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**PART B INTERNET ACCESS SERVICES**

**Item 200 General**

**1. Description**

- 1) This item is subject to the terms and provisions of Part A of this Tariff.
- 2) This Part applies to the following C&W services: Broadband Asymmetric Digital Subscriber Line Internet Access.

**2. Definitions**

For the purposes of this Part B:

“Domain Name” means a name that identifies one or more IP addresses.

"Internet Service" includes Broadband Asymmetric Digital Subscriber Line Internet Access.

“Initial Term” means the initial period of time for which the Customer commits to subscribing to the Service.

“Invoice Date” means the date on which a Bill for the Services is issued.

**3. Availability of Services**

- 1) C&W shall determine the locations where it will provide Internet Service.
- 2) Internet Service is provided at C&W's discretion, depending on the availability of suitable facilities and equipment.
- 3) Where it is necessary for C&W to install special equipment or to incur an unusual expense to establish Internet Service, the Customer shall pay the associated Special Installation Charges, contingent upon the Customer's prior approval for such charges.

**4. Provision and Use of Service and Software**

- 1) If C&W provides any software (and any related documentation) as part of an Internet Service, which is embedded in hardware as

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firmware and which is not accompanied by a licence agreement ("Service Agreement Software"), the Customer shall use the Service Agreement Software only with the Equipment, if any, and the Internet Service.

- 2) The Customer shall not: i) reproduce, reverse engineer, disassemble, decompile, modify, adapt, translate, create derivative works from 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 set forth in this Part.
- 3) The Customer shall not have any ownership rights in, or obtain rights to the Service Agreement Software.
- 4) If C&W provides software that is accompanied by a licence agreement ("Software Licence"), whether such software is owned by C&W ("C&W Licence Agreement Software") or its third-party supplier(s) ("Third-Party Licence Agreement Software"), the Customer shall abide by the terms of the Software Licence.
- 5) C&W shall have no obligations or liabilities whatsoever in connection with any Third-Party Licence Agreement Software, whether such Third Party Licence Agreement Software is used in connection with the Service is used independent of the Service, including, without limiting the generality of the foregoing, in connection with the use thereof.
- 6) The Customer agrees to look exclusively to the Third-Party Licence Agreement Software supplier with respect to all matters relating to its software.
- 7) The Service Agreement Software, the C&W Licence Agreement Software and the Third-Party Licence Agreement Software are collectively referred to as "Software".
- 8) The Customer shall comply with any C&W and applicable Internet instructions, AUP, rules and regulations concerning the use of Internet Service, Software and the Internet.

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- 9) The Customer shall only use the Internet Service in accordance with any applicable local laws, by-laws and regulations.
- 10) The Customer shall be solely responsible for providing for any security, privacy or data integrity services or applications that it may desire for its computer network and any data stored on that network or accessed through the Internet Service. The Customer acknowledges and assumes all liabilities relating to, and risks associated with unauthorized access by a third party via the Internet Service to each computer network and data.
- 11) These terms do not constitute a licence for the Customer to copy, reproduce, distribute or otherwise use any proprietary information provided or accessible through the Internet Service.
- 12) Where offered, if the Customer requests a Domain Name on the Application Form, C&W shall provide a Domain Name to the Customer and all charges for the same shall be billed to the Customer by C&W.
- 13) C&W is not responsible for the installation, maintenance, compatibility or performance of any third-party equipment or software not provided by C&W, and if such third party equipment or software impairs the Service, i) the Customer remains liable for payment and ii) if it is likely to cause hazard or service obstruction, the Customer will eliminate such likelihood at C&W's request.
- 14) C&W reserves the right to suspend Internet Service from time to time for routine maintenance and shall make commercially reasonable efforts to ensure that any such suspension of access shall be for the minimum possible duration and, wherever possible, outside normal business hours. In such cases, C&W shall attempt to give the Customer not less than seven days' prior notice in writing.

**5. Customer Credit**

- 1) The Customer shall provide such security deposit(s) within one week after receiving notice from C&W of such a requirement.

