

Fill in this information to identify the case:

Debtor Cytera Communications, LLC

United States Bankruptcy Court for the: _____ District of New Jersey
(State)

Case number 23-14852

Official Form 410
Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies or any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Business Communications Management, Inc. - rebranded as BCM One, Inc.</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent?	Where should payments to the creditor be sent? (if different)
	See summary page	BCM One, Inc. 295 Madison Avenue 5th Floor New York, New York 10017, United States
	Contact phone <u>570-778-5246</u>	Contact phone <u>570-778-5246</u>
	Contact email <u>afritzges@bcmone.com</u>	Contact email <u>afritzges@bcmone.com</u>
	Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	



Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: ____ _

7. How much is the claim? \$ 24,807.00. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.
services performed

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.
Nature or property:
 Real estate: If the claim is secured by the debtor's principle residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
 Motor vehicle
 Other. Describe: _____
Basis for perfection: _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
Value of property: \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amount should match the amount in line 7.)
Amount necessary to cure any default as of the date of the petition: \$ _____
Annual Interest Rate (when case was filed) _____ %
 Fixed
 Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____



12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

No

Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)(____) that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim pursuant to 11 U.S.C. § 503(b)(9)?

No

Yes. Indicate the amount of your claim arising from the value of any goods received by the debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ _____

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

I am the creditor.

I am the creditor's attorney or authorized agent.

I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgement that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/09/2023
MM / DD / YYYY

/s/Alyson Fritzges
Signature

Print the name of the person who is completing and signing this claim:

Name Alyson Fritzges
First name Middle name Last name

Title Corporate Counsel

Company BCM One, Inc.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____

Contact phone _____ Email _____



KCC ePOC Electronic Claim Filing Summary

For phone assistance: Domestic (877)-726-6510 | International 001-310-823-9000

Debtor: 23-14852 - Cyxtera Communications, LLC		
District: District of New Jersey, Newark Division		
Creditor: Business Communications Management, Inc. - rebranded as BCM One, Inc. Alyson Fritzges 751 Arbor Way #150 Blue Bell, PA, 19422 United States Phone: 570-778-5246 Phone 2: Fax: Email: afritzges@bcmone.com	Has Supporting Documentation: Yes, supporting documentation successfully uploaded Related Document Statement:	
	Has Related Claim: No Related Claim Filed By:	
	Filing Party: Authorized agent	
Disbursement/Notice Parties: BCM One, Inc. 295 Madison Avenue 5th Floor New York, New York, 10017 United States Phone: 570-778-5246 Phone 2: Fax: E-mail: afritzges@bcmone.com DISBURSEMENT ADDRESS		
Other Names Used with Debtor:	Amends Claim: No Acquired Claim: No	
Basis of Claim: services performed	Last 4 Digits: No	Uniform Claim Identifier:
Total Amount of Claim: 24,807.00	Includes Interest or Charges: No	
Has Priority Claim: No	Priority Under:	
Has Secured Claim: No Amount of 503(b)(9): No Based on Lease: No Subject to Right of Setoff: No	Nature of Secured Amount: Value of Property: Annual Interest Rate: Arrearage Amount: Basis for Perfection: Amount Unsecured:	
Submitted By: Alyson Fritzges on 09-Aug-2023 2:40:06 p.m. Eastern Time Title: Corporate Counsel Company: BCM One, Inc.		



REFERRAL AGREEMENT

This Referral Agreement (this "Agreement") is made and entered into as of the Effective Date indicated in the signature blocks below by and between Business Communications Management, Inc. ("Referral Partner") and Cyxtera Communications, LLC f/k/a SAVVIS Communications, LLC, a Missouri limited liability company ("Cyxtera"). Each of Referral Partner and Cyxtera may be referred to as a "Party" and both of them, collectively, the "Parties".

WHEREAS, Referral Partner and Cyxtera desire to refer customers to the other pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, agreements, representations, and warranties contained in this Agreement, the Parties agree as follows:

1. Definitions. In addition to the terms defined in the body of this Agreement, the following terms shall have the meanings set forth below:

1.1. "Amendment" means any amendment to a Qualifying Service Order, including, but not limited to, for purposes of upgrading, adding on, renewing or discounting the Services provided under such Qualifying Service Order, as amended from time to time.

