recurring Charge
12	Optical Ethernet 10G Intra 10Gb	\$720.00	1	\$720.00	\$0.00

Order Type: Renewal - Service Upgrade Service Location Type: LIT 'A' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: 'Z' Location: Demarc: Type II: <input type="checkbox"/>
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		<i>Individual Monthly Recurring Charge</i>	<i>Quantity</i>	<i>Total Monthly Recurring Charge</i>	<i>Non Recurring Charge</i>
13	Optical Internet Access 2G 2Gb	\$1,300.00	1	\$1,300.00	\$0.00

Order Type: Renewal - Service Upgrade Service Location Type: LIT 'A' Location: 300 S Boxcar Willie Dr, Branson, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: 'Z' Location: Demarc: Type II: <input type="checkbox"/>
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		<i>Individual Monthly Recurring Charge</i>	<i>Quantity</i>	<i>Total Monthly Recurring Charge</i>	<i>Non Recurring Charge</i>
14	Optical Internet Access 2G 2Gb	\$1,300.00	1	\$1,300.00	\$0.00

Order Type: ADD Service Location Type: New Build 'A' Location: 250 CHAMPAGNE BLVD, BRANSON, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: LIT 'Z' Location: 110 W Maddux St, Branson, MO 65616 Demarc: 1st floor Equipment room Type II: <input type="checkbox"/>
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		<i>Individual Monthly Recurring Charge</i>	<i>Quantity</i>	<i>Total Monthly Recurring Charge</i>	<i>Non Recurring Charge</i>
15	Optical Ethernet 1G Intra 1Gb	\$550.00	1	\$550.00	\$0.00

Order Type: Renewal Service Location Type: LIT 'A' Location: 110 W Maddux St, Branson, MO 65616 Demarc: main Equipment Room	Account #: 7308373011 Service Location Type: 'Z' Location: Demarc: 1st floor Equipment room Type II:
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		<i>Individual Monthly Recurring Charge</i>	<i>Quantity</i>	<i>Total Monthly Recurring Charge</i>	<i>Non Recurring Charge</i>
16	WANHUB	\$0.00	1	\$0.00	\$0.00

Service Term:	3 years
Total Monthly Recurring Charge:	\$10,600.00
Total Installation Charge:	\$0.00

For Internal Use Only

Remarks

General Terms and Conditions of Service (Business)

Subscriber ("Customer" or "Subscriber") agree to be bound to these General Terms and Conditions of Service ("Terms of Service" or "Agreement") with respect to all Optimum services ("Service(s)") provided by CSC Holdings, LLC and its affiliates and subsidiaries including Cequel Communications authorized to provide the services set forth herein (collectively, "Optimum"), as well as the additional terms of service applicable to the specific Optimum services and/or features to which customer subscribes or have access, as are set forth at www.optimum.net and may be updated from time to time, including the additional terms applicable to Optimum TV, Optimum Online, Optimum WiFi, Optimum Voice, support services, mobile apps and Auto Pay (collectively, the "Additional Terms of Service"), which are incorporated into these Terms of Service by this reference including Optimum DIA, Optimum Data and other Enterprise Fiber Service and Business Hosted Voice Service. Customer further understands and agree that the [Customer Privacy Notice](#), which governs the collection, use and disclosure of Subscriber personal information, is likewise incorporated into these Terms of Service by reference.

GENERAL TERMS OF SERVICE APPLICABLE TO SERVICE(S):

1. **Services.** Optimum shall use reasonable efforts to make the Services available by any requested service date. Optimum shall not be liable for any damages whatsoever resulting from delays in meeting any service dates due to delays resulting from construction or for reasons beyond its control. Optimum shall provide Customer with the Services and Equipment identified on the commercial service order presented to Customer' at time of installation ("Service Order"); provided, however, if Optimum determines that Customer's location is not serviceable under Optimum's normal installation guidelines, Optimum may terminate this Agreement. Optimum shall have no responsibility for the maintenance or repair of networks, facilities and equipment not furnished by Optimum.
2. **Payment of Charges.** The charges for one month of Services, including any deposits, activation, set-up, installation, construction and/or Equipment charges, are due upon installation of the Services or as otherwise set forth on the Service Order. Thereafter, Customer agrees to pay monthly recurring Service charges and Equipment charges (if any) in advance, including all applicable fees (such as restoration or experience fees), taxes, regulatory fees, franchise fees, surcharges (including sports and broadcast tv surcharges), or other government assessments no later than the date indicated on Customer's bill. Charges for non-recurring Services or Equipment charges will be reflected on Customer's subsequent bill at the then current applicable rates. All rates for Services, Equipment charges and other fees and surcharges are subject to change in accordance with applicable law. If Customer elects to pay by automatic recurring credit card, debit card or automatic clearing house payments, Customer authorizes Optimum to charge such accounts. If Customer elects to send a check as payment, Customer authorizes Optimum either to use information from Customer's check to make a one-time electronic funds transfer from Customer's bank account or to process the payment as a check transaction. Failure to receive a bill does not release Customer from Customer's obligation to pay. Failure to pay the total balance when due (including checks returned for insufficient funds) shall constitute a breach of this Agreement and may be grounds for termination of Service, removal of Equipment from Customer's premises and/or imposition of a late fee ("Late Fee") in accordance with applicable law. You can avoid incurring Late Fees by paying your monthly bill promptly. Any Late Fee imposed on Customer is intended to be a reasonable advance estimate of costs of managing past due accounts. The Late Fee is not interest, a credit service charge or a finance charge. If the Customer has more than one account (Business and/or Residential) served by Optimum, all Optimum- provided Services at all locations may be subject to discontinuance of Service in the event any one account remains unpaid. In the event collection activities are required, an additional collection charge may be imposed.
3. **Additional Fees.** In addition to Customer's monthly recurring charges and any Late Fee, additional fees may be imposed, including fees for returned checks, Payment Assistance Fees for paying by phone, receiving a paper bill, charge card chargeback, early termination, reconnection and service calls. Additional charges may also be imposed if collection activities are required to recover past due balances, including attorney fees. A list of applicable fees ("Schedule of Fees") is available at www.Optimum.com.pricing-packages. Optimum reserves the right to amend or change the Schedule of Fees from time to time.
4. **Third Party Provider Charges.** In connection with Customer's use of the Services and Equipment, Customer may be able to access, subscribe to, use and/or purchase products, services, software or applications that are provided to Customer by third parties ("Third Party Providers"). Customer acknowledges that Customer may incur charges in connection with the subscription to, purchase or use of these Third-Party Provider products, services, software or applications. All such charges, including any additional fees and applicable taxes, shall be paid by Customer to the Third-Party Provider and are not the responsibility of Optimum. Credits or billing adjustments for products, services, software or applications billed by a Third-Party Provider shall be subject to the stated billing practices of that Third Party Provider. Termination of a service or subscription offered for a separate charge billed directly by a Third-Party Provider shall be effected in accordance with the Terms of Service or similar agreement between the Customer and the Third Party Provider.
5. **Taxes.** Customer agrees to pay any local, state or federal taxes imposed or levied on or with respect to the Services, the Equipment or installation or service charges incurred with respect to the same.
6. **Term; Early Termination.** Your Service Term subscription begins either on or the first day following your installation date and continues for the initial term set forth on your Service Order ("Initial Term"). If a Service Order does not specify an Initial Term, You have an automatically renewing monthly Term ("Monthly Subscription").
 - a. **Monthly Term.** If you have a Monthly Subscription, your subscription begins either on or the first day following your installation date and automatically renews thereafter on a monthly basis beginning on the first day of the next billing period assigned to you until cancelled by you. The monthly service charge(s) will be billed at the beginning of your assigned billing period and each month thereafter unless and until you cancel your Service(s). PAYMENTS ARE NONREFUNDABLE AND THERE ARE NO REFUNDS OR CREDITS FOR PARTIALLY USED SUBSCRIPTION PERIOD(S). You may cancel Service(s) for a period up to the last day of the billing period prior to the service period that you wish to cancel, and the cancellation will be effective at the end of the then-current billing period. Any request for cancellation after the commencement of a service period will be effective at the end of the then-current service period. Access to the Services will, if possible, continue to be provided at the location ordered or, if you move, to your new location if in an Optimum-served area (subject to any installation charges).
 - b. **Initial Term Subscription.** If You have an Initial Term, your subscription begins either on or the first day following your installation date and continues for the duration of the applicable Initial Term. Upon the expiration of the Initial Term, Customer's Term automatically renews thereafter on a monthly basis (each, a "Renewal Month") beginning on the first day of the next billing period assigned to you until cancelled by you. The monthly service charge(s) for each month during the Initial Term and any Renewal Months will be billed at the beginning of your assigned billing period and each month thereafter unless and until you cancel your Service(s). PAYMENTS ARE NONREFUNDABLE AND THERE ARE NO REFUNDS OR CREDITS FOR PARTIALLY USED SUBSCRIPTION PERIOD(S).
 - i. If you cancel, terminate or downgrade the Service(s) before the completion of the Initial Term", you agree to pay Optimum early cancellation fees in an amount that includes: (i) all non-recurring charges reasonably expended by Optimum to establish service to Customer and not remunerated, (ii) any disconnection, early cancellation or termination charges reasonably incurred and paid by Optimum to third parties on behalf of Customer, and (iii) all monthly recurring charges for Services and Equipment for the remaining balance of the Initial Term. You agree that early cancellation fees or any other fees may automatically be charged to your account and your credit or debit card provided to Optimum and you agree to pay such fees.
 - ii. Following the Initial Term, Customer may cancel Service(s) for a period up to the last day of the billing period prior to the service period that you wish to cancel, and the cancellation will be effective at the end of the then-current billing period. Any request for cancellation after the commencement of a service period will be effective at the end of the then-current service period. Access to the Services will, if possible, continue to be provided at the location ordered or, if you move, to your new location if in a Optimum-served area (subject to any installation charges).

