



Stealth Communications is a registered trademark of Stealth Communications, inc.

Address for Stealth Notices: 50 Broad Street, Suite 811; New York, NY 10004 USA; Attn: Legal Dept.

DATE: Month Date, 2006

ACCOUNT REP:

SALES REF #:

CUSTOMER ID:

MASTER PRODUCTS AND SERVICES AGREEMENT

General Terms and Conditions

Table with customer information fields: CUSTOMER INFORMATION, STATE OF REGISTRATION, FED TAX ID, CONTACT NAME, PHONE, FAX, EMAIL, CUSTOMER URL, LEGAL ADDRESS, BILLING ADDRESS.

These General Terms and Conditions ("GTC") together with all GTC Supplements, Order Form(s), Exhibits and other addenda attached hereto from time to time constitute the Master Products and Services Agreement ("Agreement") and are effective as of the day first written above ("Effective Date"), by and between Stealth Communications, Inc. ("Stealth"), a New York corporation, and Customer. Stealth and Customer are collectively referred to as the "Parties" or individually as a "Party."

1. DEFINITIONS

- 1.1 "Commencement Date" means the date upon which an ordered product or service is made available by Stealth to Customer or such other date as specified in the relevant GTC Supplement or Order Form.
1.2 "Customer Location" refers to a location designated in an Order Form for connection to the Stealth Network.
1.3 "GTC Supplement" means each fully-executed supplement to these General Terms and Conditions, each of which shall contain additional terms and conditions that govern Stealth's provision of certain Products or Services to Customer.
1.4 "Order Form" means any mutually-executed, product order ("Product Order"), service order ("Service Order"), schedule ("Schedule"), or statement of work ("Statement of Work") that refers to and incorporates these General Terms and Conditions and that details the Products or Services, the Term, charges, the estimated Commencement Date and any other terms agreed upon by the Parties with respect to the subject of such Order Form.
1.5 "Products or Services" means the products or services provided by Stealth (including, without limitation, Leased Fiber, Co-location, Bandwidth, Managed Services, and Managed Wavelengths and Capacity) to Customer.
1.6 "Stealth Network" means, collectively, the fiber optic network, system capacity and related facilities (including, without limitation, routers, switches and communication channels) owned or controlled by Stealth.
1.7 "Term" means the period of time in which Stealth provides Products or Services to Customer pursuant to an Order Form.

2. STRUCTURE OF AGREEMENT

This Agreement sets forth the general terms and conditions pursuant to which Stealth will deliver and Customer will accept the Products or Services provided by Stealth pursuant to an Order Form. Stealth shall provide Products or Services pursuant to Order Forms, which shall incorporate these GTC and other agreements. Insofar as an Order Form expressly incorporates these GTC, these GTC shall apply whether or not they have been executed by the Parties. With respect to any conflict among the documents setting for the terms of the provision of Products & Services under an Order Form, the order of precedence set forth in Section 17.9 controls. Insofar as Stealth provides Products or Services pursuant to an oral agreement with Customer, the terms of these GTC shall apply.

3. INVOICING AND PAYMENT

3.1. Payment. Customer shall pay Stealth the fees specified in an Order Form as reflected in an invoice from Stealth, without deduction, set off, or delay for any reason except as provided in this Section. If Customer, in good faith, disputes all or any portion of any invoice, Customer may withhold payment of the disputed amount pending resolution thereof provided (i) Customer submits a written claim to Stealth within thirty-(30) calendar days of the date of the applicable invoice describing the dispute in reasonable detail, (ii) Customer makes full and timely payment of all undisputed amounts and (iii) Customer negotiates in good faith to resolve any bona fide dispute within sixty-(60) calendar days of the date

of the applicable invoice. The late-interest charge provided for in Section 3.9 shall not apply to any sum that is withheld by Customer in accordance with this Section during the period in which Customer so withholds such payment. However, if the dispute is not found in favor of Customer, in the dispute-resolution procedure of Section 14, interest charges shall apply to such portion of the withheld payments as defined in Section 3.9.

3.2. *Installation Charge.* If a non-recurring installation charge (“**Installation Charge**”) is specified in an Order Form, Stealth will invoice Customer for and Customer will pay such Installation Charge, upon the effective date of the Order Form (“**Order Form Effective Date**”). If the Installation Charge is “estimated,” Customer shall pay an initial amount, as specified in such Order Form, on the Order Form Effective Date. The balance of the actual Installation Charge will be invoiced by Stealth and paid by Customer within thirty-(30) calendar days of such invoice.

3.3. *Recurring Charge.* If a recurring charge (“**Recurring Charge**”) (e.g. Monthly Charge, Quarterly Charge, or Annual Charge) is specified in an Order Form, Stealth will invoice Customer for and Customer will pay the Recurring Charge in advance for each period and within thirty-(30) calendar days from the date of such invoice. Stealth will begin to invoice the Recurring Charge on the Commencement Date. Invoices for partial months will be pro-rated.

3.4. *Prepayment.* If a prepayment (“**Prepayment**”) is required, Stealth will invoice Customer for and Customer will pay such Prepayment upon the Order Form Effective Date or by the invoice due date, whichever is earlier. If a Prepayment is for a portion of a Term, the amount of such Prepayment will be applied as a credit to the final Recurring Charges at the end of such Term.

3.5. *Legal Fees.* The Customer shall be liable to Stealth for any and all costs and/or expenses incurred directly or indirectly, including reasonable attorney’s fees and expenses, in collection or attempted collection of any amounts due hereunder. To the extent that Customer may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (in aid of execution, before judgment, or otherwise), or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets immunity (whether or not claimed), Customer hereby waives such immunity to the full extent permitted by the laws of such jurisdiction and, in particular, to the extent that in any proceedings commenced in New York the foregoing waiver of immunity shall have effect under and be construed in accordance with the United States Foreign Sovereign Immunities Act or any superseding act.

3.6. *Support and Consulting Charge.* Customer shall appoint a Technical Point of Contact (“**TPOC**”) who will interface with Stealth during the provisioning and maintenance of the Product or Service. Customer’s TPOC should be familiar with Customer’s network and network applications and shall understand how Stealth’s Products or Services are to be implemented in Customer’s network. Customer shall also designate one or more employees as an alternative TPOC, to perform duties of the TPOC when TPOC is not available. Stealth shall not be liable for any Customer support beyond Stealth’s hand-off to Customer, as detailed in a Service Maintenance Agreement, which shall be substantially in the form of Addendum B. If Customer requires technical or consulting support from Stealth (unless determined to be the result of a malfunction or defect in Products or Services provided by Stealth), Stealth will invoice Customer and Customer will pay such invoices. Customer will be invoiced the hourly rate applicable to the hours (as listed in Addendum B) that support was performed. Customized support plans are available on a case-by-case, to-be-negotiated basis.

3.7. *Additional Charges.* If applicable, Stealth will invoice Customer and Customer will pay such invoices for any additional charges (including service-restoration and expedite charges) for Products or Services that are more fully described in an Order Form. Customer acknowledges and agrees to pay for administration fees, including but not limited to bank charges (wire transfer, bounced check, etc.), shipping charges and miscellaneous fees that are incurred by Stealth in its handling Customer’s account.

3.8. *Applicable Taxes.* Stealth will invoice Customer and Customer will pay such invoices for any and all applicable taxes (“**Applicable Taxes**”) as more fully described in Section 4 below, with respect to specific Customer charges.

3.9. *Late Payments.* All invoices must be paid in accordance with their terms without setoff or deduction. Any unpaid balance shall bear interest from the date due until paid at a rate equal to the lesser of 1.5% per month of such past due payment or the maximum rate permitted by law. In addition, Customer agrees to a late charge equal to 5% of such past due payment as an agreed liquidated amount in compensation for Stealth’s administrative expenses relating to such late payment. Stealth may apply any payments received by Stealth to any one of Customer’s then-outstanding charges.

