

**MASTER SERVICE AGREEMENT
BY AND BETWEEN
TW TELECOM AND
THE STATE OF OHIO, DEPARTMENT OF ADMINISTRATIVE
SERVICES**

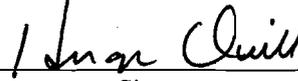
THIS MASTER SERVICE AGREEMENT (the "Agreement"), is by and between tw telecom holdings inc. ("Vendor") having an office at 10475 Park Meadows Drive, Littleton, CO 80124, and the State of Ohio, Department of Administrative Services ("the State"), having its principal place of business at 30 East Broad Street, 40th Floor, Columbus, OH 43215 (jointly referred hereto as the "Parties") and is effective as of the date signed by the State.

IN WITNESS WHEREOF, the Parties have executed this Agreement which shall be effective on the date signed by the State, "Effective Date."

VENDOR

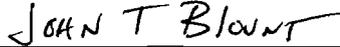
**STATE OF OHIO,
DEPARTMENT OF
ADMINISTRATIVE SERVICES**





Signature

Signature

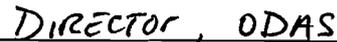




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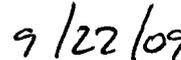




Title

Title





Date

Effective Date

Federal Tax ID



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Sections 1 through Section 14 of this Agreement are hereby defined as the Standard State Terms and Conditions. These Standard State Terms and Conditions are derived from Ohio statutory law, rules and procedures. As such, the Standard State Terms and Conditions will remain as written by the State and construed in conjunction with the applicable laws, rules and procedures.

1 General Information

1.1 Headings

The headings herein are for convenience only and are not intended to have any substantive significance in interpreting this Agreement.

1.2 Relationship of Parties and Subscribing Entity(s)

A. The Parties are independent contractors and nothing herein creates or implies an agency relationship or a joint venture or partnership between the Parties. Considering the Parties are independent contractors, the Vendor, their employees, contractors and/or subcontractors who may attend meetings and work in other situations where their independent contractor status is not obvious to third parties are required to identify themselves as such to avoid creating an impression in the minds of the members of the public that they are Government officials (for example, and not by way of limitation, such as by wearing a name tag or identification badge displaying their company name or logo). In addition, the Vendor, their employees, contractors and/or subcontractors may not make any representation that they are acting, speaking, representing or otherwise advocating any position, agreement, service or otherwise on behalf of the State.

B. For purposes of this Agreement and any Service Attachments, the Department of Administrative Services shall be authorized to inquire of the Vendor's Services, invoices, payment and receive reports or other information from the Vendor. Subscribing Entity(s) shall be authorized similarly to inquire, but only concerning information directly related to Services purchased by the Subscribing Entity.

1.3 Subscribing Entity(s)

"Subscribing Entity(s)", when context is so applicable, means Agencies, Boards, Commissions, Cooperative Purchasing Members, and other entities, or institutions that State of Ohio deems as a government entity or authorize as able to participate as a Subscribing Entity. Only Subscribing Entities as defined in this Section may order Services under this Agreement.

1.4 Cooperative Purchasing Members

Cooperative Purchasing Members are defined in Section 125.04 of the Ohio Revised Code ("ORC") and include counties, townships, municipal corporations, regional transit authorities, regional airport authorities or port authorities and school districts, conservancy districts, township park districts and park districts created under ORC Chapter 1545; any other political subdivision that has been approved by the Department of Administrative Services to participate in the Cooperative Purchasing Program; and other entities set forth in ORC Section 125.04. Cooperative Purchasing Members may purchase services from the Vendor subject to the Terms and Conditions of this Agreement so long as they have entered into a Cooperative Purchasing

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Agreement with the Department of Administrative Services as detailed in the ORC 125.04. All records concerning the Services purchased under this Agreement shall be made available to the State by the Vendor.

1.5 Subscribing Entity Reliance on Agreement.

Subscribing Entities may rely on this Agreement. Whenever a Subscribing Entity relies on this Agreement to issue a purchase order, the Subscribing Entity will step into the shoes of the State under this Agreement for purposes of its order, and, as to the Subscribing Entity's order, this Agreement will be between the Vendor and the Subscribing Entity. The Vendor must look exclusively to the Subscribing Entity for performance, including but not limited to payment, and must hold the State harmless with regard to such orders and the Subscribing Entity's performance and payment.

- 1.6** Should the Vendor fail to materially perform its obligations under an order from a Subscribing Entity, the Subscribing Entity will have the right to terminate the order and seek such remedies on termination as are available in this Agreement, provided that the Subscribing Entity first delivers to the Vendor written notice of the breach and affords Vendor a 30-day opportunity to cure. Further, subject to the requirements of Section 1.19(A)(4), the State will have the right to terminate this Agreement and applicable Service Attachment and seek such remedies on termination as this Agreement provides for its own damages from the termination, provided that there shall be no duplication in damages recoverable by the State and a Subscribing Entity for the same breach.

1.7 Third-Party Suppliers.

A. The Vendor must identify all third-party telecommunications carriers, excluding peering arrangements, that the Vendor will rely upon to provide services under this Agreement, and the Vendor must act as a reseller for any such carriers, as well as all its other third party suppliers, and incorporate the costs of their services in the Vendor's fees identified on the applicable Service Attachment under this Agreement. Any changes to the list of third party carriers that the Vendor will rely upon in providing the services under this Agreement will be presented to the State during the annual review provided in Section 1.18 below.

B. Neither the State's approval of the use of such third party carriers or the Vendor's use of other suppliers means that the State will pay for them. The Vendor will be solely responsible for payment of its suppliers and any claims of those suppliers for any failure of the Vendor to meet its obligations under this Agreement in the required manner. The Vendor will hold the State harmless for and will indemnify the State against any such claims.