7. **Right to Make Credit Inquiries.** Customer acknowledges and agrees that Optimum may (a) verify Customer's credit standing, make inquiries and receive information about your credit experiences, including your credit report, from credit reporting agencies; (b) enter this information in your file, and disclose this information concerning you to appropriate third parties for reasonable business purposes; and (c) furnish information about you, your account(s) and your payment history to those credit reporting agencies.
8. **Security Deposit.** Optimum may require a deposit or activation fee based on Customer's credit standing or past payment history with Optimum. A deposit or activation fee does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. Any security deposit given by Customer for the Equipment or Optimum's Service will be due and payable upon the first monthly billing. Such security deposits will be returned to Customer within sixty (60) days of termination of Optimum's Service so long as payment has been made for all amounts due on Customer's account and Customer has returned the Optimum Equipment undamaged. Security deposits paid by Customer for Equipment or Services may be used, to the extent permitted by law, to offset any unpaid balance or charges after termination of Service. Customer shall remain liable for any outstanding balances after the security deposit has been applied. Further terms and conditions of the security deposit may be contained in the deposit receipt given to Customer at the time the security deposit is collected.
9. **Disputed Charges.** Customer agrees to pay all undisputed monthly charges and all applicable fees and taxes as itemized on the Optimum monthly bill and notify Optimum in writing of disputed items or requests for credit within thirty (30) days of Customer's receipt of the bill for which correction of an error or credit is sought, or longer as provided by applicable law. The date of the dispute shall be the date Optimum receives sufficient documentation to enable Optimum to investigate the dispute. The date of the resolution is the date Optimum completes its investigation and notifies the Customer of the disposition of the dispute.
10. **Adjustments or Refunds.** Any adjustment or refund, given in each case in Optimum's sole discretion, will be accomplished by a credit on a subsequent bill for Service, unless otherwise required by applicable law. No credit allowance will be made for interruptions of Service that are: (a) due to the negligence of or noncompliance with the provisions of the Agreement by Customer or any person authorized by customer to use the Service; (b) due to the negligence of any person other than Optimum including, but not limited to, the other common carriers connected to the Optimum's facilities; (c) due to the failure or malfunction of Customer owned equipment or third party equipment; (d) during any period in which Optimum is not given full and free access to its facilities and Equipment for the purpose of investigating and correcting interruptions; (e) during a period in which Customer continues to use the Service on an impaired basis; (f) less than thirty (30) minutes' duration; (g) during any period when the interruption is due to implementation of a Customer order for a change in Service arrangements; or (h) due to circumstances or causes beyond the control of Optimum. Unless otherwise provided by applicable law, in the event any amounts owed by Optimum to Customer are not claimed by Customer within one year of the date on which the amount became payable to Customer, Customer shall forfeit all rights to the refund and all such amounts shall become the property of Optimum.
11. **Equipment and Software.** "Distribution System" shall mean (1) all distribution plant, network facilities and associated electronics and all Equipment installed or provided by Optimum or its predecessors which is necessary to distribute Services throughout the premises, but specifically excluding Inside Wiring, and (2) all Equipment furnished by Optimum at the premises. Ownership of the Distribution System shall at all times be and remain in Optimum and shall be used exclusively by and in connection with Optimum operations. Upon termination of this Agreement and if Optimum is no longer providing Services to the premises, Optimum has the option to remove all or any portion of the Distribution System, provided that any damage to the premises caused by removal of the Distribution System will be repaired by Optimum to Customer's reasonable satisfaction. "Equipment" means all equipment, including but not limited to, any cables, wires, amplifiers, cable boxes, access cards, remotes, cable cards, battery backup units, modems, routers, gateways, Altice One and Altice One Mini units distributed to and/or installed for use in the Customer's service location but does not include Inside Wiring. "Inside Wiring" shall mean all wiring on the Customer's side of the demarcation point at Customer's service location, whether installed by Optimum or by Customer. The demarcation point shall mean a point at (or about) twelve (12) inches outside of where the cable wire enters the Customer's service location. Inside Wiring shall be Customer property and not Optimum Equipment, and repair and maintenance for such Inside Wiring is the responsibility of Customer unless otherwise agreed by Customer and Optimum. None of the Equipment shall become a fixture nor shall distribution, installation, and/or use of Equipment, including but not limited to cable boxes and/or set top boxes be deemed a lease of such Equipment. Unless otherwise stated in the Service Order, Customer will acquire no ownership or other interest in the Distribution System, Equipment, network facilities, and software by virtue of payments made pursuant to this Agreement or by the attachment of any portion of the Distribution System, Equipment or network facilities to Customer's premises.
- a. **Misuse of Equipment.** Optimum Equipment is intended to service and reside at the specific service location and is not to be removed from the service location where it was installed or used off premises without Optimum authorization. Customer agrees that neither Customer nor any other person (except Optimum's authorized personnel) will open, alter, misuse, tamper with, service, or make any alterations to any Equipment. Customer will not remove any markings or labels from the Equipment. Customer agrees to safeguard the Equipment from loss or damage of any kind, and (except for any self-installation procedures approved by Optimum) will not permit anyone other than a Optimum authorized representative to perform any work on the Equipment. Any misuse, alteration, tampering, or removal, or the use of Equipment which permits the receipt of Services without authorization or the receipt of Services to an unauthorized number of outlets, or to unauthorized locations constitutes theft of service and is prohibited.
- b. **Return of Equipment.** If Customer's Service is terminated or cancelled (for whatever reason), unless Optimum expresses otherwise in writing, Customer agrees that Customer no longer has the right to keep or use the Equipment and Customer must promptly return the Equipment. The Equipment must be returned to Optimum in the same condition as when received, ordinary wear and tear excepted. Absent other instructions, if Customer fails to return the Equipment, Customer will pay any expenses Optimum incurs in retrieving the Equipment. Failure of Optimum to remove the Equipment does not mean that Optimum has abandoned the Equipment. Optimum may impose a charge for unreturned Equipment to be determined in accordance with Optimum's then current schedule of charges for non-returned Equipment and/or continue to charge Customer a monthly Service fee every month until any remaining Equipment is returned, collected by Optimum or fully paid for by Customer. Any charge for unreturned Equipment shall be due immediately. Optimum retains ownership of all Equipment.
- c. **Damaged or Lost Equipment.** If the Equipment is damaged by Customer, destroyed, lost or stolen while in Customer's possession, Customer is responsible for the cost of repair or replacement of the Equipment.
- d. **Operation of Equipment.** Customer agrees to operate any Equipment in accordance with instructions of Optimum or Optimum's agent. Failure to do so will relieve the Optimum Parties of liability for interruption of Service and may make the Customer responsible for damage to Equipment.
- e. **Tests and Inspections.** Upon reasonable notification to the Customer, and at a reasonable time, Optimum may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth herein.
- f. **Software.** Customer agrees to comply with the terms and conditions of any software license agreement applicable to the software provided or installed by Optimum ("Software"). The Software shall be used solely in connection with the Services and Customer will not modify, disassemble, translate or reverse engineer, the Software. All rights title and interest to the Software, including associated intellectual property rights, are and will remain with Optimum and Optimum's licensors. If Customer's Service is terminated, Customer will promptly return or destroy all Software provided by Optimum and any related written materials. Optimum will have the right to upgrade, modify and enhance the Equipment and Software from time to time. Customer acknowledges that the Software, and any related written materials, may be subject to applicable export control laws and regulations of the USA. Customer agrees not to export or re-export the Software, directly or indirectly, to any countries that are subject to USA export restrictions.
- g. **Repair.** Optimum will repair and/or replace defective Software or Equipment provided such damage was not caused by misuse, neglect or other fault of Customer. Optimum assumes no responsibility and shall have no responsibility for the operation, maintenance, condition or repair of any Customer-provided