3.10. *Security Deposit.*

- (a) Upon request, Customer shall deposit with Stealth as security for performance of Customer’s obligations under an Order Form cash or a cash-equivalent in an amount equal to (i) one month’s projected Recurring Charge and (ii) such other amounts as may be specified in the Order Form (the “Security Deposit”). Stealth shall not be required to maintain the Security Deposit in a separate account. Except as required by law, Customer shall not be entitled to interest on the Security Deposit. If Customer’s actual Recurring Charge increase or Customer’s required monthly payments are received more than five-(5) calendar days after the Payment Due Date for two-(2) consecutive months, Stealth, in addition to its other remedies hereunder, shall be entitled at its sole discretion to increase the required Security Deposit by an amount that it deems reasonable under the circumstances and require, by written notice, that the Customer provide such additional amount. Within three-(3) business days after such written notice, Customer shall deposit with Stealth cash or a cash-equivalent in an amount sufficient to restore the Security Deposit to its original or increased amount. Customer’s failure to do so shall constitute a material breach hereunder.
- (b) Within forty-five-(45) calendar days after the expiration or earlier termination of the provision by Stealth of Products or Services pursuant to an Order Form, and provided no default exists hereunder, Stealth shall return the Security Deposit made with respect to that Order Form less such portion thereof (if any) as Stealth used to satisfy Customer’s obligations under the Order Form. If

Customer defaults on its obligations under the Order Form, Customer acknowledges and agrees that the Security Deposit shall be: (i) treated as pre-payment to fulfill any obligations Customer has not completed, or (ii) deemed forfeit.

3.11. *Equipment Sales.* If any Order Form includes the sale of equipment to Customer (including hardware, software, or other materials), Customer agrees to pay the amounts specified in the Order Form, or (ii) pay to Stealth all costs and expenses incurred in connection therewith, including, without limitation, Stealth's administrative fee of 20% of each purchase made. In addition, Customer acknowledges and agrees to pay all applicable taxes, import and custom duties, and similar charges, upon the terms set forth in the Order Form. All risk of loss or damage to such equipment passes to Customer upon delivery. Insofar as payment for equipment is agreed to be made on an installment or rental basis, Customer acknowledges such equipment is subject to a security interest held by Stealth. In connection therewith, Customer hereby authorizes Stealth to file on its behalf a UCC-1 and any other related papers to perfect such security interest in the equipment.

3.12. *Third-Party Services.* Upon Customer's request, Stealth may arrange for Service to be provided by a third-party ("**Third-Party Service**"). Third-Party Service may include, but is not limited to, cross-connect and local and long-haul access services. Stealth shall not be obligated to provision any Third-Party Service except in connection with a Service Order for Stealth's Products or Services. Customer shall be solely responsible for payment to third-parties.

3.13. *U.S. Dollars.* Unless otherwise specified on an Order Form, all payments must be made by Customer to Stealth in United States of America dollars.

3.14. *Payments by Third Party.* If payment for Service Charges is submitted by a third-party on behalf of Customer to Stealth, within three-(3) business days of written request to Customer, Customer shall identify the relationship between Customer and the third-party. The third-party who made payment on behalf of Customer to Stealth has no rights and benefits to any part of this Agreement. Stealth reserves the right to review Customer's credit-worthiness (based on Customer's Credit Application with Stealth and other public means) during the Term of this Agreement and if necessary, Customer agrees to submit a Security Deposit in accordance with Section 3.10 hereof. Stealth's acceptance of any payments from a third-party shall in no way alter Customer's obligations hereunder nor shall such acceptance create any obligations by Stealth to such third-party.

3.15. *Changes in Fees.* Stealth may change any of the fees it charges Customer for any Products or Services. Such changes in fees shall be effective sixty-(60) calendar days after Stealth provides written notice to Customer of the change. Notwithstanding the foregoing, Customer may reject such changes by giving written notice of such rejection within ten-(10) calendar days from the date of the foregoing notice from Stealth, in which case Stealth has the option of continuing to charge pre-change fees or declaring the contract pursuant to which it is providing such Products or Services terminated, which termination will be effective thirty-(30) days after Stealth provides written notice to Customer that it has elected to make such declaration in which case such contract shall be treated as if it had expired by its own terms, as provided in Section 5 hereof.

3.16. *Consumer Price Index.* Charges may be increased (but never decreased) each year during the Term by the percentage increase, if any, in the Consumer Price Index – Urban Wage Earners and Clerical Workers (U.S. City Average, All Items, Base 1982-1984 equals 100) as published by the United States Department of Labor, Bureau of Labor Statistics (the "**Index**"). The Index for the calendar month that is four-(4) months before the Commencement Date will be compared with the Index for the calendar month that is four-(4) months before each anniversary of the Commencement Date during the Term and upon Stealth's election the Recurring Charge will be increased in accordance with the percentage increase, if any, between such Indexes.

4. APPLICABLE TAXES

4.1. Each Party is fully responsible for the payment of any and all taxes required by law to be paid by that Party.

4.2. Customer will be invoiced by Stealth and agrees to pay (or reimburse Stealth if Stealth has paid) any and all of the following Applicable Taxes:

- a) Taxes and fees associated with the Products or Services which Stealth is legally required or permitted to collect from Customer. Such taxes and fees may include, but are not limited to, any sales, use, transfer, gross receipts, federal excise, right-of-way, franchise, privilege, property, occupational and similar taxes and surcharges. With respect to taxes and fees imposed with respect to Leased Fibers that are used by customers of Stealth in addition to Customer, such taxes and fees shall be assessed based upon the ratio of the number of Leased Fibers to the total number of fiber strands leased by Stealth on the same route.
- b) Insofar Customer provides Stealth with certificates evidencing Customer's exemption from payment of or liability for any of the above taxes, Stealth shall not invoice for any such taxes.
- c) Taxes and fees, other than those described above, imposed on Stealth by a state or local jurisdiction, including but not limited to right -of-way, franchise, privilege, property, and occupational taxes based upon the gross revenues received from or by Customer or assets of Stealth made available to Customer. Stealth agrees to remit such taxes and fees to the appropriate authorities. Notwithstanding the foregoing, Customer is not obligated to pay any fee or tax that it otherwise pays directly to a state or local jurisdiction with respect to the gross revenues received from or by Customer or assets of Stealth made available to Customer. Insofar as any such assessment is asserted against Stealth, Customer shall reimburse Stealth for any payments made by Stealth.

4.3. Customer is solely responsible for calculating and remitting any and all assessments, including but not limited to franchise fees, license fees, right-of-way fees, taxes and any other assessment against Customer for Customer's use of the Products or Services (collectively, "Assessments") with respect to providing service to end-user customers or to the extent Customer is required to calculate such Assessments.

5. TERM

5.1. This Agreement commences on the Effective Date, and continues through the latest expiration of all Order Form(s) subject to this Agreement, unless earlier terminated as provided herein.

5.2. The Term for each Order Form shall begin on the Commencement Date of the related Product or Service and shall remain in effect until the expiration of the period specified in such Order Form (including any renewals thereof).

5.3. Customer may terminate an Order by providing at least sixty-(60) calendar days written notice to Stealth. Customer acknowledges Early Termination Charges will apply insofar as the conditions precedent for such charge as set forth herein, in any Addendum hereto, or in the relevant Order Form, occur.

5.4. Upon the expiration of a Term set forth in an Order Form, such Order Form will renew for an additional one-(1) year term, unless terminated by either Party, upon at least sixty-(60) calendar days prior written notice.