1.2. "Commissionable Sales Period" means a period of one (1) year from the date that the Referring Party submits a Lead Referral Form to the Selling Party with respect to a Referred Account, subject to earlier termination in accordance with the other provisions of this Agreement. For the avoidance of doubt, Commissionable Sales Period does not apply to Excluded Customers.

1.3. "Commissions" means seventeen percent (17%) of the Revenues received by the Selling Party with respect to a Qualifying Service Order or Amendment, subject to adjustment in accordance with the terms hereof.

1.4. "Confidential Information" means non-public information of the Parties hereto relating to their business activities, financial affairs, technology, marketing or sales plans that is exchanged by the Parties. Confidential Information of each Party includes the terms and pricing of the Agreement, business plans, unannounced information about Services, market intelligence, reporting, financial, and sales information. Confidential Information shall not include information which: (i) is or becomes public knowledge through no breach of the Agreement by the receiving Party, (ii) is received by recipient from a third party not under a duty of confidence, or (iii) is already known or is independently developed by the receiving Party without use of the Confidential Information.

1.5. "Qualifying Service Order" is any agreement for Services entered into between the Selling Party and a Referred Account during the Commissionable Sales Period, as amended from time to time.

1.6. "Referred Account" means any customer, other than an Excluded Customer, that is referred by Referring Party to Selling Party by submission of a Lead Referral Form.

1.7. "Referring Party" means the Party to this Agreement who refers a Referred Account to the Selling Party.

1.8. "Revenues" means the monthly recurring fees received by the Selling Party under a Qualifying Service Order or Amendment, less, taxes, discounts, refunds, surcharges, power (if metered and billed separately) and similar expenses, provided, that, if Selling Party marks up any surcharges, power or similar expenses, Revenues shall also include any such mark-up (and not, for the avoidance of



doubt, any pass through charges). For the avoidance of doubt, Revenues does not include any installation, one-time or non-recurring charges.

1.9. "Selling Party" means the Party to this Agreement who sells Services to a Referred Account.

1.10. "Services" means a Party's standard colocation services provided to a Referred Account by a Selling Party.

2. Appointment and Responsibilities. Subject to the terms and conditions of this Agreement, each Party hereby appoints the other Party as the non-exclusive representative for the introduction of the Selling Party and the services to prospective customers. Each Party hereby accepts such appointment on the terms and conditions of this Agreement. Referring Party is responsible for all costs, liabilities and obligations, including but not limited to any and all sub-commissions and other fees, incurred in connection with the performance of Referring Party hereunder. The Referring Party shall use commercially reasonable efforts to remain actively involved with Referred Accounts, including providing assistance with negotiations between such Referred Accounts and the Selling Party with respect to the provision of Services by Selling Party to such Referred Accounts. In the event the Selling Party concludes that the Referring Party is not actively involved with a Referred Account, the Selling Party may notify the Referring Party in writing and the Referring Party will have thirty (30) days to correct the deficiency, to the Selling Party's reasonable satisfaction. If, at the end of such thirty (30) day period, the Referring Party has not become sufficiently involved with the Referred Account to Selling Party's reasonable satisfaction, the Selling Party shall have the right to provide the Referring Party with written notice terminating the Commissionable Sales Period with respect to such Referred Account as of the date set forth in such notice and any obligation to pay Commissions with respect to such Referred Account for any Qualifying Service Order or Amendment entered into on or after the date set forth in such notice.

3. Contracts with Customers. All offers to purchase the services are subject to the Selling Party's written acceptance during the term of this Agreement and shall not be binding upon the Selling Party until such acceptance. Each offer to purchase services shall specify the material business terms of the offer. The Referring Party shall not contract with customers on behalf of the Selling Party. All agreements with respect to the services shall be solely between the Selling Party and the applicable customer. All payments by customers shall be made directly to the Selling Party. The Referring Party expressly acknowledges that the Selling Party may (i) accept or reject, in its sole discretion, any opportunity or service orders or customer agreements for services from any customer; and/or (ii) terminate any agreement or service order for services with any customer, in its sole discretion. The Selling Party shall have no liability to the Referring Party for payment that might have been earned under this Agreement but for the inability or failure of the Selling Party to contract with a customer.

4. Commissions. The Selling Party shall pay the Referring Party the Commissions within sixty (60) days of receipt of collected Revenue by the Selling Party. Upon written notice and acknowledgement of agreement by the other Party, the standard commission rate may be adjusted as necessary to win a particular deal. The Selling Party will use the address noted for the Referring Party in Section 14.4 of this Agreement for payment, invoice and notice purposes. The Selling Party's payment obligations under this Agreement are conditioned upon the Referring Party's providing the Selling Party with a properly completed and signed form W-9 for the Selling Party.

