

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN SBC  
AND THE VILLAGE OF DOWNERS GROVE**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the "Agreement"), between the Village of Downers Grove (the "Village") and SBC Global Services, Inc. (the "SBC"), for a two year centrex service contract, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Attest: \_\_\_\_\_

Village Clerk

## CENTREX SERVICE AGREEMENT

This Agreement is entered into as of the date of the last signature hereto (the "Effective Date") between SBC Global Services, Inc. on behalf of Illinois Bell Telephone Company d/b/a SBC Illinois, an Illinois corporation, with its principal place of business located at 225 West Randolph Street, Chicago, Illinois 60606 ("SBC Illinois") and Village of Downers Grove with a place of business at 801 Burlington Avenue, Downers Grove, Illinois 60515 ("Customer").

In consideration of the mutual promises set forth herein, the parties agree as follows:

### 1. Description of Service

In accordance with the terms and conditions herein, SBC shall furnish up to Customer's Network Point of Presence ("NETPOP"), the switching service supported by the appropriate equipment, materials, accessories, software, firmware, engineering, installation and maintenance services. The Centrex Service to be provided hereunder is a central office based switching service. During the Term of this Agreement, Customer shall maintain a minimum of two hundred-eighty (280) lines ("Minimum Commitment"). The quantities listed in Section 3 "Charges" represent Customer's current Centrex system and are included for informational purposes only. The locations for the current Centrex system are listed in Attachment 1.

The Service provided pursuant to this Agreement shall support the features described in Ill.C.C. No. 19, Part 5, Section 1. Only those features listed in Attachment 2 have been included in the rates specified in Section 3.1 of this Agreement.

### 2. Term

This Agreement shall commence on the Effective Date and shall remain in effect for two (2) years thereafter (the "Term"). If Customer should elect to continue Centrex Service beyond the Term of this Agreement and has not entered into a new service agreement with SBC, then SBC shall continue to provide Centrex Service to Customer at SBC Illinois's then-current monthly tariff rates. Customer shall not be liable for termination charges under the current Centrex Agreement at the time Centrex Service is provided pursuant to this Agreement and at such time said agreement shall automatically terminate.

### 3. Charges

Customer shall pay the following Nonrecurring Charges and/or Monthly Charges for lines and features provided under this Agreement in accordance with Section 5. (The Monthly Charges for the current Centrex system described below is \$4,493.35.) Nonrecurring Charges are only applicable to lines and features that are added to Customer's current Centrex system.

Product	Quantity	Unit	
		Monthly Charge	Nonrecurring Charge
System Charge	1	\$ 3.15	\$ 00
Network Access/STF - Area C, per pair	296	\$ 6.15	\$ 00
Centrex Basic Line, each *	193	\$ 5.10	\$ 00
Centrex ISDN Custom Line, each *	102	\$ 7.40	\$ 15.00
Centrex ISDN National Line, each *	1	\$ 7.40	\$ 15.00
ISDN Circuit Switched Voice, per "B" Channel	162	\$ 3.25	\$ 15.00
ISDN Circuit Switched Data, per "B" Channel	6	\$ 7.20	\$ 15.00
ACMSI	1	\$ 150.00	\$ -00
Caller ID - Intercom, per line equipped	131	\$ 0.40	\$ 5.00
Caller ID - Network, each **	27	\$ 5.60	\$ 00

\* This rate does not include End User Common Line ("EUCL") Charge.

\*\* This rate will be billed based upon PBX Trunk Equivalence in accordance with ILL.C.C. No 19, Part 5, Section 1.

#### CONFIDENTIAL INFORMATION

Solely for use by employees of SBC and Customer with a need to know.  
Not to be disclosed to or used by any other person without prior written permission of SBC.

**4. Other Charges**

**4.1 Service Ordering Charges**

The service ordering charge as specified in Ill.C.C. No. 19, Part 3, Section 1, shall apply at the time Centrex Service is provided pursuant to the terms of this Agreement.

**4.2 Line Connection Charges**

Line connection charges as specified in Ill.C.C. No. 19, Part 3, Section 1, shall apply for each new Centrex line installed pursuant to this Agreement.

**4.3 Channel Charges**

For any Centrex lines located outside of the applicable central office boundaries, additional mileage charges for 2001D channels as specified in Ill.C.C. No. 19, Part 5, Section 2, are applicable in addition to the STF and Centrex line rate.

**4.4 Local Usage**

Usage charges appropriate to Customer's local service shall be billed as specified in Ill.C.C. No. 19, Part 4, Section 2.

**4.5 Taxes**

Customer shall remit to SBC all applicable federal, state, and local taxes and all applicable municipal and state additional charges as then authorized under Ill.C.C. No. 20, Part 2, Section 2.