6. DEFAULT

6.1 The following events are "Default," the occurrence of which gives the non-defaulting Party the right to terminate the Agreement or affected Order Form(s) by written notice following the expiration of any stated cure periods and pursue its remedies under the Agreement:

- a) Customer fails to fully make any of the payments (including Early Termination Charges) required hereunder that are not subject to a bona fide dispute of which Stealth has received written notice of, within five (5) business days after written notice of such failure, given as provided in Section 16 hereof;
- b) except as provided in clause (a), above, the breach of any material term or condition of this Agreement, any addenda to this Agreement, or any Order Form where such breach remains uncured thirty (30) calendar days after written notice of such breach is given to the breaching Party as provided in Section 16 hereof. If the breach is of a nature or involves circumstances reasonably requiring more than thirty (30) calendar days to cure, the time period may be extended provided the breaching Party proceeds diligently to cure the breach and provide the non-breaching Party with reasonable notice of the efforts being undertaken to cure such breach;
- c) the application for or consent to the appointment of a receiver, trustee or similar officer for it or any substantial part of its property or assets, or any such appointment is made without such application or consent by such Party and remains undischarged for a period of sixty (60) calendar days;
- d) the filing of a petition in bankruptcy or a general assignment for the benefit of creditors;
- e) Customer's insolvency.

6.2 If Customer is in default, as set forth above, then, after expiration of the cure period, Stealth may, in addition to any other remedies that it may have under this Agreement or by law, disconnect and/or repossess any Products or Services.

6.3 When reasonable grounds for insecurity arise with respect to the performance of either Party, the other may in writing demand adequate assurance of due performance and until it receives such assurance may if commercially reasonable suspend any performance for which it has not already received the agreed return. After receipt of a justified demand from one Party, the other Party's failure to provide within a reasonable time not exceeding thirty-(30) calendar days such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of those agreements for which adequate assurance of due performance was sought.

6.4 Notwithstanding the foregoing, insofar as a Party is default with respect to Products or Services provided pursuant to an Order Form shall not constitute a default with respect to Product or Services provided pursuant to a different Order Form. Such a default, however, may for the basis for a demand for adequate assurance of due performance, as described in Section 6.3 hereof.

7. REPRESENTATIONS AND WARRANTIES

7.1. Stealth warrants that any Products or Services to be provided to Customer will be at a professional level of quality conforming to generally accepted industry standards and in compliance in all material respects with all applicable laws and regulations. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT OR IN ANY OTHER DOCUMENTS PURSUANT TO WHICH THE PRODUCTS OR SERVICES ARE TO BE PROVIDED, ALL PRODUCTS OR SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND CUSTOMER'S USE OF THE PRODUCTS OR SERVICES IS AT ITS OWN RISK. STEALTH MAKES NO, AND CUSTOMER HEREBY WAIVES ALL, REPRESENTATIONS AND

WARRANTIES EXPRESS OR IMPLIED ARISING BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE, AND ANY WARRANTY ARISING FROM COURSE OF DEALING, USAGE OF TRADE, OR COURSE OF PERFORMANCE. NOR DOES STEALTH WARRANT THAT THE PRODUCTS OR SERVICES WILL BE UNINTERRUPTED, ERROR FREE OR COMPLETELY SECURE.

7.2 Customer warrants and agrees to:

- (a) enter into an agreement with each of its customers ("**Customer's User**") for use of the Products or Services ("**Customer's User Agreement**") of which is a third-party beneficiary that obligates the Customer's User to both Customer and Stealth to the following:
 - (i) that Stealth shall not have any liability whatsoever to the Customer's User, whether due to an interruption of Products or Services, withdrawal by Stealth of any underutilized IP Addresses or otherwise; and
 - (ii) to only use the Products or Services in full compliance with all applicable international, national, state and local laws and to not use the Products or Services for the transmission of material that is of a defamatory, offensive, abusive, obscene or threatening nature; and
 - (iii) to only use in compliance with Stealth's Acceptable Use Policy ("**AUP**"), which is set forth at <http://www.stealth.net/aup>, as updated by Stealth from time to time.
- (b) provide reasonably or commercially adequate customer service for Customer's User;
- (c) notify Stealth immediately of all problems reported by Customer's User if such problems are believed to be a direct result of the Products or Services provided by Stealth to Customer;
- (d) not make any misrepresentation to any entity concerning the cost, availability, suitability or any other aspect of the Products or Services;
- (e) employ the highest standards of business conduct and not act in any way detrimental to Stealth;
- (f) not use Stealth's name or other proprietary markings without Stealth's prior written approval;
- (g) comply with all legal and regulatory requirements, including but not limited to those relating to its resale of the Products or Services;
- (h) cause its affiliates, agents and contractors to comply with Customer's obligations listed above.

7.3. Each Party represents and warrants to the other that:

- (a) it is duly organized, validly existing and in good standing under the laws or country of the state of its organization;
- (b) it has all requisite power and authority to enter into and perform its obligations under this Agreement and all Order Form(s);
- (c) it will comply with all applicable federal, state and local laws, statutes, rules and regulations in connection with the provision and use of the Products or Services; and
- (d) this Agreement and all Order Form(s), when executed, are the legal, valid and binding obligation of such Party.

8. LIMITATION OF LIABILITY; INDEMNIFICATION

8.1. THE TOTAL LIABILITY OF CUSTOMER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH AN ORDER FORM, EXCLUDING EARLY TERMINATION CHARGES (AS DEFINED IN ANY RELATED GTC SUPPLEMENT OR ADDENDUM HERETO) AND ANY INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 8.2 HEREOF, IS LIMITED TO AN AMOUNT EQUAL TO THE TOTAL CHARGES PAYABLE BY CUSTOMER DURING THE TERM SET FORTH THEREIN. THE TOTAL LIABILITY OF STEALTH FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH AN ORDER FORM IS LIMITED TO FIFTY PERCENT (50%) OF THE MONTHLY NET FEES ACTUALLY PAID BY CUSTOMER TO STEALTH IN CONNECTION WITH THE APPLICABLE PRODUCTS OR SERVICES DURING THE TWELVE (12) MONTHS PRECEDING THE OCCURRENCE OF SUCH LOSSES. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE OR LOST BUSINESS OPPORTUNITIES (WHETHER ARISING OUT OF TRANSMISSION INTERRUPTIONS OR PROBLEMS, ANY INTERRUPTION OR DEGRADATION OF SERVICE OR OTHERWISE), WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND WHETHER DAMAGES WERE FORESEEABLE OR NOT, EVEN IF A PARTY HAS BEEN ADVISED BY THE OTHER PARTY OF THE POSSIBILITY OF THE DAMAGE AND EVEN IF A PARTY ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT. THE LIMITATIONS SET FORTH IN THIS SECTION WILL APPLY TO CLAIMS OF CUSTOMER, WHETHER OCCASIONED BY ANY CONSTRUCTION, INSTALLATIONS, RELOCATIONS, SERVICE, REPAIR OR MAINTENANCE PERFORMED BY, OR FAILED TO BE PERFORMED BY STEALTH, OR ANY OTHER CAUSE WHATSOEVER, INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR STRICT LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF DATA OR TECHNOLOGY EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN.

8.2. Indemnity.

(a) Subject to the indemnification obligations of Stealth set forth in Section 8.2(b), Customer shall indemnify, defend and hold Stealth, its officers, employees, subcontractors, and representatives (collectively, "**Stealth Parties**") harmless from and against all losses, liabilities, damages, claims, costs, and expenses (including reasonable attorneys' fees and/or other professional fees) (collectively, "**Losses**") arising from or in connection with: (i) any act or omission (including but not limited to bodily injury or death or damage, loss, or destruction of any real or personal property) of Customer or any officers, agents, employees, or other representatives of Customer (collectively, "**Customer Parties**") or of any invitee, customer, or user of Customer in connection with any Products or Services; (ii) any data provided to Stealth by a Customer Party or a customer or user of Customer for Stealth's performance of the Products or Services or made available, displayed, or transmitted through Stealth's facilities; (iii) any breach by Customer of any material provision of this Agreement; and (iv) infringement or misappropriation by Customer of any intellectual property rights under this Agreement.