C. The Vendor assumes responsibility for all services provided under this Agreement whether it or one of its suppliers provides them in whole or in part. Further, the Vendor will be the sole point of contact with regard to contractual matters, including payment of all charges resulting from the Agreement and all service requests.

D. Notwithstanding the requirements of Section 5.1(C), and subject to the agreement of the Parties by written amendment to this Agreement, if the Vendor plans

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to use any third party carriers that the State will pay directly to provide telecommunications services under this Agreement, the Vendor must obtain that carrier's agreement to the attached Third-Party Carrier Form and submit it to the State in triplicate for acceptance before the Vendor may provide services that rely on the telecommunication services of that third-party carrier.

1.8 Non-Exclusivity

This Agreement is non-exclusive. Nothing herein prevents either Party from entering into similar agreements with other entities.

1.9 Entire Agreement

A. This Agreement, together with any Service Attachments or Amendments and all applicable tariffs incorporated herein by this reference, sets forth the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes any prior agreements, promises, representations, understandings and negotiations between the Parties.

B. Any modifications, amendments, supplements to or waivers of this Agreement must be submitted and approved in writing in accordance with this Agreement and executed by authorized representatives of both parties. The Vendor may be required to file a copy of this Agreement with the Public Utilities Commission of Ohio.

1.10 Severability

If any provision hereunder is declared or held invalid, illegal or unenforceable, this Agreement will be revised only to the extent necessary to make such provision(s) legal and enforceable, or if impossible, the unaffected portions of this Agreement shall remain in full force and effect so long as the Agreement remains consistent with the Parties' original intent.

1.11 Survival

A. The Terms and Conditions of this Agreement and/or Service Attachments and any associated Amendments will survive the expiration or other termination of this Agreement only to the extent that any Subscribing Entity requests otherwise in writing that a service remain, but only for up to one year following the expiration or termination of this Agreement. Otherwise, the Terms and Conditions of this Agreement and/or Service Attachments and any associated amendments will not survive termination or expiration of this Agreement as to all services if no request is made for those services to remain active, except for the following sections of this Agreement: 1.17 Confidentiality, 2 Indemnification, 3.10 Antitrust and 9.2 Claims and Disputes.

B. If any Service Attachment should expire, terminate or cancel, the Terms and Conditions of this Agreement shall survive as to all other Service Attachments not expired, terminated or cancelled.

1.12 No Waiver

Either Party's failure to enforce any provision or term of this Agreement shall not be construed as a future or continuing waiver of such provision or term of this Agreement.

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1.13 Governmental Authorization, Regulatory Changes

This Agreement is subject to all applicable federal, state and local laws, rules and regulations, and each Party must comply with all applicable federal, state and local laws, rules and regulations and orders in performing its obligations hereunder. To the extent any provision of this Agreement conflicts with any such applicable law, rule or regulation, such law, rule or regulation will supersede the conflicting provision. The Vendor may discontinue, limit or impose additional requirements to the provision of Service, upon no less than thirty (30) days written notice, as required to meet regulatory or other lawfully imposed requirements.

1.14 Standard State Terms and Conditions

A. As stated previously, Sections 1 through Section 14 of this Agreement are hereby defined as the Standard State Terms and Conditions. These Standard State Terms and Conditions are derived from Ohio statutory law, rules and procedures. As such, the Standard State Terms and Conditions will remain as written by the State and construed in conjunction with the applicable laws, rules and procedures.

B. The Vendor may suggest additional language and incorporate such additional language, as agreed to and approved by the Ohio Department of Administrative Services' legal counsel, in Section 15, Vendor Added Language. Such additional language shall not modify or supersede the Standard State Terms and Conditions. If such a conflict exists at the time of execution of the Agreement and thereafter, the Standard State Terms and Conditions shall prevail.

1.15 Service Specific Terms and Conditions and Service Attachments

Service Attachments describe services the Vendor may offer under this Agreement, along with any special terms or conditions applicable to them, descriptions of those services, features, and any fees associated with such services, as well as any other provisions the Parties may agree to therein. Such Service Attachments, when executed by the Parties, are incorporated into this Agreement and become a part hereof.

1.16 Order of Precedence

A. In event of a conflict related to the general Terms and Conditions between the Agreement and the Service Attachment(s), the Agreement shall prevail.

B. In the event of a conflict related specifically to the service, between the Agreement and the Service Attachment(s), the Service Attachment(s) shall prevail.

1.17 Confidentiality

A. The Vendor may learn of information, documents, data, records, or other material that is confidential in the performance of this Agreement. The Vendor may not disclose any information obtained by it as a result of this Agreement, without the written permission of the State. The Vendor must assume that all state information, documents, data, source codes, software, models, know-how, trade secrets, or other material is confidential. In addition, the Vendor may not disclose any documents or records excluded by Ohio law from public records disclosure requirements.

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- B. The Vendor will be liable for the disclosure of any confidential information. The parties agree that the disclosure of confidential information of the State's may cause the State irreparable damage for which remedies other than injunctive relief may be inadequate, and the Vendor agrees that in the event of a breach of the obligations hereunder, the State shall be entitled to seek temporary and permanent injunctive relief to enforce this provision without the necessity of proving actual damages. This provision shall not, however, diminish or alter any right to claim and recover.
- C. The Vendor's obligation to maintain the confidentiality of the confidential information will not apply where such: (1) was already in the Vendor's possession before disclosure by the State, and such was received by the Vendor without obligation of confidence; (2) is independently developed by the Vendor; (3) is or becomes publicly available without breach of this Agreement; (4) is rightfully received by the Vendor from a third party without an obligation of confidence; (5) is disclosed by the Vendor with the written consent of the State; (6) traverses Vendor's network or facilities as intended in the course of the State's or a Subscribing Entity's use of Vendor's service(s) without coming into Vendor's possession or a third party's possession through the fault or negligence of Vendor; or (7) is released in accordance with a valid order of a court or governmental agency (including without limitation a subpoena), provided that the Vendor (a) notifies the State of such order immediately upon receipt of the order and (b) makes a reasonable effort to obtain a protective order from the issuing court or agency-limiting disclosure and use of the confidential information solely for the purposes intended to be served by the original order of production. The Vendor must return all originals of any confidential information and destroy any copies it has made on termination or expiration of this Agreement.
- D. The Vendor may disclose confidential information to its subcontractors (including but not limited to third party carriers) on a need-to-know basis, but the Vendor first must obligate them to confidentiality requirements at least as restrictive as those in this section.