**4.6 End User Common Line Charges**

Centrex lines are subject to an End User Common Line ("EUCL") charge as filed for the State of Illinois by SBC in F.C.C. Tariff No.2. Customer will be responsible for all increases and decreases in the EUCL charge as authorized by Federal Communications Commission ("FCC"), and as described herein. The EUCL charge shall be calculated using the PBX equivalent described in Attachment 3 in accordance with Ill. C.C. No. 19, Part 4, Section 2, for the number of Centrex lines in service.

**4.7 Charges for Other Work**

Service charges as specified in Ill.C.C. No. 20, Part 3, Section 1, shall be applicable for services not specifically provided under this Agreement.

**4.8 Rate Stability**

Subject to the provisions of Section 13-509 of the Illinois Public Utilities Act, the rates specified in Section 3.1, with the exception of the network access element of STF and EUCL, shall not be subject to rate increases for the Term of this Agreement. The network access element of STF shall not be subject to SBC Illinois-initiated rate increases for the Term of this Agreement.

**5. Terms of Payment**

Upon the Effective Date hereof, Customer shall be liable to SBC for Nonrecurring Charge and/or the Monthly Charge specified in Section 3.1 with the Monthly Charge continuing each month thereafter during the Term of this Agreement.

All invoices from and payments due to SBC shall be in accordance with SBC Illinois's standard billing procedures.

**6. Service and Maintenance Obligations**

SBC represents to Customer that the Centrex Service and features provided pursuant to this Agreement shall operate substantially and materially in accordance with the manufacturer's specifications and those set forth in this Agreement during the Term of this Agreement.

If, under normal and proper use, Centrex Service and features provided pursuant to this Agreement fail to perform substantially as specified above and Customer notifies SBC within the Term of this Agreement, SBC shall correct such service degradations or failures without charge to Customer in accordance with the provisions herein. Customer may report service and feature problems seven (7) days per week and twenty-four (24) hours per day.

SBC Illinois's repair obligation does not include damage, defects, malfunctions, service degradations or failures caused by Customer's or third party's abuse, intentional misuse, unauthorized use or negligent acts or omissions. In addition, the foregoing repair obligation applies only if Customer provides SBC with access on SBC Illinois's side of the NETPOP so as to enable SBC to perform maintenance or repair work.

When service is interrupted and the interruption exceeds twelve (12) hours (as measured from the time the interruption is reported to or detected by SBC Illinois, whichever occurs first), a credit allowance shall be made for that line or trunk, as specified in Ill.C.C. No. 20, Part 2, Section 2. No other liability shall attach to SBC as a result of such interruption to service.

If SBC responds on site to a request for maintenance service from Customer where no actual service problem exists or where the fault or defect is determined to be on Customer's side of the NETPOP and such fault or defect is not covered by any other express obligation of SBC Illinois, then applicable charges shall be assessed against Customer.

THE FOREGOING REPRESENTATION IS EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AGAINST SBC FOR LOSS OR DAMAGE CAUSED BY, OR ARISING IN CONNECTION WITH, THE PERFORMANCE OR NONPERFORMANCE OF THE CENTREX SERVICE AND FEATURES PROVIDED PURSUANT TO THIS AGREEMENT SHALL BE THE OBLIGATIONS OF SBCAS SET FORTH IN THIS AGREEMENT.

**7. New Features or Enhancements**

As new features or enhancements are made available to SBC from the switch manufacturer, Customer and SBC may meet to discuss their content and impending availability. New features or enhancements shall be made available to Customer subject to the following terms: (1) activation of such features and/or enhancements shall not be detrimental to the public network; (2) such new features are part of a software release which the manufacturer makes available to SBC for all of its central offices equipped to handle such changes; and (3) Customer agrees to pay the rates quoted by SBC for such feature or enhancement.

**8. Termination For Convenience**

In the event Customer terminates this Agreement for reasons not excused under the terms of this Agreement prior to expiration of the Term, in addition to any unpaid special construction or nonrecurring charges (excluding any waived charges), Customer shall be liable to SBC twenty-five percent (25%) of the Monthly Charge for the Minimum Commitment for each month remaining in the Term of this Agreement from the effective date of termination. Such sum is immediately due and payable.

**9. Breach**

Either party may terminate this Agreement immediately following written notice in the event the other party is in default as to any of its material obligations hereunder provided that (a) the defaulting party receives notice of termination containing a reasonably complete description of the default and (b) the defaulting party fails to cure such default within thirty (30) days of receiving such notice or ten (10) days of such notice if the default is nonpayment. Except as expressly provided in this Agreement, in the event of a breach of this Agreement by either SBC or Customer, the other party will be entitled to pursue any and all remedies available to it at law or in equity including court costs and reasonable attorneys' fees.

**10. Applicable Tariff Regulations**

The general regulations of SBC under Ill.C.C. No. 19 and No. 20 applicable to communications services apply to the services provided pursuant to this Agreement. The regulations of Ill.C.C. No. 19, Part 5, Sections 2 and 1 are applicable to the STF and Centrex provided pursuant to this Agreement, unless they are expressly inconsistent with the terms and conditions of this Agreement. In the event of an express inconsistency between the regulations in Ill.C.C. No. 19, Part 5, Sections 2 and 1 and the terms of this Agreement, the terms of this Agreement shall control.

Each reference to a tariff provision in this Agreement shall be deemed to mean or include any and all similar tariff provisions or other regulations changed or established from time to time in lieu of said tariff provision.

**11. Filing of Contract**

Subject to the provisions of Section 13-509 of the Illinois Public Utilities Act, this Agreement shall be filed with the Illinois Commerce Commission.

**12. Excused Performance**

SBC shall not be liable in any way for any delay or any failure of performance of the Centrex Service provided pursuant to this Agreement or for any delay, loss, damage or expenses due to any of the following:

- (a) Any causes beyond SBC Illinois's reasonable control including, but not limited to, fires, floods, epidemics, quarantine restrictions, unusually severe weather, manufacturer's delay, strikes, embargoes, explosions, power blackouts, wars, labor disputes, acts of civil disobedience, acts of civil or military authorities, acts stemming from governmental bodies (including courts and regulatory bodies), acts of nature, acts of public enemies, acts or omissions of carriers, provided SBC has exercised reasonable measures, if feasible, to mitigate such delay or failure; or
- (b) Any wrongful or negligent act or omission of Customer or its employees, agents, subcontractors or affiliates; or
- (c) Customer's failure to provide access to Customer's premises as reasonably requested by SBC Illinois.

**13. Indemnification**

Each party shall indemnify and hold harmless the other party and its employees, agents, subcontractors and affiliates against all injury, loss, damage or expense (including court costs and reasonable attorneys' fees) which they may sustain or become liable for on account of injury to or death of persons, or on account of damage to or destruction of property resulting in whole or substantial part from the performance of this Agreement by either party or its employees, agents, subcontractors or affiliates, to the extent such loss or damage is due to or arising in any manner from a willful or negligent act or omission of the indemnifying party or its employees, agents, subcontractors or affiliates.

SBC shall be indemnified and saved harmless (including court costs and reasonable attorneys' fees) by Customer against claims for libel, slander, or the infringement of copyright arising directly or indirectly from the material transmitted over the facilities furnished by SBC or the use thereof and against claims for infringement of United States patents arising from Customer's use of equipment not supplied or authorized by SBC in combination or connection with the facilities furnished by SBC Illinois.

**14. Limitation of Damages**

No liability shall in any case attach to SBC for any indirect, incidental, or consequential damages, including lost profits, sustained or incurred in connection with this Agreement and the performance or nonperformance of the Centrex Service and features provided pursuant to this Agreement regardless of the form of action, whether in contract, tort, strict liability, or otherwise, and whether or not such damages, injuries, losses or expenses are foreseeable. It is understood and agreed that SBC is not an insurer and that the rates for service provided hereunder are based solely on their value and on the scope of the liabilities set forth in this Agreement and that said rates are unrelated to the potential for indirect, incidental, consequential or other damages. SBC and Customer agree that this allocation of risk and liability is fair and reasonable.

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**15. Insurance**

SBC Illinois is self-insured for commercial general liability for exposures under ten million dollars and Worker's Compensation (including occupational disease) according to statutory limits. The parties understand and agree that this Section is a statement of fact and does not expand or contract the scope of SBC Illinois's liabilities or obligations to Customer or to third parties pursuant to this Agreement.

**16. Assignment**

Customer shall not assign or otherwise transfer any rights or obligations under this Agreement without the prior written consent of SBC which shall not be unreasonably withheld or delayed. Any such assignment without prior written consent of SBC shall be void.

**17. Severability**

If any provision of this Agreement shall be held invalid or unenforceable, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid and enforceable provision which so far as possible achieves the same economic and other benefits for the parties as the severed provision was intended to achieve, and the remaining provisions of this Agreement shall continue in full force and effect.

**18. Choice of Law**

The construction and interpretation of this Agreement and any claims arising hereunder or related hereto, whether in contract or tort, shall be governed by the laws (except those provisions relating to conflict of laws) of the State of Illinois.

**19. Waiver**

Failure of either party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a waiver of such term, condition, right or privilege in the future.

**20. Publicity**

Neither party shall advertise or market any information relating to the service provided under this Agreement, including mentioning or implying the name of Customer or SBC Illinois, or its affiliates, without the prior written consent of the other party.

**21. Notices**

Any notice which under the terms of this Agreement must or may be given or made by either party hereunder shall be in writing and shall be delivered personally or sent by express delivery service or by certified mail, return receipt requested, addressed to the respective parties as follows:

If intended for SBC:

SBC Global Services, Inc.  
225 West Randolph HQ9C  
Chicago, IL 60606-1824  
Attn. Director Contract Information Management

If intended for Customer:

Village of Downers Gove  
801 Burlington Ave.  
Downers Grove, IL 60515  
Attn. \_\_\_\_\_

or to such other address as either party shall designate by proper notice. Notices shall be deemed to have been received as of the earlier of the date of actual receipt or, in case of notices sent via US. mail, three (3) days after mailing. A signed receipt shall be obtained where a notice is delivered in person.

**22. Joint Work Product**

This Agreement is the joint work product of the parties, and in the event of any ambiguities, no inferences shall be drawn against either party.

**23. Entire Agreement**

The terms contained in this Agreement and the attachments and tariffs referred to herein, which are incorporated herein by this reference, constitute the entire agreement between the parties with respect to the subject matter hereof, superseding all prior understandings and communications, oral or written. This is the entire and exclusive agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, proposals or understandings, whether written or oral. This Agreement may not be modified except by a writing signed by both parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year set forth above.

**SBC Global Services, Inc.**

**Village of Downers Grove**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT I**  
**SERVICE LOCATIONS**

<u>BTN</u>	<u>Address</u>	<u>Access Area</u>	<u>Serving Central Ofc.</u>	<u>Switch Type</u>
630-434-5500	801 Burlington Ave., Downers Grove	C	Downers Grove	5ESS
	825 Burlington Ave., Downers Grove	C	Downers Grove	5ESS
	2560 Wisconsin Ave., Downers Grove	C	Downers Grove	5ESS
	5420 Main, Downers Grove	C	Downers Grove	5ESS
	3900 Highland Ave., Downers Grove	C	Downers Grove	5ESS
	6701 Main, Downers Grove	C	Downers Grove	5ESS
	842 Curtiss, Downers Grove	C	Downers Grove	5ESS
	815 Burlington Ave., Downers Grove	C	Downers Grove	5ESS
	5202 Washington, Downers Grove	C	Downers Grove	5ESS
	5101 Walnut Ave., Downers Grove	C	Downers Grove	5ESS
	1050 Curtiss, Downers Grove	C	Downers Grove	5ESS

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## ATTACHMENT 2

### STANDARD CENTREX FEATURES

#### Standard Features on all Centrex Lines (except where noted):

Ameritech Centrex Mate  
Call Diverting  
Call Forwarding of Call Waiting Calls (*Not available for ISDN*)  
Call Forwarding - Busy  
Call Forwarding - Don't Answer  
Call Forwarding - Variable  
Call Hold  
Call Pickup  
Call Transfer (Intra-System) - All  
Call Transfer (Inter-System) - Deluxe  
Call Waiting/Cancel Call Waiting (*Not available for ISDN*)  
Conference Calling 3 Way  
Consultation Hold  
Direct Inward Dialing (DID)  
Direct Outward Dialing (DOD)  
Distinctive Ringing and Call Waiting Tone  
End to End Signaling  
Equal Access for Inter MSA Calling  
Hunting Arrangements  
Intercom Calling  
Message Waiting Indicator – Audible  
Night Answer (All Versions) (*Not available for ISDN*)  
Speed Calling - Short  
Touch Tone  
Transfer Calls to Restricted Station (*Not available for ISDN*)  
Usage Billing by Line Number

#### Standard Features for Electronic Key and ISDN:

Analog Line Pickups (*Electronic Key only*)  
Automatic Dial  
Automatic Line Preselect  
Blind Transfer with Recall Identification (*Electronic Key only*)  
Call Forwarding per Key  
Call Request  
Call Request with Queue  
Called Number Display  
Caller ID (*ISDN only*)  
Caller ID Intercom  
Calling Reason Display  
Directory Number Hunt with Call Waiting and Preferential Hunt (*Electronic Key only*)  
Display Capability  
Executive Busy Override  
Executive Busy Override – Exempt  
Feature Buttons  
Group Intercom  
Increase Shared Directory Number (DN) Group Size (*ISDN only*)  
Last Number Redial  
Leave Message Activation  
Listen On Hold  
Make Set Busy  
Make Set Busy except on Group Intercom (*Electronic Key only*)  
Message Retrieval Display  
Message Waiting Activation Control  
Message Waiting Indication – Visual  
Multiple Appearance Directory Number (MADN)  
Single Call Arrangement (SCA)  
On Hook Dialing  
Pickup Held Conference Call from Shared Directory Number (DN) Call Appearance (*ISDN only*)

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Repeat Alert  
Ring Again Idle Set  
Ringing Options for MADN  
Secondary MADN Call Forwarding  
Set Inspect  
Shared Directory Number (DN) Bridging with Conference Calls (*ISDN only*)  
Short Hunt  
Stop Hunt – Access Code  
Terminal Management (*ISDN only*)  
Time and Date Display

ATTACHMENT 3

PBX TRUNK EQUIVALENCY

Centrex Lines	Trunk Equivalency
2-19	2
20-28	3
29-38	4
39-47	5
48-57	6
58-66	7
67-76	8
77-85	9
86-95	10
96-104	11
105-114	12
115-123	13
124-132	14
133-142	15
143-151	16
152-161	17
162-170	18
171-180	19
181-189	20
190-199	21
200-207	22
208-225	23
226-243	24
244-262	25
263-281	26
282-300	27

Each additional eighteen (18) Centrex lines or fraction thereof requires one (1) additional trunk equivalency

**MASTER DISCOUNT AGREEMENT  
BETWEEN  
SBC GLOBAL SERVICES, INC.  
AND  
VILLAGE OF DOWNERS GROVE**

This Master Discount Agreement ("Agreement") is entered into as of the date of the last signature hereto (the "Effective Date") between SBC Global Services, Inc., with a place of business located at 225 West Randolph, Chicago, Illinois, on behalf of Illinois Bell Telephone Company d/b/a SBC Illinois, an Illinois corporation, ("SBC"), and Village of Downers Grove, an Illinois government agency, with a place of business located at 801 Burlington Ave., Downers Grove, Illinois 60515 ("Customer").

**SCOPE OF AGREEMENT**

SBC values Customer's business and Customer desires to obtain discounts on certain SBC services. This Agreement sets forth the parties' agreement regarding a discount plan under which Customer is eligible to receive discounts on certain SBC services provided that during the term of this Agreement Customer subscribes on an annual basis to a minimum amount of specific SBC services. This volume discount plan consists of three (3) components: (1) Customer's annual subscription/purchase commitment level; (2) SBC services which are eligible to receive discounts; and, (3) SBC services which serve to contribute to Customer's satisfaction of its annual commitment. The SBC services which are eligible to receive discounts are set forth under Attachment(s) to this Agreement, with each Attachment representing the Customer's commitment to purchase the services and products covered by that Attachment. Each Attachment must be separately executed by each party, and becomes a part of this Agreement upon execution. **No services or products are subscribed to or provisioned under this Agreement.** Customer and SBC agree that the terms and conditions of the tariff(s) or contract(s) under which a specific service or product is provided (including, but not limited to, all warranty and limitation of liability terms) is in addition to and not in lieu of or superseded by this Agreement.

**1. TERM AND TERMINATION**

- A. The term of this Agreement commences no later than sixty (60) calendar days after the date of the last executing signature ("Commencement Date"), and shall remain in full force and effect for as long as there is an Attachment remaining in effect under this Agreement. Each Attachment will become effective and will conclude according to its own term.
- B. SBC may terminate any or all Attachments on this Agreement for cause thirty (30) days after written notice to Customer if Customer fails to perform a material term or condition, provided that within those thirty (30) days Customer did not remedy the non-performance.
- C. Customer may terminate Attachments without liability if SBC fails to perform any material term or condition of this Agreement and such failure is not remedied within thirty (30) days of SBC's receipt of Customer's notice of non-performance.
- D. Any termination conditions which apply to a specific Attachment are set forth under that Attachment and are in addition to the termination rights and conditions of this Section.

**2. CONTRIBUTORY AND ELIGIBLE SERVICES**

- A. The discounts under this Agreement are based upon Customer's purchase of SBC Contributory and Eligible Services, those terms being defined in each Attachment. For purposes of this Agreement "purchase" shall mean subscription through tariff or contract of any SBC service or the purchase of an SBC product through contract. The terms and rates for each SBC service or product are governed by the tariff or contract between SBC and Customer for that service or product.
- B. SBC reserves the right to add Services to this Agreement which may contribute to Customer's satisfaction of its annual purchase commitment and/or be eligible to receive discounts.

### **3. ASSIGNMENT**

Customer shall not assign or otherwise transfer any rights or obligations under this Agreement without prior written consent of SBC, which consent shall not be unreasonably withheld or delayed. Any such assignment shall be in whole and not in part, and any such assignment without prior written consent of SBC shall be void.

### **4. NO DISCLOSURE**

Except to the extent required by law or government regulation, Customer shall not make any public announcement of or otherwise disclose to any third party the existence of this Agreement or any of its terms without SBC's prior written consent. However, to the extent this Agreement relates to Services provided in Ohio, this provision does not apply. Notwithstanding the above, Customer authorizes SBC to share, as it is reasonably necessary to accomplish the purposes of this Agreement, Customer's proprietary network information held by SBC which is specific to Customer.

### **5. APPLICABLE TARIFF REGULATIONS**

Approval of this Agreement by any applicable regulatory agency, if any approval is determined by SBC to be necessary, will be obtained by SBC. If approval is required and not obtained, then this Agreement will immediately terminate and Customer shall receive a refund of any non-recurring charges paid. Approval of this Agreement by any regulatory agency with proper jurisdiction does not constitute a determination that the terms and provisions for termination of the Agreement, or any resulting termination liability will be upheld in a court of law or that the applicable regulatory agency has approved any terms or provisions contained herein.

In certain cases, SBC is regulated by rules, regulations and orders of state Public Utility Commissions (PUCs), the FCC and courts with proper jurisdiction. In the event that this Agreement, or any part thereof, is subsequently deemed by a court or agency with proper jurisdiction to be in conflict with any law, rule, regulation or order, or SBC in good faith believes this Agreement or any part thereof to be in conflict with any law, rule, regulation or order, SBC may terminate or modify this Agreement or any affected Attachments without liability. Each reference to a tariff provision in this Agreement shall be deemed to mean or to include any and all similar tariff provisions or other regulations which are changed or established from time-to-time during the term of this Agreement in lieu of said tariff provision.

### **6. JOINT WORK PRODUCT**

This Agreement is the joint work product of the parties and, in the event of any ambiguities, no inferences shall be drawn against either party.

### **7. PUBLICITY**

Each party shall submit to the other party all advertising, sales promotion, marketing communications or any other publicity relating to the subject matter of this Agreement wherein the other party's name is mentioned or language, signs, markings or symbols are used from which the connection of either party's name may, in the other party's judgment, be reasonably inferred or implied. Neither party shall publish or use such advertising, sales promotion or publicity matter without obtaining prior written approval from the other party.

### **8. NON-WAIVER**

No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a general waiver or relinquishment of such term, right or condition. A waiver by either party of any default shall not be deemed a waiver of any other default, or act as a waiver of this Agreement, or any part thereof, or any right of the party thereafter to enforce it.

### **9. HEADINGS**

Headings contained in this Agreement or the Attachments are for reference purposes only and shall not affect the meaning or interpretation of this Agreement or any Attachment.

**10. NOTICES**

All notices or other communications hereunder shall be deemed to have been fully given when made in writing and delivered in person or by confirmed facsimile or by overnight courier, addressed as follows:

To Customer: Village of Downers Grove  
801 Burlington Ave.  
Downers Grove, IL 60515  
Attn. \_\_\_\_\_  
Fax #: \_\_\_\_\_

To SBC: SBC Global Services, Inc.  
22 5 W. Randolph, HQ 9C  
Chicago, IL 60606  
Attention: Director Contract Management  
Fax #: 312-795-5494

The address to which notices may be given by either party may be changed by written notice given by such party to the other pursuant to this paragraph.

**11. ENTIRE AGREEMENT**

The terms and conditions contained in this Agreement, the Attachments, incorporated by reference herein, and all applicable tariffs constitute the full and complete Agreement between the parties regarding the subject matter of this Agreement. In the event of a conflict between the terms and conditions of this Master Discount Agreement and the Attachment, the terms of the Attachment shall control.

Except for properly filed tariffs, neither party shall be bound by any pre-printed or electronic terms additional to or different from those in this Agreement that may appear subsequently in the other party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified by a writing signed by both parties, however, modification to an Attachment may be modified according to terms of that Attachment.

IN WITNESS WHEREOF, the parties' authorized representatives have executed this Agreement as of the dates set forth below.

**Village of Downers Grove**

**SBC Global Services, Inc.**

By \_\_\_\_\_

By \_\_\_\_\_

Printed Name

Printed Name

Title

Title

Date

Date

**NETWORK SERVICES ATTACHMENT  
BETWEEN  
SBC GLOBAL SERVICES, INC. ("SBC")  
AND  
VILLAGE OF DOWNERS GROVE**

This Attachment is for telecommunications services which are defined by SBC as "Contributory Services" and is incorporated as a part of the Master Discount Agreement ("Agreement") dated \_\_\_\_\_ between SBC and Customer.

**1. TERM**

The term of this Attachment shall commence on the Commencement Date of the Master Discount Agreement and continue for twenty-four (24) months. No discounts shall be applied prior to the Commencement Date. Customer shall not be liable for termination charges under the current discount agreement at the time discounts are provided pursuant to this Attachment and at such time said agreement shall automatically terminate.

**2. DEFINITIONS**

The following terms shall have the definitions set forth below for purposes of this Attachment. Any terms previously defined in the Agreement shall have the same meaning in this Attachment.

- A. **"Affiliate"** means an entity owning, owned by or under common control with a party, in each case to an ownership extent of fifty percent (50%) or more. Customer Affiliates included under this Attachment are set forth in Schedule B to this Attachment. The parties acknowledge that this list of Customer Affiliates forms the basis for this Agreement, and any additions to the list must be made via written amendment to this Attachment, and may involve modifications to the commitment levels set forth herein.
- B. **"Annual Commitment"** means the dollar amount of Contributory Services (as hereinafter defined) that Customer commits to purchase from SBC on an annual basis. The Annual Commitment shall be calculated after the application of any Contracted Rates (as hereinafter defined), but before the application of any Service Level Discounts or Total Volume Discounts (as hereinafter defined).
- C. **"Annual Local Usage Commitment"** means the dollar amount of local usage that Customer commits to purchase from SBC on an annual basis. The Annual Local Usage Commitment shall be calculated after the application of any Contracted Rates, but before the application of any Service Level Discounts or Total Volume Discounts.
- D. **"Annual Toll Usage Commitment"** means the dollar amount of toll usage that Customer commits to purchase from SBC on an annual basis. The Annual Toll Usage Commitment shall be calculated after the application of any Contracted Rates, but before the application of any Service Level Discounts or Total Volume Discounts.
- E. **"Billed Rate"** means the monthly per minute or per unit invoiced rate for an SBC Service negotiated by Customer and SBC or for which Customer otherwise qualifies as denoted in the then current tariff or contract applicable to Customer's purchase of such SBC Service, and before the application of any Service Level Discounts and/or Total Volume Discounts under this Attachment.
- F. **"Contracted Rate"** means the SBC Service-specific rate that appears next to an SBC Service listed on a state-specific Schedule attached to this Attachment, and is the monthly per minute or per unit rate under this Attachment for that specific SBC Service before application of any Total Volume Discount hereunder.
- G. **"Contributory Services"** means all SBC Services that are network services, as defined by SBC, and are provided by SBC's local telephone company affiliates, and:

- (1) are services that are only offered via tariffs or catalogs filed with the appropriate state PUC and charges and fees associated with those service offerings such as charges for service packages. In the event SBC or its affiliates add to or modify the services offered via tariff or catalog during the term of this Attachment, the added service (and associated charges and fees) shall be considered "Contributory" on the effective date of the tariff or catalog, and any modification will be considered modified for purposes of this Attachment as of the effective date of the tariff or catalog (upon request, SBC will provide Customer a list of charges or fees which appear in the tariffs that are not included as "Contributory Services" for purposes of this Attachment); or
- (2) are services and related charges (as described above), as added or modified during the term of this Attachment (as described above), which are offered by SBC affiliates pursuant to tariffs filed under Ameritech Operating Companies Tariff FCC Nos. 2 and 4.

Contributory Services are only those which are purchased for the internal use of Customer or its Affiliates. Taxes and surcharges which are assessed against services provided by SBC or its affiliates, including, but not limited to, charges related to 911/other public safety services, Local Number Portability charges, and EUCL charges, are not Contributory Services.

- H. "**Eligible Services**" means those specific Contributory Services to which, subject to approval by an applicable PUC, if any, a Total Volume Discount applies, in each case as designated in the state-specific Schedules attached hereto.
- I. "**Resale**" means rebranding of the Service by Customer to sell/provide to an end user, and charging such end user a different, usually higher rate, than SBC charges Customer.
- J. "**Service Level Discount**" means an SBC Service-specific discount stated as a percentage next to an SBC Service listed on a state-specific Schedule to this Attachment, and is the amount of discount under this Attachment that Customer receives off of the Billed Rate for that specific SBC Service before application of any Total Volume Discount hereunder.
- K. "**Sub-Commitment(s)**" means the Annual Local Usage Commitment and/or the Annual Toll Usage Commitment.
- L. "**Total Volume Discount**" means a discount that is given to a group of SBC Services identified on a state-specific Schedule to this Attachment. The Total Volume Discount is applied to the Billed Rate after any Service Level Discount has been applied, or to the Contracted Rate.

### 3. DISCOUNT PROGRAM

- A. Schedules A1. Eligible SBC Services. Customer is eligible to receive discount(s) on the SBC Services specified on each Schedule A1 attached hereto, incorporated herein as modified from time-to-time.
- B. Contributory SBC Services. Customer's discounts hereunder are based upon Customer's purchase of a minimum volume of Contributory Services. Customer understands and agrees that Resale of any network Service is strictly prohibited, and SBC may deem such a violation a material breach of the Master Discount Agreement and this Attachment.

Customer and SBC shall specify the Customer accounts at which the Contributory Services are in service in Schedule C hereto, incorporated by reference herein. Contributory Services in service at Customer accounts other than those on Schedule C are not eligible for discounts under this Attachment.

- C. Annual Customer Commitment. Customer commits to purchase a minimum dollar amount of Contributory Services at the locations in Schedule C to receive the discounts under this Attachment. The Annual Commitment is set forth in Schedule A. Customer commits to an Annual Toll Usage Commitment and/or an Annual Local Usage Commitment, as set forth in Schedule A.

Customer's satisfaction of its Annual Commitment and Sub-Commitment(s) shall be reviewed annually by SBC on the anniversary of the Commencement Date. In the event Customer's billings for purchases

during each twelve (12) month period of the term are less than the Annual Commitment and/or Sub-Commitment(s), Customer shall be liable for the difference between the Annual Commitment and/or Sub-Commitment(s) and the actual billings for purchases. If Customer makes a payment to satisfy a shortfall in meeting its Sub-Commitment(s), such payment shall be counted toward meeting its Annual Commitment. Any shortfall amount will be billed in a lump sum and shall be due and payable within thirty (30) days after the invoice date.

D. Discounts.

Annual Commitment and Sub-Commitment Discount. The Annual Commitment and Sub-Commitment(s) entitle(s) Customer to specific discounts on the Eligible Services. The discounts shall be applied against Customer's regular monthly billing from SBC.

E. Termination Liability. In the event Customer terminates the Master Discount Agreement or this Attachment prior to its expiration for any reason other than those set forth under the Master Discount Agreement Section 1.C, Customer shall be billed a lump sum amount ("Termination Charge") equal to thirty-five percent (35) of the Annual Commitment remaining for the balance of term of this Attachment (Annual Commitment remaining x .35). The Termination Charge will be billed in a lump sum to Customer's main billing telephone number and will be due within thirty (30) days after the billing date. The Termination Charge described herein is in addition to the termination liability, if any, applicable to any Contributory Service pursuant to the tariff or contract under which it is provided.

However, the Termination Charge shall not be applicable if, during the term of this Attachment, Customer converts to another SBC access or usage plan with a term equal to or greater than the remaining term of this Attachment, and a revenue commitment equal to or greater than the Annual Commitment.

F. Customer Locations. Schedule C contains a list of Customer locations and the Customer accounts with SBC at those locations which are subject to this Attachment. Customer is responsible for ensuring that the list set forth in Schedule C accurately reflects all locations and accounts it intends to be included. If subsequent to the Commencement Date of this Attachment, either party determines that accounts at a specified location should have been included, or additional locations and associated accounts should be included, those accounts or locations will be added; however, unless otherwise agreed to in writing by SBC, those accounts shall not be eligible for discounts prior to the date of their inclusion. It shall be Customer's responsibility to notify SBC of any changes to the locations already included.

**Village of Downers Grove**

**SBC Global Services, Inc.**

By \_\_\_\_\_

By \_\_\_\_\_

Printed  
Name

Printed  
Name

Title

Title

Date

Date

**SCHEDULE A**  
**CUSTOMER COMMITMENTS**  
**CONTRIBUTORY AND ELIGIBLE SERVICES**

Customer Commitments

A. TOTAL Annual Commitment

Customer herein agrees to purchase a minimum dollar amount of Contributory Services. Customer's satisfaction of the Annual Commitment will be based upon billings during each twelve (12) month period. Pursuant to Section 3.C of this Attachment, Customer shall be liable for any shortfall.

The Annual Commitment agreed to by Customer is:

\$98,800.00

B. Annual Toll Usage Commitment

Customer herein agrees to purchase a minimum dollar amount of SBC intraLATA toll usage services. Customer's satisfaction of the Annual Toll Usage Commitment will be based upon billings during each twelve (12) month period. Pursuant to Section 3.C of this Attachment, Customer shall be liable for any Toll Usage Commitment shortfall. Payment of any Toll Usage Commitment shortfall shall be counted toward Customer's satisfaction of its Annual Commitment.

The Annual Toll Usage Commitment agreed to by Customer is:

\$3,900.00

C. Annual Local Usage Commitment

Customer agrees to purchase a minimum dollar amount of SBC local usage services. Customer's satisfaction of the Annual Local Usage Commitment will be based upon billings during each twelve (12) month period. Pursuant to Section 3.C of this Attachment, Customer shall be liable for any Local Usage Commitment shortfall. Payment of any Local Usage Commitment shortfall shall be counted toward Customer's satisfaction of its Annual Commitment.

The Annual Local Usage Commitment agreed to by Customer is:

\$5,100.00

**SCHEDULE A1****Illinois**

Any service subscribed to by Customer which is provided by an SBC affiliate pursuant to local Exchange tariffs, including, but not limited to, those listed on this Schedule A (excluding federal and state fees, surcharges, and taxes) shall be provided at the monthly rate(s) described in this Schedule A and shall contribute to the Annual Commitment.

	<u>Discount or Monthly Rate<sup>2</sup></u>	<u>Eligible<sup>1</sup> For Total Volume Discount</u>
<b>Local Access Services:</b>		
PBX Trunks (DID, DOD, 2-Way)	Billed Rate	Eligible
Measured Business Lines	Billed Rate	Eligible
<b>Local Usage (excludes ISDN calling plan usage):</b>		
Illinois Band A Local Usage	\$0.012	Not Eligible
Illinois Band B Local Usage	\$0.021	Not Eligible
Illinois Band C Local Usage	\$0.028	Not Eligible
<b>IntraLATA Toll/800 Usage:</b>		
InterState IntraLATA Toll	\$0.110	Not Eligible
IntraState IntraLATA Toll	\$0.040	Not Eligible
Toll-Free 800/888	\$0.040	Not Eligible

10 %
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Total Volume Discount Customer shall receive off the Services listed above as "Eligible".

<sup>1</sup> Services which are eligible for discount are state specific.

<sup>2</sup> When a percentage is shown, it is the amount of discount Customer receives off of the Billed Rate. A stated rate means the discounted rate Customer receives pursuant to this Schedule.

**SCHEDULE B  
CUSTOMER AFFILIATES**

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**SCHEDULE C  
SITE DIRECTORY**

Main Customer BTN: \_\_\_\_\_

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