(b) Subject to the indemnification obligations of Customer set forth in Section 8.2(a), Stealth shall indemnify, defend, and hold the Customer Parties harmless from and against any and all Losses caused by the gross negligence or willful misconduct of any Stealth Party.

(c) With respect to any third-party claim or suit for which indemnification may be sought pursuant to this Section 8.2, (i) the indemnified Party shall notify the indemnifying Party promptly in writing upon learning thereof, provided that failure to do so shall have no effect except to the

extent the indemnifying Party is materially prejudiced thereby, (ii) the indemnified Party shall have the right to participate in the defense or settlement with counsel of its own choosing, but the indemnifying Party shall have control of such defense or settlement (provided that any settlement shall be subject to the indemnified Party's prior written consent thereto), and (iii) the indemnified Party shall reasonably cooperate in defending such claim or suit.

9. INTELLECTUAL PROPERTY

9.1. *Ownership.* This Agreement does not transfer to Customer any Stealth technology, and all right, title and interest in and to Stealth technology will remain the sole property of the Stealth. Except for the rights expressly granted herein, this Agreement does not transfer to Stealth any Customer technology, and all right, title and interest in and to Customer technology will remain solely with Customer. Stealth and Customer each agrees that it will not, directly or indirectly, reverse-engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets of the other Party.

9.2. *General Skills and Knowledge.* Notwithstanding anything to the contrary in this Agreement, Stealth is not prohibited or enjoined at any time from utilizing any skills or knowledge of a general nature created by Stealth during the course of providing the Products or Services, including, without limitation, information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Stealth.

10. LICENSE GRANTS

10.1. *By Stealth.* Stealth agrees that, if in the course of accessing and using the Products or Services, it is necessary for Customer to use certain items of Stealth technology, then Customer is hereby granted a limited, nonexclusive, personal, royalty-free license, during the term of this Agreement, to use the Stealth technology solely for purposes of accessing and using the Products or Services. Customer shall have no right to use the Stealth technology for any purpose other than accessing and using the Products or Services in accordance with the terms of this Agreement.

10.2. *By Customer.* Customer agrees that if, in the course of performing the Products or Services, it is necessary for Stealth to access Customer equipment and use Customer technology, then Stealth is hereby granted a limited, nonexclusive, personal, royalty-free license, during the term of this Agreement, to use the Customer technology solely for the purposes of delivering the Products or Services to Customer. Stealth shall have no right to use the Customer technology for any purpose other than providing the Products or Services.

11. CONFIDENTIALITY; PUBLICITY

11.1. *Confidentiality.* Each Party agrees that the terms of this Agreement and all information furnished to it by the other Party, including maps, pricing, financial terms, network routes, design information, methodologies, specifications, locations or other information to which it has access under this Agreement, are deemed the confidential and proprietary information or trade secrets (collectively referred to as "**Proprietary Information**") of the Disclosing Party and will remain the sole and exclusive property of the Disclosing Party (the Party furnishing the Proprietary Information referred to as the "**Disclosing Party**" and the other Party referred to as the "**Receiving Party**"). Each Party will treat the Proprietary Information and the contents of this Agreement in a confidential manner and, except to the extent necessary in connection with the performance of its obligations under this Agreement, neither Party may directly or indirectly disclose the same to anyone other than its employees on a need-to-know basis and who agree to be bound by the terms of this Section 11.1, without the written consent of the Disclosing party. Information will not be deemed Proprietary Information if it (i) becomes publicly available other than through the actions of the Receiving Party; (ii) is independently developed by the Receiving Party; or (iii) becomes available to the Receiving Party without restriction from a third Party. If the Receiving Party is required by a governmental or judicial law, order, rule, regulation or permit to disclose Proprietary Information, it must give prompt written notice to the Disclosing Party of the requirements of such disclosure and cooperate fully with the Disclosing Party to minimize such disclosure, and disclosure after such notice shall not be a breach hereof, except insofar as notice is not required pursuant to Section 17.12 hereof.

11.2. *Publicity.* Notwithstanding anything herein to the contrary, Customer acknowledges and agrees that (i) during the term of this Agreement, Stealth may publicly refer to Customer (and to identify any or all of the Products or Services it provides to Customer), orally and in writing (including on Stealth's website), as a customer of Stealth, (ii) upon execution of the Agreement and subsequent Order Form(s), Stealth may release a public statement announcing the Agreement or Order without further consent from Customer ("**Press Release**"). Any Press Release may include the identity of Customer, and other general terms such as the duration, scope, and total value of the Agreement or Order. Before its dissemination, Stealth will provide Customer with a copy of the proposed release and Customer will have five (5) business days to review and comment before its dissemination. Customer's failure to provide Stealth with comments or objections within this timeframe will not prohibit Stealth from issuing the Press Release. In addition, Customer grants Stealth a limited license to use Customer's trade names and trademarks in conjunction with any such use, and on its website. The foregoing shall not grant Stealth any right, title, or interest in such trade names or trademarks.

12. BINDING AGREEMENT; ASSIGNMENT

12.1. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

12.2. Customer shall not assign or transfer its rights or obligations under this Agreement without Stealth's prior written consent, which consent may not be unreasonably withheld, except that Customer may assign this Agreement upon notice and without Stealth's consent to a person, firm, corporation, partnership, association, trust or other entity provided that the assignee assumes all liabilities hereunder in writing prior to the effectiveness of such assignment, (i) that controls, is controlled by, or is under common control with Customer or (ii) into which it is merged or consolidated or that purchases all or substantially all of its assets. Any assignment or transfer without the required consent will be void and will be considered a material breach of this Agreement. Upon any permitted assignment, Customer will remain jointly and severally responsible for the performance under this Agreement, unless released in writing by Stealth, and this Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Customer shall reimburse Stealth on demand for any reasonable costs that may be incurred by Stealth in connection with any proposed assignment or use.

12.3. Stealth shall not assign or transfer its rights or obligations under this Agreement without Customer's prior written consent, which consent may not be unreasonably withheld, except that Stealth may assign this Agreement upon notice and without Customer's consent to a person, firm, corporation, partnership, association, trust, or other entity, provided that the assignee assumes all liabilities hereunder in writing prior to the effectiveness of such assignment, (i) that controls, is controlled by, or is under common control with Stealth or (ii) into which it is merged or consolidated or that purchases all or substantially all of its assets. Any assignment or transfer without the required consent will be void and will be considered a material breach of this Agreement. Upon any permitted assignment, Stealth will remain jointly and severally responsible for the performance under this Agreement, unless released in writing by Customer, and this Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns. Stealth shall reimburse Customer on demand for any reasonable costs that may be incurred by Customer in connection with any proposed assignment or use.

13. FORCE MAJEURE

Neither Party will be considered in breach of this Agreement nor liable under this Agreement for any delays, failures to perform, damages or losses, or any consequence thereof, caused by or attributable to an event of "Force Majeure," which is defined as any cause beyond the reasonable control of the Party claiming relief, including without limitation the action by a governmental authority (such as a moratorium on any activities related to this Agreement or changes in government codes, ordinances, laws, rules, regulations, or restrictions occurring after the Effective Date), third-party labor dispute, flood, earthquake, fire, lightning, epidemic, war, act of terrorism, riot, civil disturbance, act of God, sabotage, fiber cut caused by a third-party or failure of a third-party to recognize a permit, authorization, right-of-way, easement, right, license or other agreement obtained by Stealth to construct and operate its facilities or network; provided however, that (a) the foregoing shall not affect Customer's obligations to pay for Products or Services rendered by Stealth before or unaffected by the Force Majeure and (ii) the Party whose performance is affected by the Force Majeure delay will use reasonable efforts to alleviate such delay.