5. Referred Accounts. In no event shall a potential sales opportunity be considered a Referred Account unless Referring Party registers such potential sales opportunity by submitting a Lead Referral Form, in the form attached hereto as Exhibit A, to Selling Party. Further, in no event



shall a potential customer be considered a Referred Account or shall Selling Party be obligated to pay Referring Party any Commissions with respect to a customer that is an Excluded Customer (as defined below). All registrations must be completed in their entirety and properly submitted to the Selling Party. The Referring Party acknowledges and agrees that any referral of a prospective customer to the Selling Party by the Referring Party will be subject to acceptance by the Selling Party prior to such prospective customer being considered as a Referred Account and that the Selling Party will have no obligation to contract with any particular prospective customer referred by the Referring Party. The Selling Party shall be free, in its sole discretion, to set the price and structure of any and all purchases by the Referred Account. "Excluded Customer" means any customer that, prior to the submission of the Lead Referral Form, has: (1) previously entered into a service agreement with Selling Party or any Selling Party affiliated entity that is currently in effect or that expired or was terminated in the six (6) months immediately prior to the submission of the Lead Referral Form, (2) been referred or introduced to Selling Party or any Selling Party affiliated entity, by any other person and, at the time of the submission of the Lead Referral Form, Selling Party and customer are actively engaged in negotiations regarding the entering into of a service agreement, (3) been identified by Selling Party or any applicable Selling Party affiliated entity as a potential customer and, at the time of submission of the Lead Referral Form, Selling Party and customer are actively engaged in negotiations regarding the entering into of a service agreement, or (4) is at the time of submission of the Lead Referral Form actively registered as a lead for Selling Party by any salesperson, referral source, channel partner or other similar person or entity.

6. Customer Support. The Selling Party shall provide all customer support for the Services.

7. Confidential Information. Neither Party shall, without the prior written consent of the other Party, use or disclose the Confidential Information of the other Party to any third party, during the term of this Agreement and for five (5) years following the expiration or termination hereof. Each Party will take all reasonable precautions to protect the other Party's Confidential Information, using at least the same standard of care as it uses to maintain the confidentiality of its own Confidential Information. Notwithstanding the foregoing, a Party may disclose Confidential Information: (i) to any affiliates, consultants, contractors, and counsel who have a need to know in connection with this Agreement and have executed a reasonably protective non-disclosure agreement with the disclosing Party, or (ii) pursuant to legal process; provided that, the disclosing Party shall, unless legally prohibited, provide the non-disclosing Party with reasonable prior written notice sufficient to permit it an opportunity to contest such disclosure.

8. Intellectual Property. Nothing in the Agreement or the performance thereof shall convey, license, or otherwise transfer any right, title, or interest in any intellectual property or other proprietary rights held by either Party or its licensors. Neither Party shall, directly or indirectly, reverse engineer, decompile, reproduce or otherwise attempt to derive source code, trade secrets, or other intellectual property from any information, material, or technology of the other Party or its licensors.

9. Warranties; Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY AND ITS RESPECTIVE LICENSORS AND SERVICE PROVIDERS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY (INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE) REGARDING OR RELATING TO THE SERVICES OR ANY OTHER MATERIALS OR INFORMATION FURNISHED OR PROVIDED TO THE OTHER PARTY OR A CUSTOMER UNDER THIS AGREEMENT.



10. Termination.

10.1 Either Party may terminate this Agreement for convenience upon thirty (30) days' prior written notice to the other Party. In the event a Party terminates for convenience, such termination shall not curtail the Commissionable Sales Period with respect to any Referred Account referred by the non-terminating Party to the terminating Party prior to termination of this Agreement or otherwise affect the terminating Party's obligation to pay Commissions that may be or become due by the terminating Party to the non-terminating Party with respect to any Qualifying Service Order or Amendment. In the event of any such termination, such termination shall curtail the Commissionable Sales Period with respect to all Referred Accounts referred by the terminating Party to the non-terminating Party and the terminating Party shall remain entitled to Commissions with respect to Qualifying Service Orders and Amendments entered into before the date of such termination, but shall not be entitled to any Commissions with respect to Qualifying Service Orders or Amendments entered into on or after the date of such termination.

