



CABLE ONE COMMERCIAL SERVICE AGREEMENT

This Commercial Service Agreement ("Agreement") is made this ____ day of ____, 2015 by and between Cable One, Inc. ("Cable One") located at 210 East Earll Dr, Phoenix, AZ 85012 and The City of Clinton ("Subscriber"), located at 415 W Gary Blvd, Clinton, OK 73601

THE PARTIES AGREE AS FOLLOWS:

SECTION 1: DATA SERVICES

During the term of this Agreement, Cable One shall provide fiber optic data and Internet service ("Data Service") to the locations set forth in Appendix A (Premises) and fully described therein.

SECTION 2: FEES

In consideration of the equipment and services provided to Subscriber for the Term of the Agreement and as described below, Subscriber shall pay the following fees and charges to Cable One in the manner set forth herein. These fees and charges are subject to additional applicable local, state and federal taxes and service fees as required or authorized by law. Recurring monthly charges shall be payable in advance of each month of service during the term hereof. Monthly charges will commence on the date specified under the Section 3: TERM. Any payment not made when due will be subject to a late charge of the highest rate allowed by law on the unpaid invoice. Detailed pricing schedule is defined in Table 1 (Pricing) and fully described therein.

SECTION 3: TERM AND TERMINATION

This Agreement shall remain in effect for a term of twelve (12) months commencing on the date that Cable ONE completes the installation of the Data Service and shall be automatically renewed for five (5) consecutive twelve (12) month terms. A written notice of intent not to renew can be presented by either party no later than 30 days prior to the end last renewal term. **NOTWITHSTANDING THE ABOVE TERMINATION RIGHTS, CITY OF CLINTON, OKLAHOMA RESERVES THE RIGHT TO TERMINATE THIS AGREEMENT AT THE END OF ANY TERM WITH 30 DAYS WRITTEN NOTICE BEFORE THE END OF THE TERM. *Notwithstanding any other provision of this agreement, the parties acknowledge and agree that funds to be paid by the subscriber(business name) under the terms of this lease will be available only as appropriated on a fiscal year-to-fiscal year basis by properly constituted legal authority, in the event that the subscriber determines that sufficient funds have not been appropriated to make the payments required under the terms of this agreement, the obligations of the subscriber under this agreement shall terminate. In such event, the subscriber shall prompt written notice of termination to Cable ONE thirty (30) days prior to the end of the twelve month term.*** PROVIDED THAT CITY OF CLINTON OKLAHOMA DOES NOT CONTRACT FOR LIKE OR SIMILAR SERVICES WITH ANOTHER VENDOR DURING THAT PERIOD OF TIME THE TERM FOR THIS AGREEMENT WOULD OTHERWISE BE IN EFFECT HAD SUBSCRIBER NOT EXERCISED ITS RIGHT TO NOT APPROPRIATE FUNDS, AND SUCH NON APPROPRIATION ON THE PART OF SUBSCRIBER SHALL FULLY SATISFY THE TERMS OF THIS AGREEMENT AND NO FURTHER FUNDS WILL BE DUE FROM SUBCRIBER TO CABLE ONE. For the sake of clarity, this section is only addressing terminations effective at the end of a term. Notice must be given to the other party at the address shown herein (or such other address as is subsequently provided in writing). The monthly charge may increase in any renewal term by the lesser of 4% or change in the CPI with 30 days advance written notice to the Subscriber.

SECTION 4: ENGINEERING REVIEW

Activation of Data Service is subject to Cable One's engineering review for distribution availability by existing cable plant as well as review of other external factors and may require additional fees. In the event Cable One determines that Data Service is not available to the Premises of Subscriber, this Agreement shall be void, and Subscriber shall be entitled to a refund of all prepaid charges in accordance with Cable One's refund policies.

