

**EXHIBIT 3**

**COPY OF CONTRACT WITH UNDERLYING CARRIER**

[Redacted to protect confidential, commercially-sensitive information]

**TELECOMMUNICATIONS SERVICES AGREEMENT**  
(Switched Services)

This Telecommunications Services Agreement (the "TSA") is entered into as of the 23<sup>rd</sup> day of , 2008, by and between MCI WORLDCOM NETWORK SERVICES, INC., a Delaware corporation, with its principal office at 6929 North Lakewood Avenue, Tulsa, Oklahoma 74117 ("MCI") and LOCUS TELECOMMUNICATIONS, INC., a New York corporation, with its principal office at 111 Sylvan Avenue, Englewood Cliffs, New Jersey 07632 ("Customer").

In consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Switched Services; Other Documents; Start of Service.**

(A) **Services** MCI agrees to provide and Customer agrees to accept and pay for switched telecommunications services and other associated services (collectively the "Switched Services") as further described in the "Attachments" attached hereto and incorporated herein by reference, which describe the particular services, rates, specific terms and other information necessary or appropriate for MCI to provide the Switched Services to Customer. The Switched Services provided by MCI are subject to (i) the terms and conditions contained in this TSA and the Program Enrollment Terms (the "PET") which is attached hereto and incorporated herein by reference, (ii) the rates and discounts and other applicable terms set forth in Attachment(s) attached hereto from time to time and incorporated herein by reference, and (iii) each Service Request (described below) which is accepted hereunder. The PET, as subscribed to by the parties, shall set forth the Effective Date, the Service Term, Customer's minimum monthly commitment, if any, and other information necessary to provide the Switched Services under this TSA. In the event of a conflict between the terms of this TSA, the PET, the Attachments and the Service Request(s), the following order of precedence will prevail: (1) the PET, (2) the Attachments, (3) this TSA, and (4) Service Request(s). This TSA, the PET, and the applicable Attachments are sometimes collectively referred to as the "Agreement".

(B) **Service Requests** Customer's requests to initiate or cancel Switched Services shall be described in an appropriate MCI Service Request ("Service Request"). A Service Request may consist of machine-readable tapes, facsimiles or other means approved by MCI. Further, Service Requests shall specify all reasonable information, as determined by MCI, necessary or appropriate for MCI to provide the Switched Service(s) in question, which shall include without limitation, the type, quantity and end point(s) (when necessary) of circuits comprising a Service Interconnection as described in the applicable Service Schedules, or automatic number identification ("ANI") information relevant to the Switched Service(s), the "Requested Service Date", and charges, if any, relevant to the Switched Services described in the Service Request.

(C) **Start of Service** MCI's obligation to provide and Customer's obligation to accept and pay for non-usage sensitive charges for Switched Services shall be binding to the extent provided for in this Agreement upon the submission of an acceptable Service Request to MCI by Customer. Customer's obligation to pay for usage sensitive charges for Switched Services shall commence with respect to any Switched Service as of the date the Switched Service in question is made available to and used by Customer ("Start of Service"), but in no event later than the "Requested Service Date" if such Switched Service is available for Customer's use as of such Requested Service Date. Start of Service for particular Services shall be further described in the Attachment(s) relevant to the Switched Services in question.

(D) Portfolio™ MCI agrees to allow Customer to utilize MCI's "Portfolio™", which allows Customer to electronically access its account(s), and provision and maintain its telecommunications services through various applications as determined by MCI. Customer will receive access to Portfolio™ following Customer's completion of MCI's "Portfolio™ Enrollment Form" which will designate Customer's Portfolio™ applications and any applicable charges. Except as expressly provided herein, Customer agrees to not modify, incorporate with other products/services or distribute externally, any information, products, or other content which are provided to Customer or which Customer accesses on or through Portfolio™. Customer agrees to use Portfolio™ only in conjunction with the telecommunications services provided by MCI. Customer agrees that all terms and conditions set forth in this Agreement will apply to Portfolio™ including, without limitation, limitation of liability, indemnity and confidentiality. Customer will not, nor will Customer authorize or permit any third party to, translate, decompile, reverse-engineer, disassemble, or otherwise determine or attempt to determine source code from the executable code of software provided by MCI in conjunction with Portfolio™ or create derivative works based on such software. Customer agrees to not sublicense or assign Customer's rights to use Portfolio™ to any third party without MCI's prior written consent. Customer acknowledges that all title, ownership rights, copyrights and other intellectual property rights in and to Portfolio™ including any software provided hereunder will remain in MCI and/or its licensors. Neither MCI nor its licensors makes any representations or warranties, either express or implied (including but not limited to warranties of merchantability, noninfringement, title or fitness for a particular purpose) regarding Portfolio™ or that Portfolio™, or Customer's use thereof, will be free from errors, defects, omissions, inaccuracies, or failures or delays in delivery of data. In addition, Customer assumes, and MCI and its licensors disclaim, total risk, responsibility and liability for Customer's use of Portfolio™.