equipment and/or software, including, but not limited to, televisions, computer devices, remote controls or other consumer electronics, including any hardware or third party software, which may be connected to the Services ("Customer Equipment"), except that Optimum may automatically push required software or firmware updates directly to Customer Equipment when necessary for the provision of Optimum Service(s). Customer is responsible for the repair and maintenance of Customer Equipment. Optimum is not responsible or liable for any loss or impairment of Optimum's Service due in whole or in part to a malfunction, defect or otherwise caused by Customer Equipment. Optimum makes no warranties, with respect to Equipment or Service provided by Optimum or with respect to the Equipment's compatibility with any Customer Equipment.

- 12. Prohibitions/Theft of Service.** Customer shall not intercept, receive or assist in the interception or receipt of, resell, distribute or duplicate any Services. In no event shall Customer use the Services and/or Equipment to engage in any illegal or prohibited activity.
- 13. Customer Liability for Users.** Customer is responsible for any access, use or misuse of the Services and/or Equipment that may result from access or use by any other person who has access to Customer's premises, equipment or account. Customer is responsible for ensuring that all persons who use Customer's subscribed to Services ("Users") understand and comply with all terms and conditions applicable to the Services.
- 14. Business Hosted Voice on Fiber:** Customers purchasing Business Hosted Voice on Fiber are also bound by the Additional Terms for Business Hosted Voice Service on Fiber found at www.Optimum.com/terms-and-policies ("Terms of Service") and Exhibits A1 and A2 as set forth below.
- a. SOFTPHONES, OFF-SITE PHONES & WIFI CONNECTIVITY:** OPTIMUM ALLOWS THE ABILITY TO ACCESS THE HOSTED VOICE SERVICE THROUGH SOFTPHONES, OFF-SITE PHONES AND WIFI CONNECTIVITY. IN NO EVENT SHALL OPTIMUM BE RESPONSIBLE FOR, NOR DOES IT WARRANT THE PERFORMANCE OR INTEROPERABILITY OF THE SERVICE IN CONNECTION WITH ANY SOFTPHONES, OFF-SITE PHONES OR WIRELESS CONNECTIVITY. IT IS CUSTOMER'S SOLE RESPONSIBILITY TO SUPPORT AND TROUBLESHOOT ANY RELATED CONNECTIVITY ISSUES UNDER THIS SECTION. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THE HOSTED VOICE PRODUCT CHARACTERISTICS AS SET FORTH IN THE OFF-SITE REMOTE PHONE AND SOFTPHONE ACKNOWLEDGEMENT ATTACHED HERETO AS EXHIBIT A2. PHONES NOT PROVIDED BY OPTIMUM UNDER THIS AGREEMENT ARE NOT PERMITTED NOR SUPPORTED AND USE OF SUCH PHONES WILL RESULT IN TERMINATION OF THIS AGREEMENT.
- b. Emergency Calling Services (E911) for Hosted Voice Service:** Customer is responsible for complying with all applicable emergency calling service laws. E911 procedures and restrictions are set forth in Emergency Calling Services Terms and Conditions attached hereto as Exhibit A1.
- 15. Managed DDoS Protection Service:** Managed DDoS (Distributed Denial of Service) Protection Service purchased pursuant to this Agreement and offered in conjunction with Altice Business Internet Service (over fiber) only, will monitor, detect and mitigate Altice Business Internet Service inbound traffic against DDoS attacks and provide cleansing up to thirty (30) times the contracted bandwidth. Managed DDoS Protection Service is provisioned over Altice Business Internet Service/traffic only.
- 16. Service Level Agreement:** The Service Level Agreement ("SLA") attached hereto as Exhibit A sets forth Customer's sole remedy for any claim relating to the Service including any failure to meet any guarantee as set forth in the SLA.
- 17. Access to Customer Premises.** Customer grants Optimum and its employees, agents, contractors, and representatives all necessary rights of access to enter and within Customer's premises, including access to space for cables, conduits and equipment, the wiring within Customer's premises and Customer's computer(s) and other devices, to install, deliver, connect, inspect, maintain, repair, replace, disconnect, remove or alter any and all facilities, check for signal leakage or install or deliver Equipment and Software provided by Optimum. Customer shall cooperate in providing such access upon request of Optimum. If Customer is not the owner of the premises, Customer warrants that Customer has obtained the legal authority of the owner to authorize Optimum personnel and/or its agents to enter the premises for the purposes described herein. Optimum's failure to remove its Equipment shall not be deemed an abandonment thereof. Customer shall provide a secured space with electrical power, climate control and protection against fire, vandalism, and other casualty for Optimum's equipment. Customer is responsible for ensuring that Customer's equipment is compatible for the Services selected and with the Optimum network.
- 18. Violations of this Agreement.** It shall be a violation of this Agreement for Customer or any User (1) to engage in any conduct prohibited by this Agreement (or by any terms and conditions incorporated herein by reference); or (2) not to engage in conduct required by this Agreement, each case determined in Optimum's sole good faith discretion. In addition, whether or not the conduct set forth below is elsewhere prohibited by this Agreement, it shall be a violation of this Agreement if: (a) Customer or any User fails to abide by Optimum's rules and regulations or to pay the charges billed; (b) Customer or any User fails to provide and maintain accurate registration information or the information required in the registration process is or becomes incorrect, absent or incomplete; (c) Customer or any User engages in any illegal or prohibited activity in connection with their use of any Service; (d) Customer or any User harasses, threatens or otherwise abuses any Optimum employee or agent; (e) Customer or any User refuses to provide Optimum with reasonable access to the service location or refuses to allow Optimum to diagnose and/or troubleshoot a service issue when such access or customer interaction is necessary in order to provide the appropriate customer support; or (f) The amount of customer and/or technical support required to be provided to Customer or any User is excessive in the sole good faith discretion of Optimum.
- 19. Termination.** Optimum may terminate this Agreement, disconnect or suspend any or all Services, and remove Equipment at any time, without prior notice, for any reason whatsoever or for no reason, including but not limited to if Customer or any User fails to fully comply with the terms of this Agreement and/or any Optimum or authorized Third Party Provider terms of service, agreements or policies incorporated herein by reference. If Optimum terminates Service due to a violation of this Agreement or Optimum's policies, Customer may be subject to additional fees and charges, including disconnect and termination fees and Optimum may also exercise other rights and remedies available under law or in equity.