1.18 Competitive Pricing and Services

For the purposes of maintaining pricing and service competitiveness through the term of the Agreement, the Vendor agrees to an annual joint review of its pricing and service offerings. The annual review shall include, but is not limited to, a customer-like review wherein the Vendor shall provide an analysis that will include both retail and wholesale prices of the service of other customers similar to the State to ensure the State and Subscribing Entity(s) receive cost-competitive and technologically competitive Services. The Vendor agrees that written amendments to the Service Attachments to reduce rates and introduce technological service improvements may be submitted throughout the term of the Agreement.

1.19 Contract Compliance and Conflict Resolution

A. The Vendor shall comply with all Terms and Conditions of this Agreement and the provisions of any Service Attachments. If the Vendor fails to materially perform its obligations under this Agreement, the applicable Service Attachment(s), or the

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applicable order(s), it will be in default and the State may proceed in the following manner:

1. The State may terminate this Agreement, the applicable Service Attachment(s), and/or applicable order(s) as according to Section 7 of this Agreement; or
2. The State may suspend rather than terminate this Agreement, the applicable Service Attachment(s), and/or applicable order(s) where the State believes that doing so would better serve its interest. The Vendor will be entitled to compensation for Services rendered before the suspension, less any damage to the State resulting from the Vendor's breach of this Agreement and/or Service Attachment; or
3. The State may file a complaint with the Public Utilities Commission of Ohio for resolution of the matter. Such complaint may include a request by the State for treble damages if the noncompliance by the Vendor includes any act prohibited by Chapters 4901, 4903, 4905, 4907, 4909, 4921, 4923 or 4925 of the Ohio Revised Code; or
4. The State may file a complaint for damages with the appropriate court of jurisdiction in the State of Ohio. The State will have the right to terminate this Agreement and/or the applicable Service Attachment(s), in accordance with subsection (A)(1) above, and seek such remedies on termination as this Agreement provides for its own damages from the termination, provided that there shall be no duplication in damages recoverable by the State and a Subscribing Entity for the same breach.
5. The Vendor shall have 30 days to cure its breach after written notice from the State before the State may terminate or suspend the order, Service Attachment, or Agreement. In the case of a breach that cannot be cured within 30 days, it will have up to 90 days to cure before the State may terminate, provided the Vendor provides the State with written notice of the reason the breach cannot be cured within 30 days.
6. The State also may terminate this Agreement or the applicable Service Attachment in the case of material breaches that are cured within 30 calendar days but are persistent. "Persistent" in this context means that the State has notified the Vendor in writing of the Vendor's failure to meet the same obligation three times within a consecutive six month period. After the third notice, the State may terminate this Agreement on written notice to the Vendor without a cure period if the Vendor again fails to meet the same obligation. Some provisions of this Agreement may provide for a shorter cure period than 30 calendar days or for no cure period at all, and those provisions will prevail over this one. If a particular section does not state what the cure period will be, this provision will govern.

Notwithstanding the termination right provided in this subsection (6), the remedies set forth in the applicable Service Attachment for Service Outages and/or other failure of the Vendor to meet its Service Level obligations in that Service Attachment are the exclusive remedies available to the Subscribing Entity and the State for those Service Outages and/or other failures; provided,

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however, that should the Vendor fail to meet its Service Level obligations in a repetitive, continual and widespread manner for Service(s) under a Service Attachment, such that reasonable grounds for insecurity arise with respect to the performance of the Vendor with respect to a substantial number of orders for Services under that Service Attachment, the State may demand in writing adequate assurance of correction of such performance failure and assurance of acceptable future performance. If such assurance, adequate under the circumstances of the particular case, is not provided to the State within a reasonable time, not to exceed 30 days after written demand, the State may terminate each affected Service Attachment for cause under Section 7(B) or, in the case of repetitive, continual and widespread failure involving multiple Service Attachments, the entire Agreement, and seek the damages specified in that section for such termination for cause. Acceptance of any nonconforming Service does not prejudice the State's right to demand adequate assurance of future performance.

7. Additionally, for any material breach, the State may withhold payment for the affected invoice(s) until the Vendor cures the noncompliance or the Parties arrive at a mutual agreement as to the corrective action for the noncompliance.

1.20 Required Service Level Performance

The Service Level Performance will be specified for each Service in the applicable Service Attachment.

2 Indemnification / Limitation of Liability

2.1 Indemnification

The Vendor must indemnify the State against all liability or expense resulting from bodily injury to any person (including injury resulting in death) or damage to property arising out of its performance under this Agreement, provided such bodily injury or property damage is due to the negligence of the Vendor, its employees, agents, or subcontractors.

2.2 Limitation of Liability - State

Except to the extent permitted by Ohio law, and for arrearages for service fees properly invoiced by Vendor (including any applicable interest under Section 126.30 of the Revised Ohio Code), and for Service Disconnection Charges pursuant to Sections 8.1 and 8.2 below, the State's and Subscribing Entity(s) liability for damages, whether in contract or in tort, shall not exceed the amount of compensation payable to Vendor for 24 months of Service related to the specific Service Attachment under which the damages occurred, or the amount of direct damages incurred by the Vendor, whichever is less.

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2.3 Limitation of Liability - Vendor

A. Except for the Vendor's obligation to indemnify the State in Section 2.1, the Vendor's liability for damages, whether in contract or in tort, shall not exceed the amount of compensation payable to Vendor for 24 months of Service related to the specific Service Attachment under which the damages occurred, or the amount of direct damages incurred by the State, and the Subscribing Entity(s), whichever is less.