SECTION 5: INSTALLATION & MAINTENANCE OF CABLE ONE EQUIPMENT

Subscriber hereby grants to Cable One (subject to any necessary governmental or third party approvals) the right to install all necessary equipment for receiving Data Service. Subscriber, at no cost to Cable One, shall secure throughout the term of Service any easements, leased or other agreements necessary to allow Cable One to use existing pathways into and in each Building. Cable One - owned equipment provided to Subscriber hereunder shall be maintained by Cable One in good operating condition. Such maintenance obligation is contingent upon Subscriber notifying Cable One, in a timely manner, when repair or maintenance is necessary. Except for Cable One's maintenance obligations as set forth herein, Subscriber shall indemnify Cable One and hold it harmless from and against any and all losses, claims and expenses relating to the equipment provided hereunder to Subscriber, including without limitation, losses caused by accident, fire, theft or misuse of equipment. Subscriber shall provide Cable One with reasonable access to the Premises during normal hours for purposes of performing required maintenance. Cable One shall retain ownership of all equipment provided hereunder, including all data transmission equipment, drop and fiber optic material required to provide Service to the business. Subscriber shall not, directly or indirectly, sell, mortgage, pledge, or otherwise dispose or encumber any Cable One-owned equipment provided to Subscriber, nor shall it change the location of, tamper with, damage, mishandle or alter in any manner such equipment. Subscriber also shall not relocate Cable One-owned equipment within its Premises. In addition, if Subscriber decides to move Premises, Subscriber shall notify Cable One of its move. Cable One will relocate the Cable One-owned equipment for Subscriber within Subscriber's Premises or, in accordance with Section 4, to another Premises; Subscriber acknowledges that it may incur additional charges for such relocation. Subscriber shall, upon the expiration or earlier termination of this Agreement, promptly return to Cable One all of such equipment in good condition (or pay the full replacement value therefore). If services are no longer provided to the Subscriber's Premises, Subscriber shall provide Cable One with reasonable access to such Premises for purpose of removing any Cable One-owned equipment. Cable One shall have no obligation to install, operate or maintain subscriber provided facilities or equipment.

SECTION #6: USE OF DATA SERVICE AND EQUIPMENT

Subscriber's use of the Data Service and equipment is subject to adherence to Cable One's acceptable use policy where applicable. Subscriber shall not use the Data Service or equipment to directly or indirectly:

- (a) invade another person's privacy, unlawfully use, possess, post, transmit or disseminate obscene, profane or pornographic material; post, transmit, distribute or disseminate content that is unlawful, threatening, abusive, libelous, slanderous, defamatory, materially false, inaccurate or misleading or otherwise offensive or objectionable; unlawfully promote or incite hatred; or post, transmit or disseminate objectionable information, including, without limitation, any information constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any municipal, provincial, federal or international law, order, rule, regulation for policy or any network accessed using the Service;
- (b) access any computer, software, data, or any confidential, copyright protected or patent protected material of any other person or entity, without the knowledge and consent of such person or entity, nor use any tools designed to facilitate such access;
- (c) collect a listing or directory of Cable One subscribers, or if any such directory is made available, use, copy or provide to any person or entity (whether or not for a fee) such directory or any portion thereof;
- (d) upload, post, publish, deface, modify, transmit, reproduce, or distribute in any way, information, software or other material obtained through Cable One that is protected by copyright, or other proprietary right, or related derivative works, without obtaining permission of the copyright owner or right holder; or otherwise violate the rights of any person or entity, including the misuse, misappropriation or other violation of any intellectual property of any person or entity;
- (e) alter, modify or tamper with the equipment or any feature of the Data Service, including, without limitation, attempt to disassemble, decompile, create derivative works of, reverse engineer, modify, sublicense, distribute or use the equipment for any purpose other than as expressly permitted;
- (f) restrict, inhibit or otherwise interfere with the ability of any other person to use or enjoy the Data Service or the Internet generally or create an unusually large burden on Cable One's network, including, without limitation: posting or transmitting any information or software that contains a virus, lock, key, bomb, worm, Trojan horse or other harmful or debilitating feature, distributing

mass or unsolicited messages, chain letters, surveys, advertising, promotional materials or commercial solicitations (*i.e.*, spam) or mass chat room or bulletin board posts, or otherwise generating levels of traffic sufficient to impede others' ability to send or retrieve information;

(g) interfere with computer networking, cable or telecommunications services to or from any Internet user, host or network, including but not limited to denial of service attacks, overloading a service, improper seizure and abuse of operator privileges ("hacking") or attempting to "crash" a host; or

(h) falsely assume the identity of any other individual or entity, including, without limitation an employee or agent of Cable One, for any purpose, including, without limitation, accessing or attempting to access any account for which Subscriber is not an authorized user.