2. Cancellation.

(A) Cancellation Charge At any time after the Effective Date, Customer may cancel this Agreement if Customer provides written notification thereof to MCI not less than thirty (30) days prior to the effective date of cancellation. In such case (or in the event MCI terminates this Agreement as provided in Section 7), Customer shall pay to MCI all charges for Services provided through the effective date of such cancellation plus a cancellation charge (the "Cancellation Charge") equal to one hundred percent (100%) of Customer's commitment(s), if any, (as described in the PET) that would have become due for the unexpired portion of the Service Term.

(B) Liquidated Damages It is agreed that MCI's damages in the event Customer cancels this Agreement shall be difficult or impossible to ascertain. The provision for a Cancellation Charge in Subsection 2(A) above is intended, therefore, to establish liquidated damages in the event of a cancellation and is not intended as a penalty.

(C) Cancellation Without Charge Notwithstanding anything to the contrary contained in Subsection 2(A) above, Customer may cancel this Agreement, as provided below, without incurring any cancellation charge (other than payment for Services provided by MCI up through the effective date of cancellation) if (i) MCI fails to provide a network as warranted in Section 8 below; (ii) MCI fails to deliver call detail records promptly based on the frequency selected by Customer (i.e., monthly, weekly or daily); or (iii) MCI fails to submit ANI(s) relevant to Customer's Service Requests to the applicable local exchange companies ("LECs") within the time period described in applicable Attachment(s). Provided, however, Customer must give MCI written notice of any such default and an opportunity to cure such default within five (5) days of the

notice. In the event MCI fails to cure any such default within the five-day period on more than three (3) occasions within any six (6) month period, Customer may cancel this Agreement without incurring any cancellation charge.

3. Customer's End Users.

(A) End Users Customer will obtain, and upon MCI's request provide MCI (within two (2) business days of the date of the request), a written Letter of Agency ("LOA") acceptable to MCI (or with any other means if approved by the Federal Communications Commission ("FCC"), the applicable public utility commission ("PUC") and the applicable LEC), for each ANI indicating the consent of such end user of Customer ("End User") to be served by Customer and transferred (by way of change of such End User's designated presubscribed interexchange carrier (PIC) or designated local exchange carrier) to the MCI network prior to submitting a Service Request to MCI. Each LOA will provide, among other things, that the End User has consented to the transfer being performed by Customer or Customer's designee. When applicable, Customer will be responsible for notifying its End Users, in writing (or by any other means if approved by the FCC, the applicable PUC and the applicable LEC) that (i) a transfer charge will be reflected on their LEC bill for effecting a change in their PIC, (ii) the entity name under which their interstate, intrastate, local and/or operator services will be billed (if different from Customer), and (iii) the "primary" telephone number(s) to be used for maintenance and questions concerning their telecommunications services and/or billing. Customer agrees to send MCI a copy of the documentation Customer uses to satisfy the above requirements promptly upon request of MCI. MCI may change the foregoing requirements for Customer's confirming orders and/or for notifying End Users regarding the transfer charge at any time in order to conform to applicable FCC and state regulations. Provided, however, Customer will be solely responsible for ensuring that the transfer of End Users to the MCI network conforms with applicable FCC and state regulations, including without limitation, the regulations established by the FCC with respect to verification of orders for long distance service generated by telemarketing as promulgated in 47 C.F.R., Part 64, Subpart K, §64.1100 or any successor regulation(s).

(B) Transfer Charges/Disputed Transfers Customer agrees that it is responsible for (i) all charges incurred by MCI to change the PIC of End Users to the MCI network, (ii) all charges incurred by MCI to change End Users back to their previous PIC arising from disputed transfers to the MCI network plus, at MCI's option, an administrative charge equal to twenty percent (20%) of such charges, and (iii) any other damages or costs suffered by or awards against MCI resulting from disputed transfers.

(C) Excluded ANIs Customer agrees to provide all ANIs to be carried on the MCI network prior to the provisioning of such ANIs with the LECs. MCI has the right to reject any ANI supplied by Customer for any of the following reasons: (i) MCI is not authorized to provide or does not provide long distance services in the particular jurisdiction in which the ANI is located, (ii) a particular ANI submitted by Customer is not in proper form, (iii) Customer is not certified to provide long distance services in the jurisdiction in which the ANI is located, (iv) Customer is in material default of this Agreement, (v) Customer fails to cooperate with MCI in implementing reasonable verification processes determined by MCI to be necessary or appropriate in the conduct of business, (vi) such ANI is rejected by a LEC (e.g., "PIC freezes"), or (vii) any other circumstance reasonably determined by MCI which could adversely affect MCI's performance under this Agreement or MCI's general ability to transfer its other customers or other end users to the MCI network, including without limitation, MCI's ability to electronically effect PIC changes with the LECs. In the event MCI rejects an ANI, MCI will notify Customer of its decision specifically describing the rejected ANI and the reason(s) for rejecting that ANI, and will not incur any further liability under this Agreement with regard to that ANI. Further, MCI may deactivate

any ANI previously requested by Customer for Switched Services if no Switched Services billings relevant thereto are generated in any three (3) consecutive calendar month/billing periods. MCI will be under no obligation to accept ANIs submitted by Customer within the last full calendar month period preceding the scheduled expiration of the Service Term.

(D) Records Customer will maintain documents and records ("Records") supporting Customer's re-sale of Switched Services, including, but not limited to, appropriate and valid documentation of each subscribing End User's authorization to Customer to act as the End User's PIC for a period of not less than twelve (12) months or such longer period as may be required by applicable law, rule or regulation. Customer shall indemnify MCI for any and all costs, charges or expenses incurred by MCI arising from disputed PIC selections involving Switched Services to be provided to Customer.

(E) Customer Service Customer will be solely responsible for billing its End Users and providing such End Users with customer service. Customer agrees to notify MCI as soon as reasonably possible in the event an End User notifies Customer of problems associated with the Switched Services, including without limitation, excess noise, echo, or loss of service.

#### 4. Customer's Responsibilities.

(A) Expedite Charges In the event Customer requests expedited services and/or changes to Service Requests and MCI agrees to such request, MCI will pass through the charges assessed by any supplying parties (e.g., local access providers) for such expedited charges and/or changes to Service Requests involved at the same rate to Customer. Additionally, MCI may assess Customer and Customer agrees to pay MCI an Expedite Administrative Charge of \$~~500~~ per Service Order and \$~~500~~ per record/number for each expedited request. MCI may further condition its performance of such request upon Customer's payment of such additional charges to MCI.

(B) Fraudulent Calls Customer shall indemnify and hold MCI harmless from any and all costs, expenses, damages, claims or actions arising from fraudulent calls of any nature which may comprise a portion of the Switched Services to the extent that the party claiming the call(s) in question to be fraudulent is (or had been at the time of the call) an End User of such Switched Services through Customer or an end user of the Switched Services through Customer's distribution channels. Customer shall not be excused from paying MCI for Switched Services provided to Customer or any portion thereof on the basis that fraudulent calls comprised a corresponding portion of the Switched Services. In the event MCI discovers fraudulent calls being made (or reasonably believes fraudulent calls are being made), nothing contained herein shall prohibit MCI from taking immediate action (without notice to Customer) that is reasonably necessary to prevent such fraudulent calls from taking place, including without limitation, denying Switched Services to particular ANIs or terminating Switched Services to or from specific locations. Provided, however, nothing contained herein will impose any obligation on MCI to take any action with respect to fraudulent calls.

#### 5. Charges and Payment Terms.

(A) Payment MCI billings for Switched Services hereunder are made on a monthly basis (or such other basis as may be mutually agreed to by the parties) following Start of Service. Subject to Subsection 5(C) below, Switched Services shall be billed at the rates set forth in the applicable Attachment(s). Discounts, if any, applicable to the rates for certain Services are set forth in the applicable Attachment(s). Customer will pay all undisputed charges relative to each MCI invoice for Switched Services within thirty (30) days of the invoice date set forth on each MCI

invoice to Customer ("**Due Date**"). If payment is not received by MCI on or before the Due Date, Customer shall also pay a late fee in the amount of the lesser of one and one-half percent (1½%) of the unpaid balance of the charges for Switched Services rendered per month or partial month that such payment is late, or the maximum lawful rate under applicable state law.

(B) Taxes Customer acknowledges and understands that MCI computes all charges herein exclusive of any applicable federal, state or local use, excise, gross receipts, sales and privilege taxes, duties, fees or similar liabilities (other than general income or property taxes), whether charged to or against MCI or Customer because of the Switched Services furnished to Customer ("**Additional Charges**"). Customer shall pay such Additional Charges in addition to all other charges provided for herein. Customer will not be liable for certain Additional Charges if Customer provides MCI with an appropriate exemption certificate.

(C) Modification of Charges MCI reserves the right to eliminate particular Switched Services upon at least sixty (60) days prior notice to Customer. Additionally, MCI reserves the right upon notice (hereinafter referred to as the "**Rate Modification Notice**") to modify charges for particular Switched Services (which charge modifications shall not exceed then-current generally available MCI charges for comparable services), as follows:

- (i) with respect to domestic (i.e., within the contiguous 48 United States) Switched Services, upon not less than sixty (60) days prior notice to Customer;
- (ii) with respect to International Switched Services (excluding International CARRIER TERMINATION Service and International END USER DEDICATED 1+ Service), upon not less than thirty (30) days prior notice to Customer; and,
- (iii) with respect to International CARRIER TERMINATION Service and International END USER DEDICATED 1+ Service, upon not less than seven (7) days prior notice to Customer.

Any Rate Modification Notices described in this Subsection (C) will state the effective date for the charge modification. In the event MCI notifies Customer of the elimination of a particular Switched Service and/or an increase in the charges, Customer may terminate this Agreement without incurring a cancellation charge (other than payment for Services provided by MCI up through the effective date of cancellation) only with respect to the Switched Service(s) affected by the increase in charges. In order to cancel such Switched Service(s), Customer must notify MCI, in writing, within thirty (30) days from the date of MCI's Rate Modification Notice. In the event Customer cancels its subscription to a particular Switched Service as described in this Subsection 5(C), MCI and Customer agree to negotiate in good faith concerning Customer's minimum monthly commitment, if any, described in the PET.

(D) Billing Disputes Notwithstanding the foregoing, amounts reasonably disputed by Customer (along with late fees attributable to such amounts) shall not be due and payable for a period of sixty (60) days following the Due Date therefor, provided Customer: (i) pays all undisputed charges on or before the Due Date, (ii) presents a written statement and supporting documentation of any billing discrepancies to MCI in reasonable detail on or before the Due Date of the invoice in question, and (iii) negotiates in good faith with MCI for the purpose of resolving such dispute within said sixty (60) day period. MCI will have the right to exercise its remedies as described in Section 7 below with respect to any amounts not paid or disputed as described herein. Nothing contained herein will limit Customer's right to dispute amounts at any time following thirty (30) days after the applicable Due Date, provided, however, MCI shall not be obligated to consider any Customer notice of billing discrepancies which are received by MCI

more than sixty (60) days following the applicable Due Date of the invoice in question. Each party agrees to negotiate in good faith for the purpose of resolving any properly raised disputes subject to the following:

(i) In the event such dispute is mutually agreed upon and resolved in favor of MCI, Customer agrees to pay MCI the disputed amounts together with any applicable late fees within ten (10) days of the resolution (the "Alternate Due Date").

(ii) In the event such dispute is mutually agreed upon and resolved in favor of Customer, Customer will receive a credit for the disputed charges in question and the applicable late fees.

(iii) In the event MCI has responded to Customer's dispute in writing and the parties fail to mutually resolve or settle the dispute within such sixty (60) day period (unless MCI has agreed in writing to extend such period) all disputed amounts together with late fees shall become due and payable, and this provision shall not be construed to prevent Customer from pursuing any available legal remedies.

6. Credit; Creditworthiness:

(A) Credit Customer's execution of this Agreement signifies Customer's acceptance of MCI's initial and continuing credit approval procedures and policies. MCI reserves the right to withhold initiation or full implementation of any or all Switched Services under this Agreement pending MCI's initial satisfactory credit review and approval thereof which may be conditioned upon terms specified by MCI, including, but not limited to, security for payments due hereunder in the form of a cash deposit or other means. MCI reserves the right to modify its requirements, if any, with respect to any security or other assurance provided by Customer for payments due hereunder in light of Customer's actual usage when compared to projected usage levels upon which any security or assurance requirement was based.

(B) Creditworthiness If at any time there is a material adverse change in Customer's creditworthiness, then in addition to any other remedies available to MCI, MCI may elect, in its sole discretion, to exercise one or more of the following remedies: (i) cause Start of Service for Switched Services described in a previously executed Service Request to be withheld; (ii) cease providing Switched Services pursuant to a Suspension Notice in accordance with Section 7(A); (iii) decline to accept a Service Request or other requests from Customer to provide Switched Services which MCI may otherwise be obligated to accept; and/or (iv) condition its provision of Switched Services or acceptance of a Service Request on Customer's assurance of payment which shall be a deposit or such other means to establish reasonable assurance of payment. An adverse material change in Customer's creditworthiness shall include, but not be limited to: (a) Customer's material default of its obligations to MCI under this or any other agreement with MCI; (b) failure of Customer to make full payment of all undisputed charges due hereunder on or before the Due Date (or disputed charges on or before the Alternate Due Date) on three (3) or more occasions during any period of twelve (12) or fewer months or Customer's failure to make such payment on or before the Due Date (or the Alternate Due Date, if applicable) in any two (2) consecutive months; (c) acquisition of Customer (whether in whole or by majority or controlling interest) by an entity which is insolvent, which is subject to bankruptcy or insolvency proceedings, which owes past due amounts to MCI or any entity affiliated with MCI or which is a materially greater credit risk than Customer; or, (d) Customer's being subject to or having filed for bankruptcy or insolvency proceedings or the legal insolvency of Customer.

7. Remedies for Breach.

(A) Suspension of Service In the event all undisputed charges due pursuant to MCI's invoice are not paid in full by the Due Date or disputed charges owed by Customer, if any, are not paid in full by the Alternate Due Date, MCI shall have the right, after giving Customer at least five (5) days prior notice and opportunity to pay such charges within such 5-day period, to suspend all or any portion of the Switched Services to Customer ("Suspension Notice") until such time (designated by MCI in its Suspension Notice) as Customer has paid in full all undisputed charges then due to MCI, including any late fees. Following such payment, MCI shall reinstitute Switched Services to Customer only when Customer provides MCI with satisfactory assurance of Customer's ability to pay for such Switched Services (i.e., a deposit, letter of credit or other means acceptable to MCI) and Customer's advance payment of the cost of reinstating such Switched Services. If Customer fails to make the required payment by the date set forth in the Suspension Notice, Customer will be deemed to have canceled this Agreement as of the date set forth in the Suspension Notice which cancellation shall not relieve Customer for payment of the Cancellation Charge as described in Section 2.

(B) Disconnection of Service In the event Customer is in material breach of this Agreement, including without limitation, failure to pay all undisputed charges due hereunder by the date stated in the Suspension Notice described in Subsection 7(A) above, MCI shall have the right, after giving Customer at least five (5) days prior written notice and opportunity to cure (which notice may be given instead of or in conjunction with the Suspension Notice described in Subsection 7(A) above), and in addition to foreclosing any security interest MCI may have, to (i) disconnect all or any portion of the Switched Services being provided hereunder; (ii) withhold billing information from Customer; (iii) contact the End Users (for whom calls are originated and terminated solely over facilities comprising the MCI network) directly and bill such End Users directly until such time as MCI has been paid in full for the amount owed by Customer; and/or (iv) terminate this Agreement. If Customer fails to make payment by the date stated in the Suspension Notice and MCI, after giving Customer five (5) days prior written notice, terminates this Agreement as provided in this Section 7, such termination shall not relieve Customer for payment of the Cancellation Charge as described in Section 2 above.

8. Warranty. MCI will use reasonable efforts under the circumstances to maintain its overall network quality. The quality of Switched Services provided hereunder shall be consistent with telecommunications common carrier industry standards, government regulations and sound business practices. **MCI MAKES NO OTHER WARRANTIES ABOUT THE SWITCHED SERVICES PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE.**

9. Liability; General Indemnity; Reimbursement.

(A) Limited Liability **IN NO EVENT WILL EITHER PARTY HERETO NOR ANY THIRD PARTY PROVIDER OR OPERATOR OF FACILITIES EMPLOYED IN THE PROVISION OF THE SWITCHED SERVICES BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSSES OR DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE, LOSS OF CUSTOMERS OR CLIENTS, LOSS OF GOODWILL OR LOSS OF PROFITS ARISING IN ANY MANNER FROM THIS AGREEMENT AND THE PERFORMANCE OR NONPERFORMANCE OF OBLIGATIONS HEREUNDER.**

(B) General Indemnity In the event parties other than Customer (e.g., Customer's End Users) shall have use of the Switched Services through Customer, then Customer agrees to forever indemnify and hold MCI, its affiliated companies and any third-party provider or operator of facilities employed in provision of the Switched Services harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which those parties may assert arising out of or relating to any defect in the Switched Services or MCI's provision or nonprovision of Switched Services under this Agreement.

(C) Reimbursement Customer agrees to reimburse MCI for all reasonable costs and expenses incurred by MCI due to MCI's direct participation (either as a party or witness) in any administrative, regulatory or criminal proceeding concerning Customer if MCI's involvement in said proceeding is based solely on MCI's provision of Switched Services to Customer.

10. Force Majeure. If either party's performance of this Agreement or any obligation hereunder (excluding Customer's obligation to pay for Switched Services rendered by MCI) is prevented, restricted or interfered with by causes beyond its reasonable control including, but not limited to, acts of God, fire, explosion, vandalism, cable cut by a third party, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government, or state or local governments, or of any department, agency, commission, court, bureau, corporation or other instrumentality of any one or more such governments, or of any civil or military authority, or by national emergency, insurrection, riot, war, strike, lockout or work stoppage or other labor difficulties, or supplier failure, shortage, breach or delay, then the affected party shall be excused from such performance on a day-to-day basis to the extent of such restriction or interference. The affected party shall use reasonable efforts under the circumstances to avoid or remove such causes of nonperformance and shall proceed to perform with reasonable dispatch whenever such causes are removed or cease.

11. State Certification. Customer warrants that in all jurisdictions in which it provides long distance or local services that require certification, it has obtained the necessary certification from the appropriate governmental authority and, if requested by MCI, agrees to provide proof of such certification acceptable to MCI. In the event Customer is prohibited, either on a temporary or permanent basis, from continuing to conduct its telecommunications operations in a given jurisdiction, Customer shall (i) immediately notify MCI by facsimile, (ii) send written notice to MCI within twenty-four (24) hours of such prohibition, and (iii) take immediate steps to suspend or discontinue its use of Switched Services in such jurisdiction.

12. Interstate/Intrastate Service. Except with respect to Switched Services specifically designated as intrastate Services or international Services, the rates provided to Customer in the applicable Attachments are applicable only to Switched Services if such Switched Services are used for carrying interstate telecommunications (i.e., Switched Services subject to FCC jurisdiction). MCI shall not be obligated to provide Switched Services with end points within a single state or Switched Services which originate/terminate at points both of which are situated within a single state. In those states where MCI is authorized to provide intrastate service (i.e., telecommunications transmission services subject to the jurisdiction of state regulatory authorities), MCI will, at its option, provide intrastate Switched Services pursuant to applicable state laws, regulations and applicable tariff, if any, filed by MCI with state regulatory authorities as required by applicable law.

13. Authorized Use of MCI Name; Press Releases. Without MCI's prior written consent, Customer shall not (i) refer to itself as an authorized representative of MCI whenever it refers to the Switched Services in promotional, advertising or other materials, or (ii) use the logos, trade marks, service marks, or any variations thereof of MCI or its affiliates in any of its promotional, advertising or other materials. Additionally, Customer shall provide to MCI for its prior review and written approval, all promotions, advertising or other materials or activity using or displaying MCI's name or the Services to

be provided by MCI. In the event MCI fails to provide its written approval such promotion, advertising or other materials shall be deemed not approved. Customer agrees to change or correct, at Customer's expense, any such material or activity which MCI, in its sole judgment, determines to be inaccurate, misleading or otherwise objectionable for any reason. Customer is explicitly authorized to only use the following statements in its sales literature or if in response to an inquiry by Customer's End User: (i) "Customer utilizes the MCI network", (ii) "Customer utilizes MCI's facilities", (iii) "MCI provides only the network facilities", and (iv) "MCI is our network services provider". Except as specifically provided in this Section 13, the parties further agree that any press release, advertisement or publication generated by a party regarding this Agreement, the Services provided hereunder or in which a party desires to mention the name of the other party or the other party's parent or affiliated company(ies), will be submitted to the non-publishing party for its written approval prior to publication.

14. **Notices.** Notices under this Agreement shall be delivered to the person identified below. Customer shall notify MCI in writing of Customer's billing address. The effective date for any notice under this Agreement shall be the date of actual receipt of such notice by the appropriate party.

**If to MCI:** MCI WORLDCOM Network Services, Inc.  
d/b/a MCI  
6929 North Lakewood Avenue; M.D. 5.1.406-1  
Tulsa, Oklahoma 74117  
Attn: Wholesale Services Contract Management

**If to Customer:**

*Rate Changes Only:*

Locus Telecommunications, Inc.  
111 Sylvan Ave.  
Englewood Cliffs, NJ 07632  
Attn: Dillon Kim  
Tel: 201-585-3682  
Fax: 201-947-4082  
E-mail: [dkim@locus.net](mailto:dkim@locus.net)  
With cc to: [rates@locus.net](mailto:rates@locus.net)

*All Other Notices:*

Locus Telecommunications, Inc.  
111 Sylvan Ave.  
Englewood Cliffs, NJ 07632  
Attn: Jason W. Chon, President  
Tel: 201-947-6100  
Fax: 201-947-6108  
E-mail: [jason@locus.net](mailto:jason@locus.net)

15. **No-Waiver.** No term or provision of this Agreement shall be deemed waived and no breach or default shall be deemed excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. A consent to waiver of or excuse for a breach or default by either party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

16. **Partial Invalidity; Government Action.**

(A) Partial Invalidity If any part of any provision of this Agreement or any other agreement, document or writing given pursuant to or in connection with this Agreement shall be invalid or unenforceable under applicable law, rule or regulation, that part shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of that provision or the remaining provisions of this Agreement. In such event, Customer and MCI will negotiate in good faith with respect to any such invalid or unenforceable part to the extent necessary to render such part valid and enforceable.

(B) Government Action Upon thirty (30) days prior notice, either party shall have the right, without liability to the other, to cancel an affected portion of the Switched Service if any material rate or term contained in this Agreement and relevant to the affected Switched Service is substantially changed (to the detriment of the terminating party) or found to be unlawful or the relationship between the parties hereunder is found to be unlawful by order of the highest court of competent jurisdiction to which the matter is appealed, the FCC, or other local, state or federal government authority of competent jurisdiction. Provided, the 30-day notice required hereunder may be shortened as necessary if such order goes into effect prior to thirty (30) days.

17. Exclusive Remedies. Except as otherwise specifically provided for herein, the remedies set forth in this Agreement comprise the exclusive remedies available to either party at law or in equity.

18. Use of Service. Upon MCI's acceptance of a Service Request hereunder, MCI will provide the Switched Services specified therein to Customer upon condition that such Switched Services shall not be used for any unlawful purpose. The provision of Switched Services is not intended to and will not create a partnership or joint venture between the parties or result in a joint communications service offering to any third parties, and MCI and Customer agree that this Agreement, to the extent it is subject to FCC regulation, is an inter-carrier agreement which is not subject to the filing requirements of Section 211(a) of the Communications Act of 1934 (47 U.S.C. § 211(a)) as implemented in 47 C.F.R. § 43.51.

19. Choice of Law; Forum.

(A) Law This Agreement shall be construed under the laws of the State of Oklahoma without regard to choice of law principles.

(B) Forum Any legal action or proceeding with respect to this Agreement may be brought in the Courts of the State of Oklahoma in and for the County of Tulsa or the United States of America for the Northern District of Oklahoma. By execution of this Agreement, both Customer and MCI hereby submit to such jurisdiction, hereby expressly waiving whatever rights may correspond to either of them by reason of their present or future domicile. In furtherance of the foregoing, Customer and MCI hereby agree to service by U.S. Mail at the notice addresses referenced in Section 14. Such service shall be deemed effective upon the earlier of actual receipt or seven (7) days following the date of posting.

20. Proprietary Information.

(A) Confidential Information The parties understand and agree that the terms and conditions of this Agreement (but not the existence thereof), all documents referenced herein (including invoices to Customer for Switched Services provided hereunder), communications between the parties regarding this Agreement or the Switched Services to be provided hereunder (including price quotes to Customer for any services proposed to be provided or actually provided hereunder), as well as such information relevant to any other agreement between the parties (collectively "Confidential Information"), are confidential as between Customer and MCI.

(B) Limited Disclosure A party shall not disclose Confidential Information (unless subject to discovery or disclosure pursuant to legal process), to any other party other than the directors, officers, and employees of a party or a party's agents including their respective attorneys, consultants, brokers, lenders, insurance carriers or bona fide prospective purchasers who have specifically agreed in writing to nondisclosure of the terms and conditions hereof. Any disclosure hereof required by legal process shall only be made after providing the non-disclosing party with notice thereof in order to permit the non-disclosing party to seek an appropriate protective order or exemption. Violation by a party or its agents of the foregoing provisions shall entitle the non-disclosing party, at its option, to obtain injunctive relief without a showing of irreparable harm or injury and without bond.

(C) Survival of Confidentiality The provisions of this Section 20 will be effective as of the date of this Agreement and remain in full force and effect for a period which will be the longer of (i) one (1) year following the date of this Agreement, or (ii) one (1) year from the termination or expiration of all Services hereunder.

21. Successors and Assignment This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns, provided, however, that Customer shall not assign or transfer its rights or obligations under this Agreement without the prior written consent of MCI, which consent shall not be unreasonably withheld or delayed, and further provided that any assignment or transfer without such consent shall be void.

22. General

(A) Survival of Terms The terms and provisions contained in this Agreement that by their sense and context are intended to survive the performance thereof by the parties hereto shall so survive the completion of performance and termination of this Agreement, including, without limitation, provisions for indemnification and the making of any and all payments due hereunder.

(B) Headings Descriptive headings in this Agreement are for convenience only and shall not affect the construction of this Agreement.

(C) Industry Terms Words having well-known technical or trade meanings shall be so construed, and all listings of items shall not be taken to be exclusive, but shall include other items, whether similar or dissimilar to those listed, as the context reasonably requires.

(D) Rule of Construction No rule of construction requiring interpretation against the drafting party hereof shall apply in the interpretation of this Agreement.

23. Entire Agreement This Agreement consists of (i) all the terms and conditions contained herein, and (ii) all documents incorporated herein specifically by reference. This Agreement constitutes the complete and exclusive statement of the understandings between the parties and supersedes all prior and contemporaneous proposals and agreements (oral or written) between the parties relating to the Switched Services provided hereunder. No subsequent agreement between the parties concerning the Switched Services (including further Attachments) shall be effective or binding unless it is made in writing and signed by Customer and MCI.

IN WITNESS WHEREOF, the parties have executed this Telecommunications Services Agreement (Switched Services) as of the dates set forth below which Agreement will be effective as described in the PET attached hereto.

LOCUS TELECOMMUNICATIONS, INC.,

MCI WORLDCOM NETWORK SERVICES, INC.

By: [Signature]  
(Signature)  
Jason Chen  
(Print Name)  
President  
(Title)  
6/21/04  
(Date)

By: [Signature]  
(Signature)  
John J. Nunziata  
(Print Name)  
Vice President  
(Title)  
6/23/04  
(Date)