14. GOVERNING LAW; DISPUTE RESOLUTION

14.1 *Governing Law.* This Agreement is made under and will be governed by and construed in accordance with the laws of the State of New York (except that body of law controlling conflicts of law) and specifically excluding from application to this Agreement that law known as the United Nations Convention on the International Sale of Goods. Notwithstanding any otherwise applicable limitations periods, any legal action arising in connection with this Agreement must begin within two (2) years after the cause of action arises.

14.2 *Dispute Resolutions.* The Parties will endeavor to settle amicably by mutual discussions any disputes, differences, or claims related to this Agreement. Failing such amicable settlement, any controversy, claim, or dispute arising under or relating to this Agreement, including the existence, validity, interpretation, performance, termination or breach thereof, shall finally be settled by arbitration in accordance with the Arbitration Rules (and if Customer is a non-U.S. entity, the International Arbitration Rules) of the American Arbitration Association ("AAA"). There will be three (3) arbitrators (the "**Arbitration Tribunal**"), the first of whom will be appointed by the claimant in its notice of arbitration, the second of which will be appointed by the respondent within thirty (30) calendar days of the appointment of the first arbitrator and the third of which will be jointly appointed by the party-appointed arbitrators within thirty (30) calendar days thereafter. The language of the arbitration shall be English. The Arbitration Tribunal will not have the authority to award punitive damages to either Party. Each Party shall bear its own expenses, but the Parties will share equally the expenses of the Arbitration Tribunal and the AAA. This Agreement will be enforceable, and any arbitration award will be final, and judgment thereon may be entered in any court of competent jurisdiction. The arbitration will be held in New York, New York, USA. Notwithstanding the foregoing, applications for preliminary injunctive relief or other pre-judgment remedies, as well as claims limited to Customer's alleged failure to pay for Products or Services in accordance with this Agreement or an Order Form may be brought in a state or federal court in New York, NY with jurisdiction over the subject matter. Each Party consents to the assertion of jurisdiction over it in New York, New York for all purposes.

15. COMPLIANCE WITH LAW.

Customer shall use the Products or Services only for lawful purposes and in accordance with this Agreement and such other agreements as incorporated this Agreement.

16. NOTICES

All notices, including but not limited to, demands, requests and other communications required or permitted hereunder (not including invoices) must be in writing and will be deemed given: (i) when delivered in person, or by confirmed facsimile (ii) one (1) business day after deposit with an overnight delivery service for next day delivery, or (iii) three-(3) business days after deposit in the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, and addressed to the recipient Party at the address set forth on the signature page hereof or such other address as the Party provides for the receipt of such notice. In addition, Stealth may send Customer notices, other than notices for default or termination, to Customer's email address as contained on Stealth's customer contact list. Such email notification is deemed delivered on the day sent unless returned to Stealth as "undeliverable." Each Party shall promptly notify the other of any changes in the address to which notices shall be sent.

17. MISCELLANEOUS

17.1. *Survival.* The Parties' respective representations, warranties, and covenants, together with obligations of indemnification, confidentiality and limitations on liability will survive the expiration, termination or rescission of this Agreement and continue in full force and effect.

17.2. *No Third-Party Beneficiaries.* The covenants, undertakings, and agreements set forth in this Agreement are solely for the benefit of and enforceable by the Parties or their respective successors or permitted assigns. Nothing herein shall impose upon either Party any obligations to any person that is not an express Party to this Agreement.

17.3. *Relationship of the Parties.* The relationship between the Parties hereunder is not that of partners or agents for one another and nothing contained in this Agreement may not be deemed to constitute a partnership, joint venture, or agency agreement between them.

17.4. *Remedies Not Exclusive.* Except as otherwise expressly provided, the rights and remedies set forth in this Agreement are in addition to, and cumulative of, all other rights and remedies at law or in equity.

17.5. *Headings; Severability.* The headings in this Agreement are strictly for convenience and do not amplify or limit any of the terms, provisions or conditions hereof. In the event any term of this Agreement is held invalid, illegal or unenforceable, in whole or in part, neither the validity of the remaining part of such term nor the validity of the remaining terms of this Agreement will be in any way affected, and the Parties shall promptly negotiate in good faith to replace such invalid or unenforceable portions that are essential parts of this Agreement.

17.6. *No Implied Waiver.* No failure to exercise and no delay in exercising, on the part of either Party, any right, power or privilege hereunder will operate as a waiver, except as expressly provided herein.

17.7. *Counterparts.* This Agreement may be executed in counterparts, including by facsimile transmission, each of which when executed and delivered is an original, but all the counterparts together constitute the same document.

17.8. *Changes Prior to Execution.* Each Party represents and warrants that any changes to this Agreement made by it were properly marked as changes and that it made no changes to the Agreement that were not properly identified as changes. No representation or statement not contained in this Agreement shall be binding upon Stealth as a warranty or otherwise.

17.9. *Order of Precedence.* If any conflict or contradiction exists between these General Terms and Conditions and a GTC Supplement, the terms of a GTC Supplement will control. If any conflict or contradiction exists between a GTC Supplement and the terms of an Order Form, the terms of the Order Form will control. If any conflict or contradiction exists between these General Terms and Conditions and the terms of an Order Form, the terms of the Order Form will control. Notwithstanding the foregoing, any separate agreement expressly modifying the terms of any of the foregoing shall take precedence over each other agreement as to such terms.

17.10. *Non-Solicitation.* During the term of this Agreement and continuing through the first anniversary of the termination of this Agreement, Customer agrees that it will not, and will ensure that its affiliates do not, directly or indirectly, solicit or attempt to solicit for employment any persons employed by Stealth or contracted by Stealth.

17.11. *Restrictions on Use of Products or Services.* Customer shall not, without the prior written consent of Stealth (which may be withheld for any reason in its sole discretion), resell the Products or Services, in whole or in part, to any third parties. Reselling of Service is defined as any sale of any part of the Service(s) to a third-party that requires Stealth to invoice a third-party directly. Customers providing access to the Service to Customer's clients in whole or in part, and subsequently invoicing the client(s) directly are not reselling the Service hereunder.

17.12. *Providing Information to Third-Parties.* In the event that Stealth provides or is compelled to provide information or access concerning Customer or Customer's use of the Products or Services that it received from Stealth pursuant to a facially-valid search warrant or other legal process, Stealth is under no obligation to provide notice with respect thereto. Insofar as Stealth complies with the demands of a search warrant or other legal process in the good-faith belief that such compliance is compelled, Customer shall have no claims against Stealth for any damage caused by such compliance.

18. ENTIRE AGREEMENT; AMENDMENT; EXECUTION

- 18.1 *Entire Agreement.* With respect to each Order Form that expressly incorporates these GTCs and other documents, such Order Form and the documents it expressly incorporates is the entire agreement between the Parties with respect to the subject matter of such Order Form and supersedes any and all prior negotiations, understandings and agreements, whether oral or written.
- 18.2 *Amendments.* The terms set forth in these GTC may be amended only by a written instrument executed by all of the Parties.
- 18.3 *Execution.* This Agreement may be executed in multiple counterparts, all of which taken together constitute one and the same instrument. Customer may evidence its execution with a copy sent to Stealth by facsimile or as an attachment to an e-mail saved in PDF file format. Customer must return the original signed document to Stealth no later than five (5) business days from date of execution by Customer.

The Parties have executed these General Terms and Conditions as of the date first written above.

STEALTH COMMUNICATIONS, INC.

CUSTOMER NAME

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____



Stealth Communications is a registered trademark of Stealth Communications, inc.

DATE: Month Date, 2006
ACCOUNT REP:
SALES REF #:
CUSTOMER ID:

MASTER PRODUCTS AND SERVICES AGREEMENT

Bandwidth GTC Supplement

For Customers of IP Transit (Internet Access), Transparent LAN Service (TLS), NY6IX, Big APE, Voice Peering Fabric and other packet-switched services.

Customer Name ("Customer")

This Bandwidth GTC Supplement is effective as of the day first written above ("Supplement Effective Date"), incorporates the Master Products and Services Agreement, General Terms and Conditions ("GTC") dated DATE, by and between Stealth Communications, Inc. ("Stealth") and Customer. Stealth and Customer are collectively referred to as the "Parties" or individually as a "Party." Unless otherwise defined herein, capitalized terms in this GTC Supplement shall have the definitions attributed thereto in the GTC.

1. ADDITIONAL DEFINITIONS

"Bandwidth" means the amount of bits per second transferred over a communication channel between the Stealth Network (defined in the GTC) and Customer.

"Burst" Bandwidth means the amount of Bandwidth in excess of Customer's committed Bandwidth level as further defined in Section 3, below.

2. PROVISION OF BANDWIDTH

Subject to the terms and conditions contained herein, in the GTC, and in the Order Form pursuant to which connectivity is being provided, Stealth will provide to Customer connectivity to the Stealth Network to enable the transfer of Bandwidth on terms specified in an Order Form. The Term for each Order shall be specified on its respective Order Form and shall begin on the Commencement Date specified therein. The term shall include such extensions as are provided for in the Order Form or GTC. Customer shall fully cooperate with Stealth in connection with Stealth's performance of the Products or Services.

3. BURST BANDWIDTH

Billing for Burst Bandwidth will follow the "95th percentile" rule: Usage samples will be collected and sorted from highest to lowest and the top 5% discarded. The next highest sample (the 95th percentile number) will then be the basis for computing Customer's actual usage and whether it is beyond the committed level of Bandwidth. If it is beyond the committed level of Bandwidth, Customer shall be charged for such excess at a rate set forth in the applicable Order Form or, if no such rate is stated, at a rate equal to the per/Mbps rate being charged at the 95th Percentile. Charges for Burst Bandwidth will be billed after the end of the month. If Stealth is unable to collect complete usage data for a particular month, then Stealth shall estimate and bill the Customer according to historical usage data (when available), or as otherwise reasonably determined by Stealth.

4. USE OF BANDWIDTH

4.1. Acceptable Use.

- (a) Customer shall use the Products or Services only for lawful purposes and in accordance with this Agreement. Customer will comply at all times with all applicable laws and regulations and with Stealth's Acceptable Use Policy ("AUP"), which is set forth at http://www.stealth.net/aup, as updated by Stealth from time to time. The AUP is incorporated herein and made a part hereof by this reference. Stealth may change the AUP by posting such changes to the Stealth web-site at http://www.stealth.net/aup. Customer agrees that it has received, read, and understands the current version of the AUP. The AUP contains restrictions on Customer's and Customer's users' online conduct (including, but not limited to, prohibitions against the transmission of unsolicited bulk commercial email, i.e., SPAM). Customer shall comply with such restrictions and, in the event of a failure to comply, Customer will be subject to immediate suspension or termination of Products or Services.

- (b) Notwithstanding any suspension or termination of the Products or Service due to violation of this Section 4, Customer shall continue to pay its committed monthly Service Charge and all other charges as set forth on all Order Forms that incorporate this Bandwidth GTC Supplement.
- (c) Customer will provide Stealth with twenty-four-(24) hour contact information for notification of AUP violations, which notification shall be sent by the creation and transmittal via email to the address designated by Customer for the purpose of creating a trouble ticket. In the event Customer violates the AUP where Stealth determines in its reasonable discretion that there is potential harm to its Network or business, Stealth shall have the right to immediately suspend or terminate Service without liability. Stealth shall provide notice of such suspension or termination within twenty-four-(24) hours. In other cases of violation of the AUP, Stealth will provide notice and opportunity to cure, to the extent Stealth deems reasonably appropriate, depending on the nature of the violation, the availability of the Customer and whether or not there has been a repeat violation. Stealth, in its reasonable discretion, shall re-enable the Service upon satisfaction that all violations have ceased and with adequate assurance that such violations will not occur in the future. The failure by Stealth to suspend Service shall not be a waiver of its rights to suspend Service at any later time.
- (d) Customer acknowledges that Stealth exercises no control and has no right to exercise control over the content of any information passing through Customer's systems and it is the sole responsibility of Customer to ensure that the information it and its users transmit and receive complies with all applicable laws and regulations and the AUP.

4.2. *Illegal Use.* Customer will cooperate in any investigation by Stealth or any governmental authority of Customer's or any Customer of Customer's alleged illegal use of Stealth's facilities or other networks accessed through the Stealth Network. If Customer fails to cooperate with any such investigation, Stealth may suspend Customer's Service. Additionally, Stealth may modify or suspend Customer's Service in the event of illegal use of the Stealth Network or as necessary to comply with any law or regulation, including the Digital Millennium Copyright Act of 1998, 17 U.S.C. § 512, as reasonably determined by Stealth.

4.3. *Other Networks.* Customer is responsible for paying any fees, obtaining any required approvals, and complying with any laws or usage policies applicable to transmitting data beyond the Stealth Network and/or through other public and private networks. Stealth is not responsible or liable for performance or non-performance of such networks or their interconnection points. Stealth does not and cannot control the flow of data to or from the Stealth Network or within any portion of the Internet. Such flow depends in large part on the performance of products or services provided or controlled by third parties. At times, actions or omissions of such third parties can impair or disrupt Customer's connections to the Stealth Network and/or Internet (or portions thereof). Although Stealth will use commercially reasonable efforts to take actions it deems appropriate to remedy and avoid such events, Stealth cannot guarantee that such events will not occur. Accordingly, except to the extent of the express warranties set forth in any attached Schedule, Stealth disclaims any and all liability resulting from, or related to, such events.

5. BANDWIDTH SERVICE LEVEL

Stealth will use commercially reasonable efforts to minimize Excess Packet Loss and Latency and to avoid Downtime, as more fully set out below.

5.1. *Packet Loss and Latency.* Stealth monitors the aggregate packet-loss and transmission latency within its LAN and WAN. Stealth does not monitor the packet-loss or transmission-latency of specific customers. After discovering or being notified by Customer of packet loss in excess of one-percent (1%) ("**Excess Packet Loss**") or transmission-latency ("**Latency**") based on Stealth's measurements in excess of one of the following: 120 milliseconds round-trip time between any two routers within the continental United States portion of the Stealth Network, 80 milliseconds round trip between any two routers on the European portion of the Stealth Network, 180 milliseconds round trip between any two routers within either the New York to London or Los Angeles to London portion of the Stealth Network, or 150 milliseconds round trip between any two routers within either the Seattle to Tokyo or Los Angeles to Tokyo portion of the Stealth Network, Stealth will use commercially reasonable efforts to determine the source of such Excess Packet Loss or Latency and to correct such problem to the extent that the source of the problem is on the Stealth Network.

5.2. *Remedy for Failure.* If two-(2) hours after being notified of any Excess Packet Loss or Latency on the Stealth Network, Stealth fails to remedy such Excess Packet Loss or Latency, Stealth will credit Customer's account the pro-rata Bandwidth charges for such continuous Excess Packet Loss or Latency that follows the initial two-(2) continuous hours, provided that the aggregate of such credits will not exceed the Bandwidth charges otherwise due from Customer for one-(1) calendar month for failures in any one-(1) calendar month.

5.3. *Inability to Access the Internet (Downtime).* Stealth guarantees 99.999% connectivity from the Stealth Network to the Internet without Downtime. "Downtime" is defined as Customer experiencing sustained packet loss in excess of fifty percent (50%) of data sent into or traveling through the Stealth Network based on Stealth's measurements for at least five-(5) consecutive minutes. If Customer experiences Downtime, then Stealth will credit Customer's account the pro-rata Bandwidth charges for such Downtime, provided that the aggregate of such credits will not exceed the Bandwidth charges otherwise due from Customer for one-(1) calendar month for failures in any one-(1) calendar month.