- 20. Effect of Termination by Optimum.** Customer agrees that in the event of termination by Optimum: (i) Optimum and any Third Party Providers of co-branded services offered as part of or through the high speed internet service shall have no liability to Customer or any User; and (ii) unless expressly prohibited by law, Optimum, in its sole good faith discretion, may decline or reject a new application for service or block access to or use of any component of the Services by Customer or any former User. Customer further agrees that upon termination of any Service, Customer will immediately cease use of the Equipment and any Software, and; Customer will pay in full the charges for Customer's use of the Service and the Equipment through the later of: (i) Customer's applicable Service month, or (ii) if applicable, the expiration of any promotional term, or, if applicable, (iii) the date when the associated Equipment or Software has been returned to Optimum. Failure of Optimum to remove Equipment shall not be deemed an abandonment thereof. Customer shall pay reasonable collection and/or attorney's fees to Optimum in the event that Customer shall find it necessary to enforce collection or to preserve and protect its rights under this Agreement.
- 21. Content and Services.** All content, program services, program packages, number of channels, broadcast channels, interactive services, email, data offerings and other services are subject to change in accordance with applicable law.
- 22. Disclaimer.** Optimum assumes no liability for any program, services, content or information distributed on or through the Services, Equipment or the cable system, unless locally provided by Optimum, and Optimum expressly disclaims any responsibility or liability for your use thereof. Further, Optimum shall not be responsible for any products, merchandise or prizes promoted or purchased through the use of the Services.
- 23. Telephone Communications Regarding Customer Account or Service.** Customer agrees that Optimum and its agents may call or text you at any phone number (landline or wireless) that you provide to us, using an automated dialing system and/or a prerecorded message, for non-promotional service and/or account-related purposes, such as appointment confirmations, service alerts, billing and collection issues or account recovery concerns. Customer agrees to notify us: (1) if any such phone number changes; (2) is no longer active; or (3) is ported from a landline to a wireless phone number. Customer can manage your contact preferences by logging into your account at <http://www.Optimum.com>.

24. **No Waiver.** The failure of Optimum to enforce this Agreement and any of its components, for whatever reason, shall not constitute a waiver of any right of Optimum or the ability to assert or enforce such right at any time in the future.
25. **No Assignment.** This Agreement and the Services and/or Equipment supplied by Optimum are not assignable or otherwise transferable by Customer, without specific written authorization from Optimum. In Optimum's discretion, Optimum may assign, in whole or in part, this Agreement, and Service may be provided by one or more legally authorized Optimum affiliates.
26. **No Warranty; Limitation of Liability.** Customer expressly agrees that: (a) the Services provided are best efforts services and the Services, Software and Equipment are provided by Optimum on an "AS IS" and "AS AVAILABLE" basis without warranties of any kind, either express or implied; (b) Optimum, its officers, shareholders, directors, employees, affiliates, vendors, carrier partners, content providers and other persons or entities involved in providing the Services or Equipment (collectively, the "Optimum Parties") are not responsible or liable for any loss or impairment of service due in whole or in part to Customer owned- or provided-Equipment; and (c) all use of the Services, Software and Equipment, including that provided by Third Party Providers, as well as the purchase, download or use of any third party service, product, or application provided by or accessed through the Services or Equipment, are provided at Customer's sole risk and Customer assumes total responsibility for Customer's or any User's use of the Services. Without limiting the generality of the foregoing, the Optimum Parties make no warranty: (i) that the Services will be uninterrupted or error free or that the Equipment will work as intended; (ii) as to transmission or upstream or downstream speeds of the network; (iii) that the Services, Equipment or Software are compatible with any Customer owned- or provided-Equipment; or (iv) as to the security of Customer's communications via Optimum's facilities or Services, or that third parties will not gain unauthorized access to or monitor Customer's communications. Customer has the sole responsibility to secure Customer's communications and the Optimum Parties will not be liable for any loss associated with such unauthorized access. In addition, neither the Optimum Parties nor any Third-Party Provider of services or products makes any representations or warranties with respect to any product or services offered through the Services or Equipment, and Optimum shall not be party to nor responsible for monitoring any transaction between Customer and any Third Party Provider of products or services.

Except for a refund or credit as expressly provided in this Agreement, in no event (including negligence) will the Optimum Parties be held responsible or liable for any loss, damage, cost or expense including direct, indirect, incidental, special, treble, punitive, exemplary or consequential losses or damages including, but not limited to, loss of profits, earnings, business opportunities, loss of data, personal injury (including death), property damage or legal fees and expenses, sought by Customer or anyone else using Customer's Service account: (x) resulting directly or indirectly out of the use or inability to use the Services (including the inability to access emergency 911 or e911 services) and/or use of the Software, Equipment or provided third party services or otherwise arising in connection with the installation, maintenance, failure, removal or use of Services, Software and/or Equipment or Customer's reliance on the Services, Software and/or Equipment, including without limitation any mistakes, omissions, interruptions, failure or malfunction, deletion or corruption of files, work stoppage, errors, defects, delays in operation, delays in installation, failure to maintain proper standards or operation, failure to exercise reasonable supervision, delays in transmission, breach of warranty or failure of performance of the Services, Software and/or Equipment; or (y) resulting directly or indirectly out of, or otherwise arising in connection with, any allegation, claim, suit or other proceeding relating to Services, Software and/or Equipment, or the infringement of the copyright, patent, trademark, trade secret, confidentiality, privacy, or other intellectual property or contractual rights of any third party. Optimum's Maximum Liability to Customer arising under this Agreement shall be the lesser of \$5,000.00 or the amount actually paid by Customer for Services hereunder for the respective regular billing period.

27. **Indemnification. To the extent permitted by law,** Customer agrees to defend, indemnify, and hold harmless Optimum Parties from and against any and all claims and expenses, including reasonable attorneys' fees, arising out of or related in any way to the use of the Service and Equipment by Customer or otherwise arising out of or related in any way to the use of Customer's account or any equipment or facilities in connection therewith, or the use of any other products or services provided by Optimum to Customer. To the extent permitted by law Customer agrees to indemnify and hold harmless the Optimum Parties against claims, losses or suits for injury to or death of any person, or damage to any property which arises from the use, placement or presence or removal of Optimum's Equipment, facilities and associated wiring on Customer's premises and further, Customer indemnifies and holds harmless the Optimum Parties against claims for libel, slander, or the infringement of copyright arising directly or indirectly from the material transmitted over the facilities of Optimum or the use thereof by Customer; against claims for infringement of patents arising from combining with or using in connection with, facilities furnished by Optimum, and apparatus, Equipment, and systems provided by Customer; and against all other claims arising out of any act or omission of Customer in connection with the Services or facilities provided by Optimum.
28. **Regulatory Authority.** This Agreement and the obligations of the parties shall be subject to modification to comply with all applicable laws, regulations, court rulings, and administrative orders, as amended.

29. **BINDING ARBITRATION. Please read this section carefully. It affects Customers rights**

a. **Agreement to Arbitrate Disputes.** Any and all disputes arising between The Customer and Optimum, or its respective predecessors in interest, successors, assigns, and past, present, and future parents, subsidiaries, affiliates, officers, directors, employees, and agents, shall be resolved by binding arbitration on an individual basis in accordance with this arbitration provision. This agreement to arbitrate is intended to be broadly interpreted. It includes, but is not limited to:

- Claims arising out of or relating to any aspect of the relationship between us, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory.
- Claims that arose before this or any prior Agreement; and
- Claims that may arise after the termination of this Agreement.

Notwithstanding the foregoing, either Customer or Optimum may bring claims in small claims court in Customer's jurisdiction, if that court has jurisdiction over the parties and the action and the claim complies with the prohibitions on class, representative, and private attorney general proceedings and non-individualized relief discussed below. If the law of Your jurisdiction allows small claims actions to be removed or appealed for a trial de novo in a court of general jurisdiction, that appeal instead shall be resolved in an individual arbitration under this arbitration provision. The Customer may also bring issues to the attention of federal, state, and local executive or administrative agencies.

Resolving Customer dispute with Optimum through arbitration means The Customer will have a fair hearing before a neutral arbitrator instead of in a court before a judge or jury. **THE CUSTOMER AGREES THAT BY ENTERING INTO THIS AGREEMENT, THE CUSTOMER AND OPTIMUM EACH WAIVE THE RIGHT TO A TRIAL BY JURY AND THE RIGHT TO PARTICIPATE IN A CLASS, REPRESENTATIVE, OR PRIVATE ATTORNEY GENERAL ACTION.**

b. **Opting Out of Arbitration.** IF THE CUSTOMER HAS BEEN AN EXISTING SUBSCRIBER FOR AT LEAST 30 DAYS BEFORE THE EFFECTIVE DATE OF THIS AGREEMENT AND HAVE PREVIOUSLY ENTERED INTO AN ARBITRATION AGREEMENT WITH OPTIMUM OR A PREDECESSOR COMPANY, THIS OPT OUT PROVISION DOES NOT APPLY TO THE CUSTOMER.

IF THE CUSTOMER BECAME A SUBSCRIBER WITHIN THE 30 DAYS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT, AND DO NOT WISH TO BE BOUND BY THIS ARBITRATION PROVISION, THE CUSTOMER MUST NOTIFY OPTIMUM IN WRITING WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS AGREEMENT.

IF THE CUSTOMER BECAME A SUBSCRIBER AFTER THE EFFECTIVE DATE OF THIS AGREEMENT, AND DO NOT WISH TO BE BOUND BY THIS ARBITRATION AGREEMENT, THE CUSTOMER MUST NOTIFY OPTIMUM IN WRITING WITHIN 30 DAYS OF THE OPENING OF CUSTOMER'S OPTIMUM ACCOUNT. IN ALL INSTANCES, NOTICE SHALL BE PROVIDED BY EMAILING US AT NOARBITRATION@ALTICEUSA.COM OR BY MAIL TO: OPTIMUM SHARED SERVICES, 1111 STEWART AVENUE, BETHPAGE, NY 11714, ATTN: ARBITRATION.

TO BE VALID, AN OPT-OUT NOTICE MUST: (1) INCLUDE THE CUSTOMER NAME, ADDRESS, OPTIMUM ACCOUNT NUMBER, PHYSICAL SIGNATURE IF SENT BY MAIL OR ELECTRONIC SIGNATURE IF SENT VIA EMAIL, AS WELL AS A CLEAR STATEMENT THAT ARE REJECTING THE ARBITRATION PROVISION IN THIS AGREEMENT; AND (2) BE RECEIVED BY OPTIMUM WITHIN THE APPLICABLE 30-DAY TIME PERIOD ABOVE.

YOUR DECISION TO OPT OUT OF THIS ARBITRATION PROVISION WILL HAVE NO ADVERSE EFFECT ON YOUR RELATIONSHIP WITH OPTIMUM OR THE DELIVERY OF OPTIMUM SERVICES TO THE CUSTOMER. OPTING OUT OF THIS ARBITRATION PROVISION HAS NO EFFECT ON ANY OTHER PRIOR OR FUTURE ARBITRATION AGREEMENTS THAT THE CUSTOMER MAY HAVE WITH OPTIMUM.

c. Pre-Arbitration Process. (i.) Notice Of Dispute. A party who intends to commence arbitration must first send the other party a written Notice of Dispute and engage in a good-faith negotiation of the dispute in an effort to resolve it without the need for arbitration. To be valid, Your Notice of Dispute must include: (1) The Customer name; (2) the account number and service address; (3) an email address and telephone number at which The Customer may be reached during business hours; (4) a description of the nature and basis of your claims or dispute (including where applicable specific dates); (5) an explanation of the specific relief sought; (6) Your physical or electronic signature; and (7) if The Customer has retained an attorney, Your signed statement authorizing Optimum to disclose your confidential account records to Your attorney if necessary in resolving Your claim. For Your convenience, The Customer may download a Notice of Dispute form from our website at www.Optimum.net/NoticeOfDispute. Once the Customer has written the letter or filled out the Notice, send it to us by certified mail at Optimum Shared Services, 1111 Stewart Avenue, Bethpage, NY 11714, Attn: Customer Disputes. Optimum will send any Notice of Dispute to The Customer at the billing address on file with the account. (ii.) 60 Day Wait Period. Whoever sends the Notice of Dispute must give the other party 60 days after receipt to investigate the claim. During that period, either party may request an individualized discussion (by phone call or videoconference) regarding settlement, which shall take place at a mutually agreeable time (which can be after the 60-day period). The Customer and an Optimum legal or business representative (or outside counsel) must personally participate, unless otherwise agreed in writing. Your lawyers (if any) also can participate. If Optimum has not been able to resolve your dispute to your satisfaction within the later of 60 days from when we received your Notice of Dispute or the date of the individualized discussion regarding settlement, the Customer may start arbitration proceedings. The Notice of Dispute and discussion requirements are essential in order to give the parties a meaningful chance to resolve disputes informally. If any aspect of these requirements has not been met, the parties agree that a court can enjoin the filing or prosecution of an arbitration, and, unless prohibited by law, the arbitration administrator shall neither accept nor administer the arbitration nor assess fees in connection with such an arbitration. The submission of a Notice of Dispute will toll the statute of limitations for the claim until the later of 60 days from when we received your Notice of Dispute or the date of the individualized discussion regarding settlement.

d. Commencing an Arbitration. To commence an arbitration, The Customer must submit a written Demand for Arbitration to the American Arbitration Association ("AAA"), Case Filing Services, 1101 Laurel Oak Road, Suite 100, Voorhees, NJ 08043, with a copy to Optimum. A Demand for Arbitration form can be found on the AAA website at <https://www.adr.org/rulesformsfees>.

e. Arbitration Process. The arbitration will be administered by the AAA under the AAA's Consumer Arbitration Rules, as modified by this arbitration provision. The Customer may obtain copies of those rules from the AAA at www.adr.org. If the AAA will not enforce this arbitration provision as written, it cannot serve as the arbitration organization to resolve Your dispute. If this situation arises, or if the AAA for any reason cannot serve as the arbitration organization, the parties shall agree on a substitute arbitration organization or ad hoc arbitration, which will enforce this arbitration provision as to the dispute. If the parties are unable to agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization or ad hoc arbitrator that will administer arbitration under this arbitration provision as written. If there is a conflict between this arbitration provision and the AAA rules, this arbitration provision shall govern.

A single arbitrator will resolve the dispute between The Customer and Optimum. Participation in arbitration may result in limited discovery. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect confidential or proprietary information, including subscriber personally identifiable information.

All issues are for the arbitrator to decide, except issues relating to arbitrability, the scope or enforceability of this arbitration provision, the interpretation of its prohibitions of class, representative, and private attorney general proceedings and non-individualized relief, and compliance with the requirements of Sections 26.c and 26.g shall be for a court of competent jurisdiction to decide. The Arbitrator is limited and bound by terms of this arbitration provision. Although the arbitrator shall be bound by rulings in prior arbitrations involving the same customer to the extent required by applicable law, an arbitrator's ruling will not be binding in other proceedings involving different customers. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. An award rendered by the arbitrator may be entered in any court having jurisdiction over the parties for purposes of enforcement.

Unless the parties agree otherwise, any arbitration hearing will take place in the county (or parish) of Customer's service address. If the amount in dispute is less than \$50,000, Optimum agrees that The Customer may choose whether the arbitration is conducted solely on the basis of documents submitted to the arbitrator, by a telephonic or videoconference hearing, or by an in-person hearing as established by AAA rules.

If the amount in dispute exceeds \$75,000 or the claim seeks any form of injunctive relief, either party may appeal the award to a three-arbitrator panel administered by AAA under its Optional Appellate Arbitration Rules (including its rules governing allocation of fees and costs) by a written notice of appeal within thirty (30) days from the date of entry of the written arbitration award. The award shall be stayed during any such appeal. The members of the three-arbitrator panel will be selected according to AAA rules. The three-arbitrator panel will issue its decision within one hundred and twenty (120) days of the date of the appealing party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, subject to any right of judicial review that exists under the FAA.

f. Arbitration Fees. Except as otherwise provided in this arbitration provision, if Optimum initiates an arbitration, Optimum will pay all arbitration filing, administrative, and arbitrator fees.

If The Customer initiate an arbitration, The Customer will be responsible for paying a portion of the arbitration fees as follows: If Customer is seeking claims of \$1,000 or less, Customer's share of the fees will be capped at \$100, and if Customer is seeking claims of between \$1,001-\$10,000, Customer's share of such fees will be capped at \$200. If Customer is seeking claims of more than \$10,000, the filing, administrative and arbitrator fees will be allocated in accordance with the AAA rules. If Customer cannot pay Your share of these fees, Customer may request a fee waiver from the AAA. In addition, Optimum will consider reimbursing Your share of these fees if The Customer indicates they cannot afford them and, if appropriate, will pay directly all such fees upon Your written request prior to the commencement of the arbitration. The Customer is responsible for all additional costs and expenses that The Customer incurs in the arbitration, including, but not limited to, attorneys' or expert witness fees and expenses, unless the arbitrator determines that applicable law requires Optimum to pay those costs and expenses.

Notwithstanding the foregoing, if the arbitrator concludes that Your claim is frivolous or has been brought for an improper purpose (as measured by the standards of Federal Rule of Civil Procedure 11(b)), then the AAA rules shall govern the allocation of arbitration fees, and The Customer agrees to reimburse Optimum for any amounts Optimum may have paid on Your behalf.

g. Mass Arbitration Procedures. If 25 or more claimants submit Notices of Dispute or file arbitrations raising similar claims and are represented by the same or coordinated counsel, all the cases must be resolved in staged bellwether proceedings. The Customer agrees to this process even though it may delay the resolution of your claim. In the first stage, each side shall each select up to 15 cases (30 cases total) to be filed in arbitration and resolved individually by different arbitrators. In the meantime, no other cases may be filed in arbitration, and the AAA shall not accept, administer, or demand payment of fees for arbitrations

commenced in violation of this Mass Arbitration Procedures section. If the parties cannot agree how to resolve the remaining cases after the conclusion of the first stage of bellwether proceedings, the process will be repeated until all claims are resolved.

If this Mass Arbitration Procedures section applies to a Notice of Dispute, any statute of limitations applicable to the claims set forth in that Notice of Dispute will be tolled from the time the first cases are selected for bellwether proceedings until that Notice of Dispute is selected for a bellwether proceeding, withdrawn, or otherwise resolved. A court will have the authority to enforce this Mass Arbitration Procedures section, including by enjoining the mass filing or prosecution of arbitrations or the assessment or collection of AAA fees.

h. Governing Law. Because the Service(s) provided to The Customer involves interstate commerce, the Federal Arbitration Act ("FAA"), not state arbitration law, shall govern the arbitrability of all disputes under this arbitration provision. Any state statutes pertaining to arbitration shall not be applicable.

i. Waiver of Class and Representative Actions. **YOU AGREE TO ARBITRATE YOUR DISPUTE AND TO DO SO ON AN INDIVIDUAL**

If any of the prohibitions in the preceding paragraph is held to be unenforceable as to a particular claim, or request for relief (such as a request for public injunctive relief) then The Customer and Optimum agree that such claim or request for relief (and only that claim or request) shall be decided by a court after all other claims and requests for relief are arbitrated. In that instance, or any instance when a claim between The Customer and Optimum proceeds to court rather than through arbitration, The Customer and Optimum each waive the right to any trial by jury through this Agreement.

j. Amendments to this Arbitration Provision. Notwithstanding any provision in the Agreement to the contrary, The Customer and Optimum agree that if Optimum makes any amendment to this arbitration provision (other than an amendment to any notice address or website link provided herein) in the future, that amendment shall apply to all disputes or claims that have arisen or may arise between The Customer and Optimum, including disputes or claims that arose prior to the effective date of the amendment. We will notify the Customer of amendments to this arbitration provision in the manner described in Section 31. If the Customer does not agree to the revisions, the Customer must cease use of all Service(s) within 30 days and notify Optimum that The Customer are canceling this Agreement.

k. Severability and Survival. If any other portion of this arbitration provision is determined to be unenforceable, then the remainder of this arbitration provision shall be given full force and effect. The terms of the arbitration provision shall survive termination, amendment or expiration of this Agreement.

30. Governing Law. Subject to Section 29.h above, this Agreement shall be governed by the laws of the state of Missouri.

31. No Relationship. Nothing in this Agreement will create any joint venture, joint employer, franchisee-franchisor, employer-employee or principal-agent relationship between Optimum and any content, backbone, network, circuit and other technology or communications providers, software and other licensors, hardware and equipment suppliers or other third party providers of elements of the High Speed Internet Service, nor impose upon any such companies any obligations for any losses, debts or other obligations incurred by the other.

32. Survival. All representations, warranties, indemnifications, dispute resolution provisions and limitations of liability contained in this Agreement shall survive the termination of this Agreement, as well as any other obligations of the parties hereunder which, by their terms, would be expected to survive such termination or which relate to the period prior to termination (including legal conditions, payment, and Optimum rights and the rights of others).

33. Force Majeure. Optimum Parties shall not be liable for any delay or failure of performance or Equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood, explosion or other catastrophes; any law, order, regulation, direction, action or request of the United States government or of any other government including state and local governments having or claiming jurisdiction over Optimum, or of any department, agency, commission, bureau, corporation or other instrumentality of any one or more of these federal, state, or local governments or of any military authority; preemption of existing service in compliance with national emergencies, acts of terrorism, insurrections, riots, wars, unavailability of rights-of-way, material shortages, strikes, lockouts, or work stoppages.

34. Entire Agreement. This Agreement, including the applicable Additional Terms of Service, Privacy Policy and Acceptable Use Policy ("AUP"), the Service Order and the Schedule of Fees constitute the entire agreement between Optimum and Customer with respect to the Services. No undertaking, representation or warranty made by an agent or representative of Optimum in connection with the sale, installation, maintenance or removal of Optimum's Services or Equipment shall be binding on Optimum except as expressly included herein.

35. Amendment; Notice. Optimum may, in its sole discretion, change, modify, add or remove portions of this Agreement at any time. Optimum may notify Customer of any such changes to this Agreement, or any other required or desired notice hereunder, by posting notice of such changes on Optimum's website (www.Optimum.com), or by sending notice via email or postal mail to Customer's billing address, and/or by contacting the telephone number(s) on Customer's account (including mobile phones) by means such as but not limited to browser bulletins, walled garden (browser interruption), voice, SMS, MMS, and text messages, including by the use of by automatic telephone dialing systems. Customer agrees that any one of the foregoing will constitute sufficient notice. Because Optimum may from time to time notify Customer about important information regarding the Services, the Privacy Policy and this Agreement by such methods, Customer agrees to regularly check postal mail, e-mail and all postings on the Optimum web site (www.Optimum.com) and Customer bears the risk of failing to do so. The Customer's continued use of the applicable Service(s) following notice of such change, modification or amendment shall be deemed to be the Customer's acceptance of any such revision. If Customer does not agree to any revision of this Agreement, Customer must immediately cease use of all Service(s) and notify Optimum that Customer is cancelling this Agreement in accordance with the then-current policy.

Exhibit A
Service Level Agreement (Fiber Services Only) Not applicable to COAX

This Service Level Agreement ("SLA") covers the local transport area to the Optimum demarcation point including Optimum equipment associated with the endpoints such as POE devices and routers. The provisions described below shall be Customer's sole and exclusive remedy in the event of Interruption.

MEAN TIME TO REPAIR

Optimum's objective is a four (4) hour mean-time-to-repair ("MTTR")

SERVICE LEVEL GUARANTEE

Interruption/Outage ("Interruption"): Defined as a total loss of Service.

Service Level Guarantee: If Customer detects an Interruption, Customer shall open a trouble ticket with Optimum Network Operation Center by calling 866-232-5455 (option 4) or via the customer portal at Optimum.com. An Interruption period begins when Customer reports a circuit/service failure, opens a valid trouble ticket and releases it for testing and repair. The controlling record for the purpose of determining the duration of the Interruption and calculating credits shall be the date/time stamp on the trouble reporting ticket as generated by Optimum's trouble reporting system. An Interruption period ends when the circuit/service is operative.

- a. If Customer reports a circuit/service to be inoperative but declines to release it for testing and repair, it is considered to be impaired, but not interrupted.
- b. If an Altice/ Optimum technician is dispatched for a reported failure and it is determined that such failure is not within Optimum's control, Customer will be subject to a truck roll fee for any subsequent dispatch/truck roll(s) requested.
- c. Customer may request a credit, in writing, and reference the date of the ticket. Requests for credit must be submitted to enterprisecare@alticeusa.com within thirty (30) calendar days of the Interruption.
- d. For calculating credit allowances, every month is considered to have thirty (30) days.
- e. A credit allowance is applied on a pro rata basis against the monthly recurring charge for the affected circuit/service and is dependent upon the length of the Interruption.

Optimum shall credit Customer's monthly recurring charges for the circuit/service experiencing the Interruption as follows:

<u>Outage Duration</u>	<u>Credit of Monthly Charges</u>
Less than 30 minutes	none
30 minutes up to but not including 3 hrs	1/10 of a day
3 hrs up to but not including 6 hrs	1/5 of a day
6 hrs up to but not including 9 hrs	2/5 of a day
9 hrs up to but not including 12 hrs	3/5 of a day
12 hrs up to but not including 15 hrs	4/5 of a day
15 hrs up to and including 24 hrs	1 day
Over 24 hours	2 days for each full 24-hour period

Limitations: Total credits in a given month shall not exceed one hundred percent (100%) of the monthly recurring charge for the affected circuit/service in that month.

No credit allowance will be made for:

- a. Interruptions caused by the negligence of Customer or third parties outside of Optimum's control.
- b. Interruptions due to the failure of power, equipment, systems or connections not provided by Optimum under this Agreement.
- c. Interruptions during any period when Customer has released the circuit for maintenance or rearrangement purposes or for the implementation of a customer order.
- d. Interruptions which continue because of Customer's failure to authorize replacement of any element of the Service.
- e. Interruptions due to force majeure events.
- f. No trouble found or where the fault of the trouble is undetermined.

Exhibit B

Optimum agrees to the following:

Conflicts. Optimum shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Optimum covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. Optimum further covenants that in the performance of this contract no person having such interest shall be employed.

Anti-Discrimination Against Israel. Contractor agrees to provide a certification if requested by the City of Branson, in accordance with Sec. 34.600, RSMo that they have not engaged in a boycott of: Goods or services from the State of Israel; Companies doing business in, or with, Israel; Companies authorized by, licensed by, or organized under, the laws of the State of Israel; or Persons or entities doing business in the State of Israel.

Lack of Appropriations If the City/Customer should not appropriate or otherwise make available funds sufficient to utilize the proposed services, City may unilaterally terminate this Agreement upon thirty (30) days written notice to Optimum. City agrees not to use termination for lack of appropriations as a substitute for termination of convenience.



PRIVATE LINE JURISDICTION CERTIFICATION FORM (USF)

Date: 09-06-2023

Customer Name: Branson City Hall - Fiber Master
Account #: 7308373011

Dear Customer:

The Federal Communications Commission ("FCC") has established certain rules and requirements relating to the jurisdictional classification (interstate vs. intrastate) of telecommunication services provided by companies such as CSC Holdings, LLC (Optimum /Cequel, (f/k/a Suddenlink), and their subsidiaries ("Company").

Upon routine review of telecommunications carriers, the Federal Communications Commission (FCC) Form 499-A requests that intrastate classification be obtained from Customers certifying whether or not the total interstate traffic exceeds 10% for the intrastate transport point-to-point services provided. If so, such services will be subject to Universal Service Fund ("USF") fees. Examples of such transport circuits are: Pt to Pt Optical Ethernet, TDM Service, Fiber Service etc. These are circuits that connect one physical location to another.

Federal USF fees apply to all interstate telecommunication services. USF fees also apply to point-to-point INTRASTATE circuits whereby the interstate traffic/usage carried over the services IS greater than 10% and end points are within the same state boundaries (intrastate). If the interstate traffic/usage is 10% or less and the end points of the circuit are within the same state boundaries (intrastate) then USF fees will not apply. There is no exemption based on not-for-profit or government entities.

Customer acknowledges that Company's determination of jurisdiction of the Service(s) and assessment of USF fees will be based upon the information provided by Customer in this Certification. If Company determines that the jurisdiction has been established based upon false, inaccurate, or erroneous information, Company may bill Customer and Customer will pay such fees based upon the determination of jurisdiction, plus applicable late fees. Customer acknowledges and agrees that: (i) it has a duty to update this Certification within thirty (30) days to the extent its usage changes and this Certification is no longer accurate; and (ii) Company may provide a copy of this Certification to the Universal Service Administrator, the FCC, state regulatory agencies and taxing authorities, legal counsel, or an auditor.

Certification of Jurisdiction: A signed Certification Form must accompany a signed Service Agreement for the Service(s) outlined below whether Customer is able to certify at this time or not.*

Customer acknowledges and certifies that the total interstate traffic for these INTRASTATE Private line circuits, (including internet and usage based traffic) for the Service(s) indicated below constitutes the jurisdictional classification as selected from the corresponding drop-down list or as written in. *Please indicate: (i) (YES) if the interstate traffic is greater than 10% and therefore subject to USF fee; (ii) (NO) if the interstate traffic is 10% or less and therefore not subject to USF fee; or (iii) (DEFER*) if Customer is not able to certify the jurisdiction classification of the Service(s) at this time.* In the event Customer defers jurisdictional classification, Customer will be required to send the completed Certification Form to Customer Support or your Account Representative within thirty (30) calendar days from the date below or USF fee(s) will be assessed until such time as the Certification Form to the contrary is received.

Work Order #	Service	Address Information		USF Cert
		A Loc	Z Loc	
WO-2638336	10Gb Optical Ethernet 10G Intra	110 CROSBY ST, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638339	1Gb Optical Ethernet 1G Intra	251 BRANSON MEADOWS DR, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638333	WANHUB	110 W Maddux St, Branson, MO 65616		
WO-2638342	1Gb Optical Ethernet 1G Intra	625 STOCKSTILL LN, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638343	1Gb Optical Ethernet 1G Intra	2855 FALL CREEK RD, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638363	1Gb Optical Ethernet 1G Intra	601 COMPTON DR, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638361	1Gb Optical Ethernet 1G Intra	3718 FALL CREEK RD, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638362	1Gb Optical Ethernet 1G Intra	521 CLIFF DR, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	



WO-2638364	1Gb Optical Ethernet 1G Intra	3500 KEETER ST, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638365	1Gb Optical Ethernet 1G Intra	250 CHAMPAGNE BLVD, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638376	10Gb Optical Ethernet 10G Intra	1500 BRANSON HILLS PKWY, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638377	10Gb Optical Ethernet 10G Intra	296 Buena Vista Rd, Branson, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638375	10Gb Optical Ethernet 10G Intra	616 W W PACIFIC ST, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	
WO-2638378	10Gb Optical Ethernet 10G Intra	2255 GRETNA RD, BRANSON, MO 65616	110 W Maddux St, Branson, MO 65616	

By: Branson City Hall - Fiber Master

Authorized Signature: _____

Print Name: Larry D. Milton

Title: Mayor

Date: _____

Email: Chad Forster, cforster@bransonmo.gov

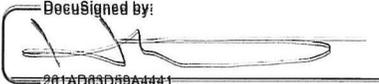
Phone: 417-337-8599

ATTEST:

Hillary Briand
City Clerk

Date

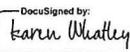
APPROVED AS TO FORM:

DocuSigned by:


201AD03D89A1441...
City Attorney

10/2/2023
Date

Cequel Communications, LLC (Optimum Business)

Authorized Signature: 

2097BA1431BF4A5

Print Name: Karen whatley

Title: Director of Enterprise

Date: 10/10/2023

Metro Ethernet Fiber				
Location	Address	Speed	MRC	Notes
City Hall	1110 W Maddiux	10Gbps		Hub Site - No Charge
Fire Station 1	1110 Crosby St.	10Gbps	\$720.00	
Fire Station 2	251 Bramson Meadows	1Gbps	\$550.00	
Fire Station 3	3500 Keetter St.	1Gbps	\$550.00	Fiber construction required at no charge to customer
Fire Station 4	250 Champagne Blvd	1Gbps	\$550.00	New building, fiber construction required at no charge to customer
Facilities Maintenance	625 Stockstill Lane	1Gbps	\$550.00	
Pacific Tower	6116 W Pacific	10Gbps	\$720.00	
Replex	1500 Bramson Hills Pkwy	10Gbps	\$720.00	
Cooper Creek Treatment Plant	2855 Fall Creek	1Gbps	\$550.00	
Meadows Treatment Plant	3718 Fall Creek Rd	1Gbps	\$550.00	
Cliff Drive Treatment Plant	521 Cliff Dr	1Gbps	\$550.00	
Compton Drive Facilities	601 Compton Dr	1Gbps	\$550.00	
Police Station	2255 Garetina Rd	10Gbps	\$720.00	New building, fiber construction required at no charge to customer.
The Mountain Datacenter	295 Buena Vista Rd	10Gbps	\$720.00	Circuit to be disconnected at future undetermined date
Monthly Recurring Cost Total			\$8,000.00	

Dedicated Internet Fiber				
Location	Address	Speed	MRC	Notes
City Hall	1110 W Maddiux	2Gbps	\$1,300.00	
Lakeside RV Park	300 Boxcar Willie Dr	2Gbps	\$1,300.00	
Monthly Recurring Cost Total			\$2,300.00	
Contract Monthly Recurring Services Total			\$10,600.00	

*Billing to start when fiber construction is completed and functional at specified speeds.

** City may migrate "Hub Site" from City Hall to Police Station or Mountain Datacenter in the future at no charge.