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**6. Termination**

- 1) In addition to any other available remedies, C&W may immediately terminate the Internet Service in the event of a breach by the Customer of any part of the relevant Tariff, any applicable software licence Agreement, or any other agreement pursuant to which C&W provides Telecommunications Services to the Customer.
- 2) C&W may terminate the Internet Service on notice to the Customer if the Service not being used as per agreed terms.
- 3) Upon termination, the Customer shall: i) immediately cease utilizing the Internet Service, ii) immediately return any Software, iii) pay C&W for all Charges incurred by the Customer through the date the Service is discontinued.
- 4) In addition to any other available remedies, C&W may immediately, without notice and without liability to the Customer, discontinue the provision of the Internet Service if any of the following occurs:
  - a. C&W receives bona fide complaints or claims from third parties regarding the Customer's use of the Service; or
  - b. The Customer fails to comply with the warranties set forth in sub-item 200.8.

**7. Indemnification and Limitation of Liability**

- 1) The Customer shall defend, indemnify and hold C&W harmless from and against all claims, demands, actions, causes of action, judgment, costs and reasonable attorneys' fees and expenses of any kind or nature for any damage to any kind arising from or related to any use or misuse of the Internet Service, Software, Customer Apparatus or the Internet, including any breach by the Customer of this Agreement whether such use is by the Customer or any third party irrespective of whether the Customer has authorised or known about such usage, or otherwise arising under or relating to this Agreement, the Internet Service, Software, or the Internet.

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- 2) C&W shall not be liable for any delay or interruption in or failure to provide or restore the Internet Service howsoever caused including, without limitation, anything caused by or attributable to Customer Apparatus or any services provided by any person providing the on-line service connection to the Internet.
- 3) In no event shall C&W be liable for any unauthorized access by a third party to the Customer's computer network or data, loss of profits or data, or any incidental, special, exemplary or consequential damages.
- 4) If C&W has been notified that any Customer's usage of the Internet Service, Software, or the Internet is infringing any third party's rights or is in violation of any applicable law or regulation, or if C&W otherwise has reason to believe this to be so, if requested by C&W, the Customer shall immediately cease all such usage of the Internet Service or Software.

**8. Representation and Warranties**

- 1) C&W does not warrant that the Internet Service, Agreement or Software shall be uninterrupted or error free or provide any security or privacy for any computer network or any data, or that the information available and/or accessed through the Internet shall be accurate, correct, appropriate for any party's needs, free from viruses or other disabling codes, or that such information shall not infringe upon any proprietary or other rights of others. Except as expressly stated in the relevant Tariff for the Internet Service, the Internet Service is provided on an "as is" and "as available" basis without warranties of any kind.
- 2) The use of the Internet, any information available and/or accessed through the Internet, any Domain Name and any security features provided for the Internet Service shall be at the Customer's sole risk.
- 3) Other than any express warranties contained in the Tariff, C&W disclaims all warranties, either express or implied, including,

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without limitation, any warranties of merchantability or fitness for a particular purpose, or year/date accuracy.

- 4) C&W makes no warranty or representation, either express or implied, including, without limitation, as to the fitness, quality, suitability, merchantability, title, non-infringement or performance of any Third-Party Licence Agreement Software, it being agreed that any such software is being supplied “as is” and that all such risks, as between C&W and the Customer, are to be borne by the Customer at its sole risk and expense.
- 5) The Customer represents and warrants that use of the Internet Service hereunder (including any use of any Domain Name) shall not violate or infringe upon any proprietary or other rights of others, be abusive, threatening, obscene, profane or otherwise offensive, or violate any applicable laws or regulations including C&W’s AUP.
- 6) The Customer shall not represent to any third party that C&W has made any warranty or representation of any kind with respect to the Internet Service, Software or the Internet.
- 7) C&W makes no express or implied warranties, representations or endorsements regarding any merchandise, information, products or services provided through the Internet.
- 8) Under no circumstances shall C&W or its affiliates be liable for any indirect, incidental, special, punitive or consequential damages that result from the Customer or the Customer’s users’ use of or inability to access any part of the Internet or reliance on or use of information, services or merchandise provided on or through the service, or that result from mistakes, omissions, interruptions, loss, theft, or deletion of files, errors, defects, delays in operation, or transmission, or any failure of performance.

**9. Notice**

- 1) In addition to the method set out in Item 101.20, if reasonable in the circumstances, any notice required to be given, under this Part



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B, may be sent to the Customer's e-mail address and shall be deemed to be effective 24 hours after transmission.