10.2 Either Party may terminate this Agreement immediately for cause upon written notice to the other Party if: (i) such other Party breaches any provision of this Agreement and fails to cure within thirty (30) days of receipt of written notice from the non-breaching Party; (ii) a voluntary petition under applicable bankruptcy or other insolvency law is filed by such Party; (iii) a receiver is appointed for the business affairs of such Party or such Party makes an assignment for the benefit of creditors; (iv) any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or other insolvency law is instituted against the such Party that is not dismissed within forty-five (45) days thereafter; or (v) such Party liquidates or ceases doing business as a going concern. In the event a Party terminates pursuant to this Section 10.2, such termination shall (1) immediately terminate (a) the Commissionable Sales Period with respect to all Referred Accounts referred by the breaching Party to the non-breaching Party and (b) the non-breaching Party's obligation to make any further payments of Commissions to the breaching Party with respect to any Qualifying Service Orders or Amendments, whether entered into before or after the date of such termination, and (2) not curtail the Commissionable Sales Period with respect to any Referred Account referred by the non-breaching Party to the breaching Party prior to termination of this Agreement or otherwise affect the breaching Party's obligation to pay Commissions that may be or become due by the breaching Party to the non-breaching Party with respect to any Qualifying Service Order or Amendment.

10.3 The provisions of Sections 1, 4, 5, 8, 9, 10, 11, 12, 13 and 14 and any other provisions that by their nature should survive shall survive the expiration or termination of this Agreement for any reason.

11. Limitation Of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY'S TOTAL AND CUMULATIVE LIABILITY FOR ALL CLAIMS ARISING OUT OF THIS AGREEMENT, EXCLUDING CLAIMS FOR COMMISSIONS DUE HEREUNDER WHICH SHALL NOT BE LIMITED, REGARDLESS OF THE NATURE OF THE CLAIM OR FORM OF ACTION, EXCEED USD \$10,000 (TEN THOUSAND UNITED STATES DOLLARS). TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF PROFITS, BUSINESS OPPORTUNITY, REVENUE, GOODWILL OR DATA, EVEN IF SUCH PARTY HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING IN THIS SECTION 11 TO THE CONTRARY, IN NO EVENT SHALL ANY OF THE LIMITATIONS IN THIS SECTION 11 LIMIT A PARTY'S LIABILITY FOR (1) SUCH PARTY'S



INDEMNIFICATION OBLIGATIONS HEREUNDER OR (2) SUCH PARTY'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

12. Indemnification. Each Party (the "Indemnifying Party") shall indemnify, defend and hold the other (and all officers, directors, employees, agents and affiliates thereof) (collectively, the "Indemnified Parties") harmless from and against any and all claims, demands, actions, losses, damages, assessments, charges, liabilities, costs and expenses (including, without limitation, interest, reasonable attorneys' fees and disbursements) which may at any time be suffered or incurred by, or be asserted against, the Indemnified Parties, directly or indirectly, on account of or in connection with (i) the Indemnifying Party's default or breach under this Agreement or (ii) any broker or other intermediary acting or purporting to have acted on behalf of the Indemnifying Party or, to the Indemnifying Party's knowledge, on behalf of a Referred Account referred by the Indemnifying Party.

13. Anti-Corruption. The Selling Party's obligations under this Agreement include compliance with the Foreign Corrupt Practices Act ("FCPA"), and all applicable anti-bribery and anti-corruption laws of other nations, including, but not limited to, the UK Bribery Act (collectively, "Anti-Corruption Laws"). The FCPA prohibits U.S. issuers, such as Cyxtera and its affiliates, from providing or offering to provide a payment or anything of value to a foreign (non-U.S.) government official, foreign political party, or candidate or other "foreign official" as defined under the FCPA, to influence an act, or decision of the official or of his government, or to secure an improper advantage, in order that Cyxtera obtain or retain business for itself or another. In performance of this Agreement, each Party, its employees, contractors and affiliates will not (i) make or arrange any contact with or (ii) make or cause to be made, any payment or offer of anything of value to any foreign (non-U.S.) government official or political party, or candidate without prior written approval. If, in connection with the performance of this Agreement, anyone, including a foreign official or an agent thereof, requests or solicits either Party to provide a payment or anything of value to influence an act or decision of the official or his/her government, or to secure an improper advantage, in order that Referral Partner or Cyxtera obtain or retain business for itself or another, each Party will refuse to make such payment or provide such thing of value and will immediately report the incident to the other Party. Each Party further represents, warrants and certifies that it, including its personnel, subcontractors and affiliates currently complies with, and shall continue to comply with, all applicable Anti-Corruption Laws and the other Party's policies in all countries in which it provides services and will not take any actions that would result in a violation of Anti-Corruption Laws by the Selling Party or an affiliate. Any written approvals, incident reporting and/or questions regarding the obligations of (i) Referral Partner hereunder shall be directed to IntegrityLine@CenturyLink.com and (ii) Cyxtera hereunder shall be directed to jcunningham@bcmone.com. The Referring Party shall make its books and records available to the Selling Party for inspection upon the Selling Party's request, so that the Selling Party can evaluate whether Referring Party has devised and maintained a system of internal controls sufficient to provide reasonable assurances that (a) Referring Party has complied with the terms of this provision; and (b) Referring Party's accounts accurately and fairly reflect, in reasonable detail, Referring Party's transactions and payments in furtherance of its performance under this Agreement.