B. NOTWITHSTANDING THE PREVIOUS SENTENCE AND EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY, ITS AFFILIATES OR CONTRACTORS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

3 Standard Clauses

3.1 Excusable Delay

Neither Party will be liable for any delay in its performance that arises from causes beyond its control and without its negligence or fault. The delayed Party will notify the other promptly of any material delay in performance and will specify in writing the proposed revised performance date or dates as soon as practicable after notice of delay. In the event of any such excusable delay, the dates of performance or of delivery affected by the delay will be extended for a period equal to the time lost by reason of the excusable delay. The delayed Party must also describe the cause of the delay and what steps it is taking to remove the cause. The delayed Party may not rely on a claim of excusable delay to avoid liability for a delay if the delayed party has not taken commercially reasonable steps to mitigate or avoid the delay. Things that are reasonably controllable by the Vendor's subcontractors will be considered controllable by the Vendor, except for third-party manufacturers supplying commercial items and over whom the Vendor has no legal control.

3.2 Employment Taxes

Each Party will be solely responsible for reporting, withholding and/or paying all employment related taxes, payments and/or withholdings for its own personnel, including, but not limited to, Federal, state and local income taxes, social security, unemployment or disability deductions, withholdings, and/or payments (together with any interest and penalties not disputed with the appropriate taxing authority).

3.3 Sales, Use, Excise, and Property Taxes

The State and certain Subscribing Entity(s) are exempt from any sales, use, excise, and property tax. To the extent sales, use, excise, or any similar tax is imposed on the Vendor in connection with the Project, such will be the sole and exclusive responsibility of the Vendor, and the Vendor will pay such taxes (together with any interest and penalties not disputed with the appropriate taxing authority) whether they are imposed at the time the services are rendered or a later time.

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3.4 Equal Employment Opportunity

A. The Vendor will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders.

B. Before a contract can be awarded or renewed, an Affirmative Action Program Verification Form must be submitted to the DAS Equal Opportunity Division to comply with the affirmative action requirements. Affirmative Action Verification Forms and approved Affirmative Action Plans can be found by contacting the Equal Opportunity Department or viewing the Equal Opportunity Department's web site:

<http://das.ohio.gov/eod/aapv.htm>

C. Use of MBE and EDGE Vendors. The State encourages the Vendor to purchase goods and services from Minority Business Enterprises (MBE) and Encouraging Diversity, Growth and Equity (EDGE) vendors.

3.5 Drug-Free Workplace

The Vendor will comply with all applicable state and Federal laws regarding keeping a drug-free workplace. The Vendor will make a good faith effort to ensure that all Vendor employees, while working on state property, will not have or be under the influence of illegal drugs or alcohol or abuse prescription drugs in any way.

3.6 Conflicts of Interest

No personnel of the Vendor may voluntarily acquire any personal interest that conflicts with their responsibilities under this Agreement. Additionally, the Vendor will not knowingly permit any public official or public employee who has any responsibilities related to this Agreement or the Project to acquire an interest in anything or any entity under the Vendor's control if such an interest would conflict with that official's or employee's duties. The Vendor will disclose to the State knowledge of any such person who acquires an incompatible or conflicting personal interest related to this Agreement. The Vendor will take all legal steps to ensure that such a person does not participate in any action affecting the work under this Agreement, unless the State has determined that, in the light of the personal interest disclosed, that person's participation in any such action would not be contrary to the public interest.

3.7 Assignment

The Vendor may not assign this Agreement or any of its rights or obligations under this Agreement without the prior, written consent of the State.

3.8 Governing Law

This Agreement will be governed by the laws of Ohio, and venue for any disputes will lie with the appropriate court in Franklin County, Ohio.

3.9 Finding for Recovery

The Vendor warrants that it is not subject to an unresolved finding for recovery under Ohio Revised Code Section 9.24. If the warranty was false on the date the Parties signed this Agreement, the Agreement is void *ab initio*.

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3.10 Anti-trust

The Parties recognize that in actual economic practice, overcharges resulting from antitrust violations are usually borne by the Subscribing Entity(s). To the extent that a state or federal antitrust claim or cause of action arises in relation to the equipment or services that are purchased under this Agreement, the Vendor assigns to the Subscribing Entity(s) the portion of the antitrust claim that affects the Subscribing Entity(s).

3.11 Use of Name

Neither Party will use the other Party's name, logo or service mark in any marketing without the other Party's written consent.

3.12 Executive Order 2007-1S Compliance

A. The Vendor certifies that it has reviewed and is currently in compliance and will continue to adhere to the requirements of Ohio ethics laws.

B. In accordance with Executive Order 2007-01S, the Vendor, by signature on this document, certifies: (1) it has reviewed and understands Executive Order 2007-01S, (2) has reviewed and understands the Ohio ethics and conflict of interest laws, and (3) will take no action inconsistent with those laws and this order. The Vendor understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this contract and may result in the loss of other contracts with the State of Ohio.

3.13 Campaign Contributions

The Vendor hereby certifies that all applicable parties listed in Division (I)(3) or (J)(3) of O.R.C. Section 3517.13 are in full compliance with Divisions (I)(1) and (J)(1) of O.R.C. Section 3517.13.

3.14 Declaration Regarding Terrorist Organization

In accordance with R.C. 2909.33(C), the Vendor certifies that it meets one of the following conditions:

1. The Vendor has not received, nor will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year; or
2. The Vendor has received, or will receive as a result of this contract, an aggregate amount greater than one hundred thousand dollars (\$100,000) in business or funding, excluding personal benefits, from the state, instrumentalities, or political subdivisions during the current fiscal year. and,
3. The Vendor has either pre-certified with the Office of Budget and Management, or has completed the Declaration of Material Assistance ("DMA") form certifying that the Vendor has not provided material assistance to any organization on the Terrorist Exclusion List, as that term is defined in R.C. 2909.21.

3.15 Safety and Security Rules

When accessing State networks and systems, the Vendor must comply with all applicable policies and regulations regarding data security and integrity of which the

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State has provided notice to the Vendor. And when on any property owned or controlled by the State, the Vendor must comply with all security and safety rules applicable to people on those premises of which the State has provided notice to the Vendor.

4 Appropriation and Certification of Funds

4.1 Appropriation of Funds.

The State of Ohio's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the payments or any other obligations due by the State under this Agreement, the State will be released from its obligations on the date funding expires.

4.2 Should a Subscribing Entity cancel an order for Service(s) due to the non-appropriation of funds for such Service(s), the Subscribing Entity may not acquire a replacement service from another vendor for six months from the date of such cancellation. A Subscribing Entity will not be required to wait six months to obtain a replacement service if, upon availability of funding for such cancelled Service, the Subscribing Entity first contacts Vendor and makes a good faith effort to renew the cancelled order. The foregoing will not prohibit the Subscribing Entity from using or renewing any existing service from another vendor, provided the alternative service began before the non-appropriation event and was not begun in contemplation of the non-appropriation event.

4.3 Certification of Funds

None of the rights, duties, or obligations in this Agreement will be binding on the State, and the Vendor will not begin its performance, until all the following conditions have been met: (a) all statutory provisions under the Code, including Section 126.07, have been met; (b) all necessary funds are made available by the appropriate state agencies; (c) if required, approval of this Agreement is given by the Controlling Board of Ohio; and (d) if the State is relying on Federal or third-party funds for this Agreement, the State gives the Vendor written notice that such funds have been made available.

5 Orders Requesting Service, Cancellation, or Modification

5.1 Service, Cancellation, or Modification.

A. All Orders for Service as well as any Cancellations, or Modifications to an order under this Agreement must be made through the State's Technology (formerly Telecommunications) Service Request ("TSR") system or any similar system in use by the State at the time an order for Service, Cancellation or Modification is requested. The Vendor has the right to reject a service order based on lack of availability. Vendor also has the right to reject a service order submitted by a Subscribing Entity if the Vendor reasonably believes the Subscribing Entity cannot or will not meet its obligations under this Agreement. The Vendor will notify the State when an order is received under this Agreement that was placed outside the TSR or similar system and the Vendor will not accept the order. If a Vendor accepts an order outside the TSR or similar system, the State may either withhold payment for the unverified order or

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request suspension of the Service occurring due to the unverified order without penalty to the State.

B. The Vendor agrees to keep Subscribing Entities' orders updated and current in the TSR System.

C. The Vendor is responsible for processing all orders, billing, payments, cancellations, and changes, and receiving and managing all Service calls in a consolidated manner. In this regard, the Vendor must act as the sole point of contact for all Services under this Agreement and any related Service Attachments for all Subscribing Entities. The Vendor may not require a Subscribing Entity to contact any of the Vendor's third-party suppliers/carriers or otherwise transact business directly with such suppliers/carriers for any Services ordered under this Agreement, and in all respects, the Vendor must maintain a seamless, single-point-of-contact business relationship with each Subscribing Entity for the Services ordered under this Agreement.

5.2 eBonding

If available through the Vendor, the State may opt to generate service orders, conduct order status checks, report Service trouble, manage this Agreement and the Service Attachments and conduct other related transactions through the Vendor's eBonding system which will allow the State to automatically enter directly into the Vendor's proprietary system. Once the Vendor has eBonding capability, the Vendor must notify the State and provide access to the eBonding system.

6 Term

The current General Assembly cannot commit a future General Assembly to any expenditures. Therefore, this Agreement along with all Service Attachments will automatically expire at the end of the current biennium, which is June 30, 2011.

6.1 Agreement - Renewal

The State may renew this Agreement in the next biennium by issuing written notice to the Vendor of the decision to do so. Renewals will be initiated by the State in writing at least thirty (30) days prior to the expiration of the then current term. This expiration and renewal procedure will also apply to the end of any subsequent biennium.

The State cannot commit to renew this Agreement in any future biennium, but it is the State's intent to do so for multiple two-year terms.

6.2 Service Attachment(s) - Renewal

A. The State may renew the Service Attachments for the next biennium by issuing written notice to the Vendor of the decision to do so. Renewals will be initiated by the State at least thirty (30) days prior to the expiration of the then current term. This expiration and renewal procedure will also apply to any subsequent biennium.

B. After the first renewal the Parties agree that pricing of services under the Service Attachment may be renegotiated. Upon termination of this Agreement, all rights of the Subscribing Entity(s) to order new Services cease and the Vendor has no further

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obligations to furnish new Services to the Subscribing Entity(s). In no case will the fees under the Service Attachments increase as a result of any such negotiation before the 2013 renewal of this Agreement, should this Agreement be renewed beyond the State's 2013 biennium.

C. After the first 12 months of full service under a service order, the Subscribing Entity(s) have the option to upgrade to a new technology or service offering with the Vendor without incurring termination charges as more specifically outlined in, the individual Service Attachments. The upgrade will require a new service order with a commitment to the applicable term for the new service under a Service Attachment to this Agreement. The old service term will expire without any termination costs to the Subscribing Entity on the In-service date of the new Service.

7 Termination of Agreement and Service Attachments

A. If the State has lawfully appropriated funding to pay for the applicable Disconnection Service Charge identified in the applicable Service Attachment, for the State's convenience, the State may terminate this Agreement and/or Service Attachment(s) during the Initial or any Renewal Term with thirty (30) days advanced written notice to the Vendor. The Subscribing Entity(s) shall pay for all accrued and unpaid charges for Service through the effective date of such termination and any other applicable fees identified in this Agreement, such as Disconnection Service Charges, as outlined in the appropriate Service Attachment(s).

B. If the Termination of the Agreement and/or Service Attachments is for cause, neither the State nor Subscribing Entity(s) will be held liable for any cancellation charges or Disconnection Service Charges as outlined in the appropriate Service Attachment(s).

C. In addition, it is understood that the State's funds are contingent upon the availability of lawful appropriations by the Ohio General Assembly. If the General Assembly fails at any time to continue funding for the payments and other obligations due as part of this Agreement, the State and Subscribing Entity(s) obligations under this Agreement are terminated as of the date that the funding expires without further obligation of the State and Subscribing Entity(s). But in any such situation, the provisions of Section 4.2 will apply.

8 Cancellation of Services as Described in a Service Attachment

Under this Agreement and Service Attachment(s), Service(s) may be cancelled by either the Subscribing Entity(s) or the Vendor as follows:

8.1 By the Subscribing Entity(s)

A. If the Subscribing Entity has lawfully appropriated funding to pay for the applicable Disconnection Service Charge identified in the applicable Service Attachment, the Subscribing Entity may cancel a Service for convenience. The Subscribing Entity(s) may cancel the service(s) at any time for any reason. The Subscribing Entity(s) shall remain liable for charges accrued but unpaid as of the cancellation date as well as any applicable charges or costs as outlined in the appropriate Service Attachment(s).

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B. If the cancellation of the service(s) is for cause or non-appropriation of funds as described in Section 7, the Subscribing Entity(s) shall not be held liable for any Disconnection Service Charges (or similar charge accrued prior to in-service date) as outlined in the appropriate Service Attachment(s).

8.2 By the Vendor

A. If a Subscribing Entity(s) materially defaults in the performance of any of its duties or obligations under this Agreement and/or Service Attachment(s), the Vendor may cancel the Subscribing Entity's Service by giving at least thirty days (30) written notice thereof and providing the cancellation date. If the Subscribing Entity(s) cures the default to the satisfaction of the Vendor and prior to the cancellation of services date, the Subscribing Entity(s) Service shall remain in full force and effect.

B. The Vendor may interrupt or suspend service to an individual Subscribing Entity account without notice if the Vendor has cause to believe that its equipment is being used for a fraudulent purpose, or if the service is used in a way that jeopardizes the integrity of Vendor's network or equipment, or is used in violation of applicable governmental rules or regulations. The Vendor will notify the Subscribing Entity as soon as practicable after suspension or interruption in order to discuss mitigation and service resumption issues.

C. The Subscribing Entity(s) shall remain liable for charges accrued but unpaid as of the cancellation date as well as any applicable charges or costs as outlined in the appropriate Service Attachment(s).

9 Financial – Charges, Claims and Disputes, Billing and Payment

9.1 Charges

A. All applicable charges are fully documented in the appropriate Service Attachment(s). Installation charges identified in the applicable Service Attachment will be billed when the Service is established. The monthly recurring charge and usage charges will commence on the In-Service Date, which is the date the Service has been successfully installed, tested, and made available for the Subscribing Entity by the Vendor. The Subscribing Entity(s) will not be responsible for any charges not documented in the Service Attachment(s) nor will the Subscribing Entity(s) be responsible for any charges waived by the Vendor as described in the Service Attachment(s). The charges waived by the Vendor include, but are not limited to, the following:

1. Administrative Expense Fee;
2. Property Tax Allotment; and
3. Federal Regulatory Fee of 2.06%

B. To the extent that any sales, use, excise or any similar tax is imposed on the Vendor in connection with this Agreement, such will be the sole responsibility of the Vendor, and the Vendor will pay such taxes (together with any interest and penalties not disputed with the appropriate taxing authority) whether they are imposed at the time Service is rendered or at a later time during the Term.

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C. The Subscribing Entity(s) will pay ONLY any taxes, fees, surcharges or assessments to the extent the Subscribing Entity is not exempt from such taxes, surcharges or assessments, and will appear as a separate line item on the invoice. Each Subscribing Entity must furnish to Vendor documentation of applicable tax exemption(s), if such is available from the taxing authority, in order for the exemption(s) to apply. Subscribing Entities are subject to payment of surcharges including, but not limited to, E911, State Telecom Relay Service ("TRS"), and federal Universal Service Connectivity Fee ("USF") fees (as applicable to interstate services).

D. The Subscribing Entity(s) are not subject to increases in the monthly recurring charge or usage charges during the term of this Agreement.

E. Subscribing Entities are not responsible for any charges from the Vendor's third-party suppliers/carriers for any Services ordered under this Agreement, unless a Service Attachment expressly provides otherwise. In this regard, the Vendor is the seller or reseller of all Services covered by this Agreement, and any payments due to the Vendor's third-party suppliers/carriers for services under this Agreement are included in the Vendor's fees specified in the applicable Service Attachment, unless that Service Attachment expressly provides otherwise.

9.2 Claims and Disputes

A. The Subscribing Entity(s) are only authorized to pay correct invoices.

B. The State or a Subscribing Entity may dispute charges invoiced by Vendor by providing written notice of the dispute to the Vendor or logging onto Vendor's online customer portal at <https://customerportal.twtelecom.com/> and completing a dispute form, or by contacting TWTC's dispute telephone line at 1-800-829-0420. All claims must be submitted to TWTC within two years of the date of the invoice associated with the disputed charges, or the invoice shall be deemed correct and all rights to dispute such charges are waived. The Vendor will be entitled to an offset for any under-billed services during the same two-year period to the applicable Subscribing Entity against any claims under this section by that Subscribing Entity.

C. During the pendency of the investigation into the disputed charges, upon written notification to the Vendor, the State may withhold payment for the Services described in the Service Attachment associated with the disputed charges until the dispute is resolved.

D. Once the investigation into the disputed charge(s) has been completed;

- If in favor of the Subscribing Entity, upon the Subscribing Entity's written request, the Vendor will issue a credit on the next invoice. If the credit exceeds the service charges on the next six months' invoices to the affected Subscribing Entity, the Vendor will issue payment to the Subscribing Entity in the form of a check in the amount exceeding the service charges.
- If in favor of the Vendor, the Subscribing Entity will submit payment within thirty (30) days of receiving notification at the office designated to receive the invoice.

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9.3 Billing

A. Invoices will be issued at the account level; however, the Subscribing Entity(s) may require a recap at the Agency, Division, or District level based on the organizational structure of the Subscribing Entity(s).

B. Invoices must be available in paper or electronically in the form of an internet download, which form is to be determined at the State's option, and if in paper form, the invoice is to be submitted to the office designated in the purchase order or TSR as the "bill to address". The invoice shall be made available for electronic download through Vendor's web portal or mailed within sixty (60) days of the end of each billing period for Service. If the invoice is not so made available for download or mailed within sixty days after the end of each billing period, the State shall be entitled to deny payment of the invoice.

C. If a Vendor is using additional vendors/entities to provide the Services described in the Service Attachments, the Vendor, at the State's option, must generate a consolidated invoice and submit the consolidated invoice to the State, unless a Service Attachment expressly provides otherwise.

D. A proper invoice must include the following information and/or attached documentation:

1. Name and address of the Vendor as designated in the Agreement or Amendment.
2. Federal Tax Identification Number of the Vendor as designated in this Agreement.
3. Invoice remittance address as designated in the Agreement.
4. A sufficient enough description of the Services that allows the State to identify the Services or perform an audit of the Services.

9.4 Payment

A. Payments for services under this Agreement will be due on the 30th calendar day after the actual receipt of a proper invoice in the office designated to receive the invoice.

B. The date of the warrant issued in payment will be considered the date payment is made.

C. Without diminishing the foregoing payment rights and obligations, the payment will be overdue if it is not received by Vendor within 30 days after the receipt of a proper invoice in the office designated to receive the invoice.

D. At the Vendor's option, if a payment is overdue, then interest will be paid under the provisions of Section 126.30 of the Ohio Revised Code ("Code").

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10 State Reporting Requirements

The Vendor shall provide the State with a recap of all services provided to the Subscribing Entity on a monthly basis. Specific reporting data requirements will be outlined in the Service Attachment and/or Amendments.

11 Service Level Guarantee and Credits

The Vendor will issue credit allowances for service outages as set forth in the Service Level Agreement outlined in the Service Attachment and/or Amendments section(s). The credit will appear on the next invoice. A service outage begins when the Subscribing Entity contacts the Vendor to report the problem or the Vendor identifies the problem internally, and a trouble ticket is opened. The service outage ends when the service is restored. The closing of the trouble ticket will occur by agreement of the Parties, which will not be withheld unreasonably. The duration of the service outage will be calculated as the elapsed time between the time the trouble ticket is opened and the service is restored.

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12 Eligibility of E-Rate Service

A. Some services under this Agreement and/or the Service Attachments may be eligible for the Universal Service Administrative Company's ("USAC's") Education Rate (E-Rate) Program. In the event that Vendor passes through the State of Ohio Cost Recovery Fee to a Subscribing Entity, then the Vendor must separately specify that fee on the bill. Vendors and customers party to this contract must follow the rules as set forth by USAC. Please refer to the follow web location, if available:

<http://www.sl.universalservice.org>

B. Under current USAC rules, administrative fees assessed by the State are excluded from e-Rate reimbursement for telecommunications services. Any applicable administrative fees are identified in Section 13, Cost Recovery.

13 Cost Recovery

A. The Vendor will establish a State of Ohio Cost Recovery Fee Account. This Cost Recovery Fee is an estimated charge to recover costs/fees incurred by the State in the management and administration of the Services for all the parties and/or Subscribing Entities in the Agreement described herein and/or the Service Attachments.

B. The Cost Recovery Fee to be paid to State will be calculated by multiplying Two Percent (2%) times the total dollar amount of monthly recurring charges paid for services. The State will generate notification to the Vendor via email on the last day of the quarter advising the Vendor to complete a revenue reporting form provided by the State within thirty (30) days prior to the close of the quarter. The Vendor will complete and return the revenue reporting form via email within thirty (30) days preceding the close of the quarter. The State will compare quarterly the revenue reporting forms provided by the Vendor to expenditure data from the State's general ledger to insure minimum reporting amount was met. The minimum would include all state expenditures without cooperative purchasing expenditures. The State will generate an invoice to the Vendor for the quarterly Cost Recovery Fee based on reported revenue but at least the amount of general ledger statewide disbursements report.

Example of calculation of a Cost Recovery Fee:

Example 1:

Vendor Revenue Report	\$1,000.00	X 2%	\$20.00
State Expenditure Report	\$900.00		

Example 2:

Vendor Revenue Report	\$800.00		
State Expenditure Report	\$1,000.00	X 2%	\$20.00

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C. The Vendor will remit to the State the 2% Cost Recovery Fee within thirty (30) days of receipt of the invoice from the State by check to the State of Ohio, Office of Information Technology. THE CHECK SHALL BE MADE OUT TO: TREASURER, STATE OF OHIO, FUND 133 and shall be sent to the State at the following address:

Office of Information Technology
Services Delivery Division
30 East Broad Street, 39th Floor
Columbus, Ohio 43215
Attn: Business Manager

D. To ensure that the payment is credited properly, the Vendor will identify the check as State of Ohio Cost Recovery Fee and reference this Agreement between the Vendor and The State of Ohio, Office of Information Technology and reference the Quarterly Activity Reports supporting the check amount. The data requirements for the Quarterly Activity Reports will be as the Parties may agree from time to time. Credit of the Cost Recovery Fee will begin in the month of execution of this Agreement.