(i) resell or share any portion of this Data Service to a third party.

In addition to our termination rights set out elsewhere in this Agreement and otherwise available at law, Cable One may suspend service or terminate this Agreement if Subscriber engages in one or more of the above prohibited activities. Additionally, Cable One reserves the right to charge Subscriber for any direct or indirect costs incurred by Cable One or its affiliates in connection with subscriber's breach of any provision of this Agreement, including costs incurred to enforce Subscriber's compliance with it.

SECTION #7: CONTENT ACCESSED AND PURCHASES MADE THROUGH CABLE ONE

Subscriber acknowledges and agrees that there is some content accessible through the Data Service and the Internet that may be offensive, or that may not be in compliance with applicable law. For example, it is possible to obtain access to content that is pornographic, obscene, or otherwise inappropriate or offensive, particularly for children. Cable One does not assume any responsibility for or exercise any control over the content accessible through the Data Service. Subscriber accesses and uses all content obtained through the Data Service at Subscriber's own risk, and Cable One will not be liable for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to Subscriber's access to or use of such content. In addition, Cable One shall not be responsible for any of Subscriber's purchases or charges on the Internet.

SECTION #8: COPYRIGHT MATERIALS

Subscriber shall hold Cable One harmless for any improper use of copyrighted materials accessed through Cable One's Data Service. Cable One bears no responsibility for, and Subscriber agrees to assume all risks regarding, the alteration, falsification, misrepresentation, reproduction, or distribution of copyrighted materials without the proper permission of the copyright owner. If Cable One receives notice under the Digital Millennium Copyright Act, 17 U.S.C. § 512, that Subscriber has allegedly infringed the intellectual property rights of a third party, Cable One retains the right to take down or disable access to the allegedly infringing material. It is Cable One's policy, in appropriate circumstances, to terminate the accounts of subscribers who repeatedly infringe the intellectual property rights of third parties. Cable One also will take such other action as appropriate under the circumstances to preserve our rights.

SECTION #9: SUBSCRIBER'S RESPONSIBILITY FOR SECURITY

Cable One uses resources that are shared with many other subscribers. Moreover, Cable One provides access to the Internet, a public network, which is used by millions of other users. Information (personal and otherwise) transmitted over such public network necessarily may be subject to interception, eavesdropping or misappropriation by unauthorized parties. Subscriber shall be solely responsible for taking the necessary precautions to protect itself and its equipment, files and data against any risks inherent in the use of this shared resource. Cable One will not be liable for any claims, losses, actions, damages, suits or proceedings resulting from, arising out of or otherwise relating to Subscriber's failure to take appropriate security measures.

SECTION #10: RIGHT TO MONITOR AND DISCLOSE CONTENT

Cable One has no obligation to monitor content provided through the Data Service. However, Subscriber agrees that Cable One has the right to monitor content electronically from time to time and to disclose any information as necessary to: (a) conform to the edicts of the law or comply with legal process served on Cable One, (b) protect and defend the rights or property of Cable One, its Data Service or the users of the Data Service, whether or not required to do so by law, or (c) protect the personal safety of users of Cable One's Data Service or the public. We reserve the right to either refuse to post or to remove any information or materials, in whole or in part, that we decide are unacceptable, undesirable, or in violation of this Agreement.

SECTION #11: SUBSCRIBER PASSWORDS

Subscriber is responsible for all use of Subscriber's account(s) and for maintaining the confidentiality of passwords. Subscriber shall

immediately notify Cable One about: (i) any loss or theft of Subscriber's password, or (ii) any unauthorized use of Subscriber's password or of the Service. If any unauthorized person obtains access to the Service as a result of any act or omission by Subscriber, Subscriber shall use best efforts to ascertain the source and manner of the unauthorized acquisition. Subscriber shall additionally cooperate and assist in any investigation relating to any such unauthorized access.

SECTION #12: SUBSCRIBER PRIVACY

Cable One is committed to protecting the privacy of Subscriber's personal information. Cable One's privacy policy regarding the collection, use and disclosure of personal information is posted on Cable One's website (www.cableone.net). Subscriber acknowledges that he or she has read and accepted the terms and conditions of such statement.

SECTION #13: ASSIGNMENT

Subscriber shall not assign its rights or delegate its duties under this Agreement without the prior written consent of Cable One, which consent shall not be reasonably withheld. Any assignment of this Agreement by Subscriber without Cable One's written consent shall be void and shall, at the Cable One's option, constitute a breach hereof by Subscriber. In the event Subscriber is a business entity and ceases to do business at the Premises, Subscriber shall return to Cable One all Cable One-owned equipment installed at the Premises; such cessation shall not, however, reduce Subscriber's payment obligations hereunder unless Cable One otherwise agrees in writing. This Agreement shall be fully assignable by Cable One. Subject to the foregoing, this Agreement shall be binding upon and shall insure to benefit of the parties and their respective successors, representatives and assigns.

SECTION #14: TERMINATION BY CABLE ONE

If Subscriber fails to perform any of its obligations hereunder, does not cure such breach within thirty (30) days after written notice thereof from Cable One, or if Subscriber becomes insolvent or bankrupt, Cable One, in addition to all other rights it may have under law or its Agreement, shall have the right (i) to declare all amounts to be paid by Subscriber during the remaining term hereof immediately due and payable, (ii) to cease providing services to Subscriber, and (iii) immediately to enter the Premises and take possession of all Cable One-owned equipment without liability to Subscriber therefore and without relieving Subscriber of its obligations under this Agreement. Subscriber shall reimburse Cable One for all costs and expenses, including reasonable attorney's fees and court costs, incurred in connection with Cable One's exercise of its rights under this Agreement.

Cable One may, in its sole discretion, immediately terminate this Agreement in the event that it is unable to provide Service due to any law, rule, regulation, Force Majeure event, or judgment of any court or government agency. In the event Cable One is declared to be a common carrier by a law, rule, regulation, or judgment of any court or government agency, Cable One may terminate this Agreement.

In the event Subscriber experiences more than 12 hours without service availability in any 30 day period that is a direct result of Cable One's negligence and excluding events of Force Majeure, normal equipment maintenance windows, backbone IP service provider outages and other events that are outside the control of Cable One, Subscriber may terminate this agreement with 30 days written notice.

SECTION #15: DATA SERVICE AND EQUIPMENT ARE PROVIDED "AS IS"

- (a) CABLE ONE'S DATA SERVICE AND EQUIPMENT ARE PROVIDED "AS IS", "AS AVAILABLE" WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND. CABLE ONE DOES NOT WARRANT THAT SUBSCRIBER'S USE OF THE DATA SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, BUG-FREE OR VIRUS-FREE. IN ADDITION, CABLE ONE DOES NOT WARRANT THAT ANY DATA OR FILES SENT BY OR TO SUBSCRIBER WILL BE TRANSMITTED IN A SECURE OR UNCORRUPTED FORM OR WITHIN A REASONABLE PERIOD OF TIME. IN THE EVENT THAT SUBSCRIBER'S BUSINESS REQUIRES CONTINUOUS AND UNINTERRUPTED SERVICE, SUBSCRIBER MAY WISH TO OBTAIN A SECONDARY SERVICE FROM AN ALTERNATE PROVIDER. ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED ARE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, HEREBY EXCLUDED.
- (b) CABLE ONE'S LIABILITY FOR MISTAKES, ERRORS, OMISSIONS, INTERRUPTIONS, DELAYS, OUTAGES, OR DEFECTS IN TRANSMISSION OR SWITCHING OF ANY SERVICE (INDIVIDUALLY OR COLLECTIVELY), EXCLUDING ANY INSTANCE CAUSED BY FORCE MAJEURE EVENTS OR SUBSCRIBER ACTIONS, OMISSION OR EQUIPMENT, SHALL BE LIMITED SOLELY TO A CREDIT OF 1/30TH OF THE MONTHLY RECURRING CHARGE, FOR THE AFFECTED PORTION OF THE SERVICE, FOR ONE OR MORE INSTANCES OF AT LEAST FOUR (4) HOURS IN DURATION IN ANY 24-HOUR PERIOD THAT IS NOT COINCIDENT WITH ANY OTHER

INSTANCE, PROVIDED THAT THE INSTANCE IS REPORTED BY SUBSCRIBER WITHIN 24 HOURS.

SECTION #16: LIMITATION OF LIABILITY

UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, CABLE ONE SHALL NOT BE LIABLE TO SUBSCRIBER FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF CABLE ONE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING DIRECTLY OR INDIRECTLY FROM: (A) THE USE OR THE INABILITY TO USE THE DATA SERVICE; (B) UNAUTHORIZED ACCESS TO OR ALTERATION OF SUBSCRIBER'S TRANSMISSIONS OR DATA; (C) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE DATA SERVICE. THIS SECTION SHALL SURVIVE ANY TERMINATION OF THIS AGREEMENT.

SECTION #17: INDEMNIFICATION

Subscriber shall indemnify, defend, and hold Cable ONE, its subsidiaries, members, affiliates, officers, directors, employees, and agents harmless from any claim, demand, liability, expense, or damage, including costs and reasonable attorneys' fees, asserted by any third party relating to or arising out of Subscriber's use of or conduct on the Cable One Data Service. Cable One will notify Subscriber within a reasonable period of time about any claim for which Cable One seeks indemnification and will afford Subscriber the opportunity to participate in the defense of such claim, provided that Subscriber's participation will not be conducted in a manner prejudicial to Cable One's interests, as reasonably determined by Cable One. This Section shall survive termination of this Agreement.

SECTION #18: NONDISCLOSURE

(a) Unless prior written consent is obtained from a Party hereto, the other Party will keep in strictest confidence all information identified by the first Party as confidential, or which, from the circumstances, in good faith and in good conscience, should be treated as confidential; provided that (a) the owner thereof has taken reasonable measures to keep such information secret; and (b) the information derives independent economic value, actual or potential, this not being generally known to, and not being readily ascertainable through proper means by the public. Such information includes but is not limited to all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, policies, procedures programs, or codes, whether tangible or intangible, and whether or not stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing. A Party shall be excused from these nondisclosure provisions if the information has been, or is subsequently, made public by the disclosing Party, is independently developed by the other Party, if the disclosing party gives its express, prior written consent to the public disclosure of the information, or if the disclosure is required by any law or governmental or quasi-governmental rule or regulation. The parties also acknowledge that the Subscriber may be compelled under the Oklahoma Open Records Act, 51 O.S. §24A, et seq., to release certain information.

(b) Each Party agrees that violation of this section 18 would result in irreparable injury and the injured Party shall be entitled to seek equitable relief including injunctive relief and specific performance in the event of any breach hereof.

SECTION #19: MISCELLANEOUS:

- a. This Agreement is governed by the laws of the State of Oklahoma. Subscriber hereby consents to the exclusive jurisdiction and venue of courts in Custer County, OK in all disputes arising out of or relating to this Agreement and/or use of the Data Service and/or Cable One-owned equipment.
- b. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, conversations, representations, promises of warranties (express or implied) whether verbal or written. No modification of this Agreement shall be valid unless made in writing and signed by both parties.
- c. The waiver of a breach of any provision of this Agreement shall not be construed as waiver of any subsequent breach of the same or a different provision of this Agreement.
- d. If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, then, and in the event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

Support Information:

Please provide the contact information for at least two people for Cable ONE to incorporate in to the support contact list in the event of a technical outage. These contacts will also be contacted at the time of any notifications of a planned maintenance scheduling.

Notes: (i.e., Special Notes or instructions...)

Primary Contact: _____

Primary Contact Email Address: _____

Primary Contact Office Phone: _____

Primary Contact Cell Phone: (Optional) _____

Primary Contact Time of Day: (i.e., 24X7 or 9AM to 5Pm, etc...) _____

Secondary Contact: _____

Secondary Contact Email Address: _____

Secondary Contact Office Phone: _____

Secondary Contact Cell Phone: (Optional) _____

Secondary Contact Time of Day: (i.e., 24X7 or 9AM to 5Pm, etc...) _____

Requested Account Username:

1st Choice: _____

2nd Choice: _____

3rd Choice: _____

Bill to: _____

Attn: _____ Phone: _____

Email: _____

Address: _____

City, State Zip: _____