14. Miscellaneous.

14.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to its principles for resolving conflicts of law. In the event of litigation, each Party expressly waives its right to have its claims or defenses heard by a jury. The UN Convention on International Sale of Goods shall not apply. Nothing herein shall limit a Party's ability to seek injunctive relief in a court of competent jurisdiction and each Party acknowledges that any breach or threatened breach of this Agreement involving the other Party's



Confidential Information or intellectual property will result in irreparable harm for which damages would not be an adequate remedy, and therefore, in addition to its rights and remedies otherwise available at law, each Party shall be entitled to seek injunctive or other equitable relief, as appropriate.

14.2 Escalation of Disputes & Resolution. In the event of any dispute or disagreement between the Parties with respect to this Agreement, then upon the written request of either Party, each of the Parties will appoint a designated representative whose task it will be to meet for the purpose of endeavoring to resolve such dispute and/or to negotiate an adjustment to such provision of this Agreement, which once approved by authorized signatories will be memorialized in writing as an amendment to this Agreement. The designated representatives shall meet as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the Parties believe to be appropriate and germane in connection with its resolution. Such representatives will discuss the problem and/or negotiate in good faith in an effort to resolve the dispute or renegotiate the applicable article or provision of this Agreement without the necessity of any formal proceeding relating thereto. During the course of such negotiation, all reasonable requests made by one Party to the other for information will be honored in order that each of the Parties may be fully advised of the premises for the dispute. The specific format for such discussions will be left to the discretion of the designated representatives but may include the preparation of agreed upon statements of fact or written statements of position to the other Party. Subject to the last sentence in Section 14.1, the Parties agree to comply with this escalation procedure prior to commencing any formal legal proceeding. If the dispute is not resolved at the conclusion of the foregoing process, the Parties agree that the dispute will be settled by arbitration to be conducted in accordance with the Judicial Arbitration and Mediation Services ("JAMS") Comprehensive Arbitration Rules. The Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law, will govern the arbitrability of disputes. This Agreement will otherwise be governed by the laws of the State of Florida without regard to its choice of law principles. The costs of the arbitration, including the arbitrator's fees, will be shared equally by the Parties; provided, however, that each Party will bear the cost of preparing and presenting its own claims and/or defenses (including its own attorneys' fees). The venue for arbitration will be Miami, Florida. A single arbitrator engaged in the practice of law, who is knowledgeable about the subject matter of this Agreement, will conduct the arbitration. The arbitrator is bound to apply and enforce the terms of this Agreement. The arbitrator's decision will be final, binding, and enforceable in a court of competent jurisdiction. If a Party is required to enforce compliance with this Section (e.g., submission of dispute to arbitration or nonpayment of an award), then the noncomplying Party must reimburse all of the costs and expenses incurred by the Party seeking such enforcement (including reasonable attorneys' fees).

14.3 Assignment. This Agreement and any rights and obligations hereunder may not be transferred or assigned by either Party, whether by operation of contract, law or otherwise, without the other Party's prior written consent, and any attempted assignment without such consent shall be null and void. Notwithstanding the foregoing, either Party may assign this Agreement or a portion thereof: (i) in the event of a merger in which the Party is not the surviving entity; (ii) in the event of a sale of all or substantially all of its assets; or (iii) to any Party that controls, is controlled by or is in common control with such Party. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

14.4 Notices. With the exception of ordinary course operational or administrative communications, for which electronic mail shall suffice, any notice required or permitted to be given hereunder or required by law must be in writing and delivered to the attention of the receiving Party's legal department at the address listed below by: (a) registered or certified mail, return receipt requested, (b) reputable overnight courier, or (c) personal delivery confirmed in writing by the receiving Party. Notices shall be deemed received upon the date of delivery shown by the corresponding confirmation.