5.4. *Customer Request Credit.* Customer must notify Stealth within five-(5) business days from the time Customer becomes eligible to receive a credit under this Section 5 to receive such credit. Failure to comply with this requirement will forfeit Customer's right to receive a credit.

5.5. *Limitation on Remedies.* If Customer is entitled to multiple credits under this Section 5, such credits shall not be cumulative beyond a total of credits for one (1) calendar month in any one (1) calendar month in any event. Stealth will not apply a credit under Section 5.2 for any

Excess Packet Loss or Latency for which Customer received a credit under Section 5.3. Sections 5.2, 5.3 and 5.4 hereunder are Customer's sole and exclusive remedy for any failure by Stealth to provide Bandwidth or adequate service levels, including but not limited to any outages or Stealth Network congestion. Stealth's suspension or modification of Bandwidth in accordance with the terms of this Agreement shall not be deemed to be a failure of Stealth to provide adequate service levels under this Agreement, the GTC, or the relevant Order Form. In no event shall Customer be entitled to any credit on its Bandwidth charges to the extent that the latency or Downtime is caused by Customer attempting to exceed the maximum bandwidth of Customer's connection to the Stealth Network or otherwise violating the terms of this Agreement.

6. RESTRICTIONS

6.1 *Government Regulations.* Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone in connection with this Agreement without first complying with all export control laws and regulations that may be imposed by any government within whose jurisdiction Customer operates or does business.

6.2 *No Resale.* Customer may not resell the Bandwidth. For purposes of this Section, the provisioning of web hosting on Customer's equipment and/or ISP service is not considered reselling the Bandwidth. Customer hereby indemnifies Stealth against any harm or any claims arising out of acts or omissions of any customers of Customer or other third parties using Customer's equipment or service that is the subject of this Agreement.

7. SOFTWARE AND EQUIPMENT USE

7.1 *Software Use.* If Stealth provides any software (and any related documentation) under this Agreement that is embedded in hardware as firmware and that is not accompanied by a license agreement (collectively "**Service Agreement Software**"), the Customer shall use the Service Agreement Software only with the Equipment, if any, and the Products or Services and only for purposes that are consistent with its use of the Stealth Network. The Customer shall not (i) reproduce, reverse engineer, disassemble, decompile, modify, adapt, translate, create derivative works from, or transfer or transmit the Service Agreement Software in any form or by any means, or (ii) use the Service Agreement Software for any purpose other than as set forth in this Section. The Customer shall not have any ownership rights in, or obtain rights to the Service Agreement Software. If a license agreement ("**Software License**") accompanies the Stealth-provided software, whether such software is owned by Stealth ("**Stealth License Agreement Software**") or its third-party supplier(s) ("**Third-Party License Agreement Software**"), the Customer shall abide by the terms of the Software License. Stealth has no obligations for any liabilities whatsoever in connection with any Third-Party License Agreement Software, whether such Third-Party License Agreement Software, is used in connection with the Stealth provided Service or is used independent of the Stealth provided Service. The Customer agrees to look exclusively to the Third-Party License Agreement Software supplier(s) with respect to all matters relating to Third-Party License Agreement software. The Service Agreement Software, the Stealth License Agreement Software, and the Third-Party License Agreement Software are collectively referred to as "**Software**."

7.2 *Equipment Use.*

- (a) Customer shall have no right or interest in any Stealth supplied equipment ("**Stealth Equipment**") other than the right to use such equipment during the specified term for purposes that are consistent with the use of the Stealth Network. Customer shall be liable to Stealth for any damage to Stealth equipment once it has been delivered to Customer's premises. Customer will indemnify and hold Stealth harmless from and against any loss or expense caused by Customer's failure to use or maintain any Stealth Equipment in accordance with that Equipment's specifications. Stealth shall not be liable for damage to, or loss of any of Customer equipment resulting from any cause, other than Stealth's negligence or willful misconduct and then only in an amount not to exceed the replacement value of the damaged equipment.
- (b) Customer may not affix or install any accessory, addition, upgrade, equipment or device on to the Stealth Equipment (other than electronic data) unless expressly approved in writing by Stealth. Customer will not remove, alter or destroy any labels on Stealth Equipment stating that it is the property of Stealth and shall allow reasonable access to Stealth Equipment for Stealth employees and designated authorized agents. The Customer must provide prior written notice and receive written approval from Stealth before moving any Stealth Equipment from the address listed on the applicable Order Form and on the hand receipt that accompanies the Stealth Equipment. Customer shall give Stealth immediate written notice of any attachment or judicial process affecting the Stealth Equipment or Stealth's ownership thereof.

7.3 If Stealth provides Stealth Equipment at the Customer's premises, the Customer, at its expense, shall provide a business telephone line to enable Stealth to perform remote diagnostics on the Stealth Equipment.

7.4 *Termination.* Upon any termination of the Order Form pursuant to which Stealth has provided particular Bandwidth Services, Customer shall (i) immediately cease utilizing the Service, (ii) promptly return to Stealth any Stealth Equipment that it has leased or rented from Stealth (subject to the terms of the applicable Equipment Lease Agreement) and Service Agreement Software that are used exclusively for such Service, and (iii) provide reasonable assistance in the process of boxing equipment up and shipping it to Stealth or permit Stealth to have access to remove any Equipment from the Customer's premises. If Customer does not return Stealth Equipment and/or Software within fifteen (15) days of termination when it is obligated to do so, Stealth will have the right to (i) charge the Customer the fair market value of such Stealth Equipment, which amount Customer agrees to pay; or (ii) recover and take possession of such Equipment, and for this purpose may enter any premises of Customer where such equipment is located during normal working hours to remove Stealth Equipment.

8. TERM

8.1 This Agreement commences on the Supplement Effective Date, and continues through the latest expiration of all Order Form(s) subject to this Agreement, unless earlier terminated as provided herein.

9. EARLY TERMINATION CHARGES

9.1 *Charges.* If the provision of Bandwidth with respect to an Order Form is terminated before the end of the Term for that Order by reason of: (i) Customer termination other than as permitted under this Agreement, or (ii) a Customer Event of Default, as provided, herein or pursuant to the GTC or the Order Form, then, in addition to all other sums due and owing, Customer agrees to immediately pay an “**Early Termination Charge**” to Stealth. The Early Termination Charge equals to the aggregate of all remaining Recurring Charges until the end of the Term, and all unpaid (including if theretofore discounted or waived) installation charges discounted or waived, together with any other fees (including telco fees) of all third parties contracted by Stealth on behalf of Customer. The Customer may cancel a Service prior to the Commencement Date by providing prior written notice to Stealth. In such event, the Customer shall pay (i) for all charges incurred through the date of cancellation, and (ii) the Early Termination Charge.

9.2 *Early Termination Not a Penalty.* Customer acknowledges and agrees that the Early Termination Charge reflects a reasonable estimate of the damages incurred by Stealth as a result of an early termination of this agreement, and is not a penalty.

10. SEPARATE CONTRACTS

10.1. *Separate Contracts.* The Parties acknowledge that each Order Form pursuant to which Stealth provides Bandwidth to Customer is a separate contract. Insofar as either Party is in breach of its obligations under an Order Form, such breach shall not affect the continued validity of any other Order Form or of this GTC Supplement or of any other agreement between the Parties except insofar as such a breach is also a breach of such other agreements and insofar as provided in the GTC.

The Parties have executed this GTC Supplement as of the date first written above.

STEALTH COMMUNICATIONS, INC.

CUSTOMER NAME

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____



Stealth Communications is a registered trademark of Stealth Communications, inc.

DATE: Month Date, 2006
ACCOUNT REP:
SALES REF #:
CUSTOMER ID:

Addendum B

Service Maintenance Agreement

Customer Name ("Customer")

This Service Maintenance Agreement effective as of the day first written above ("Agreement Effective Date"), incorporates the Master Product and Services Agreement, General Terms and Conditions ("GTC"), dated DATE, by and between Stealth Communications, Inc. ("Stealth") and Customer. Stealth and Customer are collectively referred to as the "Parties" or individually as a "Party." Unless otherwise defined herein, capitalized terms in this agreement shall have the definitions attributed thereto in the GTC.

This Service Maintenance Agreement covers commonly requested support needs of Stealth Customer Support ("Stealth Support"). This Agreement outlines the Parties' responsibilities for services such as Bandwidth, Capacity, and Managed Wavelength Services.

It does not include the provision of Stealth Support except as specifically specified herein or in an Order Form that expressly incorporates the terms of this Agreement.

1. THE ROLE OF CUSTOMER'S TECHNICAL POINT OF CONTACT:

The Technical Point of Contact ("TPOC") designated by Customer will be the central point of contract for all issues related to Stealth's service to Customer. Customer shall also designate one or more of its qualified employees or agents as alternate TPOCs who will serve as the TPOC when the TPOC is unavailable and who will have the TPOC Qualifications set forth in this Section.

1.1 TPOC Qualifications. At a minimum, the TPOC shall be:

- (a) PC literate, with proficiency in all operating systems and machines Customer is using in connection with Stealth's provision of Products or Services;
(b) Knowledgeable in LAN/WAN administration;
(c) Familiar with Customer's network based applications;
(d) Familiar with the data communications protocols, and equipment that are used by Customer in connection with Stealth's provision of Product or Services.

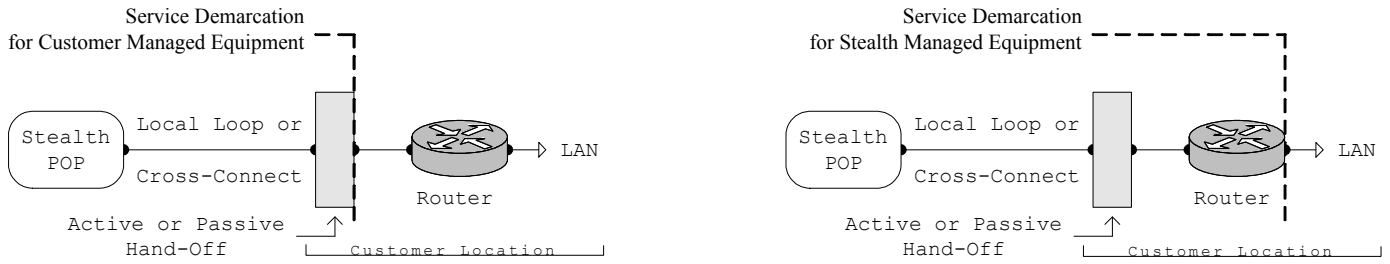
1.2 TPOC Responsibilities. The TPOC shall have the following responsibilities:

- (a) Acts as Customer's primary interface to Stealth.
(b) Supports all of Customer's hardware/software on Customer-side of the Service Demarcation. This includes providing and configuring all company-owned equipment & software during service installation.
(c) During the Service-provisioning phase:
1) Provides Customer requirements for Service during Order preparation;
2) Supplies existing network information to Stealth;
3) Prepares equipment site;
4) Reviews and approves (and has the authority to approve) anticipated installation schedule dates;
5) Is responsible for having the premise-equipment present and properly configured;
6) Renumbers company network (if applicable);
7) Provides assistance with respect to testing and turn-up Products or Services provided by Stealth including by having the appropriate LAN Administrator and third-party suppliers present.
(d) Reports any installation problems within five-(5) business days of the Service's initial provisioning.
(e) Reports network-related problems to Stealth.
(f) Requests all Service modifications.

2. SERVICE DEMARCATION:

The Order Form for the provision of Stealth Services to Customer shall specify, if applicable whether such Services are being performed with "Customer Managed Equipment" or "Stealth Managed Equipment." As shown in the following diagram, the Stealth "Service Demarcation" shall be before the Router in the case of Customer Managed Equipment and between the Router and the LAN for Stealth Managed Equipment.

The "Stealth Side of Demarcation" refers to the provision of Service between Stealth's Point-of-Presence (POP) and the Service Demarcation.



Active Hand-off is an electronic device (e.g., Smart Jack capable of performing remote loopback tests); Passive Hand-off is a devices such as a patch panel.

Figure 1. Example of Service Demarcation (assuming Local Loop/Cross-Connect acquired through Stealth)

3. THE ROLE OF STEALTH SUPPORT:

Stealth Support will provide full support to Customer within the defined [if applicable] Service Demarcation as follows:

3.1 *Network Support.* Stealth Support will provide support for hardware and logical support WITHIN the Stealth Network and up to and including the (Active/Passive) hand-off point on Customer site (see Figure 1).

3.2 *Network Support Functions.* Stealth will provide the following network support functions:

- (a) Sectionalize and resolve network problems including (i) Routers on the Stealth Side of Demarcation, (ii) Network features such as Usage Reports.
- (b) Troubleshoot logical problems: Router configuration and packet/routing filters on the Stealth Side of Demarcation.
- (c) Isolate network performance-related issues such as throughput of routers on the Stealth Side of Demarcation.
- (d) Assist Customer in identifying and isolating Customer premise-router problems outside the Stealth Side of Demarcation.
- (e) Assist Customer in sectionalizing hardware or logical problems outside the Stealth Side of Demarcation. Stealth technician will test outside the Stealth Side of Demarcation to Customer’s router or LAN using a IP/ICMP ping program. Any hardware or logical problems outside the Stealth router Side of Demarcation at Customer’s site, including Customer’s firewall, and Customer’s LAN equipment, are Customer’s responsibility to resolve. (If Customer has its own router, Stealth will only test up to the Active or Passive Hand-off Point at Customer site.)

3.3 *Additional Stealth Responsibilities.* Stealth shall have the following additional responsibilities:

- (a) Providing outage notification if a component unique to Customer has failed (e.g. Customer Local Loop or Cross-Connect.) In such a case Stealth Support will contact the TPOC.
- (b) Providing outage notification if a global service component has failed (i.e., impacting multiple customers). In such a case notification will be available on the web.
- (c) Stealth Support will refer the following issues to the TPOC for Customer’s solution:
 - 1. Performance issues related to the size of Customer’s connection to Stealth
 - 2. Trouble issues outside the demarcation boundaries as described above

3.4 THE FOLLOWING TYPES OF ISSUES WILL BE SUPPORTED BY STEALTH SUPPORT SUBJECT TO FEES LISTED BELOW

Customer is required to open a ticket with support@stealth.net documenting their request before Stealth Support begins support service:

- (a) General questions on Internet or Intranet access that do not pertain to Stealth services.
- (b) General application related questions (how to use/features of, email clients, newsgroups, plugins, etc.)
- (c) Use of other Internet related software (web authoring tools, FTP, gopher, chat, etc.)
- (d) Customer specific application/network problems.

Business Hours*	0800 – 1700 EST Monday thru Friday	\$150.00 per Hour
After Business Hours*	1700 – 0800 EST Monday thru Friday	\$225.00 per Hour
Emergency**	Applies to weekends and holidays	\$325.00 per Hour

* Not available Weekends or Holidays. Requires 24 Hour Notification on an individual case basis.

** Applies on Weekends / Holidays when 24 Hour Notice is not given and on an individual case basis.

If Customer reschedules or cancels a scheduled support ticket less than 2 hours (4 hours on Weekends / Holidays), then Customer will be invoiced as if it received one (1) hours of service. Customer will be invoiced the hourly rate applicable to the hour that support was performed.

The Parties have executed this Service Maintenance Agreement as of the date first written above.

STEALTH COMMUNICATIONS, INC.

CUSTOMER NAME

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____