E. A copy of the Quarterly Activity Report shall be sent to the Contract Manager at the following address:

Office of Information Technology
Infrastructure Service Delivery
1320 Arthur E. Adams Dr.
Columbus, Ohio 43221
Attention: Contract Manager

F. The first payment will be calculated against all services rendered to the existing Subscribing Entity(s) transferred to the Agreement in the month of effective date. Subsequent payments will be calculated against all Subscribing Entity(s) as stated above.

14 Notices

Except as otherwise provided in this Agreement, all notices required or permitted to be given hereunder shall be in writing and shall be valid and sufficient if dispatched by a) registered or certified mail, postage prepaid, in any post office in the United States; b) hand delivery; c) overnight courier; d) facsimile transmission or e) email upon confirmation of receipt.

If to the State:

Office of Information Technology
Service Delivery Division
30 East Broad Street, 39th Floor
Columbus, Ohio 43215
Attention: Contract Administration

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If to the Vendor:

tw telecom of ohio llc
Attn: Roger Paschal, VP/General Manager
250 W Old Wilson Bridge Suite130
Worthington OH 43085

With a copy to:

tw telecom holdings inc.
Attn: Deputy General Counsel
10475 Park Meadows Drive
Littleton CO 80124

15 Vendor Added Language

This Section has been added to provide the Vendor with the flexibility to add to the Terms and Conditions outlined in Sections 1 through 15 of this Agreement. Any additions or changes in this section must follow the format as outlined in the Master Service Agreement and Service Attachment instructions document. Please note that all Terms and Conditions which are specific to the services will be addressed in the Service Attachment(s) and not in this section.

15.1.1 Services

Vendor will provide telecommunications services through its local wholly owned subsidiaries that own and operate telecommunications facilities, and which are certified to provide services in their respective service areas. Vendor will remain responsible for the performance of its subsidiaries under this Agreement.

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Third-Party Carrier Form # _____

This Third-Party Carrier Form (the "Form"), is between _____ ("Carrier") having an office at _____, and the State of Ohio, Department of Administrative Services, Office of Information Technology ("the State"), having its principal place of business at 1320 Arthur E. Adams Drive, 3rd Floor, Columbus, OH 43221 (jointly referred hereto as the "Parties"), and it is effective as of the date signed by the State.

The Carrier is acting as a third-party carrier for _____ ("the Vendor") under an agreement between the State and the Vendor as a result of an RFP issued _____ ("the Agreement").

The Carrier has a copy of the Agreement and will honor all terms and conditions in the Agreement unless otherwise modified by the Carrier and State's Service Attachment.

Additionally, if the State and the Carrier agree to contract directly for services, they may do so by executing a Service Attachment between them that references the Agreement, in which case, all provisions of the Agreement will apply to the Carrier as if the Carrier were the original Vendor under the Agreement. Notwithstanding the foregoing, for purposes of written notices under the Agreement with respect to the Service Attachments entered into directly between the State and Carrier, notices to Carrier will be sent to:

(Notice Address)

Further, with respect to the Third-Party Supplier section, the Carrier will not be obligated to notify the State of third-party carriers or obtain Third-Party Carrier Forms from them.

Additionally, no Service Attachments entered into under the Agreement between the original Carrier and the State will apply to the Carrier, except to the extent the Carrier is a third-party carrier for purposes of them with the original Vendor. And no amendments to the Agreement between the original vendor and the State will apply for purposes of any Service Attachment directly between the State and the Carrier, unless any such Amendment is directly between the State and the Carrier or incorporated by reference in the applicable Service Attachment with the Carrier.

Whenever the State and the Carrier rely on the Agreement to directly enter into a Service Attachment, the Carrier will step into the shoes of the Vendor under the Agreement for purposes of that Service Attachment only, and, as to that Service Attachment, the Agreement will be solely between the Carrier and the State. The Carrier and the State must look solely to each other for performance with respect to the applicable Service Attachment, including but not limited to billing and payment, and the original Vendor will not be considered a party to the Agreement for purposes of any such Service Agreement directly with the Carrier. Nothing in this Form requires the Vendor or the State to enter into any Service Attachment directly, and should they so agree, the Service Attachment will be effective only when signed by the Carrier and accepted by the State through execution of it by the State's duly authorized representative.

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In Witness Whereof, the Parties have executed this Form which is effective on the date the State's duly authorized representative signs it on behalf of the State, ("Effective Date").

CARRIER

**STATE OF OHIO,
DEPARTMENT OF
ADMINISTRATIVE
SERVICES**

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Effective Date

Federal Tax ID

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Service Attachment # _____

This Service Attachment (the "Service Attachment"), is between _____ ("Vendor") having an office at _____, and the State of Ohio, Department of Administrative Services, Office of Information Technology ("the State"), having its principal place of business at 1320 Arthur E. Adams Drive, 3rd Floor, Columbus, OH 43221 (jointly referred hereto as the "Parties"), and it is effective as of the date signed by the State. It amends that certain Master Services Agreement between the Parties dated _____.

Service Overview – (Provide a list of all services available under this Service Attachment. A separate Services Attachment should be used for each major offering or service line of the Vendor.)

Description of Service – (Provide a detailed description of all services available under the Service Attachment.)

Standard Service Features – (List and provide a description of all service features that are included as part of the standard cost.)

Optional Service Features – (List and provide a description of all service features that are available for an additional charge.)

Fee Structure – (Provide pricing information for all services and Optional Features.)

Terms and Conditions – (List any additional, modified, or deleted Terms and Conditions that are applicable to the services covered by this Service Attachment.)

Equipment Discounts – (Provide information on discounts offered for any equipment required for the service, as applicable.)

Billing Conversion Plan – (Describe the methodology used to ensure that all existing Subscribing Entity(s) receive the rates as outlined in this Service Attachment.)

Additional Information – (Anything not covered by the above sections.)

In Witness Whereof, the Parties have executed this Service Attachment, which is effective on the date the State's duly authorized representative signs it on behalf of the State, ("Effective Date").

SIGNATURE PAGE TO FOLLOW