Any Party may change its address for notification under this Agreement, by notifying the other Parties in accordance with this Section.

If to Referral Partner

Business Communications Management, Inc.
521 Fifth Avenue, 14th Floor
New York, NY 10175
Attn.: John Cunningham and Legal Department

If To Cyxtera:

Cyxtera Communications, LLC
c/o Cyxtera Technologies, Inc.
2333 Ponce De Leon Blvd., Suite 900
Coral Gables, Florida 33134
Attention: Legal Department

14.5 Independent Contractors. The relationship between the Parties established by this Agreement is that of independent contractors. Neither Party has the power to control or direct the other Party's activities, to make any decisions on behalf of the other Party, or to act on behalf of or obligate the other Party in any way. Each Party is responsible for its own employees and the taxes and other governmental charges (including unemployment insurance, benefits and the like) associated with those employees. Each party is responsible for any taxes (i.e. any foreign, federal, state, local or other government charges, including, without limitation, all government excise, use, sales, value-added, or occupational levies and charges, regulatory administration and similar pass through fees, and other similar surcharges and levies, but excluding any taxes based on the other Party's net income) that may be applicable or arise as a result of the Selling Party's payment of Commissions to the Referring Party hereunder.

14.6 Force Majeure. Neither Party shall be liable to the other Party for its failure to perform any of its obligations under this Agreement (except with respect to any payment obligations or any violations or breaches with respect to the protection or use of Confidential Information) during any period in which such performance is delayed or rendered impracticable or impossible due to circumstances beyond the nonperforming Party's reasonable control.

14.7 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, the provision will be enforced to the maximum extent permissible so as to give effect to the intent of the Parties, and the remaining provisions of this Agreement will remain in full force and effect.

14.8 Waiver. The waiver of a breach of any provision of this Agreement shall not constitute a waiver of any other provision or any subsequent breach. All waivers must be in a writing signed by the waiving Party.

14.9 Construction. The headings of Sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to." In the event of any inconsistency between the terms of this Agreement and the terms of any Exhibits or other attachments hereto, the terms of this Agreement shall prevail.

14.10 Entire Agreement; Amendments. This Agreement (including the Exhibits and any other attachments hereto) contains the entire agreement of the Parties with respect to the subject



matter of this Agreement and supersedes all previous or contemporaneous communications, representations, proposals, commitments, understandings and agreements, whether written or oral, between the parties regarding the subject matter hereof. This Agreement may only be amended by a writing signed by authorized representatives of all Parties hereto.

14.11 Counterparts; Facsimile or Scanned Signatures. This Agreement may be executed in counterparts, each of which will be deemed an original and which together will constitute one and the same instrument. Facsimile or scanned signatures and/or signed facsimile or scanned copies of this Agreement shall legally bind the Parties to the same extent as originals.

14.12 Third Party Rights. This Agreement does not create any rights for any person or party who is not a party to it, and no such person or party may enforce any of terms, or rely on any exclusion or limitation contained in, this Agreement.

IN WITNESS WHEREOF, Cyxtera and Referral Partner have caused this Agreement to be signed by their duly authorized representatives.

Business Communications Management, Inc.

By: [Signature]
Printed Name: John P. Cunningham
Title: CEO
Date: 9/20/2017

Cyxtera Communications, LLC

DocuSigned by:
By: [Signature]
Printed Name: Rene A. Rodriguez
Title: CFO
Effective Date: 09/20/2017



EXHIBIT A—LEAD REFERRAL FORM

REFERRAL TO CYXTERA OR REFERRAL PARTNER

CLIENT OPPORTUNITY:

CLIENT NAME:

CLIENT ADDRESS:

CLIENT WEBSITE:

CONTACT NAME:

CONTACT TITLE:

CONTACT NUMBER:

CONTACT EMAIL:

DATA CENTER LOCATION:

APPROX POWER REQUIREMENT:

APPROX CABINET REQUIREMENT:

PARTNER CONTACT:

PARTNER NUMBER & EMAIL:

TIMEFRAME FOR INSTALLATION:

SPECIAL INSTRUCTIONS/NOTES: