

**INTERCONNECTION AGREEMENT
UNDER SECTIONS 251 AND 252
OF THE
TELECOMMUNICATIONS ACT OF 1996**

This Interconnection Agreement is being entered into by and between Illinois Bell Telephone Company¹ d/b/a AT&T Illinois ("AT&T Illinois"), and Geckotech, LLC ("CLEC" or "Requesting Carrier"), (each a "Party" and, collectively, the "Parties"), pursuant to Sections 251 and 252 of the Telecommunications Act of 1996 ("the Act").

RECITALS

WHEREAS, pursuant to Section 252(i) of the Act, CLEC has requested to adopt that certain Interconnection Agreement by and between AT&T Illinois and McLeodUSA Telecommunications Services, Inc. for the State of Illinois, which was approved by the Illinois Commerce Commission ("the Commission") under Section 252(e) of the Act on April 24, 2002 in docket number 02-0230, including any Commission approved amendments to such agreement (collectively the "Adopted Agreement"), which is incorporated herein by reference; and

WHEREAS, AT&T Illinois has agreed to make available to CLEC the Adopted Agreement for adoption in exchange for CLEC's agreement, in conjunction with its adoption of the Adopted Agreement, to amend such agreement to conform it to governing law; and

WHEREAS, the amendment(s) the Parties have agreed to on a negotiated basis to conform the Adopted Agreement to governing law, along with any other voluntarily negotiated provisions which are also set forth in this Interconnection Agreement (collectively "the MFN Agreement"), are all incorporated herein by this reference and are attached hereto and will be submitted to the Commission for approval; and

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CLEC and AT&T Illinois hereby agree as follows:

1.0 Incorporation of Recitals and Adopted Agreement by Reference

- 1.1 The foregoing Recitals are hereby incorporated into and made a part of the MFN Agreement.
- 1.2 Except as expressly stated herein, the Adopted Agreement (including any and all applicable Appendices, Schedules, Exhibits, Attachments and Commission-approved Amendments thereto) is incorporated herein by this reference and forms an integral part of the MFN Agreement.

2.0 Modifications to Adopted Agreement

- 2.1 References in the Adopted Agreement to "McLeodUSA Telecommunications Services, Inc.", or "CLEC," or to "Other" shall for purposes of the MFN Agreement be deemed to refer to CLEC as defined herein.
- 2.2 References in the Adopted Agreement to the "Effective Date," the date of effectiveness thereof and like provisions shall for purposes of the MFN Agreement be deemed to refer to the date which is ten (10) days following Commission approval of the MFN Agreement or, absent Commission approval, the date the MFN Agreement is deemed approved under Section 252(e)(4) of the Act. In addition, the MFN Agreement shall expire on February 23, 2010.
- 2.3 The Notices Section in the Adopted Agreement is hereby revised to reflect that Notices should be sent to CLEC under the MFN Agreement at the following address:

¹ Illinois Bell Telephone Company (previously referred to as "Illinois Bell" or "SBC Illinois") now operates under the name "AT&T Illinois" pursuant to an assumed name filing with the State of Illinois.

NOTICE CONTACT	CLEC CONTACT
NAME/TITLE	Joshua Robbins/Managing Partner
STREET ADDRESS	300 N. Elizabeth Street, Suite 510-C
CITY, STATE, ZIP CODE	Chicago, IL 60607
FACSIMILE NUMBER	312-948-2994

- 2.4 The Notices Section in the Adopted Agreement is hereby revised to reflect that Notices should be sent to AT&T Illinois under the MFN Agreement at the following address:

NOTICE CONTACT	AT&T-13STATE CONTACT
NAME/TITLE	Contract Management ATTN: Notices Manager
STREET ADDRESS	311 S. Akard, 9 th Floor Four AT&T Plaza
CITY, STATE, ZIP CODE	Dallas, TX 75202-5398
FACSIMILE NUMBER	214-464-2006

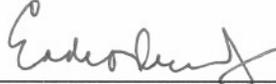
3.0 Clarifications

- 3.1 In entering into this MFN Agreement, the Parties acknowledge and agree that neither Party waives, and each Party expressly reserves, any of its rights, remedies or arguments it may have at law or under the intervening law or regulatory change provisions in this MFN Agreement (including intervening law rights asserted by either Party via written notice as to the Adopted Agreement), with respect to any orders, decisions, legislation or proceedings and any remands by the FCC, state utility commission, court, legislature or other governmental body including, without limitation, any such orders, decisions, legislation, proceedings, and remands which were issued, released or became effective prior to the Effective Date of this MFN Agreement, or which the Parties have not yet fully incorporated into this Agreement or which may be the subject of further government review.
- 3.2 It is AT&T Illinois' position that the MFN Agreement, and every interconnection, service and network element provided hereunder, is subject to all rates, terms and conditions contained in the MFN Agreement, and that all of such provisions are integrally related and non-severable.

Geckotech, LLC

Illinois Bell Telephone Company d/b/a AT&T Illinois by
AT&T Operations, Inc., its authorized agent

By: 

By: 

Printed: JOSH ROBBINS

Printed: Eddie A. Reed, Jr.

Title: MANAGING PARTNER
(Print or Type)

Title: Director-Interconnection Agreements

Date: 9-22-08

Date: 10-8-08

INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996

**ILLINOIS BELL TELEPHONE COMPANY,
INDIANA BELL TELEPHONE COMPANY INCORPORATED,
MICHIGAN BELL TELEPHONE COMPANY,
NEVADA BELL TELEPHONE COMPANY,
THE OHIO BELL TELEPHONE COMPANY,
PACIFIC BELL TELEPHONE COMPANY,
THE SOUTHERN NEW ENGLAND TELEPHONE COMPANY,
SOUTHWESTERN BELL TELEPHONE COMPANY AND/OR
WISCONSIN BELL, INC. D/B/A AMERITECH WISCONSIN
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SUBJECT

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**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252
OF THE TELECOMMUNICATIONS ACT OF 1996**

between

Illinois Bell Telephone Company,

and

McLeodUSA Telecommunications, Inc.

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**INTERCONNECTION AGREEMENT UNDER SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

This Interconnection Agreement under Sections 251 and 252 of the Telecommunications Act of 1996 (**the Agreement**), is dated as of _____, 2002 by and between Illinois Bell Telephone Company (d/b/a Ameritech Illinois) (only to the extent that the agent for Illinois Bell Telephone Company executes this Agreement for Illinois Bell Telephone Company and only to the extent that Illinois Bell Telephone Company provides Telephone Exchange Services as an ILEC in Illinois) and, McLeodUSA Telecommunications Services, Inc. (CLEC), (an Iowa corporation), shall apply to the state(s) of Illinois.

WHEREAS, CLEC represents that it is, or intends to become, a provider of Telephone Exchange Service to residential and business End Users offered exclusively over its own Telephone Exchange Service facilities or predominantly over its own Telephone Exchange Service facilities in combination with the use of unbundled Network Elements purchased from other entity(ies) and the resale of Telecommunications Services of other carriers.

WHEREAS, the Parties want to Interconnect their networks at mutually agreed upon points of interconnection to provide, directly or indirectly, Telephone Exchange Services and Exchange Access to residential and business End Users over their respective Telephone Exchange Service facilities in the states which are subject to this Agreement; and

WHEREAS, the Parties are entering into this Agreement to set forth the respective obligations of the Parties and the terms and conditions under which the Parties will Interconnect their networks and facilities and provide to each other services as required by the Telecommunications Act of 1996 as specifically set forth herein; and

WHEREAS, for purposes of this Agreement, CLEC intends to operate where Illinois Bell Telephone Company d/b/a Ameritech Illinois is the incumbent Local Exchange Carrier(s) and McLeodUSA Telecommunications Services, Inc. (CLEC), a competitive Local Exchange Carrier, has or, prior to the provisioning of any Interconnection, access to unbundled Network Elements, Telecommunications Services or any other functions, facilities, products or services hereunder, will have been granted authority to provide certain local Telephone Exchange Services in the foregoing ILEC Service areas by the appropriate State Commission(s);

NOW, THEREFORE, the Parties hereby agree as follows:

This Agreement is composed of General Terms and Conditions, which are set forth below, together with certain Appendices, Schedules, Exhibits and Addenda which immediately follow this Agreement, all of which are hereby incorporated in this Agreement by this reference and constitute a part of this Agreement.

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

Capitalized Terms used in this Agreement shall have the respective meanings specified below in, Section 1.x of each Appendix attached hereto, and/or as defined elsewhere in this Agreement.

1.1 GENERAL DEFINITIONS

- 1.1.1 **“A-link”** means a diverse pair of facilities connecting local end office switching centers with Signaling Transfer Points.
- 1.1.2 **“Act”** means the Communications Act of 1934 [47 U.S.C. 153(R)], as amended by the Telecommunications Act of 1996, Public Law 104-104, 110 Stat. 56 (1996) codified throughout 47 U.S.C.
- 1.1.3 **“Access Compensation”** is the compensation paid by one Party to the other Party for the origination/termination of intraLATA toll calls to/from its End User. Access compensation is in accordance with the LEC’s tariffed access rates.
- 1.1.4 **“Access Service Request” (ASR)** is an industry standard form used by the Parties to add, establish, change or disconnect trunks for the purposes of Interconnection.
- 1.1.5 **“Advanced Services”** means intrastate or interstate wireline Telecommunications Services, such as ADSL, IDSL, xDSL, Frame Relay, Cell Relay and VPOP-Dial Access Service (an SBC-13STATE Frame Relay-based service) that rely on packetized technology and have the capability of supporting transmissions speeds of at least 56 kilobits per second in both directions. This definition of Advanced Services does not include:
 - 1.1.5.1 Data services that are not primarily based on packetized technology, such as ISDN,
 - 1.1.5.2 x.25-based and x.75-based packet technologies, or
 - 1.1.5.3 Circuit switched services (such as circuit switched voice grade service) regardless of the technology, protocols or speeds used for the transmission of such services.
- 1.1.6 **“Affiliate”** is As Defined in the Act.

- 1.1.7 **“Alternate Billing Service (ABS)”** means a service that allows End Users to bill calls to accounts that may not be associated with the originating line. There are three types of ABS calls: calling card, collect and third number billed calls.
- 1.1.8 **AM-IL** - As used herein, **AM-IL** means the applicable **SBC**-owned ILEC doing business in Illinois.
- 1.1.9 **AM-IN** - As used herein, **AM-IN** means the applicable **SBC**-owned ILEC doing business in Indiana.
- 1.1.10 **AM-MI** - As used herein, **AM-MI** means the applicable **SBC**-owned doing business in Michigan.
- 1.1.11 **AM-OH** - As used herein, **AM-OH** means the applicable **SBC**-owned ILEC doing business in Ohio.
- 1.1.12 **AM-WI** - As used herein, **AM-WI** means the applicable **SBC**-owned ILEC doing business in Wisconsin.
- 1.1.13 **“Applicable Law”** means all laws, statutes, common law, regulations, ordinances, codes, rules, guidelines, orders, permits, tariffs and approvals, including those relating to the environment or health and safety, of any Governmental Authority that apply to the Parties or the subject matter of this Agreement.
- 1.1.14 **“As Defined in the Act”** means as specifically defined by the Act.
- 1.1.15 **“As Described in the Act”** means as described in or required by the Act.
- 1.1.16 **“Automated Message Accounting” (AMA)** is a structure inherent in switch technology that initially records Telecommunication message information. AMA format is contained in the Automated Message Accounting document published by Telcordia (formerly known as Bellcore) as GR-1100-CORE, which defines and amends the industry standard for message recording.
- 1.1.17 **“Billed Number Screening (BNS)”** means a validation of toll billing exception (TBE) data and performance of public telephone checks; i.e., determining if a billed line is a public (including those classified as semi-public) telephone number.

- 1.1.18 **“Bona Fide Request” (BFR)** is the process described in the applicable Appendix UNE.
- 1.1.19 **“Business Day”** means Monday through Friday, excluding holidays on which the applicable SBC-owned ILEC does not provision new retail services and products.
- 1.1.20 **“Busy Line Verification” (BLV)** means a service whereby an End User requests an operator to confirm the busy status of a line.
- 1.1.21 **“CABS”** means the Carrier Access Billing System.
- 1.1.22 **“Calling Card Service”** means a service that enables a calling End User to bill a telephone call to a calling card number with or without the help of an operator.
- 1.1.23 **“Calling Name Database”** means a Party’s database containing current Calling Name Information, including the Calling Name Information of any telecommunications company participating in that Party’s Calling Name Database. A Calling Name Database may be part of, or separate from, a LIDB.
- 1.1.24 **“Calling Name Delivery Service (CNDS)”** means a service that enables a terminating End User to identify the calling party by a displayed name before a call is answered. The calling party’s name is retrieved from a Calling Name Database and delivered to the End User’s premise between the first and second ring for display on compatible End User premises equipment.
- 1.1.25 **“Calling Name Information”** means a Telecommunications Carrier’s records of its End Users names associated with one or more assigned ten-digit telephone numbers.
- 1.1.26 **“Calling Number Delivery”** means a feature that enables an End User to view the directory number of the calling party on a display unit.
- 1.1.27 **“Calling Party Number” (CPN)** means a Signaling System 7 “SS7” parameter whereby the ten (10) digit number of the calling Party is forwarded from the End Office.
- 1.1.28 **“Centralized Message Distribution System” (CMDS)** means the transport system that LECs use to exchange outcollect and Carrier Access Billing System “CABS” access messages among each other and other Parties connected to CMDS.

- 1.1.29 **“Central office switch” (Central Office)** is a switching entity within the public switched telecommunications network, including but not limited to:
- 1.1.29.1 **“End Office Switch” or “End Office”** is a switching machine that directly terminates traffic to and receives traffic from purchasers of local exchange services. An End Office Switch does not include a PBX.
 - 1.1.29.2 **“Tandem Office Switch” or “Tandem(s)”** are used to connect and switch trunk circuits between and among other Central Office Switches. A Tandem Switch does not include a PBX.
- 1.1.30 **“Claim”** means any pending or threatened claim, action, proceeding or suit.”
- 1.1.30.1 **“CNAM Query”** means a LIDB Service Application that allows CLEC to query a Calling Name Database for Calling Name Information in order to deliver that information to CLEC’s local CNDS subscribers.
- 1.1.30 **“CNAM Query Rate”** means a rate that applies to each CNAM Query received at the SCP where the Calling Name Database resides.
- 1.1.32 **“Collocation”** is As Described in the Act. Terms related to collocation are defined in the applicable Appendix Collocation or applicable collocation tariff, as appropriate.
- 1.1.33 **“Commercial Mobile Radio Services” (CMRS)** means Commercial Mobile Radio Service, As Defined in the Act and FCC rules.
- 1.1.34 **“Commission”** means the applicable State agency with regulatory authority over Telecommunications. Unless the context otherwise requires, use of the term **“Commissions”** means all of the thirteen agencies listed in this Section. The following is a list of the appropriate State agencies:
- 1.1.34.1 **the Arkansas Public Service Commission (AR-PSC);**
 - 1.1.34.2 **the Public Utilities Commission of the State of California (CA-PUC);**

- 1.1.34.3 **the Connecticut Department of Public Utility Control (CT-DPUC);**
- 1.1.34.4 **the Illinois Commerce Commission (IL-CC);**
- 1.1.34.5 **the Indiana Utilities Regulatory Commission (IN-URC);**
- 1.1.34.6 **the Kansas Corporation Commission (KS-CC);**
- 1.1.34.7 **the Michigan Public Service Commission (MI-PSC);**
- 1.1.34.8 **the Missouri Public Service Commission (MO-PSC);**
- 1.1.34.9 **the Public Utilities Commission of Nevada (NV-PUC);**
- 1.1.34.10 **the Public Utilities Commission of Ohio (PUC-OH);**
- 1.1.34.11 **the Oklahoma Corporation Commission (OK-CC);**
- 1.1.34.12 **the Public Utility Commission of Texas (PUC-TX); and**
- 1.1.34.13 **the Public Service Commission of Wisconsin (PSC-WI)**
- 1.1.35 **“Common Channel Signaling” (CCS)** means an out-of-band, packet-switched, signaling network used to transport supervision signals, control signals, and data messages. It is a special network, fully separate from the transmission path of the public switched network. Unless otherwise agreed by the Parties, the CCS protocol used by the Parties shall be SS7.
- 1.1.36 **“Common Language Location Identifier” (CLLI)** codes provide a unique 11-character representation of a network interconnection point. The first eight characters identify the city, state and building location, while the last three characters identify the network component.
- 1.1.37 **“Consequential Damages”** means Losses claimed to have resulted from any indirect, incidental, reliance, special, consequential, punitive, exemplary, multiple or any other Loss, including damages claimed to have resulted from harm to business, loss of anticipated revenues, savings, or profits, or other economic Loss claimed to have been suffered not measured by the prevailing Party's actual damages, and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions.
- 1.1.38 **“Customer Usage Data”** means the Telecommunications Services usage data of a CLEC End User measured in minutes, sub-minute increments, message units, or otherwise, that is recorded by SBC-13STATE and forwarded to CLEC.

- 1.1.39 **“Custom Local Area Signaling Service Features” (CLASS Features)** means certain Common Channel Signaling based features available to End-Users, including: Automatic Call Back; Call Trace; Distinctive Ringing/Call Waiting; Selective Call Forward; and Selective Call Rejection.
- 1.1.40 **“End Users”** means a third-party residence or business that subscribes to Telecommunications Services provided by any of the Parties at retail. As used herein, the term "End Users" does not include any of the Parties to this Agreement with respect to any item or service obtained under this Agreement.
- 1.1.41 **“Customer Name and Address Information” (CNA)** means the name, service address and telephone numbers of a Party’s End Users for a particular Exchange Area. CNA includes nonpublished listings, coin telephone information and published listings.
- 1.1.42 **“Delaying Event”** means (a) any failure of a Party to perform any of its obligations set forth in this Agreement, caused in whole or in part by:
- 1.1.42.1 the failure of the other Party to perform any of its obligations set forth in this Agreement, including but not limited to a Party’s failure to provide the other Party with accurate and complete Service Orders;
 - 1.1.42.2 any delay, act or failure to act by the other Party or its End User, agent or subcontractor; or
 - 1.1.42.3 any Force Majeure Event.
- 1.1.43 **“Dialing Parity”** is As Defined in the Act. As used in this Agreement, Dialing Parity refers to both Local Dialing Parity and Toll Dialing Parity.
- 1.1.44 **“Digital Signal Level”** is one of several transmission rates in the time-division multiplex hierarchy.
- 1.1.44.1 **“Digital Signal Level 0” (DS-0)** is the 64 Kbps zero-level signal in the time-division multiplex hierarchy.
 - 1.1.44.2 **“Digital Signal Level 1” (DS-1)** is the 1.544 Mbps first-level signal in the time-division multiplex hierarchy.
 - 1.1.44.3 **“Digital Signal Level 3” (DS-3)** is the 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

- 1.1.45 **“Digital Subscriber Line” (DSL)** is as defined in the applicable Appendix DSL and/or the applicable tariff, as appropriate.
- 1.1.46 **“Electronic File Transfer”** is any system or process that utilizes an electronic format and protocol to send or receive data files.
- 1.1.47 **“Enhanced Service Provider” (ESP)** is a provider of enhanced services as those services are defined in 47 CFR Section 64.702.
- 1.1.48 **“Exchange Access”** is As Defined in the Act.
- 1.1.49 **“Exchange Area”** means an area, defined by the Commission, for which a distinct local rate schedule is in effect.
- 1.1.50 **“Exchange Message Interface” (EMI)** (formerly Exchange Message Record - EMR) is the standard used for exchange of Telecommunications message information among Telecommunications Carriers for billable, non-billable, sample, settlement and study data. EMI format is contained in Telcordia Practice BR-010-200-010, CRIS Exchange Message Record.
- 1.1.51 **“Exchange Service”** means Telephone Exchange Service, As Defined in the Act.
- 1.1.52 **“Feature Group A” (FGA)** means calls either originated by, or delivered to, an End User who has purchased switched access FGA service from the interstate or intrastate tariffs of either Party. FGA also includes, but is not limited to, FGA-like services provided by either Party, where calls are originated from and/or delivered to numbers which are assigned to a Rate Center within one LATA but where the Party receiving the call is physically located in a LATA different than the LATA of the Party originating the call. The intercarrier compensation mechanism as well as additional definitions for FGA are specified in the appropriate Appendix FGA.
- 1.1.53 **“Feature Group D” (FG-D)** is access available to all customers, providing trunk side access to a Party’s End Office Switches with an associated uniform 101XXXX access code for customer’s use in originating and terminating communications.
- 1.1.54 **“FCC”** means the Federal Communications Commission.

- 1.1.55 **“Foreign Exchange” (FX)** means a service whereby calls either originated by or delivered to a customer who has purchased FX service from the state or interstate tariffs of either Party. FX also includes, but is not limited to, FX-like services provided by either Party where calls are originated from and/or delivered to numbers which are assigned to a Rate Center within one local calling area but where the Party receiving the call is physically located outside of that local calling area. FX service can be either interLATA or intraLATA. InterLATA FX, where the originating and receiving parties are physically located in different LATAs, is considered equivalent to FGA and the intercarrier compensation mechanism is the same as FGA. IntraLATA FX, when provided by two or more local exchange carriers “LECs”, is considered a jointly provided service and meet-point billed by those providing it utilizing a mutually agreed to meet-point billing, or meet-point billing like procedure.
- 1.1.56 **“Governmental Authority”** means any federal, state, local, foreign, or international court, government, department, commission, board, bureau, agency, official, or other regulatory, administrative, legislative, or judicial authority with jurisdiction over the subject matter at issue.
- 1.1.57 **“Group Record”** means information in LIDB and/or the LIDB administrative system that is common to all telephone numbers in an NPA-NXX or all Special Billing Numbers in an NPA-0/1XX.
- 1.1.58 **“Incumbent Local Exchange Carrier” (ILEC)** is As Defined in the Act.
- 1.1.59 **“Intellectual Property”** means copyrights, patents, trademarks, trade secrets, mask works and all other intellectual property rights.
- 1.1.60 **“Integrated Services Digital Network” (ISDN)** means a switched network service that provides end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for a digital transmission of two 64 Kbps bearer channels and one 16 Kbps data channel (2B+D).
- 1.1.61 **“Interconnection”** is As Defined in the Act.
- 1.1.62 **“Interexchange Carrier” (IXC)** means a carrier that provides, directly or indirectly, interLATA or intraLATA Telephone Toll Services.
- 1.1.63 **“InterLATA”** is As Defined in the Act.

- 1.1.64 **“Intermediate Distribution Frame” (IDF)** is a second frame that augments an existing Main Distribution Frame. Lines or outside cables do not terminate on the IDF.
- 1.1.65 **“Internet Service Provider” (ISP)** is an Enhanced Service Provider that provides Internet Services, and is defined in paragraph 341 of the FCC’s First Report and Order in CC Docket No. 97-158.
- 1.1.66 **“IntraLATA Toll Traffic”** means the IntraLATA traffic between two locations within one LATA where one of the locations lies outside of the normal local calling area as defined by the applicable Commission.
- 1.1.67 **“LIDB Editor”** means a SCP tool that bypasses the LIDB administrative system and provides emergency access to LIDB for data administration.
- 1.1.68 **“Line Information Data Base” (LIDB)** means a transaction-oriented database system that functions as a centralized repository for data storage and retrieval. LIDB is accessible through CCS networks. LIDB contains records associated with End User line numbers and special billing numbers. LIDB accepts queries from other network elements and provides return result, return error, and return reject responses as appropriate. Examples of information that Data Owners might store in LIDB and in their Line Records are: ABS Validation Data, Originating Line Number Screening (OLNS) data, ZIP Code data, and Calling Name Information.
- 1.1.69 **“LIDB Service Applications”** means the query types accepted for access to LIDB information.
- 1.1.70 **“Line Record”** means information in LIDB and/or the LIDB administrative system that is specific to a single telephone number or Special Billing Number.
- 1.1.71 **“Local Access Transport Area” (LATA)** is As Defined in the Act.
- 1.1.72 **“Local Exchange Carrier” (LEC)** is As Defined in the Act.
- 1.1.73 **“Local Exchange Routing Guide” (LERG)** is a Telcordia Reference document used by Telecommunications Carriers to identify NPA-NXX routing and homing information as well as Network element and equipment designations.
- 1.1.74 **“Local Calls”**, for purposes of intercarrier compensation, is traffic that is defined as “Local” in the Appendix Reciprocal Compensation.

- 1.1.74 **“Local Number Portability”** means the ability of users of Telecommunications Services to retain, at the same location, the presence of a previously existing telephone number(s).
- 1.1.75 **“Location Routing Number” (LRN)** is a ten (10) digit number that is assigned to the network switching elements (Central Office – Host and Remotes as required) for the routing of calls in the network. The first six (6) digits of the LRN will be one of the assigned NPA NXX of the switching element. The purpose and functionality of the last four (4) digits of the LRN have not yet been defined but are passed across the network to the terminating switch.
- 1.1.76 **“Local Service Provider” (LSP)** is the LEC that provides retail local Exchange Service to an End User. The LSP may or may not provide any physical network components to support the provision of that End User’s service.
- 1.1.77 **“Loss” or “Losses”** means any and all losses, costs (including court costs), claims, damages (including fines, penalties, and criminal or civil judgments and settlements), injuries, liabilities and expenses (including attorneys’ fees).
- 1.1.78 **“MECAB”** refers to the Multiple Exchange Carrier Access Billing document prepared by the Billing Committee of the Ordering and Billing Forum “OBF”, which functions under the auspices of the Carrier Liaison Committee “CLC of the Alliance for Telecommunications Industry Solutions “ATIS”. The MECAB document, published by ATIS as ATIS/OBF- MECAB- Issue 6, February 1998, contains the recommended guidelines for the billing of access services provided to an IXC by two or more LECs, or by one LEC in two or more states within a single LATA.
- 1.1.79 **“MECOD”** refers to the Multiple Exchange Carriers Ordering and Design Guidelines for Access Services - Industry Support Interface, a document developed by the Ordering/Provisioning Committee of the OBF, which functions under the auspices of the CLC of ATIS. The MECOD document, published by ATIS as ATIS/OBF- MECAB- Issue 3, February 1993, establishes methods for processing orders for access service which is to be provided to an IXC by two or more telecommunications providers.
- 1.1.80 **“Meet-Point Billing” (MPB)** refers to the billing associated with interconnection of facilities between two or more LECs for the routing of traffic to and from an IXC with which one of the LECs does not have a direct

connection. In a multi-bill environment, each Party bills the appropriate tariffed rate for its portion of a jointly provided Switched Exchange Access Service.

- 1.1.81 **“Meet-Point Trunks/Trunk Groups” (MPTGs)** are used for the joint provision of Switched Access services, pursuant to Telecordia Technical References GR-394-CORE “GR-394” and GR-317-CORE “GR-317”. MPTGs are those between a local End Office and an Access Tandem as described in FSD 20-24-0000 and 20-24-0300.
- 1.1.82 **“Multiple Bill/Single Tariff”** is the meet-point billing method where each LEC prepares and renders its own meet point bill to the IXC in accordance with its own tariff for that portion of the jointly provided Switched Access Service which that LEC provides. The MECAB documents refer to this method as Multiple Bill/reflecting a single tariff (MM).
- 1.1.83 **“Mutual Compensation”** is the compensation agreed upon by the Parties for those “Local Calls” that originate on one network and terminate on the other network.
- 1.1.84 **“Network Data Mover” (NDM)** is an industry standard protocol for transferring information electrically.
- 1.1.85 **“Network Element”** is As Defined in the Act.
- 1.1.87 **“North American Numbering Plan” (NANP)** A numbering architecture in which every station in the NANP Area is identified by a unique ten-digit address consisting of a three-digit NPA code, a three digit central office code of the form NXX, and a four-digit line number of the form XXXX.
- 1.1.88 **“Numbering Plan Area” (NPA)** also called area code. An NPA is the 3-digit code that occupies the A, B, C positions in the 10-digit NANP format that applies throughout the NANP Area. NPAs are of the form NXX, where N represents the digits 2-9 and X represents any digit 0-9. In the NANP, NPAs are classified as either geographic or non-geographic. a) Geographic NPAs are NPAs which correspond to discrete geographic areas within the NANP Area. b) Non-geographic NPAs are NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries. The common examples are NPAs in the N00 format, e.g., 800.
- 1.1.89 **“Number Portability”** is As Defined in the Act.

- 1.1.90 **“NXX” or “Central Office Code”** is the three-digit switch entity indicator that is defined by the fourth through sixth digits of a 10-digit telephone number within the NANP. Each NXX Code contains 10,000 station numbers.
- 1.1.91 **“Ordering and Billing Forum” (OBF)** is a forum comprised of local telephone companies and inter-exchange carriers whose responsibility is to create and document Telecommunication industry guidelines and standards.
- 1.1.92 **“Originating Point Code” (OPC)** means a code assigned to identify CLEC’s system(s) that originate SS7 messages, including LIDB Service Queries.
- 1.1.93 **“Party”** means either CLEC or the SBC-owned ILEC; use of the term “Party” includes each of the SBC-owned ILEC(s) that is a party to this Agreement. **“Parties”** means both CLEC and the SBC-owned ILEC; use of the term “Parties” includes each of the SBC-owned ILEC(s) that is a party to this Agreement.
- 1.1.94 **“Permanent Number Portability” (PNP)** is a long-term method of providing LNP using LRN.
- 1.1.95 **“Person”** means an individual or a partnership, an association, a joint venture, a corporation, a business or a trust or other entity organized under Applicable law, an unincorporated organization or any Governmental Authority.”
- 1.1.95 **“Point of Interconnection” (POI)** is a physical location at which the Parties’ networks meet for the purpose of establishing Interconnection. POIs include a number of different technologies and technical interfaces based on the Parties’ mutual agreement.
- 1.1.96 **“Physical Collocation”** is as defined in applicable Appendix Collocation or applicable tariff, where applicable.
- 1.1.97 **“Rate Center Area”** means the following in each applicable area:
- 1.1.97.1 **SBC-AMERITECH**
- 1.1.97.1.1 **“Rate Center”** means the specific geographic point that has been designated by a given LEC as being associated with a particular NPA-NXX code that has been assigned to the LEC for its provision of Telephone Exchange Service. The Rate Center is the finite geographic point identified by a specific V&H

coordinate, which is used by that LEC to measure, for billing purposes, distance sensitive transmission services associated with the specific Rate Center.

1.1.97.2 **NEVADA**

1.1.97.2.1 “Rate Center” denotes the designated points, representing exchanges, (or locations outside exchange areas), between which mileage measurements are made for the application of interexchange mileage rates. Rate Centers are defined in PUC-NV tariff A6.2.7.

1.1.97.3 **PACIFIC**

1.1.97.3.1 “Rate Center” denotes the designated points, representing exchanges or district area (or locations outside exchange areas), between which mileage measurements are made for the application of interexchange and interdistrict mileage rates, as defined by the CA-PUC.A2, 2.1.1 Definition of Terms.

1.1.97.4 **SNET**

1.1.97.4.1 “Rate Center means the specific geographic point and corresponding area that have been identified by a given LEC as being associated with a particular NPA-NXX code that has been assigned to the LEC for its provision of Exchange Services.

1.1.97.5 **SBC-SWBT**

1.1.97.5.1 “Rate Center” means an uniquely defined geographical location within an exchange area (or a location outside the exchange area) for which mileage measurements are determined for the application of interstate tariffs.”

1.1.98 **“Rating Point”** means the V&H coordinates associated with a particular telephone number for rating purposes.

1.1.99 **“Reference of Calls”** refers to a process by which calls are routed to an announcement that states the new telephone number of an End User.

- 1.1.100 **SBC Communications Inc. (SBC)** means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company, and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.1.101 **SBC-AMERITECH** - As used herein, **SBC-AMERITECH** means the applicable SBC owned ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.1.102 **SBC-7STATE** - As used herein, **SBC-7STATE** means the applicable SBC owned ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.1.103 **SBC-8STATE** - As used herein, **SBC-8STATE** means the applicable SBC owned ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.1.104 **SBC-10STATE** - As used herein, **SBC-10STATE** means an the applicable SBC owned ILEC(s) doing business in Arkansas, Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.1.105 **SBC-12STATE** - As used herein, **SBC-12STATE** means the applicable SBC owned ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.1.106 **SBC-13STATE** - As used herein, **SBC-13STATE** means the applicable SBC owned ILEC(s) doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.1.107 **“Service Control Point” (SCP)** is the node in the common channel signaling network that accepts Queries for certain Database services. The SCP is a real time database system that receives Queries from service platforms, performs subscriber or application-specific service logic, and then sends a Response back to the Query-originating platform. Such service platforms can be Service Switching Points (SSPs) or other network nodes capable of properly formatting and launching Queries.

- 1.1.108 **“Service Management System” (SMS)** means an off-line system used to access, create, modify, or update information in a Database.
- 1.1.109 **“Service Provider Number Portability” (SPNP)** is synonymous with Permanent Number Portability “PNP”.
- 1.1.110 **“Service Switching Point” (SSP)** is a telephone central office switch equipped with a Signaling System 7 (SS7) interface.
- 1.1.111 **“Signaling System 7” (SS7)** means a signaling protocol used by the CCS Network.
- 1.1.112 **“Signal Transfer Point” (STP)** performs a packet switching function that routes signaling messages among Service Switching Points (SSP), Service Control Points (SCP), Signaling Points (SP), and other STPs in order to set up calls and to query databases for Advanced Services.
- 1.1.113 **“Sleuth”** means an off-line administration system that monitors suspected occurrences of ABS-related fraud.
- 1.1.114 **“Special Billing Number” SBN** means a Line Record in LIDB that is based on an NXX-0/1XX numbering format. NXX-0/1XX numbering formats are similar to NPA-NXX formats except that the fourth digit of a SBN is either a zero (0) or a one (1).
- 1.1.115 **“State Abbreviation”** means the following:
- 1.1.115.1 “AR” means Arkansas
 - 1.1.115.2 “CA” means California
 - 1.1.115.3 “CT” means Connecticut
 - 1.1.115.4 “IL” means Illinois
 - 1.1.115.5 “IN” means Indiana
 - 1.1.115.6 “KS” means Kansas
 - 1.1.115.7 “MI” means Michigan
 - 1.1.115.8 “MO” means Missouri
 - 1.1.115.9 “NV” means Nevada
 - 1.1.115.10 “OH” means Ohio
 - 1.1.115.11 “OK” means Oklahoma
 - 1.1.115.12 “TX” means Texas
 - 1.1.115.13 “WI” means Wisconsin

- 1.1.116 **SWBT-AR** - As used herein, **SWBT-AR** means the applicable SBC owned ILEC doing business in Arkansas.
- 1.1.117 **SWBT-KS** - As used herein, **SWBT-KS** means the applicable SBC owned ILEC doing business in Kansas.
- 1.1.118 **SWBT-MO** - As used herein, **SWBT-MO** means the applicable SBC owned ILEC doing business in Missouri.
- 1.1.119 **SWBT-OK** - As used herein, **SWBT-OK** means the applicable SBC owned ILEC doing business in Oklahoma.
- 1.1.120 **SWBT-TX** - As used herein, **SWBT-TX** means the applicable SBC owned ILEC doing business in Texas.
- 1.1.121 **“Switched Access Detail Usage Data”** means a category 1101xx record as defined in the EMR Telecordia Practice BR 010-200-010.
- 1.1.122 **“Synchronous Optical Network” (SONET)** is an optical interface standard that allows inter-networking of transmission products from multiple vendors. The base rate is 51.84 Mbps (“OC-1/STS-1”) and higher rates are direct multiples of the base rate, up to 13.22 Gbps.
- 1.1.123 **“Tape Load Facility”** means data entry points at the LIDB administrative system and/or the SCPs where LIDB resides.
- 1.1.124 **“Telecommunications”** is As Defined in the Act.
- 1.1.125 **“Telecommunications Carrier”** is As Defined in the Act.
- 1.1.126 **“Telecommunications Service”** is As Defined in the Act.
- 1.1.127 **“Telephone Exchange Service”** is As Defined in the Act.
- 1.1.128 **“Telephone Toll Service”** is As Defined in the Act.
- 1.1.129 **“Third Party”** means any Person other than a Party.
- 1.1.130 **“Toll Billing Exception Service” (TBE)** means a service that allows End Users to restrict third number billing or collect calls to their lines.

1.1.131 **“Toll Free Service”** is service provided with any dialing sequence that invokes toll-free, 800-like, service processing, for example for illustration only, 800 or 800-like services. Toll Free Service includes but is not limited to calls placed to 800/888 NPA Service Access Codes (SAC).

1.1.131 **“Translation Type”** means a code in the Signaling Connection Control Part (SCCP) of the SS7 signaling message. Signal Transfer Points (STPs) use Translation Types to identify the routing table used to route a LIDB query. All LIDB queries that use the same Translation Type are routed to the same LIDB for a particular Line Record or, prior to number portability, for a particular NPA-NXX.

1.1.132 **“Trunk”** means a communication line between two switching systems.

1.1.133 **“Wire Center”** is the location of one or more local switching systems. A point at which End User’s loops within a defined geographic area converge. Such local loops may be served by one (1) or more Central Office Switches within such premises.

1.2 DEFINITIONS APPLICABLE TO SBC-12STATE ONLY

1.2.1 **“Data Base Administration Center”** (DBAC) means an SBC-12STATE location where facility and administrative personnel are located for administering LIDB and/or Sleuth.

1.2.2 **“Designated Central Office Document”** (Document DCO) is a document that is referenced in SBC-12STATE Appendix NIM. The purpose of the DCO is to document the physical architectural plan for interconnection and specifies the CLEC Central Offices, CLEC Routing Points, Activation Dates, the POI(s) and the applicable SBC-12STATE Central Offices.

1.2.3 **“Digital Cross Connect Panel”** (DSX Panel) means a cross-connect bay or panel used for the termination of equipment and facilities operating at digital rates.

1.2.4 **“Fiber Meet”** means an Interconnection architecture method whereby the Parties physically Interconnect their networks via an optical fiber interface (as opposed to an electrical interface) at a mutually agreed upon location, at which one Party’s responsibility or service begins and the other Party’s responsibility ends.

- 1.2.5 **“Interconnection Activation Date”** is the date that the construction of the joint facility Interconnection arrangement has been completed, trunk groups have been established, joint trunk testing is completed and trunks have been mutually accepted by the Parties.
- 1.2.6 **“Main Distribution Frame” (MDF)** is termination frame for outside facility and inter-exchange office equipment at the central office for DS-0 and DSL services.
- 1.2.7 **“Plain Old Telephone Service” (POTS)** means telephone service for the transmission of human speech.
- 1.2.8 **“Routing Point”** is a location which a LEC has designated on its own network as the homing or routing point for traffic inbound to Exchange Service provided by the LEC which bears a certain NPA-NXX designation. The Routing Point is employed to calculate mileage measurements for the distance-sensitive transport element charges of Switched Access services. The Routing Point need not be the same as the Rating Point, nor must it be located within the Rate Center area, but must be in the same LATA as the NPA-NXX.

1.3 DEFINITIONS APPLICABLE TO **SBC-8STATE** ONLY

- 1.3.1 **“Accessible Letters”** are correspondence used to communicate pertinent information regarding SBC-8STATE to the client/End User community.
- 1.3.2 **“Trunk-Side”** refers to a Central Office Switch connection that is capable of, and has been programmed to treat the circuit as connecting to another switching entity (for example another Central Office switch). Trunk-Side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone station sets.
- 1.3.3 **“Port”** is the point of interface/access connection to the SNET public switched network. This may be a switch line side interface or switch trunk side interface.

1.4 DEFINITIONS APPLICABLE TO **SBC-7STATE** ONLY

- 1.4.1 **“Line Side”** refers to End Office switch connections that have been programmed to treat the circuit as a local line connected to a terminating station (e.g., an ordinary subscriber’s telephone station set, a PBX, answering machine, facsimile machine or computer). Line Side connections offer only those

transmission and signal features appropriate for a connection between an End Office and such terminating station.

- 1.4.2 **“Mid-Point Meet”** is as defined in the appropriate Appendix NIM. The facility hand off point may differ from the billing point of interconnection.
- 1.4.3 **“Serving Wire Center” (SWC)** means a Wire Center that serves the area in which the other Party’s or a third party’s Wire Center, aggregation point, point of termination, or point of presence is located.
- 1.4.4 **“Control Office”** means the appropriate exchange carrier center or office designated as its company’s single point of contact for the provisioning and maintenance of its portion of interconnection arrangements.
- 1.4.5 **“Data Interexchange Carrier” (DIXC)** is a process designed to facilitate the reciprocal exchange of voice traffic load data between the SBC-7STATE and CLECs interconnecting with its network. This reciprocal exchange of data enables SBC-7STATE and each CLEC to have a complete view of traffic loads on both ends of two-way trunk groups. The knowledge of call attempt and overflow data counts on both ends of a two-way trunk group enables each company to more accurately estimate the offered, and thereby better estimate, the required quantities of trunks.
- 1.4.6 **“Local Interconnection Trunks/Trunk Groups”** are used for the termination of Local Exchange Traffic, pursuant to Telecordia Technical Reference GR-317-CORE “GR-317.
- 1.4.7 **“Mid-Span Meet”** is an interconnection between two LECs whereby each provides its own cable and equipment up to the meet point of the cable facilities. The meet point is the demarcation establishing ownership of and responsibility for each LEC’s portion of the transmission facility.

1.5 DEFINITIONS APPLICABLE TO SNET and SBC-AMERITECH ONLY

- 1.5.1 **“Centralized AMA” (CAMA)** is an arrangement where the AMA equipment is centralized in, for example, a Tandem and is used by offices that do not have LAMA (Local AMA). The End Office Switch must send ANI digits to the CAMA office for billing a calling subscriber.
- 1.5.2 **“Inter-wire Center Transport”** means the transmission facilities between serving wire centers.

1.6 DEFINITIONS APPLICABLE TO SBC-AMERITECH ONLY

- 1.6.1 **“Automatic Route Selection”** or **“ARS”** means a service feature associated with a specific grouping of lines that provides for automatic selection of the least expensive or most appropriate transmission facility for each call based on criteria programmed into the system.
- 1.6.2 **“Control Office”** means the Central Office providing Tandem Switching Capability for E9-1-1 calls. The Control Office controls switching of ANI information to the PSAP and also provides the Selective Routing feature, standard speed calling features, call transfer capability and certain maintenance functions for each PSAP. These definitions appear to be related to two different scenarios and will need to remain in tact.
- 1.6.3 **“Enhanced LECLink”** is a customer access service to the national distribution of billing records via Telecordia’s Centralized Message Distribution System (CMDS).
- 1.6.4 **“Integrated Digital Loop Carrier”** means a subscriber loop carrier system that is twenty-four (24) local Loop transmission paths combined into a 1.544 Mbps digital signal which integrates within the switch at a DS1 level.
- 1.6.5 **“Line Side”** refers to the switch port toward the CLEC’s side of the equipment.
- 1.6.6 **“Local Loop Transmission”, “Unbundled Local Loop”, “Loop”** means the transmission path which extends from the Network Interface Device or demarcation point at an End User’s premise to the Main Distribution Frame or other designated frame or panel in the SBC-AMERITECH Serving Wire Center.
- 1.6.7 **“Switched Exchange Access Service”** means the offering of transmission or switching services to Telecommunications Carriers for the purpose of the origination or termination of telephone toll service. Switched Exchange Access Services include: Feature Group A, Feature Group B, Feature Group D, 800/888 access, and 900 access and their successors or similar Switched Exchange Access Services.

1.7 DEFINITIONS APPLICABLE TO SNET ONLY

- 1.7.1 **“800 Series”** is a Telecommunications Service for business or residence that allows calls to be made to a specific location at no charge to the calling party.

Use of the “800” Service Access Code (e.g., 800, 888) denotes calls that are to be billed to the receiving party. A computer database in the provider’s network translates the 800 series number into a conventional 7 or 10-digit telephone number for network switching and routing.

- 1.7.2 **“Charge Number”** is a CCS signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling party.
- 1.7.3 **“ConnNET”** is a CT packet switching network used for data communication to and from hosts and databases.
- 1.7.4 **“Database Administrative Service LIDB Operating Guidelines”** (Operating Guidelines) means the document developed by SNET that provides detailed instructions as to the working parameters of SNET’s provision of the LIDB Administrative System to CLEC, as may be updated by SNET from time to time. SNET shall provide such Operating Guidelines to CLEC upon execution of this Agreement.
- 1.7.5 **“Initial Billing Company” (IBC)** refers to the LEC that provides Feature Group B or D services at an End Office.
- 1.7.6 **“LIDB/AS”** means the LIDB administrative system for SNET.
- 1.7.7 **“Loop”** is a transmission path between the Minimum Point of Presence/Entry (MPOP/E) at any End User location and the Main Distribution Frame (MDF) or Digital Crossconnect Bay (DSX-1) of the SNET designated serving wire centers.
- 1.7.8 **“Subsequent Billing Company”** refers to SNET when it provides a segment of transport or switching services in connection with Feature Group B or D switched access service. (For purposes of this Agreement, the Tandem operator is the Subsequent Billing Company.)
- 1.7.9 **“Switched Access Service”** means an offering of facilities for the purpose of the origination or termination of traffic from or to Exchange Service customer in a given area pursuant to a Switched Access tariff. Switched Access Services include: Feature Group A, Feature Group B, Feature Group D, 800 Series, and 900 access. Switched Access does not include traffic exchanged between LECs for purpose of local exchange interconnection.

1.7.10 **“Universal Digital Loop Carrier” (UDLC)** describes a DLC system that has a Central Office terminal channel bank that is connected to the CO switches on the analog side.

1.8 DEFINITIONS APPLICABLE TO SBC-SWBT only

1.8.1 **“Jurisdictional Identification Parameter” (JIP)** is an existing six (6) digit (NPA-NXX) field in the SS7 message. This field designates the first point of switching. (JIP is applicable to SBC-SWBT only)

1.8.2 **“Line Validation Administration System” (LVAS)** means the LIDB administrative system for SBC-SWBT.

1.8.3 **“Originating Line Information” (OLI)** is an SS7 Feature Group D signaling parameter which refers to the number transmitted through the network identifying the billing number of the calling Party. (OLI is applicable to SBC-SWBT only.)

2. INTERPRETATION, CONSTRUCTION AND SEVERABILITY

2.1 Definitions

2.1.1 For purposes of this Agreement, certain terms have been defined in this Agreement to encompass meanings that may differ from, or be in addition to, the normal connotation of the defined word. Unless the context clearly indicates otherwise, any term defined or used in the singular will include the plural. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation” and/or “but not limited to”. The words “will” and “shall” are used interchangeably throughout this Agreement and the use of either connotes a mandatory requirement. The use of one or the other will not mean a different degree of right or obligation for either Party. A defined word intended to convey its special meaning is capitalized when used. Other terms that are capitalized and not defined in this Agreement will have the meaning in the Act, or in the absence of their inclusion in the Act, their customary usage in the Telecommunications industry as of the Effective Date.

2.2 Headings Not Controlling

2.2.1 The headings and numbering of Sections, Parts, Appendices Schedules and Exhibits to this Agreement are for convenience only and shall not be construed to define or limit any of the terms herein or affect the meaning or interpretation of this Agreement.

2.2.2 This Agreement incorporates a number of Appendices which, together with their associated Attachments, Exhibits, Schedules and Addenda, constitute the entire Agreement between the Parties. In order to facilitate use and comprehension of the Agreement, the Appendices have been grouped under broad headings. It is understood that these groupings are for convenience of reference only, and are not intended to limit the applicability that any particular appendix, attachment, exhibit, schedule or addenda may otherwise have.

2.3 Referenced Documents

2.3.1 Unless the context shall otherwise specifically require, and subject to **Section 21**, whenever any provision of this Agreement refers to a technical reference, technical publication, CLEC Practice, SBC-13STATE Practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement (collectively, a “**Referenced Instrument**”), it will be deemed to be a reference to the then-current version or edition (including any amendments, supplements, addenda, or successors) of each Referenced Instrument that is in effect, and will include the then-current version or edition (including any amendments, supplements, addenda, or successors) of any other Referenced Instrument incorporated by reference therein.

2.4 References

2.4.1 References herein to Sections, Paragraphs, Exhibits, Parts, Schedules, and Appendices shall be deemed to be references to Sections, Paragraphs and Parts of, and Exhibits, Schedules and Appendices to, this Agreement unless the context shall otherwise require.

2.5 Tariff References

2.5.1 Wherever any Commission ordered tariff provision or rate is cited or quoted herein, it is understood that said cite encompasses any revisions or modifications to said tariff.

2.5.2 Wherever any Commission ordered tariff provision or rate is incorporated, cited or quoted herein, it is understood that said incorporation or reference applies only to the entity within the state whose Commission ordered that tariff.

2.5.3 Wherever the term “customer” is used in connection with SBC-SWBT’s retail tariffs, the term “customer” means the ultimate “customer” or the “End User” of any tariffed service.

2.6 Conflict in Provisions

2.6.1 In the event of a conflict between the provisions of this Agreement and the Act, the provisions of the Act shall govern.

2.6.2 If any definitions, terms or conditions in any given Appendix, Attachment, Exhibit, Schedule or Addenda differ from those contained in the main body of this Agreement, those definitions, terms or conditions will supersede those contained in the main body of this Agreement, but only in regard to the services or activities listed in that particular Appendix, Attachment, Exhibit, Schedule or Addenda. In particular, if an Appendix contains a Term length that differs from the Term length in the main body of this Agreement, the Term length of that Appendix will control the length of time that services or activities are to occur under that Appendix, but will not affect the Term length of the remainder of this Agreement.

2.6.3 In SNET only, in the event of a conflict between any provision in this Agreement and any provision in the DPUC-ordered tariffs covering the services that are the subject of this Agreement with SNET, such DPUC-ordered tariffs will prevail.

2.7 Joint Work Product

2.7.1 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

2.8 Severability

2.8.1 If any provision of this Agreement is rejected or held to be illegal, invalid or unenforceable, each Party agrees that such provision shall be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the validity, legality and enforceability of the remaining provisions of this Agreement

shall not in any way be affected or impaired thereby. If necessary to effect the intent of the Parties, the Parties shall negotiate in good faith to amend this Agreement to replace the unenforceable language with enforceable language that reflects such intent as closely as possible. The Parties negotiated the terms and conditions of this Agreement for Interconnection, services and Network Elements as a total arrangement and it is intended to be nonseverable.

2.9 Incorporation by Reference

2.9.1 The General Terms and Conditions of this Agreement, and every Interconnection, Resale Service Network Element, function, facility, product or service provided hereunder, shall be subject to all rates, terms and conditions contained in the Appendices to this Agreement which are legitimately related to such Interconnection, Resale Service, Network Element, function, facility, product or service; and all such rates, terms and conditions are incorporated by reference herein and deemed a part of every Interconnection, Resale Service, Network Element, function, facility, product or service provided hereunder. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to be legitimately related to, and to be applicable to, each Interconnection, Resale Service, Network Element, function, facility, product or service provided hereunder: definitions; interpretation, construction and severability; notice of changes; general responsibilities of the Parties; effective date, term and termination; fraud; deposits; billing and payment of charges; non-payment and procedures for disconnection; dispute resolution; audits; disclaimer of representations and warranties; limitation of liability; indemnity; remedies; intellectual property; publicity and use of trademarks and service marks; no license; confidentiality; intervening law; governing law; regulatory approval; changes in End User local exchange service provider selection; compliance and certification; law enforcement; relationship of the Parties/independent contractor; no third Party beneficiaries, disclaimer of agency; assignment; subcontracting; hazardous substances and responsibility for environmental contamination; force majeure; taxes; non-waiver; network maintenance and management; customer inquiries; expenses; conflict of interest; survival; scope of agreement; amendments and modifications; and entire agreement.

2.10 Non-Voluntary Provisions

2.10.1 This Agreement incorporates certain rates, terms and conditions that were not voluntarily negotiated by **SBC-13STATE**, but instead resulted from determinations made in arbitrations under Section 252 of the Act or from other requirements of regulatory agencies or state law (individually and collectively, a

“Non-Voluntary Arrangement”). SBC-13STATE has identified some, but not all, of the Non-Voluntary Arrangements contained in this Agreement, by designating such provisions with asterisks. If any Non-Voluntary Arrangement is modified as a result of any order or finding by the FCC, the appropriate Commission or a court of competent jurisdiction, any Party may, by providing written notice to the other Party, require that any affected Non-Voluntary Arrangement (and any related rates, terms and conditions) be deleted or renegotiated, as applicable, in good faith and this Agreement amended accordingly. If such modifications to this Agreement are not executed within sixty (60) calendar days after the date of such notice, a Party may pursue its rights under Section 10.

2.10.2 The Parties acknowledge that the Non-Voluntary Arrangements contained in this Agreement shall not be available in any state other than the state that originally imposed/required such Non-Voluntary Arrangement. By way of example only, the Parties acknowledge that the PUCO’s imposition in Ohio of the Minimum Telephone Service Standards (and all terms and conditions relating thereto) shall not apply in or be “portable to” any state other than Ohio.

2.11 State-Specific Rates, Terms and Conditions

2.11.1 For ease of administration, this multistate Agreement contains certain specified rates, terms and conditions that apply only in a designated state (“**state-specific terms**”). To the extent that this Agreement contains specified rates, terms and conditions which apply only in a given state, such rates, terms and conditions shall not apply and shall have no effect in any other state(s) to which this Agreement is submitted for approval under Section 252(e) of the Act.

2.11.2 State-specific terms, as the phrase is described in Section 2.11.1 above, have been negotiated (or in the case of 2.10.2 above, included in the agreement per state requirement) by the Parties only as to the states where this Agreement has been executed, filed and approved. When the Parties negotiate an agreement for an additional state, neither Party shall be precluded by any language in this Agreement from negotiating state-specific terms for the state in which are to apply.

2.11.3 **Successor Rates.** Certain of the rates, prices and charges set forth in the applicable Appendix Pricing have been established by the appropriate Commissions in cost proceedings or dockets initiated under or pursuant to the Act. If during the Term that Commission or the FCC changes a rate, price or charge in an order or docket that applies to any of the Interconnection, Resale Services, Network Elements, functions, facilities, products and services

available hereunder, the Parties agree to amend this Agreement to incorporate such new rates, prices and charges, with such rates, prices and charges to be effective as of the date specified in such order or docket (including giving effect to any retroactive application, if so ordered). If either Party refuses to execute an amendment to this Agreement within sixty (60) calendar days after the date of such order or docket, the other Party may pursue its rights under Section 10.

2.12 Scope of Obligations

2.12.1 Notwithstanding anything to the contrary contained herein, SBC-13STATE's obligations under this Agreement shall apply only to:

2.12.1.1 the specific operating area(s) or portion thereof in which SBC-13 STATE is then deemed to be the ILEC under the Act (the "**ILEC Territory**"), and

2.12.1.2 Assets that SBC-13STATE owns or leases and which are used in connection with SBC-13STATE's provision to CLEC of any Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided or contemplated under this Agreement, the Act or any tariff or ancillary agreement referenced herein (individually and collectively, the "**ILEC Assets**").

3. NOTICE OF CHANGES -- SECTION 251(c)(5)

3.1 Nothing in this Agreement shall limit either Party's ability to upgrade its network through the incorporation of new equipment, new software or otherwise. Each Party agrees to comply with the Network Disclosure rules adopted by the FCC in CC Docket No. 96-98, Second Report and Order, codified at 47 C.F.R. 51.325 through 51.335, as such rules may be amended from time to time (the "**Network Disclosure Rules**").

4. GENERAL RESPONSIBILITIES OF THE PARTIES

4.1 (Reserved).

4.2 SBC-12STATE and CLEC shall each use their best efforts to meet the Interconnection Activation Dates.

4.3 Each Party is individually responsible to provide facilities within its network that are necessary for routing, transporting, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with SBC-13STATE's network as referenced in Telecordia BOC

Notes on LEC Networks Practice No. SR-TSV-002275, and to terminate the traffic it receives in that standard format to the proper address on its network. The Parties are each solely responsible for participation in and compliance with national network plans, including the National Network Security Plan and the Emergency Preparedness Plan.

- 4.4 The Parties shall exchange technical descriptions and forecasts of their Interconnection and traffic requirements in sufficient detail necessary to establish the Interconnections required to assure traffic completion to and from all End Users in their respective designated service areas.
- 4.5 Each Party is solely responsible for all products and services it provides to its End Users and to other Telecommunications Carriers.
- 4.6 Facilities-based carriers and UNE-based Switch Port providers are responsible for administering their End User records in a LIDB.
- 4.6.1 **PACIFIC** reserves the right on one hundred eighty (180) calendar days notice to require UNE-Based Switch Port providers to administer their End User records in **PACIFIC**'s LIDB.
- 4.6.2 **NEVADA** does not have a line information database and/or Calling Name databases. Line information database services can be purchased from **PACIFIC**.
- 4.7 **INSURANCE REQUIREMENTS**
- 4.7.1 Workers' Compensation insurance with benefits afforded under the laws of each state covered by this Agreement and Employers Liability insurance with minimum limits of \$100,000 for Bodily Injury-each accident, \$500,000 for Bodily Injury by disease-policy limits and \$100,000 for Bodily Injury by disease-each employee.
- 4.7.2 Commercial General Liability insurance with minimum limits of: \$10,000,000 General Aggregate limit; \$5,000,000 each occurrence sub-limit for all bodily injury or property damage incurred in any one occurrence; \$1,000,000 each occurrence sub-limit for Personal Injury and Advertising; \$10,000,000 Products/Completed Operations Aggregate limit, with a \$5,000,000 each occurrence sub-limit for Products/Completed Operations. Fire Legal Liability sub-limits of \$2,000,000 are also required if this Agreement involves collocation. The other Party must be named as an Additional Insured on the Commercial General Liability policy.

- 4.7.3 If use of an automobile is required, Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage, which coverage shall extend to all owned, hired and non-owned vehicles.
- 4.7.4 Each Party shall require subcontractors providing services under this Agreement to maintain in force the insurance coverage and limits required in Sections 4.7 through 4.7.3 of this Agreement.
- 4.7.5 The Parties agree that companies affording the insurance coverage required under Section 4.7 shall have a rating of B+ or better and a Financial Size Category rating of VII or better, as rated in the A.M. Best Key Rating Guide for Property and Casualty Insurance Companies. Upon request from the other Party, each Party shall provide to the other Party evidence of such insurance coverage.
- 4.7.6 Each Party agrees to provide the other Party with at least thirty (30) calendar days advance written notice of cancellation, material reduction or non-renewal of any of the insurance policies required herein.
- 4.7.7 Each Party agrees to accept the other Party's program of self-insurance in lieu of insurance coverage if certain requirements are met. These requirements are as follows:
- 4.7.7.1 The Party desiring to satisfy its Workers' Compensation and Employers Liability obligations through self-insurance shall submit to the other Party a copy of its Certificate of Authority to Self-Insure its Workers' Compensation obligations issued by each state covered by this Agreement or the employer's state of hire; and
- 4.7.7.2 The Party desiring to satisfy its automobile liability obligations through self-insurance shall submit to the other Party a copy of the state-issued letter approving self-insurance for automobile liability issued by each state covered by this Agreement; and
- 4.7.7.3 The Party desiring to satisfy its general liability obligations through self-insurance must provide evidence acceptable to the other Party that it maintains at least an investment grade (e.g., B+ or higher) debt or credit rating as determined by a nationally recognized debt or credit rating agency such as Moody's, Standard and Poor's or Duff and Phelps.

- 4.7.8 This Section 4.7 is a general statement of insurance requirements and shall be in addition to any specific requirement of insurance referenced elsewhere in this Agreement or a Referenced Instrument.
- 4.8 Upon CLEC signature of this Agreement, CLEC shall provide SBC-13STATE with CLEC's state-specific authorized and nationally recognized OCN/AECNs for facilities-based (Interconnection and/or unbundled Network Elements) and a separate and distinct OCN/AECN for Resale Services.
- 4.9 In the event that CLEC makes any corporate name change (including addition or deletion of a d/b/a), change in OCN/AECN, or makes or accepts a transfer or assignment of interconnection trunks or facilities (including leased facilities), or a change in any other CLEC identifier (collectively, a "CLEC Change"), CLEC shall submit written notice to SBC-13STATE within thirty (30) calendar days of the first action taken to implement such CLEC Change. Within thirty (30) calendar days following receipt of that notice, the Parties shall negotiate rates to compensate SBC-13STATE for the costs to be incurred by SBC-13STATE to make the CLEC Change to the applicable SBC-13STATE databases, systems, records and/or recording announcement(s) for CLEC branded/repair calls. In addition, CLEC shall compensate SBC-13STATE for any service order charges and/or service request charges associated with such CLEC Change. SBC-13STATE's agreement to implement a CLEC Change is conditioned upon CLEC's agreement to pay all reasonable charges billed to CLEC for such CLEC Change.
- 4.10 When a End User changes its service provider from SBC-13STATE to CLEC or from CLEC to SBC-13STATE and does not retain its original telephone number, the Party formerly providing service to such End User shall furnish a referral announcement ("Referral Announcement") on the original telephone number that specifies the End User's new telephone number.
- 4.10.1 The following pertains to AM-IL, AM-WI and PACIFIC only:
- 4.10.1.1 Referral Announcements shall be provided by a Party to the other Party for the period of time and at the rates set forth in the referring Party's tariff(s); provided, however, if either Party provides Referral Announcements for a period different (either shorter or longer) than the period(s) stated in its tariff(s) when its End Users change their telephone numbers, such Party shall provide the same level of service to End Users of the other Party.
- 4.10.2 The following applies to AM-IN only:

4.10.2.1 Referral Announcements shall be provided by a Party to the other Party for the period specified in 170 IAC 7-1.1-11(I)(3)(a) and (b) and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period different than the above period(s) when its End Users change their telephone numbers, such Party shall provide the same level of service to End Users of the other Party.

4.10.3 The following applies to AM-MI only:

4.10.3.1 Referral Announcements shall be provided by a Party to the other Party for the period specified in Michigan Administrative Rule 484.134 and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period longer than the above period(s) when its End Users change their telephone numbers, such Party shall provide the same level of service to End Users of the other Party.

4.10.4 The following applies to AM-OH only:

4.10.4.1 Referral Announcements shall be provided by a Party to the other Party for the period of time specified in Rule 4901:1-5-12, Ohio Administrative Code and at the rates set forth in the referring Party's tariff(s). However, if either Party provides Referral Announcements for a period longer than the above period(s) when its End Users change their telephone numbers, such Party shall provide the same level of service to End Users of the other Party.

4.11 Each Party shall be responsible for labor relations with its own employees. Each Party agrees to notify the other Party as soon as practicable whenever such Party has knowledge that a labor dispute concerning its employees is delaying or threatens to delay such Party's timely performance of its obligations under this Agreement and shall endeavor to minimize impairment of service to the other Party (for example, by using its management personnel to perform work or by other means) in the event of a labor dispute to the extent permitted by Applicable Law.

4.12 Each Party shall act in good faith in its performance under this Agreement and, in each case in which a Party's consent or agreement is required or requested hereunder, such Party shall not unreasonably withhold or delay such consent or agreement.

5. **EFFECTIVE DATE, TERM, AND TERMINATION**

- 5.1 The Effective Date of this Agreement shall be ten (10) calendar days after the Commission approves this Agreement under Section 252(e) of the Act or, absent such Commission approval, the date this Agreement is deemed approved under Section 252(e)(4) of the Act. The Parties may agree to implement the provisions of this Agreement upon execution.
- 5.2 The term of this Agreement shall commence upon the Effective Date of this Agreement and shall expire on June 23, 2004 (the “**Term**”). Absent the receipt by one Party of written notice from the other Party within 180 calendar days prior to the expiration of the Term to the effect that such Party does not intend to extend the Term, this Agreement shall remain in full force and effect on and after the expiration of the Term until terminated by either Party pursuant to Section 5.3 or 5.4.
- 5.3 Notwithstanding any other provision of this Agreement, either Party may terminate this Agreement and the provision of any Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided pursuant to this Agreement, at the sole discretion of the terminating Party, in the event that the other Party fails to perform a material obligation or breaches a material term of this Agreement and the other Party fails to cure such nonperformance or breach within thirty (30) calendar days after written notice thereof. Any termination of this Agreement pursuant to this Section 5.3 shall take effect immediately upon delivery of written notice to the other Party that it failed to cure such nonperformance or breach within thirty (30) calendar days after written notice thereof.
- 5.4 If pursuant to Section 5.2, this Agreement continues in full force and effect after the expiration of the Term, either Party may terminate this Agreement after delivering written notice to the other Party of its intention to terminate this Agreement, subject to Sections 5.5 and 5.6. Neither Party shall have any liability to the other Party for termination of this Agreement pursuant to this Section 5.4 other than its obligations under Sections 5.5 and 5.6.
- 5.5 Upon termination or expiration of this Agreement in accordance with Sections 5.2, 5.3 or 5.4:
- 5.5.1 Each Party shall continue to comply with its obligations set forth in Section 42; and
- 5.5.2 Each Party shall promptly pay all amounts owed under this Agreement including any Disputed Amounts in accordance with Section 8.4 hereof;
- 5.5.3 Each Party's confidentiality obligations shall survive; and

5.5.4 Each Party's indemnification obligations shall survive.

5.6 If either Party serves notice of expiration pursuant to Section 5.2 or Section 5.4, CLEC shall have ten (10) calendar days to provide SBC-13STATE written confirmation if CLEC wishes to pursue a successor agreement with SBC-13STATE or terminate its agreement. CLEC shall identify the action to be taken on each applicable (13) state(s). If CLEC wishes to pursue a successor agreement with SBC-13STATE, CLEC shall attach to its written confirmation or notice of expiration/termination, as applicable, a written request to commence negotiations with SBC-13STATE under Sections 251/252 of the Act and identify each of the state(s) the successor agreement will cover. Upon receipt of CLEC's Section 252(a)(1) request, the Parties shall commence good faith negotiations on a successor agreement.

* 5.7 The rates, terms and conditions of this Agreement shall continue in full force and effect until the earlier of (i) the effective date of its successor agreement, whether such successor agreement is established via negotiation, arbitration or pursuant to Section 252(i) of the Act; or (ii) the date that is ten (10) months after the date on which SBC-13STATE received CLEC's Section 252(a)(1) request; provided, however that rates during any gap period would be determined as follows:

1. If there is a Commission approved Ameritech tariffed rate for an item, that rate and associated terms and conditions would apply;
2. If there is no Commission approved tariffed rate for an item, but there is a rate for that item in the interconnection agreement the parties are making now, when a successor agreement becomes effective, the terms, rates and charges of such successor Agreement shall apply retroactively back to the date this Agreement is terminated or expires, whichever is later, and the retroactive true-up shall be completed within ninety-(90) calendar days following the effective date of such successor Agreement;
3. If there is no Commission approved tariffed rate and no rate in the interconnection agreement, but there is a rate for the item in an existing, non-expired interconnection

* This Section 5.7 is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by AM-IL and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

agreement between Ameritech and another CLEC, the rate and the terms and the conditions in that other agreement would apply.

- 5.7.1 Either Party has the right to petition the Commission if there are Regulatory changes affecting pricing of UNEs after the expiration of the Interconnection Agreement between the Parties. The “effective date” of the petitioned rates will be the date of the Commission order. The Commission approved petitioned rates shall not be retroactive to the expiration date of the prior agreement unless the Commission expressly orders retroactive application. Both Parties agree to request an expedited decision.
- 5.7.2 If **SBC-AMERITECH** has approved tariffs on file for interconnection or wholesale services, CLEC may purchase services from **SBC-13STATE** from this interconnection agreement, the approved tariffs, or both in its sole discretion.
- 5.8 If at any time during the Section 252(a)(1) negotiation process (prior to or after the expiration date or termination date of this Agreement), CLEC withdraws its Section 252(a)(1) request, CLEC must include in its notice of withdrawal a request to adopt a successor agreement under Section 252(i) of the Act or affirmatively state that CLEC does not wish to pursue a successor agreement with **SBC-13STATE** for a given state. The rates, terms and conditions of this Agreement shall continue in full force and effect for a period of ninety (90) calendar days after the date CLEC provides notice of withdrawal of its Section 252(a)(1) request. On the earlier of (i) the ninety-first (91st) calendar day following **SBC-13STATE**'s receipt of CLEC's notice of withdrawal of its Section 252(a)(1) request or (ii) the effective date of the agreement following approval by the **Commission** of the adoption of an agreement under 252(i), the Parties shall, have no further obligations under this Agreement except those set forth in Section 5.5 of this Agreement.
- 5.9 If CLEC does not affirmatively state that it wishes to pursue a successor agreement with **SBC-13STATE** in its, as applicable, notice of expiration or termination or the written confirmation required after receipt of the **SBC**-owned ILEC's notice of expiration or termination, then the rates, terms and conditions of this Agreement shall continue in full force and effect for a period of ninety (90) calendar days after the date CLEC provided or received notice of expiration or termination. On the ninety-first (91st) day following CLEC provided or received notice of expiration or termination, the Parties shall have no further obligations under this Agreement except those set forth in Section 5.5 of this Agreement.
- 5.10 In the event of termination of this Agreement pursuant to Section 5.9, **SBC-13STATE** and CLEC shall cooperate in good faith to effect an orderly transition of service under this Agreement; provided that CLEC shall be solely responsible (from a financial,

operational and administrative standpoint) to ensure that its End Users have been transitioned to a new LEC by the expiration date or termination date of this Agreement.

6. FRAUD

- 6.1 SBC-13STATE shall not be liable to CLEC for any fraud associated with CLEC's End User's account, including 1+ IntraLATA toll, ported numbers, and Alternate Billing Service (ABS). ABS is a service that allows End Users to bill calls to account(s) that might not be associated with the originating line. There are three types of ABS calls: calling card, collect, and third number billed calls.
- 6.2 The Parties agree to cooperate with one another to investigate, minimize, and take corrective action in cases of fraud involving 1+ IntraLATA toll calls, ABS, and ported numbers. The Parties' fraud minimization procedures are to be cost-effective and implemented so as not to unduly burden or harm one Party as compared to the other.
- 6.3 In cases of suspected fraudulent activity by an End User, at a minimum, the cooperation referenced in Section 6.2 will include providing to the other Party, upon request, information concerning Customers who terminate services to that Party without paying all outstanding charges. The Party seeking such information is responsible for securing the End User's permission to obtain such information.
- 6.4 SBC-AMERITECH, SBC-SWBT, PACIFIC, SNET will provide notification messages to CLEC on suspected occurrences of ABS-related fraud on CLEC accounts stored in the applicable LIDB. PACIFIC will provide such alert messages by e-mail. SBC-AMERITECH, SBC-SWBT and SNET will provide via fax.
- 6.4.1 SBC-SWBT (on behalf of itself and SNET) and PACIFIC will use a Sleuth system to determine suspected occurrences of ABS-related fraud for CLEC using the same criteria SBC-SWBT and PACIFIC use to monitor fraud on their respective accounts.
- 6.4.2 CLEC understands that Sleuth alerts only identify potential occurrences of fraud. CLEC understands and agrees that it will need to perform its own investigations to determine whether a fraud situation actually exists. CLEC understands and agrees that it will also need to determine what, if any, action CLEC should take as a result of a Sleuth alert.

- 6.4.3 The Parties will provide contact names and numbers to each other for the exchange of Sleuth alert notification information twenty-four (24) hours per day seven (7) days per week.
- 6.4.4 For each alert notification provided to CLEC, CLEC may request a corresponding thirty-day (30-day) historical report of ABS-related query processing. CLEC may request up to three reports per alert.
- 6.5 In **SBC-SWBT and PACIFIC** ABS-related alerts are provided to CLEC at no additional charge, except as related in 6.6 below.
- 6.5.1 In **PACIFIC**, 1+ IntraLATA toll fraud alerts are offered for Resale only under the product name Traffic Alert Referral Service (TARS). For TARS, CLEC agrees to pay a recurring usage rate as outlined in Appendix Pricing.
- 6.6 Traffic Alert Referral Service (“TARS”) 1+ Intra-LATA Toll Fraud Monitoring
- 6.6.1 For terms and conditions for TARS, see Appendix Resale.
- 6.6.2 TARS is offered in **PACIFIC** only.

7. **DEPOSITS (SBC-12STATE)**

- 7.1 The deposit requirements set forth in this Section 7 apply to the Resale Services and Network Elements furnished under this Agreement. **SBC-12STATE** may, in order to safeguard its interests, require that CLEC, if it has proven history of late payments or has not established a minimum of twelve consecutive months good credit history with **SBC-12STATE**, make a reasonable deposit to be held by **SBC-12STATE** as a guarantee of the payment of charges. For purposes of this provision, a Party shall not be deemed to have “a proven history of late payments” or “not established credit” based in whole or in part on the failure to pay amounts which such Party has properly disputed in good faith in accordance with all applicable provisions of Section 10 Dispute Resolution. A CLEC that furnishes both Resale Services and Network Elements in one (1) state under this Agreement shall make two (2) separate deposits for that state, each calculated separately as set forth below in Sections 7.2 through 7.10, inclusive.
- 7.2 If CLEC has not established a minimum of twelve (12) consecutive months good credit history with all **SBC-owned-ILECS** (that is, **AMERITECH, NEVADA, PACIFIC, SNET and SWBT**) where CLEC is doing or has done business as a Local Service Provider, CLEC shall remit an initial cash deposit to **SBC-12STATE** prior to the furnishing of Resale Services or Network Elements in each state covered by this

Agreement. The deposit required by the previous sentence shall be determined as follows:

- 7.2.1 for NEVADA, PACIFIC or SWBT, if immediately prior to the Effective Date, CLEC was not operating as a Local Service Provider in a state covered by this Agreement, the initial deposit for that state shall be in the amount of \$17,000; or
 - 7.2.2 for NEVADA, PACIFIC or SWBT, if immediately prior to the Effective Date, CLEC was operating as a Local Service Provider in a state covered by this Agreement, the deposit for that state shall be in the amount calculated using the method set forth in Section 7.7 of this Agreement; or
 - 7.2.3 for SBC-AMERITECH, subject to external credit check verification and/or financial statement review, SBC-AMERITECH may require two (2) to four (4) months of projected average monthly billings as a deposit.
 - 7.2.4 If CLEC has established a minimum of twelve (12) consecutive months good credit history with all SBC-owned ILEC(s) (that is, AMERITECH, NEVADA, PACIFIC, SNET and SWBT) with which CLEC is doing or has done business as a Local Service Provider, SBC-12STATE shall waive the initial deposit requirement; provided, however, that the terms and conditions set forth in Section 7.1 through Section 7.10 of this Agreement shall continue to apply in each state for the Term. In determining whether CLEC has established a minimum of twelve (12) consecutive months good credit history with each SBC-owned ILEC with which CLEC is doing or has done business, CLEC's payment record with each SBC-owned ILEC for the most recent twelve (12) months occurring within the twenty-four (24) month period immediately prior to the Effective Date shall be considered.
- 7.3 Any cash deposit for one state shall be held by SBC-12STATE as a guarantee of payment of charges billed to CLEC, provided, however, SBC-12STATE may exercise its right to credit any cash deposit to CLEC's account upon the occurrence of any one of the following events:
- 7.3.1 when SBC-12STATE sends CLEC the second delinquency notification for that state during the most recent twelve (12) months; or
 - 7.3.2 when SBC-12STATE suspends CLEC's ability to process orders in accordance with Section 9.6.1.1; or
 - 7.3.3 when CLEC files for protection under the bankruptcy laws; or

- 7.3.4 when an involuntary petition in bankruptcy is filed against CLEC and is not dismissed within sixty (60) days; or
- 7.3.5 when this Agreement expires or terminates; or
- 7.3.6 during the month following the expiration of twelve (12) months after that cash deposit was remitted, SBC-12STATE shall credit any cash deposit to CLEC's account so long as CLEC has not been sent more than one delinquency notification letter for that state during the most recent twelve (12) months.
- 7.3.7 For the purposes of this Section 7.3, interest will be calculated as specified in Section 8.1 and shall be credited to CLEC's account at the time that the cash deposit is credited to CLEC's account.
- 7.4 So long as CLEC maintains timely compliance with its payment obligations, SBC-12STATE will not increase the deposit amount required. If CLEC fails to maintain timely compliance with its payment obligations, SBC-12STATE reserves the right to require additional deposit(s) in accordance with Section 7.1 and Section 7.5 through Section 7.10.
- 7.5 If during the first six (6) months of operations in a state covered by this Agreement, CLEC has been sent one delinquency notification letter by SBC-12STATE, the deposit amount for that state shall be re-evaluated based upon CLEC's actual billing totals and shall be increased if CLEC's actual billing average:
- 7.5.1 for NEVADA, PACIFIC or SWBT for a two (2) month period exceeds the deposit amount held; or
- 7.5.2 for AMERITECH for a two (2) to four (4) month period exceeds the deposit amount held.
- 7.6 Throughout the Term, any time CLEC has been sent two (2) delinquency notification letters for any one state by SBC-12STATE, the deposit amount for that state shall be re-evaluated based upon CLEC's actual billing totals and shall be increased if CLEC's actual billing average:
- 7.6.1 for NEVADA, PACIFIC or SWBT for a two (2) month period exceeds the deposit amount held; or
- 7.6.2 for AMERITECH for a two (2) to four (4) month period exceeds the deposit amount held.

- 7.7 Whenever a deposit is re-evaluated as specified in Section 7.5 or Section 7.6, such deposit shall be calculated in an amount equal to the average billing to CLEC for that state for a two (2) to four (4) month period. The most recent three (3) months billing on all of CLEC's CBAs/ESBAs/ASBS ("CBA" is utilized in **SWBT** only; "ESBA" is utilized in **PACIFIC** and **NEVADA** only; "ASBS" is utilized in **AMERITECH** only) and BANs for Resale Services or Network Elements within that state shall be used to calculate CLEC's monthly average.
- 7.7.1 In **SBC-7STATE** only, after calculating the amount equal to the average billing to CLEC for that state for a two (2) month period, add the amount of any charges that would be applicable to transfer all of CLEC's then-existing End-Users of Resale Services to **SBC-7STATE** in the event of CLEC's disconnection for non-payment of charges. The resulting sum is the amount of the deposit.
- 7.8 Whenever a deposit is re-evaluated as specified in Section 7.5 and Section 7.6, CLEC shall remit the additional deposit amount to **SBC-12STATE** within thirty (30) calendar days of receipt of written notification from **SBC-12STATE** requiring such deposit. If CLEC fails to furnish the required deposit within thirty (30) calendar days of receipt of written notice requesting such deposit, **SBC-12STATE** shall begin the process set forth in Section 9 of this Agreement for that state. If CLEC continues to fail to furnish the required deposit at the expiration of the fourteen (14) calendar days specified in Section 9.3 of this Agreement, then **SBC-12STATE** shall begin the procedure(s) set forth in Sections 9.5 and 9.6 of this Agreement for that state.
- 7.9 This cash deposit requirement may be satisfied in whole or in part with an irrevocable bank letter of credit acceptable to **SBC-7STATE**. No interest shall be paid by **SBC-7STATE** for any portion of the deposit requirement satisfied by an irrevocable bank letter of credit. **SBC-7STATE** may demand payment from the issuing bank of any irrevocable bank letter of credit upon the occurrence of any of the events listed in Section 7.3.1 through 7.3.4.
- 7.10 The fact that **SBC-12STATE** holds either a cash deposit or irrevocable bank letter of credit does not relieve CLEC from timely compliance with its payment obligations under this Agreement.
- 7.11 For Deposit requirements for **SNET**, see the applicable **CT-DPUC** ordered tariff.

8. BILLING AND PAYMENT OF CHARGES

- 8.1 Unless otherwise stated, each Party will render monthly bill(s) to the other for Interconnection, Resale Services, Network Elements, functions, facilities, products and

services provided hereunder at the rates set forth in the applicable Appendix Pricing, as set forth in applicable tariffs or other documents specifically referenced herein and, as applicable, as agreed upon by the Parties or authorized by a Party.

- 8.1.1 Remittance in full of all bills rendered by SBC-AMERITECH, SBC-SWBT and PACIFIC is due within thirty (30) calendar days of each bill date (the “**Bill Due Date**”) and shall be paid in accordance with the terms of Section 8.3 of this Agreement.
- 8.1.2 Remittance in full of all bills rendered by NEVADA is due in accordance with the terms set forth in the Commission C2-A Tariff, with the date on which amounts are due referred to herein as the “**Bill Due Date**”.
- 8.1.3 Remittance in full of all bills rendered by SNET is due in accordance with the terms set forth in the Connecticut Access Service Tariff approved by the DPUC, with the date on which amounts are due referred to herein as the “**Bill Due Date**”.
- 8.1.4 Remittance in full of all bills rendered by CLEC is due within thirty (30) calendar days of each bill date (the “**Bill Due Date**”).
- 8.1.5 If CLEC fails to remit payment for any charges for services by the Bill Due Date, or if a payment or any portion of a payment is received from CLEC after the Bill Due Date, or if a payment or any portion of a payment is received in funds which are not immediately available to SBC-13STATE as of the Bill Due Date (individually and collectively, “**Past Due**”), then a late payment charge shall be assessed as provided in Sections 8.1.5.1 through 8.1.5.3, as applicable.
 - 8.1.5.1 If any charge incurred under this Agreement that is billed out of any SBC-8STATE billing system other than the SBC-SWBT Customer Records Information System (CRIS) is Past Due, the unpaid amounts shall bear interest from the Bill Due Date until paid at the lesser of (i) the rate used to compute the Late Payment Charge in the applicable SBC-8STATE intrastate access services tariff in that state and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.
 - 8.1.5.2 If any charge incurred under this Agreement that is billed out of SBC-SWBT's CRIS is Past Due, the unpaid amounts shall bear interest from the Bill Due Date until paid. The interest rate applied to SBC-

SWBT CRIS-billed Past Due unpaid amounts shall be the lesser of (i) the rate used to compute the Late Payment Charge contained in the applicable **SBC-SWBT** intrastate retail Commission-approved tariff governing Late Payment Charges to **SBC-SWBT**'s retail End Users that are business End Users in that state and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.

- 8.1.5.3 If any charge incurred under this Agreement that is billed out of any **SBC-AMERITECH** billing system is Past Due, the unpaid amounts shall accrue interest from the Bill Due Date at the lesser of (i) one and one-half percent (1 ½%) per month and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.
- 8.2 If any charge incurred by **SBC-12STATE** under this Agreement is Past Due, the unpaid amounts shall bear interest from the Bill Due Date until paid. The interest rate applied shall be the lesser of (i) the rate used to compute the Late Payment Charge contained in the applicable **SBC-12STATE**'s intrastate access services tariff in that state and (ii) the highest rate of interest that may be charged under Applicable Law, compounded daily from the Bill Due Date to and including the date that the payment is actually made and available.
- 8.3 CLEC shall make all payments to **SBC-12STATE** via electronic funds credit transfers through the Automated Clearing House Association (ACH) network to the financial institution designated by **SBC-12STATE**. Remittance information will be communicated together with the funds transfer via the ACH network. CLEC shall use the CCD+ or the CTX transaction set. CLEC and **SBC-12STATE** shall abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each ACH credit transfer shall be received by **SBC-12STATE** no later than the Bill Due Date of each bill or Late Payment Charges will apply. **SBC-12STATE** shall not be liable for any delays in receipt of funds or errors in entries caused by CLEC or Third Parties, including CLEC's financial institution. CLEC is responsible for its own banking fees.
- 8.3.1 CLEC shall make all payments to **SNET** in "immediately available funds." All payments to **SNET** shall be made using one of the methods set forth in the Connecticut Access Service Tariff approved by the **CT-DPUC** or via electronic funds credit transfers through the Automated Clearing House Association (ACH) network to the financial institution designated by **SNET**. If

CLEC makes payment through funds transfer via the ACH network, remittance information will be communicated together with the funds transfer via the ACH network. If CLEC makes payment through funds transfer via the ACH network, CLEC shall use the CCD+ or the CTX transaction set. CLEC and **SNET** shall abide by the National Automated Clearing House Association (NACHA) Rules and Regulations. Each payment shall be received by **SNET** no later than the Bill Due Date of each bill or Late Payment Charges will apply. **SNET** shall not be liable for any delays in receipt of funds or errors in entries caused by CLEC or Third Parties, including CLEC's financial institution. CLEC is responsible for its own banking fees.

- 8.4 If any portion of an amount due to a Party (the **“Billing Party”**) for Resale Services or Network Elements under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the **“Non-Paying Party”**) shall, prior to the Bill Due Date, give written notice to the Billing Party of the amounts it disputes (**“Disputed Amounts”**) and include in such written notice the specific details and reasons for disputing each item listed in Section 10.4.1. The Non-Paying Party shall pay when due (i) all amounts due to the Billing Party, provided the Non-paying Party may dispute the Disputed Amount under the Dispute Resolution process of this Agreement, or (ii) all undisputed amounts to the Billing Party and all Disputed Amounts into an interest bearing escrow account with a Third Party escrow agent mutually agreed upon by the Parties. To be acceptable, the Third Party escrow agent must meet all of the following criteria:
- 8.4.1 The financial institution proposed as the Third Party escrow agent must be located within the continental United States;
- 8.4.2 The financial institution proposed as the Third Party escrow agent may not be an Affiliate of either Party; and
- 8.4.3 The financial institution proposed as the Third Party escrow agent must be authorized to handle Automatic Clearing House (ACH) (credit transactions) (electronic funds) transfers.
- 8.4.4 In addition to the foregoing requirements for the Third Party escrow agent, the disputing Party and the financial institution proposed as the Third Party escrow agent must agree that the escrow account will meet all of the following criteria:
- 8.4.4.1 The escrow account must be an interest bearing account;
- 8.4.4.2 All charges associated with opening and maintaining the escrow account will be borne by the disputing Party;

- 8.4.4.3 That none of the funds deposited into the escrow account or the interest earned thereon may be subjected to the financial institution's charges for serving as the Third Party escrow agent;
- 8.4.4.4 All interest earned on deposits to the escrow account shall be disbursed to the Parties in the same proportion as the principal; and
- 8.4.4.5 Disbursements from the escrow account shall be limited to those:
 - 8.4.4.5.1 authorized in writing by both the disputing Party and the Billing Party (that is, signature(s) from representative(s) of the disputing Party only are not sufficient to properly authorize any disbursement); or
 - 8.4.4.5.2 made in accordance with the final, non-appealable order of the arbitrator appointed pursuant to the provisions of Section 10.7; or
 - 8.4.4.5.3 made in accordance with the final, non-appealable order of the court that had jurisdiction to enter the arbitrator's award pursuant to Section 10.7.
- 8.5 Disputed Amounts in escrow shall be subject to Late Payment Charges as set forth in Section 8.1.
- 8.6 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provisions set forth in Section 10.
- *8.7 In AM-IL, AM-WI and AM-MI, the Billed Party shall not be required to place Disputed Amounts in escrow, as required by Section 8.0, above, if: (i) does not have a proven history of late payments and has established a minimum of twelve (12)

* Section 8.7 is available only in the states of Illinois, Wisconsin and Michigan. The Parties agree that this language is a non-voluntary offering by AM-IL, AM-WI and AM-MI and consistent with the following orders: Order of the Illinois Commerce Commission in TDS Metrocom, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company d/b/a Ameritech Illinois Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0338; Order of the Public Service Commission of Wisconsin in TDS Metrocom, Inc. Petition for Arbitration of Interconnection Terms, Conditions and Prices from Wisconsin Bell, Inc., d/b/a Ameritech Wisconsin, Docket 05-MA-123; Order of the Michigan Public Service Commission in the matter of the Petition for Arbitration to establish an Interconnection Agreement between TDS Metrocom, Inc., and Ameritech Michigan, Case No. U-12952. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

consecutive months good credit history with the Billing Party (prior to the date it notifies the Billing Party of its billing dispute), and (ii) the Billed Party has not filed more than three (3) previous billing disputes that were resolved in Billing Party's favor within the twelve (12) months immediately preceding the date it notifies the Billing Party of its current billing dispute.

8.7.1 (Reserved).

8.7.2 (Reserved).

8.7.3 (Reserved).

8.7.4 (Reserved).

8.8 If the Non-Paying Party disputes any charges for Resale Services or Network Elements and any portion of the dispute is resolved in favor of such Non-Paying Party, the Parties shall cooperate to ensure that all of the following actions are taken:

8.8.1 the Billing Party shall credit the invoice of the Non-Paying Party for that portion of the Disputed Amounts resolved in favor of the Non-Paying Party, together with any Late Payment Charges assessed with respect thereto no later than the second Bill Due Date after the resolution of the Dispute;

8.8.2 within fifteen (15) calendar days after resolution of the Dispute, the portion of the Disputed Amounts resolved in favor of the Non-Paying Party shall be paid to the Non-Paying Party, together with accrued interest thereon, as provided in Sections 8.1.5.1 through 8.1.5.3, as applicable;

8.8.3 within fifteen (15) calendar days after resolution of the Dispute, the portion of the Disputed Amounts resolved in favor of the Billing Party shall be released to the Billing Party, together with any accrued interest thereon, as provided in Sections 8.1.5.1 through 8.1.5.3, as applicable.

8.8.4 [Reserved].

8.9 Failure by the Non-Paying Party to pay any charges determined to be owed to the Billing Party shall be grounds for termination of this Agreement. The Party terminating the agreement pursuant to this section must provide the termination notice required by Section 5.3.

8.10 [Reserved].

- 8.11 Each additional copy of any bill provided for billing from SBC-SWBT's CABS billing system will incur charges as specified in Access Service Tariff FCC No. 73 Section 13 Alternate Bill Media.
- 8.12 Bills provided to CLEC from SBC-SWBT's CRIS system through Bill Plus will incur charges as specified in Appendix Pricing provided they have been approved by the relevant state commission.

8.13 **EXCHANGE OF BILLING MESSAGE INFORMATION**

8.13.1 SBC-13 STATE will provide CLEC a specific Daily Usage File (“**DUF**” or “**Usage Extract**”) for Resale Services and Network Element usage sensitive services provided hereunder (“**Customer Usage Data**”). Such Customer Usage Data shall be provided by SBC-13STATE in accordance with Exchange Message Interface (**EMI**) guidelines supported by OBF. Any exceptions to the supported formats will be noted in the DUF implementation requirements documentation for each ILEC. The DUF shall include (i) specific daily usage, including both Local Traffic (if and where applicable) and LEC-carried IntraLATA Toll Traffic, in EMI format for usage sensitive services furnished in connection with each Resale Service and Network Element to the extent that similar usage sensitive information is provided to retail End Users of SBC-13STATE within that state, (ii) with sufficient detail to enable CLEC to bill its End Users for usage sensitive services furnished by SBC-13STATE in connection with Resale Services and Network Elements provided by SBC-13STATE. Procedures and processes for implementing the interfaces with SBC-AMERITECH, PACIFIC, NEVADA, SNET, and SBC-SWBT will be included in implementation requirements documentation.

8.13.1.1 This section is intended to entitle CLEC to continue to receive ACDRS records in accordance with current operating procedures between SBC-AMERITECH and CLEC under the prior Resale Agreements.

8.13.2 To establish file transmission for the DUF, CLEC must provide a separate written request for each state to SBC-AMERITECH, PACIFIC, NEVADA, SNET and SBC-SWBT no less than sixty (60) calendar days prior to the desired first transmission date for each file.

8.13.3 Call detail for LEC-carried calls that are alternately billed to CLEC End Users will be forwarded to CLEC as rated call detail on the DUF.

- 8.13.4 SBC-SWBT shall bill CLEC for DUF furnished by SBC-SWBT in accordance with the price(s) provided in the applicable Appendix Pricing under "Electronic Billing Information."
- 8.13.5 Interexchange call detail on Resale Services or Network Elements (ports) that is forwarded to SBC-13STATE for billing, which would otherwise be processed by SBC-13STATE for its retail End Users, will be returned to the IXC and will not be passed through to CLEC. This call detail will be returned to the IXC with a transaction code indicating that the returned call originated from a resold account. Billing for Information Services and other ancillary services traffic on Resale Services and Network Elements (ports) will be passed through when SBC-13STATE records the message.
- 8.13.6 SBC-AMERITECH, NEVADA and PACIFIC Ancillary Services messages originated on or billed to a Resale Service or Network Element (port) in those seven (7) states shall be subject to the rates, terms and conditions of Appendix MESSAGE EXCHANGE.
- 8.13.7 CLEC shall be responsible for providing all billing information to each of its End Users, regardless of the method used to provision the End User's service.

9. NONPAYMENT AND PROCEDURES FOR DISCONNECTION

- 9.1 Unless otherwise specified therein, Sections 9.1, 9.2, 9.3, 9.4 and 9.5 shall apply to all charges billed for all services Interconnection, Resale Services, Network Elements, functions, facilities, products and services furnished under this Agreement. Section 9.6 shall apply only to Resale Services and Network Elements furnished under this Agreement.
- 9.1.1 If a Party is furnished services under the terms of this Agreement in more than one (1) state, Sections 9.1 through 9.7, inclusive, shall be applied separately for each such state.
- 9.2 Failure to pay charges may be grounds for disconnection of Interconnection, Resale Services, Network Elements, functions, facilities, products and services furnished under this Agreement. If a Party fails to pay by the Bill Due Date, any and all charges billed to it under this Agreement, including any Late Payment Charges or miscellaneous charges ("**Unpaid Charges**"), and any portion of such Unpaid Charges remain unpaid after the Bill Due Date, the Billing Party shall notify the Non-Paying Party in writing that in order to avoid disruption or disconnection of the applicable Interconnection, Resale Services, Network Elements, functions, facilities, products and services furnished under this Agreement, the Non-Paying Party must remit all Unpaid Charges to the Billing Party.

- 9.2.1 With respect to Resale Services and Network Elements, SBC-13STATE will notify CLEC of any Unpaid Charges that remain unpaid fifteen (15) calendar days after the Bill Due Date and that CLEC must remit payment within fourteen (14) calendar days following receipt of SBC-13STATE's notice.
- 9.3 If the Non-Paying Party desires to dispute any portion of the Unpaid Charges, the Non-Paying Party shall take all of the following actions not later than fourteen (14) calendar days following receipt of the Billing Party's notice of Unpaid Charges:
- 9.3.1 notify the Billing Party in writing which portion(s) of the Unpaid Charges it disputes, including the total amount disputed ("**Disputed Amounts**") and the specific details listed in Section 10.4.1 of this Agreement, together with the reasons for its dispute; and
- 9.3.2 immediately pay to the Billing Party all undisputed Unpaid Charges; and
- 9.3.3 pay all Disputed Amounts relating to Resale Services and Network Elements in accordance with the requirements set forth in Section 8.7.
- 9.3.4 [Reserved].
- 9.3.5 SBC-13STATE shall not terminate a service or feature provided to a CLEC End User upon the belief that SBC is not obligated to provide said service or feature under this Agreement until initiation and conclusion of the dispute resolution procedures in Section 10 of the General Terms and Conditions.
- 9.4 Issues related to Disputed Amounts shall be resolved in accordance with the procedures identified in the Dispute Resolution provision set forth in Section 10.
- 9.5 **SBC-AMERITECH only**
- 9.5.1 Notwithstanding anything to the contrary herein, if the Non-Paying Party fails to (i) pay any undisputed amounts by the Bill Due Date, or (ii) make a payment in accordance with the terms of any mutually agreed upon payment arrangement, the Billing Party may, in addition to exercising any other rights or remedies it may have under Applicable Law, provide written demand to the Non-Paying Party for failing to comply with the foregoing. If the Non-Paying Party does not satisfy the written demand within five (5) Business Days of receipt, the Billing Party may exercise any, or all, of the following options:

- 9.5.1.1 assess a late payment charge and where appropriate, a dishonored check charge;
 - 9.5.1.2 require provision of a deposit or increase an existing deposit pursuant to a revised deposit request;
 - 9.5.1.3 refuse to accept new, or complete pending, orders; and/or
 - 9.5.1.4 discontinue service.
- 9.5.2 Notwithstanding anything to the contrary in this Agreement, the Billing Party's exercise of any of the above options:
- 9.5.2.1 shall not delay or relieve the Non-Paying Party's obligation to pay all charges on each and every invoice on or before the applicable Bill Due Date, and
 - 9.5.2.2 Sections 9.5.1.3 and 9.5.1.4 shall exclude any affected order or service from any applicable performance interval or Performance Benchmark.
- 9.5.3 Once disconnection has occurred, additional charges may apply.

9.6 **SBC-7STATE only**

- 9.6.1 If any Unpaid Charges for Resale Services or Network Elements remain unpaid and undisputed twenty-nine (29) calendar days past the Bill Due Date of such Unpaid Charges, **SBC-7STATE** shall notify CLEC and the Commission in writing that unless all Unpaid Charges for Resale Services and Network Elements are paid within sixteen (16) calendar days following CLEC's receipt of such notice, the Resale Services and/or Network Elements furnished to CLEC under this Agreement for which Unpaid Charges are outstanding (i.e., delinquent and undisputed) shall be disconnected. This notice shall further specify that **SBC-7STATE** shall cause any of CLEC's End Users provisioned through Resale Services to be defaulted to **SBC-7STATE** local service.
- 9.6.1.1 On the same day that it sends the letter required by Section 9.6.1, **SBC-7STATE** will suspend acceptance of any new order and completion of any pending order (other than a disconnect order) from CLEC for any Resale Service or Network Element that could be furnished under this Agreement.

- 9.6.1.2 Section 9.6.1.1 shall exclude any affected order for Resale Services or Network Elements from any applicable performance interval and computation of any Performance Measurement.
- 9.6.2 If any Unpaid Charges for Resale Services or Network Elements remain unpaid and undisputed forty (40) calendar days past the Bill Due Date of the Unpaid Charges, CLEC shall, at its sole expense, notify its End Users and the Commission that the End Users' service may be disconnected due to CLEC's failure to pay Unpaid Charges, and that its End Users must affirmatively select a new Local Service Provider within five (5) calendar days. This notice shall also advise CLEC's End Users provisioned through Resale Services that SBC-7STATE will transfer provisioning of the End User's account to SBC-7STATE at the end of the five (5) calendar day period should the Resale End User fail to select a new Local Service Provider in the interim.
- 9.6.3 If any Unpaid Charges for Resale Services or Network Elements furnished to CLEC under this Agreement remain unpaid and undisputed forty-five (45) calendar days past the Bill Due Date of such Unpaid Charges, SBC-7STATE shall disconnect such Resale Services and/or Network Elements.
- 9.6.3.1 On the same date that these Resale Services are disconnected, SBC-7STATE shall cause such End Users provisioned through Resale Services to be transferred directly to SBC-7STATE's local service. To the extent available at retail from SBC-7STATE, the Resale End Users transferred to SBC-7STATE's local service shall receive the same services provided through CLEC immediately prior to the time of transfer; provided, however, SBC-7STATE reserves the right to toll restrict (both interLATA and intraLATA) such transferred End Users.
- 9.6.3.2 Applicable conversion charges and service establishment charges for transferring End Users from CLEC to SBC-7STATE as specified in this Section 9.6 shall be billed to CLEC.
- 9.6.3.3 SBC-7STATE shall inform the Commission of the names of all Resale End Users transferred through this process.
- 9.6.4 Within five (5) calendar days of the transfer, SBC-7STATE shall notify all transferred Resale End Users that because of CLEC's failure to pay SBC-7STATE, their local service is now being provided by SBC-7STATE. SBC-7STATE shall also notify each transferred Resale End User that the End User has thirty (30) calendar days to select a new Local Service Provider.

- 9.6.5 Within twenty (20) calendar days of transfer, SWBT-KS shall again notify all transferred Resale End Users who have not exercised their option to select a new Local Service Provider that because of CLEC's failure to pay SWBT-KS, their local service is now being provided by SWBT-KS. SWBT-KS shall also notify the End Users that they have fifteen (15) calendar days remaining to select a local service provider.
- 9.6.6 If any End User transferred to SBC-7STATE's local service pursuant to Section 9.6.3 of this Agreement fails to select a new Local Service Provider within thirty (30) calendar days of the transfer to SBC-7STATE's local service, SBC-7STATE shall terminate the transferred End User's service.
- 9.6.6.1 The transferred End User shall be responsible for any and all charges incurred during the selection period.
- 9.6.6.2 SBC-7STATE shall notify the Commission of the names of all transferred End Users whose service has been terminated pursuant to this Section 9.6.5.
- 9.6.7 SBC-7STATE may discontinue service to CLEC as provided in Section 9.6.3 and shall have no liability to CLEC or CLEC's End Users in the event of such disconnection or any transfer of Resale End Users to SBC-7STATE service in connection with such disconnection.
- 9.6.8 Nothing in this Agreement shall be interpreted to obligate SBC-7STATE to continue to provide service to any transferred End User beyond the thirty (30) calendar day selection period. Nothing herein shall be interpreted to limit any and all disconnection rights SBC-7STATE has with regard to such transferred End Users under Applicable Law; provided, however,
- 9.6.8.1 in PACIFIC only, following expiration of the selection period and disconnection of such transferred End Users, where facilities permit, PACIFIC will furnish transferred and subsequently disconnected residential End Users with "quick dial tone."
- 9.6.9 Once the letter required by Section 9.6.1 has been sent to CLEC, SBC-7STATE shall not accept any order (other than a disconnect order) relating to Resale Services or Network Elements from CLEC until
- 9.6.9.1 All Unpaid Charges are paid, and

9.6.9.2 CLEC has furnished SBC-7STATE a cash deposit calculated pursuant to the terms and conditions of Section 7.

9.7 SNET only

9.7.1 For nonpayment and procedures for disconnection for SNET, see the applicable DPUC ordered tariff.

10. **DISPUTE RESOLUTION**

10.1 Finality of Disputes

10.1.1 Except as otherwise specifically provided for in this Agreement, no claim may be brought for any dispute arising from this Agreement more than twenty-four (24) months from the date the occurrence which gives rise to the dispute is discovered or reasonably should have been discovered with the exercise of due care and attention.

10.1.2 Notwithstanding anything contained in this Agreement to the contrary, a Party shall be entitled to dispute only those charges for which the Bill Due Date occurred within the twenty-four (24) months immediately preceding the date on which the other Party received notice of such Disputed Amounts.

10.1.3 Notwithstanding any other provision of the Agreement, and subject to state and federal regulations, the Parties shall not permit the pendency of a dispute to disrupt service to any CLEC End User contemplated by this Agreement.

10.2 Alternative to Litigation

10.2.1 The Parties desire to expeditiously, economically and equitably resolve disputes arising under this Agreement without litigation. Accordingly, the Parties agree that the following Dispute Resolution procedures with respect to any controversy or Claim arising out of or relating to this Agreement or its breach are preferred. However, notwithstanding any other language in this Agreement, a Party may in its sole discretion invoke the informal or formal complaint procedures of the appropriate state or federal regulatory agency for any dispute arising out of this agreement or its breach which involves, in whole or in part, the application or interpretation of state or federal telecommunication laws and regulations upon conclusion of the informal Dispute Resolution procedures set forth in Section 10.5. In the event a Party invokes the jurisdiction of the appropriate state or regulatory agency, both Parties agree that the agency has

jurisdiction to resolve all disputes arising under this Agreement to the extent permitted by Applicable Law.

10.3 Commencing Dispute Resolution

10.3.1 Dispute Resolution shall commence upon one Party's receipt of written notice of a controversy or Claim arising out of or relating to this Agreement or its breach. No Party may pursue any Claim unless such written notice has first been given to the other Party. There are three (3) separate Dispute Resolution methods:

10.3.1.1 Service Center (**SBC-AMERITECH**), LSC (**SBC-7STATE**) or LEC-C (**SNET**);

10.3.1.2 Informal Dispute Resolution; and

10.3.1.3 Formal Dispute Resolution, each of which is described below.

10.4 LSC/ Service Center/LEC-C Dispute Resolution -the following Dispute Resolution procedures will apply with respect to any billing dispute arising out of or relating to the Agreement.

10.4.1 If the written notice given pursuant to Section 10.3 discloses that a CLEC dispute relates to billing, then the procedures set forth in this Section 10.4 shall be used and the dispute shall first be referred to the appropriate service center [**SBC-AMERITECH** Service Center; **SBC-7STATE** Local Service Center (**LSC**); **SNET** Local Exchange Carrier Center (LEC-C)] for resolution. In order to resolve a billing dispute, CLEC shall furnish **SBC-13STATE** written notice of (i) the date of the bill in question, (ii) CBA/ESBA/ASBS or BAN number of the bill in question, (iii) telephone number, circuit ID number or trunk number in question, (iv) any USOC information relating to the item questioned, (v) amount billed, (vi) amount in question and (vii) the reason that CLEC disputes the billed amount. Either Party is not prohibited from supplementing the basis for its billing dispute at any time during the process.

10.4.2 The Parties shall attempt to resolve Disputed Amounts appearing on the other Party's current billing statements thirty (30) to sixty (60) calendar days from the Bill Due Date (provided the CLEC furnishes all requisite information and evidence under Section 10.4.1 by the Bill Due Date). If not resolved within thirty (30) calendar days, upon request, the non-disputing Party will notify the disputing Party of the status of the dispute and the expected resolution date.

- 10.4.3 The Parties shall attempt to resolve Disputed Amounts appearing on statements prior to the current billing statement within thirty (30) to ninety (90) calendar days, but resolution may take longer depending on the complexity of the dispute. If not resolved within thirty (30) calendar days from the date notice of the Disputed Amounts was received (provided that CLEC furnishes all requisite information and evidence under Section 10.4.1), SBC-13STATE will notify CLEC of the status of the dispute and the expected resolution date.
- 10.4.4 Any notice of Disputed Amounts given by SBC-13STATE to CLEC pursuant to Section 10.3 shall furnish CLEC written notice of: (i) the date of the bill in question, (ii) the account number or other identification of the bill in question, (iii) any telephone number, circuit ID number or trunk number in question, (iv) any USOC (or other descriptive information) questioned, (v) the amount billed, (vi) the amount in question, and (vii) the reason that SBC-13STATE disputes the billed amount. The Parties shall attempt to resolve Disputed Amounts appearing on current billing statement(s) thirty (30) to sixty (60) calendar days after receipt of the written notice (provided SBC-13STATE, furnishes all requisite information with the written notice) and Disputed Amounts appearing on statements prior to the current billing statement within thirty (30) to ninety (90) calendar days, but resolution may take longer depending on the complexity of the dispute. If not resolved within thirty (30) calendar days, CLEC will notify SBC-13STATE of the status of the dispute and the expected resolution date.
- 10.4.5 If the Non-Paying Party is not satisfied by the resolution of the billing dispute under this Section 10.4, the Non-Paying Party may notify the Billing Party in writing that it wishes to invoke the Informal Resolution of Disputes afforded pursuant to Section 10.5 of this Agreement.

10.5 Informal Resolution of Disputes

- 10.5.1 Upon receipt by one Party of notice of a dispute by the other Party pursuant to Section 10.3 or Section 10.4.5, each Party will appoint a knowledgeable, responsible representative that will have authority to finally resolve the dispute to meet and negotiate in good faith to resolve any dispute arising under this Agreement. Designation of representatives must be provided in writing to the other Party within five (5) calendar days of receipt of notice of a dispute. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative Dispute Resolution procedures such as mediation to assist in the negotiations. During the informal dispute resolution process, reasonable requests for information related to the dispute should be provided to the requesting Party within seven (7) calendar days of issuance of

the request subject to any appropriate objections. Within five-(5) business days of the initiation of the informal Dispute Resolution, the Party initiating the informal dispute shall present a written statement summarizing its position as to the dispute. Within five-(5) business days of receipt, the other Party shall respond with a written statement summarizing its position as to the dispute. Discussions and the correspondence among the representatives for purposes of settlement are exempt from discovery and production and will not be admissible in the arbitration described below or in any lawsuit or agency action without the concurrence of both Parties. Documents identified in or provided with such communications that were not prepared for purposes of the negotiations and which may have been provided in response to a reasonable request for information during the course of Dispute Resolution are not so exempted, and, if otherwise admissible, may be admitted in evidence in the arbitration or lawsuit unless both Parties agree otherwise.

10.5.2 The informal Dispute Resolution process shall conclude not more than fifteen (15) business days after service of a Party's written notice of controversy or claim provided pursuant to Section 10.3.1 unless the Parties mutually agree to extend this deadline for concluding the informal Dispute Resolution process. Upon conclusion of the informal Dispute Resolution process, either Party may in its sole discretion invoke either the formal Dispute Resolution set forth in Section 10.6 or the informal or formal complaint procedures of the appropriate state or federal regulatory agency.

10.6 Formal Dispute Resolution

10.6.1 If the Parties are unable to resolve the dispute through the informal procedure described in Section 10.5, then either Party may invoke the formal Dispute Resolution procedures described in Section 10.5, including arbitration or other procedures as appropriate. Formal Dispute Resolution shall conclude not more than twenty (20) business days after either Party invokes the formal Dispute Resolution process unless the Parties mutually agree to extend the deadline for concluding formal Dispute Resolution.

10.6.2 Claims Subject to Mandatory Arbitration The following claims, if not settled through informal Dispute Resolution, will be subject to mandatory arbitration pursuant to Section 10.7 below:

10.6.2.1 Each unresolved billing dispute involving one percent (1%) or less of the amounts charged to the Disputing Party under this Agreement in the state in which the dispute arises during the twenty-four (24) months immediately preceding receipt of the letter initiating Dispute

Resolution under Section 10.3. If the disputing Party has not been billed for a minimum twenty-four (24) months immediately preceding receipt of the letter initiating Dispute Resolution under Section 10.3, the Parties will annualize the actual number of months billed.

10.6.3 Claims Subject to Elective Arbitration. Claims will be subject to elective arbitration pursuant to Section 10.7 if, and only if, the claim is not settled through informal Dispute Resolution and both Parties agree to arbitration. If both Parties do not agree to arbitration, then either Party may proceed with any remedy available to it pursuant to law, equity or agency mechanism.

10.6.4 Claims Not Subject to Arbitration. If the following claims are not resolved through informal Dispute Resolution, they will not be subject to arbitration and must be resolved through any remedy available to a Party pursuant to law, equity or agency mechanism.

10.6.4.1 Actions seeking a temporary restraining order or an injunction related to the purposes of this Agreement.

10.6.4.2 Actions to compel compliance with the Dispute Resolution process.

10.6.4.3 All claims arising under federal or state statute(s), including antitrust claims.

10.7 Arbitration

10.7.1 Disputes subject to mandatory arbitration under the provisions of this Agreement will be submitted to a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or pursuant to such other provider of arbitration services or rules as the Parties may agree. The arbitrator shall be knowledgeable of telecommunications issues. Arbitration will be held in the city where the Commission is located or at a location that is agreeable to both Parties. The arbitration hearing will be requested to commence within forty-five (45) calendar days of the demand for arbitration. The arbitrator will control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs upon a schedule determined by the arbitrator. The Parties will request that the arbitrator rule on the dispute by issuing a written opinion within thirty (30) calendar days after the close of hearings. The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all disputes. The arbitrator will have no authority to award punitive damages, exemplary damages, Consequential

Damages, multiple damages, or any other damages not measured by the prevailing Party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this Agreement. The times specified in this Section may be extended or shortened upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Each Party will bear its own costs of these procedures, including attorneys' fees. The Parties will equally split the fees of the arbitration and the arbitrator. The arbitrator's award shall be final and binding and shall be in writing. Judgement upon the award rendered by an arbitrator may be entered in any court having jurisdiction thereof.

10.7.2 SBC-13STATE, the CLEC and the arbitrator will treat the arbitration proceeding, including the hearings and conferences, discovery and other related events, as confidential, except as necessary.

11. AUDITS – Applicable in SBC-12STATE only

11.1 Subject to the restrictions set forth in Section 20 and except as may be otherwise expressly provided in this Agreement, a Party (the “**Auditing Party**”) may audit the other Party’s (the “**Audited Party**”) books, records, data and other documents, as provided herein, once annually, with the audit period commencing not earlier than the date on which services were first supplied under this Agreement (“**service start date**”) for the purpose of evaluating (i) the accuracy of Audited Party’s billing and invoicing of the services provided hereunder and (ii) verification of compliance with any provision of this Agreement that affects the accuracy of Auditing Party's billing and invoicing of the services provided to Audited Party hereunder. Notwithstanding the foregoing, an Auditing Party may audit the Audited Party’s books, records and documents more than once annually if the previous audit found (i) previously uncorrected net variances or errors in invoices in Audited Party’s favor with an aggregate value of at least five percent (5%) of the amounts payable by Auditing Party for audited services provided during the period covered by the audit or (ii) non-compliance by Audited Party with any provision of this Agreement affecting Auditing Party's billing and invoicing of the services provided to Audited Party with an aggregate value of at least five percent (5%) of the amounts payable by Audited Party for audited services provided during the period covered by the audit.

11.1.1 The scope of the audit shall be limited to the period which is the shorter of (i) the period subsequent to the last day of the period covered by the audit which was last performed (or if no audit has been performed, the service start date and (ii) the twelve (12) month period immediately preceding the date the Audited Party received notice of such requested audit, but in any event not prior to the service start date. Such audit shall begin no fewer than thirty (30)

calendar days after Audited Party receives a written notice requesting an audit and shall be completed no later than thirty (30) calendar days after the start of such audit.

- 11.1.2 Such audit shall be conducted either by the Auditing Party's employee(s) or an independent auditor acceptable to both Parties; provided, however, if the Audited Party requests that an independent auditor be engaged and the Auditing Party agrees, the Audited Party shall pay one-quarter (1/4) of the independent auditor's fees and expenses. If an independent auditor is to be engaged, the Parties shall select an auditor by the thirtieth day following Audited Party's receipt of a written audit notice. Auditing Party shall cause the independent auditor to execute a nondisclosure agreement in a form agreed upon by the Parties.
- 11.1.3 Each audit shall be conducted on the premises of the Audited Party during normal business hours. Audited Party shall cooperate fully in any such audit and shall provide the auditor reasonable access to any and all appropriate Audited Party employees and any books, records and other documents reasonably necessary to assess (i) the accuracy of Audited Party's bills and (ii) Audited Party's compliance with the provisions of this Agreement that affect the accuracy of Auditing Party's billing and invoicing of the services provided to Audited Party hereunder. Audited Party may redact from the books, records and other documents provided to the auditor any Audited Party Proprietary Information that reveals the identity of End Users of Audited Party.
- 11.1.4 Each Party shall maintain reports, records and data relevant to the billing of any services that are the subject matter of this Agreement for a period of not less than twenty-four (24) months after creation thereof, unless a longer period is required by Applicable Law.
- 11.1.5 If any audit confirms any undercharge or overcharge, then Audited Party shall (i) promptly correct any billing error, including making refund of any overpayment by Auditing Party in the form of a credit on the invoice for the first full billing cycle after the Parties have agreed upon the accuracy of the audit results and (ii) for any undercharge caused by the actions of the Audited Party, immediately compensate Auditing Party for such undercharge, and (iii) in each case, calculate and pay interest as provided in Section 8.1 (depending on the **SBC**-owned ILEC(s) involved), for the number of calendar days from the date on which such undercharge or overcharge originated until the date on which such credit is issued or payment is made and available.

- 11.1.6 Except as may be otherwise provided in this Agreement, audits shall be performed at Auditing Party's expense, subject to reimbursement by Audited Party of one-quarter (1/4) of any independent auditor's fees and expenses in the event that an audit finds, and the Parties subsequently verify, a net adjustment in the charges paid or payable by Auditing Party hereunder by an amount that is, on an annualized basis, greater than five percent (5%) of the aggregate charges for the audited services during the period covered by the audit.
- 11.1.7 Any disputes concerning audit results shall be referred to the Parties' respective personnel responsible for informal resolution. If these individuals cannot resolve the dispute within thirty (30) calendar days of the referral, either Party may request in writing that an additional audit shall be conducted by an independent auditor acceptable to both Parties, subject to the requirements set out in Section 11.1. Any additional audit shall be at the requesting Party's expense.
- 11.2 Audits - SNET only
- 11.2.1 Except as provided in Appendix Compensation, SNET shall arrange for one (1) annual independent audit to be conducted by a "Big Six" independent public accounting firm or an accounting firm mutually agreed to by SNET, CLEC and all other CLECs doing business with SNET under the terms of an agreement adopted pursuant to Sections 251 and 252 of the Act for the purpose of evaluating the accuracy of SNET's billing and invoicing.
- 11.2.2 SNET will cooperate fully with the independent auditor in such audit and provide reasonable access to any and all appropriate SNET employees, books, records and other documents reasonably necessary to perform the audit.
- 11.2.3 SNET shall promptly correct any billing error that is revealed in the audit, including making refund of any overpayment to CLEC in the form of a credit on the invoice for the first full billing cycle after the audit report is issued; such refund shall include interest on the overpayment at the rate of eight percent (8%) per year. In the event that the audit reveals any underbilling and resulting underpayment to SNET by CLEC, the underpayment shall be reflected in CLEC's invoice for the first full billing cycle after the audit report is issued. SNET will not be entitled to recover interest on any underbilling to CLEC revealed by the audit for the time preceding the amount appearing on CLEC's bill from SNET, however, SNET shall be entitled to recover interest at the interest rate referenced in Section 8.1.5.1 on such underbilling and CLEC shall pay interest for the number of calendar days from the Bill Due Date of the bill on which such underbilling was rectified until the date on which payment is made and available to SNET.

12. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

12.1 EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NO PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE INTERCONNECTION, RESALE SERVICES, NETWORK ELEMENTS, FUNCTIONS, FACILITIES, PRODUCTS AND SERVICES IT PROVIDES UNDER OR IS CONTEMPLATED TO PROVIDE UNDER THIS AGREEMENT AND EACH PARTY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR OF FITNESS FOR A PARTICULAR PURPOSE. ADDITIONALLY, NO PARTY TO THIS AGREEMENT ASSUMES RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF DATA OR INFORMATION SUPPLIED BY ANY OTHER PARTY TO THIS AGREEMENT WHEN SUCH DATA OR INFORMATION IS ACCESSED AND USED BY A THIRD PARTY.

13. LIMITATION OF LIABILITY

- 13.1 Except as otherwise provided in Section 14 Indemnity or in specific appendices, each Party shall be responsible only for services(s) and facility (ies) that are provided by that Party, its authorized agents, subcontractors, or others retained by such parties, and neither Party shall bear any responsibility for the service(s) and facility(ies) provided by the other Party, its agents, subcontractors, or others retained by such parties.
- 13.2 Except as otherwise expressly provided in specific appendices, in the case of any Loss alleged or claimed by a Third Party to have arisen out of the negligence or willful misconduct of any Party, each Party shall bear, and its obligation shall be limited to, that portion (as mutually agreed to by the Parties or as otherwise established) of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.
- 13.3 A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users or Third Parties that relate to any Interconnection, Resale Services, Network Elements, functions, facilities, products and services provided or contemplated under this Agreement that, to the maximum extent permitted by Applicable Law, such Party shall not be liable to such End User or Third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged the End User or Third Party for the Interconnection, Resale Services, Network Elements, functions, facilities, products and services that gave rise to such Loss and (ii) any Consequential Damages. If a Party elects not to place in its tariffs or contracts such limitation(s) of liability, and the other Party incurs a Loss as a result thereof, the first Party shall indemnify and reimburse the other Party for that

portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitation(s) of liability described in this Section 13.3.

- 13.4 Neither CLEC nor **SBC-13STATE** shall be liable to the other Party for any Consequential Damages suffered by the other Party, regardless of the form of action, whether in contract, warranty, strict liability, tort or otherwise, including negligence of any kind, whether active or passive (and including alleged breaches of this Agreement and causes of action alleged to arise from allegations that breach of this Agreement constitutes a violation of the Act or other statute), and regardless of whether the Parties knew or had been advised of the possibility that such damages could result in connection with or arising from anything said, omitted, or done hereunder or related hereto, including willful acts or omissions; provided that the foregoing shall not limit a Party's obligation under Section 14.2 to indemnify, defend, and hold the other Party harmless against any amounts payable to a Third Party, including any Losses, and Consequential Damages of such Third Party; provided, however, that nothing in this Section 13.4 shall impose indemnity obligations on a Party for any Loss or Consequential Damages suffered by a Party's End User in connection with any affected Interconnection, Resale Services, Network Elements, functions, facilities, products and services. Except as provided in the prior sentence, each Party hereby releases and holds harmless the other Party (and such other Party's Affiliates, and their respective officers, directors, employees and agents) from any such Claim.
- 13.4 **SBC-13STATE** shall not be liable for damages to a End User's premises resulting from the furnishing of any Interconnection, Resale Services, Network Elements, functions, facilities, products or services, including, if applicable, the installation and removal of equipment and associated wiring, unless the damage is caused by **SBC-13STATE**'s gross negligence or willful misconduct. **SBC-13STATE** does not guarantee or make any warranty with respect to Interconnection, Resale Services, Network Elements, functions, facilities, products or services when used in an explosive atmosphere.
- 13.5 Except for payments required pursuant to Section 15 Performance Measurements, including but not limited to any penalties, damages, service associated credits with the SBC and Ameritech merger or other penalties assessed by any state, and except for indemnity obligations under Section 14 Indemnity, each Party's liability to the other Party for any Loss relating to or arising out of any negligent act or omission in its performance under this Agreement, other than for white pages listings as described in Section 13.7, whether in contract, tort or otherwise,

shall not exceed in total the amount **SBC-13STATE** or CLEC has or would have properly charged to the other Party by such negligent or breaching Party for the service(s) or function(s) not performed or improperly performed, unless the damage is caused by **SBC-13STATE**'s gross negligence or willful misconduct. Notwithstanding the foregoing, in cases involving any Claim for a Loss associated with the installation, provision termination, maintenance, repair or restoration of an individual Network Element or a Resale Service provided for a specific End User of the other Party, the negligent or breaching Party's liability shall be limited to the greater of: (i) the total amount properly charged to the other Party for the service or function not performed or improperly performed, and (ii) the amount such negligent or breaching Party would have been liable to its End User if the comparable retail service was provided directly to its End User.

13.6 CLEC hereby releases **SBC-13STATE** from any and all liability for damages due to errors or omissions in CLEC's End User listing information as provided by CLEC to **SBC-13STATE** under this Agreement, including any errors or omissions occurring in CLEC's End User listing information as it appears in the White Pages directory, including, but not limited to, Consequential Damages, except to the extent caused by **SBC-13STATE**'s own negligence or willful misconduct.

13.7 [Reserved].

14. INDEMNITY

14.1 Except as otherwise expressly provided herein or in specific appendices, each Party shall be responsible only for the Interconnection, Resale Services, Network Elements, functions, facilities, products and services which are provided by that Party, its authorized agents, subcontractors, or others retained by such Parties, and neither Party shall bear any responsibility for the Interconnection, Resale Services, Network Elements, functions, facilities, products and services provided by the other Party, its agents, subcontractors, or others retained by such Parties.

14.2 Except as otherwise expressly provided herein or in specific appendices, and to the extent not prohibited by Applicable Law and not otherwise controlled by tariff, each Party (the "**Indemnifying Party**") shall release, defend and indemnify the other Party (the "**Indemnified Party**") and hold such Indemnified Party harmless against any Loss to a Third Party arising out of the negligence or willful misconduct ("**Fault**") of such Indemnifying Party, its agents, its End Users, contractors, or others retained by such Parties, in connection with the Indemnifying Party's provision of Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement; provided, however, that (i) with respect to employees or agents of the Indemnifying Party, such Fault occurs while performing within the scope of their

employment, (ii) with respect to subcontractors of the Indemnifying Party, such Fault occurs in the course of performing duties of the subcontractor under its subcontract with the Indemnifying Party, and (iii) with respect to the Fault of employees or agents of such subcontractor, such Fault occurs while performing within the scope of their employment by the subcontractor with respect to such duties of the subcontractor under the subcontract.

14.3 In the case of any Loss alleged or claimed by a End User of either Party, the Party whose End User alleged or claimed such Loss (the **"Indemnifying Party"**) shall defend and indemnify the other Party (the **"Indemnified Party"**) against any and all such Claims or Losses by its End User regardless of whether the underlying Interconnection, Resale Service, Network Element, function, facility, product or service giving rise to such Claim or Loss was provided or provisioned by the Indemnified Party, unless the Claim or Loss was caused by the gross negligence or willful misconduct of the Indemnified Party.

14.4 A Party (the **"Indemnifying Party"**) shall defend, indemnify and hold harmless the other Party (**"Indemnified Party"**) against any Claim or Loss arising from the Indemnifying Party's use of Interconnection, Resale Services, Network Elements, functions, facilities, products and services provided under this Agreement involving:

14.4.1 any Claim or Loss arising from such Indemnifying Party's use of Interconnection, Resale Services, Network Elements, functions, facilities, products and services offered under this Agreement, involving any Claim for libel, slander, invasion of privacy, or infringement of Intellectual Property rights arising from the Indemnifying Party's or its End User's use.

14.4.1.1 The foregoing includes any Claims or Losses arising from disclosure of any End User-specific information associated with either the originating or terminating numbers used to provision Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided hereunder and all other Claims arising out of any act or omission of the End User in the course of using any Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided pursuant to this Agreement.

14.4.1.2 The foregoing includes any Losses arising from Claims for actual or alleged infringement of any Intellectual Property right of a Third Party to the extent that such Loss arises from an Indemnifying Party's or an Indemnifying Party's End User's use of Interconnection, Resale Services, Network Elements, functions, facilities, products or services provided under this Agreement; provided, however, that an

Indemnifying Party's obligation to defend and indemnify the Indemnified Party shall not apply:

14.4.1.2.1 where an Indemnified Party or its End User modifies Interconnection, Resale Services, Network Elements, functions, facilities, products or services; and

14.4.1.2.2 no infringement would have occurred without such modification.

14.4.2 any and all penalties imposed on either Party because of the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (**CALEA**); provided that the Indemnifying Party shall also, at its sole cost and expense, pay any amounts necessary to modify or replace any equipment, facilities or services provided to the Indemnified Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

14.5 CLEC acknowledges that its right under this Agreement to Interconnect with **SBC-13STATE**'s network and to unbundle and/or combine **SBC-13STATE**'s Network Elements (including combining with CLEC's Network Elements) may be subject to or limited by Intellectual Property rights (including without limitation, patent, copyright, trade secret, trade mark, service mark, trade name and trade dress rights) and contract rights of Third Parties.

14.5.1 The Parties acknowledge that on April 27, 2000, the FCC released its Memorandum Opinion and Order in CC Docket No. 96-98 (File No. CCBPol. 97-4), In the Matter of Petition of MCI *for* Declaratory *Ruling*. Absent any stay, reconsideration or appeal, such Order will become effective thirty (30) days following the future publication of such Order in the Federal Register. The Parties further acknowledge and agree that by executing this Agreement, neither Party waives any of its rights, remedies, or arguments with respect to such decision and any remand thereof, including its right to seek legal review or a stay pending appeal of such decision.

14.5.1.1 When the Order referenced in Section 14.5.1 (or any reconsideration or appeal therefrom) is effective, **SBC-13STATE** agrees to use its best efforts to obtain for CLEC, under commercially reasonable terms, Intellectual Property rights to each unbundled network element necessary for CLEC to use such unbundled network element in the same manner as **SBC-13STATE**.

- 14.5.1.2 **SBC-13STATE** shall have no obligation to attempt to obtain for CLEC any Intellectual Property right(s) that would permit CLEC to use any unbundled network element in a different manner than used by **SBC-13STATE**.
- 14.5.1.3 When the Order referenced in Section 14.5.1 (or any reconsideration or appeal therefrom) is effective, to the extent not prohibited by a contract with the vendor of the network element sought by CLEC that contains Intellectual Property licenses, **SBC-13STATE** shall reveal to CLEC the name of the vendor, the Intellectual Property rights licensed to **SBC-13STATE** under the vendor contract and the terms of the contract (excluding cost terms). **SBC-13STATE** shall, at CLEC's request, contact the vendor to attempt to obtain permission to reveal additional contract details to CLEC.
- 14.5.1.4 All costs associated with the extension of Intellectual Property rights to CLEC pursuant to Section 14.5.1.1, including the cost of the license extension itself and the costs associated with the effort to obtain the license, shall be a part of the cost of providing the unbundled network element to which the Intellectual Property rights relate and apportioned to all requesting carriers using that unbundled network element including **SBC-13STATE**.
- 14.5.2 **SBC-13STATE** hereby conveys no licenses to use such Intellectual Property rights and makes no warranties, express or implied, concerning CLEC's (or any Third Parties') rights with respect to such Intellectual Property rights and contract rights, including whether such rights will be violated by such Interconnection or unbundling and/or combining of Network Elements (including combining with CLEC's Network Elements) in **SBC-13STATE**'s network or CLEC's use of other functions, facilities, products or services furnished under this Agreement. Any licenses or warranties for Intellectual Property rights associated with unbundled network elements are vendor licenses and warranties and are a part of the Intellectual Property rights **SBC-13STATE** agrees in Section 14.5.1.1 to use its best efforts to obtain.
- 14.5.3 **SBC-13STATE** does not and shall not indemnify, defend or hold CLEC harmless, nor be responsible for indemnifying or defending, or holding CLEC harmless, for any Claims or Losses for actual or alleged infringement of any Intellectual Property right or interference with or violation of any contract right that arises out of, is caused by, or relates to CLEC's Interconnection with **SBC-13STATE**'s network and unbundling and/or combining **SBC-13STATE**'s Network Elements (including combining with CLEC's Network

Elements) or CLEC's use of other functions, facilities, products or services furnished under this Agreement. Any indemnities for Intellectual Property rights associated with unbundled network elements shall be vendor's indemnities and are a part of the Intellectual Property rights SBC-13STATE agrees in Section 14.5.1.1 to use its best efforts to obtain.

14.6 A Party shall reimburse the other party for damages to the Party's facilities utilized to provide telecommunication services caused by the negligence or willful act of a Party, its agents or subcontractors or a party's End User or resulting from the malfunction of either party's facilities, functions, products, services or equipment provided by any person or entity other than the Parties. Upon reimbursement for damages, the Party will cooperate with the other Party in prosecuting a claim against the person causing such damage. The Party shall be subrogated to the right of recovery by the other Party for the damages to the extent of such payment.

14.7 Indemnification Procedures

14.7.1 Whenever a claim shall arise for indemnification under this Section 14, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to so notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.

14.7.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party.

14.7.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.

14.7.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has

approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.

- 14.7.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.
- 14.7.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.
- 14.7.7 If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.
- 14.7.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.
- 14.7.9 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 20.
- 14.7.10 To the extent that state or federal law or regulations require **SBC-13STATE** to reimburse CLEC for credits, cellular telephone costs or other compensation for End Users resulting from failure to meet certain service quality standards, nothing in this Agreement shall be deemed to require CLEC to follow procedures to obtain such reimbursement other than those procedures set forth

in the applicable state or federal law or regulations. Disputes shall be resolved pursuant to dispute resolution processes specified by such state or federal law or regulations, if any. In the absence of such specifically identified dispute resolution processes, disputes shall be resolved pursuant to the dispute resolution processes in this agreement. This paragraph does not create any additional liability for either Party and is only intended to clarify the processes for obtaining the reimbursement described herein where authorized by law or regulation.

15. REMEDIES

15.1 Except as otherwise provided in this Agreement, no remedy set forth herein is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under Applicable Law or otherwise.

16. INTELLECTUAL PROPERTY

16.1 Any Intellectual Property originating from or developed by a Party shall remain in the exclusive ownership of that Party.

17. NOTICES

17.1 Subject to Section 17.2, notices given by one Party to the other Party under this Agreement shall be in writing (unless specifically provided otherwise herein), and unless otherwise expressly required by this Agreement to be delivered to another representative or point of contact, shall be

17.1.1 delivered personally;

17.1.2 delivered by express overnight delivery service;

17.1.3 mailed, via certified mail or first class U.S. Postal Service, with postage prepaid, and a return receipt requested; or

17.1.4 delivered by facsimile; provided that a paper copy is also sent by a method described in (a), (b) or (c) of this Section 17.

17.1.5 Notices will be deemed given as of the earliest of:

17.1.5.1 the date of actual receipt,

17.1.5.2 the next Business Day when sent via express overnight delivery service,

17.1.5.3 five (5) calendar days after mailing in the case of first class or certified U.S. Postal Service, or

17.1.5.4 on the date set forth on the confirmation produced by the sending facsimile machine when delivered by facsimile prior to 5:00 p.m. in the recipient's time zone, but the next Business Day when delivered by facsimile at 5:00 p.m. or later in the recipient's time zone.

17.1.6 Notices will be addressed to the Parties as follows:

NOTICE CONTACT	CLEC CONTACT	<u>SBC-13STATE</u> CONTACT
NAME/TITLE	Lauraine Harding Senior Manager Interconnection Negotiation	Contract Administration ATTN: Notices Manager
STREET ADDRESS	6400 C Street SW PO Box 3177	311 S. Akard, 9 th Floor Four SBC Plaza
CITY, STATE, ZIP CODE	Cedar Rapids, IA 52406-3177	Dallas, TX 75202-5398
FACSIMILE NUMBER	319-790-7901	214-464-2006

17.1.7 Either Party may unilaterally change its designated contact, address, telephone number and/or facsimile number for the receipt of notices by giving written notice to the other Party in compliance with this Section. Any notice to change the designated contact, address, telephone and/or facsimile number for the receipt of notices shall be deemed effective ten (10) calendar days following receipt by the other Party. The Party receiving said notification shall acknowledge receipt of said notice within ten (10) calendar days of receipt.

17.2 **SBC-13STATE** communicates official information to CLECs via its Accessible Letter notification process. This process covers a variety of subjects, including updates on products/services promotions; deployment of new products/services; modifications and price changes to existing products/services; cancellation or retirement of existing products/services; and operational issues.

17.2.1 In the SBC-13STATES, Accessible Letter notification will be via electronic mail (“e-mail”) distribution. Accessible Letter notification via e-mail will be deemed given the date set forth on the e-mail receipt.

17.2.2 In SBC-13STATE, CLEC may designate an unlimited number of recipients for Accessible Letter notification via e-mail.

17.2.3 In SBC-13STATE, CLEC shall submit a completed Notices / Accessible Letter Recipient Change Request Form (available under the appropriate state heading under the CLEC Handbook portion of CLEC Online) to the individual specified on that form to designate in writing each individual’s email address to whom CLEC requests Accessible Letter notification be sent. CLEC shall submit a completed Notices / Accessible Letter Recipient Change Request Form to add, remove or change recipient information for any CLEC recipient of Accessible Letters. Any completed Notices / Accessible Letter Recipient Change Request Form shall be deemed effective ten (10) calendar days following receipt by SBC-13STATE.

17.3 SBC-SWBT only:

17.3.1 SBC-SWBT shall provide a toll free facsimile number to CLEC for the submission of requests for Resale Services and Network Elements under this Agreement; CLEC shall provide SBC-SWBT with a toll free facsimile number for notices from SBC-SWBT relating to requests for Resale Services and Network Elements under this Agreement

17.4 [INTENTIONALLY LEFT BLANK].

17.5 Notices provided via Accessible Letters does not authorize SBC-13STATE to implement changes that require Commission approval.

18. PUBLICITY AND USE OF TRADEMARKS OR SERVICE MARKS

18.1 Neither Party nor its subcontractors or agents shall use in any advertising or sales promotion, press releases, or other publicity matters any endorsements, direct or indirect quotes, or pictures that imply endorsement by the other Party or any of its employees without such first Party's prior written approval. The Parties will submit to each other for written approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied; the Party to whom a request is directed shall respond promptly. Nothing herein, however, shall be construed as

preventing either Party from publicly stating the fact that it has executed this Agreement with the other Party.

- 18.2 Nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, logos, proprietary trade dress or trade names of the other Party in any advertising, press releases, publicity matters, marketing and/or promotional materials or for any other commercial purpose without prior written approval from such other Party.

19. NO LICENSE

- 19.1 Except at otherwise expressly provided in this Agreement, no license under patents, copyrights or any other Intellectual Property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

20. CONFIDENTIALITY

- 20.1 All information, including specifications, microfilm, photocopies, magnetic disks, magnetic tapes, audit information, models, system interfaces, forecasts, computer programs, software, documentation, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data shall be deemed "Confidential" or "Proprietary" (**collectively "Proprietary Information"**) if :

20.1.1 Furnished or made available or otherwise disclosed by one Party (the **"Disclosing Party"**) or its agent, employee, representative or Affiliate to the other Party (the **"Receiving Party"**) or its agent, employee, representative or Affiliate dealing with End User-specific, facility-specific, or usage-specific information, other than End User information communicated for the purpose of publication or directory database inclusion, 911, call processing, billing or settlement or for such other purposes as mutually agreed upon;

20.1.2 In written, graphic, electromagnetic, or other tangible form and marked at the time of delivery as "Confidential" or "Proprietary"; or

20.1.3 Communicated orally and declared to the Receiving Party at the time of delivery to be "Confidential" or "Proprietary", and which shall be summarized in writing and marked "Confidential" or "Proprietary" and delivered to the Receiving Party within ten (10) calendar days following such disclosure; and

20.1.4 Any portion of any notes, analyses, data, compilations, studies, interpretations or other documents prepared by any Receiving Party to the extent the same contain, reflect, are derived from, or are based upon, any of the information described in this Section 20, unless such information contained or reflected in such notes, analyses, etc. is so commingled with the Receiving Party's information that disclosure could not possibly disclose the underlying proprietary or confidential information (such portions of such notes, analyses, etc. referred to herein as "**Derivative Information**").

20.2 Proprietary Information Shall be Held in Confidence

20.2.1 Each Receiving Party agrees that:

- (a) all Proprietary Information communicated to it or any of its agents, employees, representatives and Affiliates in connection with this Agreement shall be held in confidence to the same extent as such Receiving Party holds its own confidential information of like importance; provided that such Receiving Party and its agents, employees, representatives and Affiliates shall not use less than a reasonable standard of care in maintaining the confidentiality of such information;
- (b) it will not, and it will not permit any of its agents, employees, representatives and Affiliates to disclose such Proprietary Information to any Third Party;
- (c) it will disclose Proprietary Information only to those of its agents, employees, representatives and Affiliates who have a need for it in connection with the use or provision of any services required to fulfill this Agreement; and
- (d) it will, and will cause each of its agents, employees, representatives and Affiliates, to use such Proprietary Information only to perform its obligations under this Agreement or to use services provided by the Disclosing Party hereunder and for no other purpose, including its own marketing purposes.

20.2.2 A Receiving Party may disclose Proprietary Information of a Disclosing Party to the Receiving Party's agents, employees, representatives and Affiliates who need to know such information to perform their obligations under this Agreement; provided that before disclosing any Proprietary Information to any agent, employee, representative or Affiliate, the Receiving Party shall notify such

agent, employee, representative or Affiliate of such Party's obligation to comply with this Agreement. Any Receiving Party so disclosing Proprietary Information shall be jointly and severally liable for any breach of this Agreement by any of its agents, employees, representatives and Affiliates and such Receiving Party agrees, at its sole expense, to use its reasonable efforts (including court proceedings) to restrain its agents, employees, representatives and Affiliates from any prohibited or unauthorized disclosure or use of the Proprietary Information. Each Receiving Party making such disclosure shall notify the Disclosing Party as soon as possible if it has knowledge of a breach of this Agreement in any material respect. A Disclosing Party shall not disclose Proprietary Information directly to an agent, employee, representative or Affiliate of the Receiving Party without the prior written authorization of the Receiving Party.

20.2.3 Proprietary Information shall not be reproduced by any Receiving Party in any form except to the extent (i) necessary to comply with the provisions of Section 20.5 and (ii) reasonably necessary to perform its obligations under this Agreement. All such reproductions shall bear the same copyright and proprietary rights notices as are contained in or on the original.

20.3 Unless otherwise agreed, the obligations of confidentiality and non-use set forth in this Agreement do not apply to such Proprietary Information that:

20.3.1 Was at the time of receipt, already known to the Receiving Party, free of any obligation to keep confidential and evidenced by written records prepared prior to delivery by the Disclosing Party; or

20.3.2 Is, or becomes publicly known through no wrongful act of the Receiving Party; or

20.3.3 Is rightfully received from a Third Party having no direct or indirect secrecy or confidentiality obligation to the Disclosing Party with respect to such information; provided that such Receiving Party has exercised commercially reasonable efforts to determine whether such Third Party has any such obligation; or

20.3.4 Is independently developed by an agent, employee representative or Affiliate of the Receiving Party and such Party is not involved in any manner with the provision of services pursuant to this Agreement and does not have any direct or indirect access to the Proprietary Information; or

- 20.3.5 Is disclosed to a Third Party by the Disclosing Party without similar restrictions on such Third Party's rights; or
- 20.3.6 Is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization granted; or
- 20.3.7 Is required to be made public by the Receiving Party pursuant to Applicable Law or regulation, provided that such production or disclosure shall have been made in accordance with Section 20.5.

20.4 Proposed Disclosure of Proprietary Information to a Governmental Authority

- 20.4.1 If a Receiving Party desires to disclose or provide to a Commission, the FCC or any other governmental authority any Proprietary Information of the Disclosing Party, such Receiving Party shall, prior to and as a condition of such disclosure, (i) provide the Disclosing Party with written notice and the form of such proposed disclosure as soon as possible but in any event early enough to allow the Disclosing Party to protect its interests in the Proprietary Information to be disclosed and (ii) attempt to obtain in accordance with the applicable procedures of the intended recipient of such Proprietary Information an appropriate order for protective relief or other reliable assurance that confidential treatment shall be accorded to such Proprietary Information.
- 20.4.2 If a Receiving Party is required by any Governmental Authority or by Applicable Law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible, and in no event later than five (5) calendar days after receipt of such requirement, and prior to such disclosure. Upon receipt of written notice of the requirement to disclose Proprietary Information, the Disclosing Party at its expense, may then either seek appropriate protective relief in advance of such requirement to prevent all or part of such disclosure or waive the Receiving Party's compliance with this Section 20.4 with respect to all or part of such requirement.
- 20.4.3 The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to seek pursuant to this Section 20.4. In the absence of such relief, if the Receiving Party is legally compelled to disclose any Proprietary Information, then the Receiving Party shall exercise all commercially reasonable efforts to preserve the confidentiality of the Proprietary information, including cooperating with the Disclosing Party to obtain an appropriate order for

protective relief or other reliable assurance that confidential treatment will be accorded the Proprietary Information.

20.5 Notwithstanding any of the foregoing, SBC-13STATE shall be entitled to disclose Proprietary Information on a confidential basis to regulatory agencies upon request for information as to SBC-13STATE's activities under the Act and SBC-13STATE need not provide prior written notice of such disclosure to CLEC if SBC-13STATE has obtained an appropriate order for protective relief or other reliable assurance that confidential treatment shall be accorded to such Proprietary Information.

20.6 Return of Proprietary Information

20.6.1 All Proprietary Information, other than Derivative Information, shall remain the property of the Disclosing Party, and all documents or other tangible media delivered to the Receiving Party that embody such Proprietary Information shall be, at the option of the Disclosing Party, either promptly returned to Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Proprietary Information will continue to be subject to this Agreement), upon the earlier of (i) the date on which the Receiving Party's need for it has expired and (ii) the expiration or termination of this Agreement.

20.6.2 At the request of the Disclosing Party, any Derivative Information shall be, at the option of the Receiving Party, either promptly returned to the Disclosing Party or destroyed, except as otherwise may be required from time to time by Applicable Law (in which case the use and disclosure of such Derivative Information will continue to be subject to this Agreement), upon the earlier of (i) the date on which the Receiving Party's need for it has expired and (ii) the expiration or termination of this Agreement.

20.6.3 The Receiving Party may at any time either return the Proprietary Information to the Disclosing Party or destroy such Proprietary Information. If the Receiving Party elects to destroy Proprietary Information, all copies of such information shall be destroyed and upon the written request of the Disclosing Party, the Receiving Party shall provide to the Disclosing Party written certification of such destruction. The destruction or return of Proprietary information shall not relieve any Receiving Party of its obligation to continue to treat such Proprietary Information in the manner required by this Agreement.

20.7 Notwithstanding any other provision of this Agreement, the Proprietary Information provisions of this Agreement shall apply to all information furnished by either Party to the other in furtherance of the purpose of this Agreement, even if furnished before the

date of this Agreement and each Party's obligation to safeguard Proprietary Information disclosed prior to expiration or termination of this Agreement will survive such expiration or termination.

- 20.8 Pursuant to Section 222(b) of the Act, both Parties agree to limit their use of Proprietary Information received from the other to the permitted purposes identified in the Act.
- 20.9 Each Party has the right to refuse to accept any Confidential Information under this Agreement, and nothing herein shall obligate either Party to disclose to the other Party any particular information.
- 20.10 The Parties agree that an impending or existing violation of any provision of this Section 20 would cause the Disclosing Party irreparable injury for which it would have no adequate remedy at law, and agree that Disclosing Party shall be entitled to obtain immediate injunctive relief prohibiting such violation, in addition to any other rights and remedies available to it at law or in equity, including both specific performance and monetary damages. In the event of any breach of this Section 20 for which legal or equitable relief is sought, all reasonable attorneys' fees and other reasonable costs associated therewith shall be recoverable by the prevailing Party.

21. INTERVENING LAW

- 21.1 This Agreement is entered into as a result of both private negotiations between the Parties and the incorporation of some of the results of arbitration by the Commissions. In the event that any of the rates, terms and/or conditions herein, or any of the laws or regulations that were the basis or rationale for such rates, terms and/or conditions in the Agreement, are invalidated, modified or stayed by any action of any state or federal regulatory or legislative bodies or courts of competent jurisdiction, including but not limited to any decision by the Eighth Circuit relating to any of the costing/pricing rules adopted by the FCC in its First Report and Order, *In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996)(e.g., Section 51.501, et seq.), upon review and remand from the United States Supreme Court, in *AT&T Corp. v. Iowa Utilities Bd.*, 119 S. Ct. 721 (1999) or *Ameritech v. FCC*, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (June 1, 1999), the affected provision shall be immediately invalidated, modified, or stayed, consistent with the action of the legislative body, court, or regulatory agency upon the written request of either Party. In such event, the Parties shall expend diligent efforts to arrive at an agreement regarding the appropriate conforming modifications to the Agreement. If negotiations fail, disputes between the Parties concerning the interpretation of the actions required or provisions affected by such governmental actions shall be resolved pursuant to the dispute resolution process provided for in this Agreement. Without limiting the

general applicability of the foregoing, the Parties acknowledge that on January 25, 1999, the United States Supreme Court issued its opinion in *AT&T Corp. v. Iowa Utilities Bd.*, 119 S. Ct. 721 (1999) and on June 1, 1999, the United States Supreme Court issued its opinion in *Ameritech v. FCC*, No. 98-1381, 1999 WL 116994, 1999 Lexis 3671 (1999). In addition, the Parties acknowledge that on November 5, 1999, the FCC issued its Third Report and Order and Fourth Further Notice of Proposed Rulemaking in CC Docket No. 96-96 (FCC 99-238), including the FCC's Supplemental Order issued *In the Matter of the Local Competition Provisions of the Telecommunications Act of 1996*, in CC Docket No. 96-98 (FCC 99-370) (rel. November 24, 1999), portions of which become effective thirty (30) days following publication of such Order in the Federal Register (February 17, 2000) and other portions of which become effective 120 days following publication of such Order in the Federal Register (May 17, 2000). The Parties further acknowledge and agree that by executing this Agreement, neither Party waives any of its rights, remedies, or arguments with respect to such decisions and any remand thereof, including its right to seek legal review or a stay pending appeal of such decisions or its rights under this Intervening Law paragraph.

22. GOVERNING LAW

22.1 Unless otherwise provided by Applicable Law, this Agreement shall be governed by and construed in accordance with the Act, the FCC Rules and Regulations interpreting the Act and other applicable federal law. To the extent that federal law would apply state law in interpreting this Agreement, the domestic laws of the state in which the Interconnection, Resale Services, Network Elements, functions, facilities, products and services at issue are furnished or sought shall apply, without regard to that state's conflict of laws principles. The Parties submit to personal jurisdiction in Little Rock, Arkansas; San Francisco, California; New Haven, Connecticut; Chicago, Illinois; Indianapolis, Indiana; Topeka, Kansas; Detroit, Michigan; St. Louis, Missouri; Reno, Nevada; Columbus, Ohio; Oklahoma City, Oklahoma; Dallas, Texas and Milwaukee, Wisconsin, and waive any and all objection to any such venue.

23. REGULATORY APPROVAL

23.1 The Parties understand and agree that this Agreement and any amendment or modification hereto will be filed with the Commission for approval in accordance with Section 252 of the Act and may thereafter be filed with the FCC. The Parties believe in good faith and agree that the services to be provided under this Agreement are in the public interest. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252 of the Act without modification.

24. CHANGES IN END USER LOCAL EXCHANGE SERVICE PROVIDER SELECTION

24.1 Applies to SBC-12STATE only

- 24.1.1 Each Party will abide by applicable federal and state laws and regulations in obtaining End User authorization prior to changing an End User's Local Exchange Carrier to itself and in assuming responsibility for any applicable charges as specified in the FCC's rules regarding Subscriber Carrier Selection Changes (47 CFR 64.1100 through 64.1170) and any applicable state regulation. Each Party shall deliver to the other Party a representation of authorization that applies to all orders submitted by a Party under this Agreement requiring a LEC change. A Party's representation of authorization shall be delivered to the other Party prior to the first order submitted to the other Party. Each Party shall retain on file all applicable letters and other documentation of authorization relating to its End User's selection of such Party as its LEC, which documentation shall be available for inspection by the other Party at its request during normal business hours and at no charge.
- 24.1.2 Only an End User can initiate a challenge to a change in its LEC. If an End User notifies one Party that the End User requests local exchange service, and the other Party is such End User's LEC, then the Party receiving such request shall be free to immediately access such End User's CPNI subject to the requirements of the applicable Appendix OSS restricting access to CPNI in order to immediately provide service to such End User.
- 24.1.3 When an End User changes or withdraws authorization from its LEC, each Party shall release End User-specific facilities belonging to the ILEC in accordance with the End User's direction or that of the End User's authorized agent. Further, when an End User abandons its premise (that is, its place of business or domicile), SBC-12STATE is free to reclaim the unbundled Network Element facilities for use by another End User and is free to issue service orders required to reclaim such facilities.
- 24.1.4 Neither Party shall be obligated by this Agreement to investigate any allegations of unauthorized changes in local exchange service (slamming) at the request of the other Party; provided however, that each Party shall cooperate with any investigation of a complaint alleging an unauthorized change in local exchange service at the request of the FCC or the applicable state Commission.

24.2 Applies to **SNET** only

24.2.1 The Parties agree that CLEC will not submit a Local Exchange Carrier order for an End User to the Local Service Provider currently serving that End User without proper authorization from that End User, as required by the FCC in Subpart K, Part 64 rules and regulations and by the DPUC in its applicable rules and regulations. **SNET's** wholesale tariff, Section 18, further documents requirements for Local Exchange Carrier changes and required End User authorizations.

24.2.2 The Parties agree to the re-use of existing network facilities when an End User changes its provider of local exchange service and the network facilities are provided by the same network provider.

25. COMPLIANCE AND CERTIFICATION

25.1 Each Party shall comply at its own expense with all Applicable Laws that relate to that Party's obligations to the other Party under this Agreement. Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of Applicable Law.

25.2 Each Party warrants that it has obtained all necessary state certification required in each state covered by this Agreement prior to ordering any Interconnection, Resale Services, Network Elements, functions, facilities, products and services from the other Party pursuant to this Agreement. Upon request, each Party shall provide proof of certification.

25.3 Each Party shall be responsible for obtaining and keeping in effect all approvals from, and rights granted by, Governmental Authorities, building and property owners, other carriers, and any other Third Parties that may be required in connection with the performance of its obligations under this Agreement.

25.4 Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with the CALEA.

26. LAW ENFORCEMENT

26.1 **SBC-12 STATE** and CLEC shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

26.1.1 Intercept Devices:

26.1.1.1 Local and federal law enforcement agencies periodically request information or assistance from local telephone service providers. When either Party receives a request associated with an End User of the other Party, it shall refer such request to the Party that serves such End User, unless the request directs the receiving Party to attach a pen register, trap-and-trace or form of intercept on the Party's facilities, in which case that Party shall comply with any valid request.

26.1.2. Subpoenas:

26.1.2.1 If a Party receives a subpoena for information concerning an End User the Party knows to be an End User of the other Party, it shall refer the subpoena to the Requesting Party with an indication that the other Party is the responsible company, unless the subpoena requests records for a period of time during which the receiving Party was the End User's service provider, in which case that Party will respond to any valid request.

26.1.3 Emergencies:

26.1.3.1 If a Party receives a request from a law enforcement agency for a temporary number change, temporary disconnect, or one-way denial of outbound calls by the receiving Party's switch for an End User of the other Party, that Receiving Party will comply with a valid emergency request. However, neither Party shall be held liable for any claims or Losses arising from compliance with such requests on behalf of the other Party's End User and the Party serving such End User agrees to indemnify and hold the other Party harmless against any and all such claims or Losses.

26.2 SNET and CLEC shall reasonably cooperate with the other Party in handling law enforcement requests as follows:

26.2.1 Each of the Parties agree to comply with the applicable state and federal law enforcement authorities, laws, and requirements, including but not limited to, the Communications Assistance for Law Enforcement Act (CALEA) and to report to applicable State and Federal law enforcement authorities as required by law, the Telecommunications Services and related information provided by each of the Parties in Connecticut.

27. RELATIONSHIP OF THE PARTIES/INDEPENDENT CONTRACTOR

27.1 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

27.2 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

28. NO THIRD PARTY BENEFICIARIES; DISCLAIMER OF AGENCY

28.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein expressed or implied shall create or be construed to create any Third Party beneficiary rights hereunder. This Agreement shall not provide any Person not a party hereto with any remedy, claim, liability, reimbursement, cause of action, or other right in excess of those existing without reference hereto.

29. ASSIGNMENT

29.1 CLEC may not assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third person without the prior written consent of SBC-13STATE which consent shall not be unreasonably withheld;

provided that CLEC may assign or transfer this Agreement to its Affiliate by providing thirty (30) calendar days' prior written notice to SBC-13STATE of such assignment or transfer; provided, further, that such assignment is not inconsistent with Applicable Law (including the Affiliate's obligation to obtain proper Commission certification and approvals) or the terms and conditions of this Agreement. Notwithstanding the foregoing, CLEC may not assign or transfer this Agreement (or any rights or obligations hereunder) to its Affiliate if that Affiliate is a party to a separate agreement with SBC-13STATE under Sections 251 and 252 of the Act. Any attempted assignment or transfer that is not permitted is void ab initio.

- 29.2 As a condition of any assignment or transfer of this Agreement (or any rights hereunder) that is permitted under or consented to by SBC-13STATE pursuant to this Section 29, CLEC agrees that any change, modification or other activity required for SBC-13STATE to accommodate or recognize the successor to or assignee of CLEC shall be a CLEC Change and shall be subject to Section 4.9. SBC-13STATE shall have no obligation to proceed with such activities nor shall any otherwise acceptable assignment or transfer be effective against SBC-13STATE until the Parties agree upon the charges that apply to such CLEC Change.
- 29.3 If during the Term, SBC-13STATE sells, assigns or otherwise transfers any ILEC Territory or ILEC Assets to a person other than an Affiliate or subsidiary, SBC-13STATE shall provide CLEC not less than thirty (30) calendar days prior written notice of such sale, assignment or transfer. Upon the consummation of such sale, assignment or transfer, CLEC acknowledges that SBC-13STATE shall have no further obligations under this Agreement with respect to the ILEC Territories and/or ILEC Assets subject to such sale, assignment or transfer, and that CLEC must establish its own Section 251 and 252 arrangement with the successor to such ILEC Territory and/or ILEC Assets.

30. DELEGATION TO AFFILIATE

- 30.1 Each Party may without the consent of the other Party fulfill its obligations under this Agreement by itself or may cause its Affiliate(s) to take some or all of such actions to fulfill such obligations. Upon such delegation, the Affiliate shall become a primary obligor hereunder with respect to the delegated matter, but such delegation shall not relieve the delegating Party of its obligations as co-obligor hereunder. Any Party which elects to perform its obligations through an Affiliate shall cause its Affiliate to take all action necessary for the performance of such Party's obligations hereunder. Each Party represents and warrants that if an obligation under this Agreement is to be performed by an Affiliate, such Party has the authority to cause such Affiliate to perform such obligation and such Affiliate will have the resources required to accomplish the delegated performance.

31. SUBCONTRACTING

- 31.1 If either Party retains or engages any subcontractor to perform any of that Party's obligations under this Agreement, each Party will remain fully responsible for the performance of this Agreement in accordance with its terms, including any obligations either Party performs through subcontractors.
- 31.2 Each Party will be solely responsible for payments due that Party's subcontractors.
- 31.3 No subcontractor will be deemed a Third Party beneficiary for any purposes under this Agreement.
- 31.4 No contract, subcontract or other agreement entered into by either Party with any Third Party in connection with the provision of Interconnection, Resale Services, Network Elements, functions, facilities, products and services hereunder will provide for any indemnity, guarantee or assumption of liability by the other Party to this Agreement with respect to such arrangement, except as consented to in writing by the other Party.
- 31.5 Any subcontractor that gains access to CPNI or Proprietary Information covered by this Agreement shall be required by the subcontracting Party to protect such CPNI or Proprietary Information to the same extent the subcontracting Party is required to protect such CPNI or Proprietary Information under the terms of this Agreement.

32. HAZARDOUS SUBSTANCES AND RESPONSIBILITY FOR ENVIRONMENTAL CONTAMINATION

- 32.1 Each Party will be solely responsible at its own expense for the proper handling, storage, transport, treatment, disposal and use of all Hazardous Substances by such Party and its contractors and agents. "Hazardous Substances" includes those substances:
- 32.1.1 included within the definition of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste or pollutant or contaminant under any Applicable Law, and
- 32.1.2 listed by any governmental agency as a hazardous substance.
- 32.2 CLEC will in no event be liable to SBC-13 STATE for any costs whatsoever resulting from the presence or release of any environmental hazard, including Hazardous Substances, that CLEC did not introduce to the affected work location. SBC-13STATE will indemnify, defend (at CLEC's request) and hold CLEC and each of its

officers, directors and employees harmless from and against any Loss that arises out of or results from:

32.2.1 Any Environmental Hazard that SBC-13STATE, its contractors or agents introduce to the work locations, or

32.2.2 The presence or Release of any Environmental Hazard for which SBC-13STATE is responsible under Applicable Law.

32.3 SBC-13STATE will in no event be liable to CLEC for any costs whatsoever resulting from the presence or Release of any Environmental Hazard that SBC-13STATE did not introduce to the affected work location. CLEC will indemnify, defend (at SBC-13STATE's request) and hold SBC-13STATE and each of its officers, directors and employees harmless from and against any Loss that arises out of or results from:

32.3.1 any Environmental Hazard that CLEC, its contractors or agents introduce to the work locations, or

32.3.2 the presence or Release of any Environmental Hazard for which CLEC is responsible under Applicable Law.

33. FORCE MAJEURE

33.1 No Party shall be responsible for delays or failures in performance of any part of this Agreement (other than an obligation to make money payments) resulting from acts or occurrences beyond the reasonable control of such Party, including acts of nature, acts of civil or military authority, any law, order, regulation, ordinance of any Governmental Authority, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, hurricanes, floods, work stoppages, equipment failures, cable cuts, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (individually or collectively, a **“Force Majeure Event”**) or any Delaying Event caused by the other Party or any other circumstances beyond the Party’s reasonable control. If a Force Majeure Event shall occur, the Party affected shall give prompt notice to the other Party of such Force Majeure Event specifying the nature, date of inception and expected duration of such Force Majeure Event, whereupon such obligation or performance shall be suspended to the extent such Party is affected by such Force Majeure Event during the continuance thereof or be excused from such performance depending on the nature, severity and duration of such Force Majeure Event (and the other Party shall likewise be excused from performance of its obligations to the extent such Party’s obligations relate to the performance so interfered with). The affected

Party shall use its reasonable efforts to avoid or remove the cause of nonperformance and the Parties shall give like notice and proceed to perform with dispatch once the causes are removed or cease.

34. TAXES

- 34.1 Each Party purchasing Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, municipal fees, transfer, transaction or similar taxes, fees, or surcharges (hereinafter "Tax") imposed on, or with respect to, the Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement provided by or to such Party, except for (a) any Tax on either party's corporate existence, status, or income or (b) any corporate franchise Taxes. Whenever possible, Taxes shall be billed as a separate item on the invoice.
- 34.2 With respect to any purchase of Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement if any Tax is required or permitted by Applicable Law to be collected from the purchasing Party by the providing Party, then: (i) the providing Party shall bill the purchasing Party for such Tax; (ii) the purchasing Party shall remit such Tax to the providing Party; and (iii) the providing Party shall remit such collected Tax to the applicable taxing authority. Failure to include Taxes on an invoice or to state a Tax separately shall not impair the obligation of the purchasing Party to pay any Tax. Nothing shall prevent the providing Party from paying any Tax to the appropriate taxing authority prior to the time: (1) it bills the purchasing Party for such Tax, or (2) it collects the Tax from the purchasing Party. Notwithstanding anything in this Agreement to the contrary, the purchasing Party shall be liable for and the providing Party may collect Taxes which were assessed by or paid to an appropriate taxing authority within the statute of limitations period but not included on an invoice within four (4) years after the Tax otherwise was owed or due.
- 34.3 With respect to any purchase hereunder of Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement that are resold to a third party, if any Tax is imposed by Applicable Law on the End User in connection with any such purchase, then: (i) the purchasing Party shall be required to impose and/or collect such Tax from the End User; and (ii) the purchasing Party shall remit such Tax to the applicable taxing authority. The purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax

from the providing Party due to the failure of the purchasing Party to pay or collect and remit such tax to such authority.

- 34.4 If the providing Party fails to bill or to collect any Tax as required herein, then, as between the providing Party and the purchasing Party: (i) the purchasing Party shall remain liable for such uncollected Tax; and (ii) the providing Party shall be liable for any penalty and interest assessed with respect to such uncollected Tax by such authority. However, if the purchasing Party fails to pay any Taxes properly billed, then, as between the providing Party and the purchasing Party, the purchasing Party will be solely responsible for payment of the Taxes, penalty and interest.
- 34.5 If the purchasing Party fails to impose and/or collect any Tax from End Users as required herein, then, as between the providing Party and the purchasing Party, the purchasing Party shall remain liable for such uncollected Tax and any interest and penalty assessed thereon with respect to the uncollected Tax by the applicable taxing authority. With respect to any Tax that the purchasing Party has agreed to pay or impose on and/or collect from End Users, the purchasing Party agrees to indemnify and hold harmless the providing Party for any costs incurred by the providing Party as a result of actions taken by the applicable taxing authority to collect the Tax from the providing Party due to the failure of the purchasing Party to pay or collect and remit such Tax to such authority.
- 34.6 If either Party is audited by a taxing authority or other Governmental Authority, the other Party agrees to reasonably cooperate with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.
- 34.7 To the extent a sale is claimed to be for resale and thus subject to tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation of the jurisdiction providing said resale tax exemption. Failure to timely provide said resale tax exemption certificate will result in no exemption being available to the purchasing Party for any period prior to the date that the purchasing Party presents a valid certificate. If Applicable Law excludes or exempts a purchase of Interconnection, Resale Services, Network Elements, functions, facilities, products and services under this Agreement from a Tax, but does not also provide an exemption procedure, then the providing Party will not collect such Tax if the purchasing Party (a) furnishes the providing Party with a letter signed by an officer of the purchasing Party claiming an exemption and identifying the Applicable Law that both allows such exemption and does not require an exemption certificate; and (b) supplies the providing Party with an indemnification agreement, reasonably acceptable to the providing Party, which holds the providing Party harmless

from any tax, interest, penalties, loss, cost or expense with respect to forbearing to collect such Tax.

- 34.8 With respect to any Tax or Tax controversy covered by this Section 34, the purchasing Party is entitled to contest with the imposing jurisdiction, pursuant to Applicable Law and at its own expense, any Tax that it is ultimately obligated to pay or collect. The purchasing Party will ensure that no lien is attached to any asset of the providing Party as a result of any contest. The purchasing Party shall be entitled to the benefit of any refund or recovery of amounts that it had previously paid resulting from such a contest. Amounts previously paid by the providing Party shall be refunded to the providing Party. The providing Party will cooperate in any such contest.
- 34.9 All notices, affidavits, exemption certificates or other communications required or permitted to be given by either Party to the other under this Section 34 shall be sent in accordance with Section 17 hereof.

35. NON-WAIVER

- 35.1 Except as otherwise specified in this Agreement, no waiver of any provision of this Agreement and no consent to any default under this Agreement shall be effective unless the same is in writing and properly executed by or on behalf of the Party against whom such waiver or consent is claimed. Waiver by either Party of any default by the other Party shall not be deemed a waiver of any other default. Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege. No course of dealing or failure of any Party to strictly enforce any term, right, or condition of this Agreement in any instance shall be construed as a general waiver or relinquishment of such term, right or condition.

36. NETWORK MAINTENANCE AND MANAGEMENT

- 36.1 The Parties will work cooperatively to implement this Agreement. The Parties will exchange appropriate information (for example, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the Government, escalation processes, etc.) to achieve this desired result.
- 36.2 Each Party will administer its network to ensure acceptable service levels to all users of its network services. Service levels are generally considered acceptable only when End Users are able to establish connections with little or no delay encountered in the network. Each Party will provide a 24-hour contact number for Network Traffic Management issues to the other's surveillance management center.

- 36.3 Each Party maintains the right to implement protective network traffic management controls, such as "cancel to", "call gapping" or 7-digit and 10-digit code gaps, to selectively cancel the completion of traffic over its network, including traffic destined for the other Party's network, when required to protect the public-switched network from congestion as a result of occurrences such as facility failures, switch congestion or failure or focused overload. Each Party shall immediately notify the other Party of any protective control action planned or executed.
- 36.4 Where the capability exists, originating or terminating traffic reroutes may be implemented by either Party to temporarily relieve network congestion due to facility failures or abnormal calling patterns. Reroutes shall not be used to circumvent normal trunk servicing. Expansive controls shall be used only when mutually agreed to by the Parties.
- 36.5 The Parties shall cooperate and share pre-planning information regarding cross-network call-ins expected to generate large or focused temporary increases in call volumes to prevent or mitigate the impact of these events on the public-switched network, including any disruption or loss of service to the other Party's End Users. Facsimile (FAX) numbers must be exchanged by the Parties to facilitate event notifications for planned mass calling events.
- 36.6 Neither Party shall use any Interconnection, Resale Service, Network Element, function, facility, product or service provided under this Agreement or any other service related thereto or used in combination therewith in any manner that interferes with any Party in the use of such Party's Telecommunications Service, prevents any Party from using its Telecommunications Service, impairs the quality of Telecommunications Service to other carriers or to either Party's End Users, causes electrical hazards to either Party's personnel, damage to either Party's facilities or equipment or malfunction of either Party's ordering or billing systems or equipment. Upon such occurrence either Party may discontinue or refuse service, but only for so long as the other Party is violating this provision. Upon such violation, either Party shall provide the other Party notice of the violation at the earliest practicable time.

37. SIGNALING

- 37.1 The Parties will Interconnect their networks using SS7 signaling as defined in GR-000317-CORE and GR-000394-CORE, including ISDN User Part (ISUP) for trunk signaling and Transaction Capabilities Application Part (TCAP) for CCS-based features in the Interconnection of their networks. Each Party may establish CCS interconnections either directly and/or through a Third Party. If CCS interconnection is established through a Third Party, the rates, terms, and conditions of the Parties' respective tariffs will apply. If CCS interconnection is established directly between

CLEC and SBC-13STATE, the rates, terms, and conditions of Appendix SS7 will apply.

37.2 The Parties will cooperate in the exchange of TCAP messages to facilitate full interoperability of CCS-based features between their respective networks, including all CLASS features and functions, to the extent each Party offers such features and functions to its own End Users. All CCS signaling parameters deployed by both Parties will be provided including CPN. All privacy indicators will be honored.

38. TRANSMISSION OF TRAFFIC TO THIRD PARTIES

38.1 CLEC will not send to SBC-13STATE local traffic that is destined for the network of a Third Party unless CLEC has the authority to exchange traffic with that Third Party.

39. CUSTOMER INQUIRIES

39.1 Except as otherwise required by Section 24.1, each Party will refer all questions regarding the other Party's services or products directly to the other Party at a telephone number specified by that Party.

39.2 Except as otherwise required by Section 24.1, each Party will ensure that all of its representatives who receive inquiries regarding the other Party's services:

39.2.1 Provide the number described in Section 39.1 to callers who inquire about the other Party's services or products; and

39.2.2 Do not in any way disparage or discriminate against the other Party or its products or services.

39.3 Except as otherwise provided in this Agreement, CLEC shall be the primary point of contact for CLEC's End Users with respect to the services CLEC provides such End Users.

39.4 CLEC acknowledges that SBC-13STATE may, upon End User request, provide services directly to such End User similar to those offered to CLEC under this Agreement.

40. EXPENSES

40.1 Except as expressly set forth in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the matters covered by this

Agreement.

- 40.2 SBC-12STATE and CLEC shall each be responsible for one-half (1/2) of expenses payable to a Third Party for Commission fees or other charges (including regulatory fees and any costs of notice or publication, but not including attorney's fees) associated with the filing of this agreement.

41. CONFLICT OF INTEREST

- 41.1 The Parties represent that no employee or agent of either Party has been or will be employed, retained, paid a fee, or otherwise received or will receive any personal compensation or consideration from the other Party, or any of the other Party's employees or agents in connection with the negotiation of this Agreement or any associated documents.

42. SURVIVAL

- 42.1 The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement. Without limiting the general applicability of the foregoing, the following terms and conditions of the General Terms and Conditions are specifically agreed by the Parties to continue beyond the termination or expiration of this Agreement: Section 5.5; Section 5.6, Section 7.3; Section 8.1; Section 8.4; Section 8.5; Section 8.6; Section 8.7; Section 10, Section 11; Section 13; Section 14; Section 15; Section 16.1; Section 18; Section 19; Section 20; Section 22; Section 25.4; Section 26.1.3; Section 32; Section 34 and Section 42.

43. SCOPE OF AGREEMENT

- 43.1 This Agreement is intended to describe and enable specific Interconnection and compensation arrangements between the Parties. This Agreement is the arrangement under which the Parties may purchase from each other the products and services described in Section 251 of the Act and obtain approval of such arrangement under Section 252 of the Act. Except as agreed upon in writing, neither Party shall be required to provide the other Party a function, facility, product, service or arrangement described in the Act that is not expressly provided herein.
- 43.2 Except as specifically contained herein or provided by the FCC or any Commission within its lawful jurisdiction, nothing in this Agreement shall be deemed to affect any access charge arrangement.

44. AMENDMENTS AND MODIFICATIONS

- 44.1 No provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties. The rates, terms and conditions contained in the amendment shall become effective upon approval of such amendment by the appropriate Commissions.
- 44.2 Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

45. IN-REGION MOST FAVORED NATIONS (MFN) BETWEEN SBC STATES

- 45.1 Subject to the conditions and limitations specified in Paragraph 43 of the SBC/Ameritech Merger Conditions¹, SBC-13STATE shall make available to any requesting telecommunication carrier in the SBC/Ameritech Area within any SBC/Ameritech State any interconnection arrangement or UNE in the SBC/Ameritech Service Area within any other SBC/Ameritech state that (1) was negotiated with a telecommunications carrier, pursuant to 47 U.S.C. 252(a)(1), by SBC-13STATE (that at all times during the interconnection agreement negotiations was an SBC-owned ILEC) and (2) has been made available under an agreement to which SBC-13STATE is a party.
- 45.2 The Parties acknowledge and agree that it may require additional time to implement an interconnection arrangement or UNE ported from one SBC-owned ILEC state to another SBC-owned ILEC state pursuant to Paragraph 43 of the SBC/Ameritech Merger Conditions. Thus, when a CLEC exercises its option to adopt an interconnection arrangement or UNE in accordance with Paragraph 43 of the SBC/Ameritech Merger Conditions, the Parties shall meet within thirty (30) calendar days of state commission approval of the interconnection agreement or amendment containing such interconnection arrangement and/or UNE to agree upon an implementation schedule for such interconnection arrangement and/or UNE.

¹ See the FCC's Memorandum Opinion and Order approving the SBC/Ameritech Merger Conditions, *In re Applications of Ameritech Corp., Transferor and SBC Communications, Inc., Transferee, For Consent to Transfer Control of Corporations Holding Commission Licenses and Lines Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 5, 22, 24, 25, 63, 90, 95 and 101 of the Commission's Rules*, CC Docket 98-141, issued on October 8, 1999 ("FCC 99-279).

45.3 Paragraph 43 of the SBC/Ameritech Merger Conditions as well as this Section 45 shall expire the earliest of October 8, 2002 or the termination date outlined in section 5 of the General Terms and Conditions of this Agreement, whichever is earlier.

46. [Reserved].

47. **AUTHORITY**

47.1 Each of the **SBC**-owned ILEC(s) for which this Agreement is executed represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation. Each of the **SBC**-owned ILEC(s) for which this Agreement is executed represents and warrants that SBC Telecommunications, Inc. has full power and authority to execute and deliver this Agreement as agent for that **SBC**-owned ILEC. Each of the **SBC**-owned ILEC(s) for which this Agreement is executed represents and warrants that it has full power and authority to perform its obligations hereunder.

47.2 CLEC represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder. CLEC represents and warrants that it has been or will be certified as a LEC by the Commission(s) prior to submitting any orders hereunder and is or will be authorized to provide the Telecommunications Services contemplated hereunder in the territory contemplated hereunder prior to submission of orders for such Service.

47.3 Each Person whose signature appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.

48. **COUNTERPARTS**

48.1 This Agreement may be executed in counterparts. Each counterpart shall be considered an original and such counterparts shall together constitute one and the same instrument.

49. **ENTIRE AGREEMENT**

49.1 **SBC-12STATE**

49.1.1 The terms contained in this Agreement and any Appendices, Attachments, Exhibits, Schedules, and Addenda constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written.

49.2 **SNET**

49.2.1 The terms contained in this Agreement and any Appendices, Attachments, Exhibits, Schedules, Addenda, Commission approved tariffs and other documents or instruments referred to herein and incorporated into this Agreement by reference constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written.

SBC-13 STATE Interconnection Agreement Signatures

McLeodUSA Telecommunications Services, Inc. **Illinois Bell Telephone Company, By SBC Telecommunications, Inc., Its authorized agent**

Signature: _____

Signature: _____

Name: _____
(Print or Type)

Name: _____

Title: _____
(Print or Type)

Title: President - Industry Markets

Date: _____

Date: _____

AECN/OCN# _____

APPENDIX 800

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APPENDIX 800
(Access To The Toll Free Calling Database)

1. INTRODUCTION

- 1.1 This Appendix sets forth the terms and conditions for Access to the Toll Free Calling Database provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 As used herein, **SBC-13STATE** means the applicable above listed ILECs doing business in Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 As used herein, **SBC-12STATE** means the applicable above listed ILECs doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.5 As used herein, **SBC-7STATE** means the applicable above listed ILECs doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.6 As used herein, **SBC-2STATE** means the applicable above listed ILECs doing business in California and Nevada.
- 1.7 As used herein, **SBC-SWBT** means the applicable above listed ILECs doing business in Arkansas, Kansas, Missouri, Oklahoma, and Texas.
- 1.8 As used herein, **SBC-AMERITECH** means the applicable above listed ILECs doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.9 As used herein, **SNET** means the applicable above listed ILEC doing business in Connecticut.

2. DESCRIPTION

- 2.1 Other than as specifically set out elsewhere in this Agreement, **SNET** does not offer Access to the Toll Free Calling Database under this Agreement. Rather, Access to the Toll Free Calling Database is available from **SNET** as described in Section 18.2.9, 800 Database Access, of the CT Access Service Tariff.
- 2.2 **SBC-12STATE**'s 800 database, an American National Standards Institute (ANSI) Signaling System 7 (SS7) call-related database system, receives updates processed from the national System Management System (SMS) database. Customer records in the SMS are created or modified by entities known as Responsible Organizations (Resp Org) who obtain access to the SMS via the System Management System/800 database, Tariff FCC No. 1. 800 Service Providers must either become their own Resp Org or use the services of an established Resp Org. The services of a Resp Org include creating and updating 800 records in the SMS to download to the 800 database(s). **SBC-12STATE** does not, either through a tariff or contract, provide Resp Org service.
- 2.3 After the 800 customer record is created in the SMS, the SMS downloads the records to the appropriate databases, depending on the area of service chosen by the 800 subscriber. An 800 customer record is created in the SMS for each 800 number to be activated. The SMS initiates all routing changes to update information on a nationwide basis.
- 2.4 Access to the Toll Free Calling Database allows CLEC to access **SBC-12STATE**'s 800 database for the purpose of switch query and database response. Access to the Toll Free Calling Database supports the processing of toll free calls (e.g., 800 and 888) where identification of the appropriate carrier (800 Service Provider) to transport the call is dependent upon the full ten digits of the toll free number (e.g., 1+800+NXX+XXXX). Access to the Toll Free Calling Database includes all 800-type dialing plans (i.e., 800, 888, and other codes as may be designated in the future).
- 2.5 Access to the Toll Free Calling Database provides the carrier identification function required to determine the appropriate routing of an 800 number based on the geographic origination of the call, from a specific or any combination of NPA/NXX, NPA or LATA call origination detail.
- 2.6 There are three optional features available with 800 service:
- 2.6.1 Designated 10-Digit Translation;
- 2.6.2 Call Validation; and

2.6.3 Call Handling and Destination.

2.6.4 The Designated 10-Digit Translation feature converts the 800 number into a designated 10-digit number. If the 800 Service Provider provides the designated 10-digit number associated with the 800 number and request delivery of the designated 10-digit number in place of the 800 number, **SBC-12STATE** will deliver the designated 10-digit number.

2.6.5 The Call Handling and Destination feature allows the customer to create routing schemes utilizing:

2.6.5.1 Time of Day

2.6.5.2 Day of Week

2.6.5.3 Day of Year

2.6.5.4 Allocation of Traffic by Percentage

2.6.5.5 NPA-NXX-XXXX

2.6.6 The Call Validation feature List Turnaround feature (referred to as the Six-Digit Master Number List Turnaround feature in **SBC-2STATE**) applies when customer identification is performed for Canadian and Caribbean toll free numbers. This feature is billed in lieu of the Basic Toll Free Access Query charge.

3. GENERAL TERMS AND CONDITIONS

3.1 Access to the Toll Free Calling Database provided under these terms and conditions is only available for use in the provision of telephone exchange and Exchange Access Telecommunication Services as specified in the Telecommunications Act of 1996 and any effective rules and regulations of the Federal Communications Commission and the State regulatory Commission.

3.2 Access to the Toll Free Calling Database is offered separate and apart from other unbundled network elements necessary for operation of the network routing function addressed in these terms and conditions, e.g., end office 800 (SSP) functionality and (CCS/SS7) signaling. This Appendix is separate from the prices, terms, conditions and billing for such related elements, and in no way shall this Appendix be construed

to circumvent the prices, terms, conditions or billing as specified for such related elements.

- 3.3 CLEC shall address its queries to **SBC-12STATE**'s database to the alias point code of the STP pair identified by **SBC-12STATE**. CLEC's queries shall use subsystem number 0 in the calling party address field and a translations type of 254 with a routing indicator set to route on global title. CLEC acknowledges that such subsystem number and translation type values are necessary for **SBC-12STATE** to properly process queries to its 800 database.
- 3.4 Each Party warrants to the other that it shall send queries and SS7 messages conforming to the ANSI approved standards for SS7 protocol and pursuant to the Specifications and Standards documents attached and incorporated herein in Exhibit I. Both Parties acknowledge that transmission in said protocol is necessary for each Party to provision Access to the Toll Free Calling Database (or the equivalent thereof). Each Party reserves the right to modify its network pursuant to other specifications and standards, which may include Telcordia's specifications, defining specific service applications, message types, and formats, that may become necessary to meet the prevailing demands within the U.S. telecommunications industry. All such changes shall be announced in accordance with the then prevailing industry standard procedures. Each Party shall work cooperatively to coordinate any necessary changes.
- 3.5 CLEC acknowledges and agrees that CCS/SS7 network overload due to extraordinary volumes of queries and/or other SS7 network messages can and will have a detrimental effect on the performance of **SBC-12STATE**'s CCS/SS7 network and its 800 database. CLEC further agrees that **SBC-12STATE**, at its sole discretion, may employ certain automatic and/or manual overload controls within **SBC-12STATE**'s CCS/SS7 network to guard against these detrimental effects. **SBC-12STATE** shall report to CLEC any instances where overload controls are invoked due to CLEC's CCS/SS7 network. CLEC shall take immediate corrective actions as are necessary to cure the conditions causing the overload situation.
- 3.6 During periods of 800 database system congestion, **SBC-12STATE** shall utilize an automatic code gapping procedure to control congestion that may affect the service of all customers of **SBC-12STATE**'s 800 database. The automatic code gapping procedure used by **SBC-12STATE** shall notify the CLEC's switch of the gap length (how long CLEC's switch should wait before sending another query) and the gap duration (how long the switch should continue to perform gapping). For example, during an overload condition, the automatic code gapping procedures shall tell **SBC-12STATE**'s 800 database when to begin to drop one out of three queries received. This code gapping procedure shall be applied uniformly to all users of **SBC-**

12STATE's 800 database. **SBC-12STATE** reserves the right to manually invoke the automatic code gapping procedure to control congestion.

- 3.7 Prior to **SBC-12STATE** initiating service under this Appendix, CLEC shall provide an initial forecast of busy hour query volumes. CLEC shall update its busy hour forecast for each upcoming calendar year (January - December) by October 1 of the preceding year and also whenever CLEC anticipates a change to existing forecasts. CLEC shall provide such updates each year for as long as this Appendix is in effect; provided, the obligation to provide updates shall not extend for longer than three years, assuming this Appendix in effect for that long or longer. If prior to the establishment of a mutually agreeable service effective date, in writing, **SBC-12STATE**, at its discretion, determines that it lacks adequate processing capability to provide Access to the Toll Free Calling Database to CLEC, **SBC-12STATE** shall notify CLEC of **SBC-12STATE**'s intent not to provide the services under this Appendix and this Appendix will be void and have no further effect.
- 3.8 CLEC shall from time to time at **SBC-12STATE**'s request, provide additional forecasted information as deemed necessary by **SBC-12STATE** for network planning in connection with this offering.
- 3.9 **SBC-12STATE** shall test the Access to the Toll Free Calling Database in conjunction with CCS/SS7 Interconnection Service (e.g., Appendix SS7) as outlined in Telcordia Technical References TR-NWT-000533, TR-NWT-000954, TR-TSV-000905, TP76638, GR-954-CORE, GR-905-CORE and Pacific Bell PUB L-780023-PB/NB and **SBC-AMERITECH** AM-TR-OAT-000069.
- 3.10 CLEC shall only use Access to the Toll Free Calling Database to determine the routing requirements for originating 800 calls. Neither CLEC nor carrier customers of CLEC, if CLEC is acting on behalf of other carriers, shall use the database information to copy, store, maintain or create any table or database of any kind or for any purpose. If CLEC acts on behalf of other carriers to access **SBC-12STATE**'s Toll Free Calling Database, CLEC shall prohibit such carriers from copying, storing, maintaining, or creating any table or database of any kind from any response provided by **SBC-12STATE** after a query to **SBC-12STATE**'s Toll Free Calling Database. CLEC shall only use this network element in connection with the provision of telephone exchange and Exchange Access services.
- 3.11 CLEC shall ensure that it has sufficient link capacity and related facilities to handle its signaling and toll free traffic without adversely affecting other network subscribers.
- 3.12 **SBC-12STATE** shall provide Access to the Toll Free Calling Database as set forth in this Appendix only as such elements are used for CLEC's activities on behalf of its

local service customers where **SBC-12STATE** is the incumbent local exchange carrier. CLEC agrees that any other use of **SBC-12STATE**'s Toll Free Calling Database for the provision of 800 database service by CLEC will be pursuant to the terms, conditions, rates, and charges of **SBC-12STATE**'s effective tariffs, as revised, for 800 database services.

3.13 Ordering and Billing Inquiries

3.13.1 Ordering and billing inquiries for the elements described herein shall be directed to:

3.13.1.1 For **SBC-7STATE** - the Local Service Center (LSC).

3.13.1.2 For **SBC-AMERITECH** - the AIIS Service Center in Milwaukee, Wisconsin.

4. **RATE REGULATIONS**

4.1 CLEC shall pay a Local Service Order Request Charge for each CLEC request for service order activity to establish Access to the Toll Free Calling Database in the **SBC-12STATE** region.

4.2 The prices at which **SBC-13STATE** agrees to provide CLEC with Access to the Toll Free Calling Database are contained in the applicable Appendix PRICING and/or the applicable Commissioned ordered tariff where stated.

4.3 CLEC shall pay a nonrecurring charge when a CLEC establishes or changes a signaling point code. The rates and charges for Signaling Point Code(s) are described in the Appendix SS7. This charge also applies to point code information provided by CLECs allowing other telecommunications providers to use the CLEC's SS7 signaling network.

4.4 Rate Elements

There are four rate elements associated with Access to the Toll Free Calling Database:

4.4.1 Basic Toll Free Access Query Rate Element.

4.4.2 Designated 10-Digit Translation Rate Element (referred to as POTS Translations in **SBC-2STATE** and **SBC-AMERITECH**).

- 4.4.3 Call Validation Rate Element (referred to as Multiple Destination Routing Rate Element in **SBC-2STATE**).
- 4.4.4 Call Handling and Destination Rate Element (referred to as Six-Digit Master Number List Turnaround Rate Element in **SBC-2STATE** and 800 Database Vertical Feature in **SBC-AMERITECH**).
- 4.5 CLEC shall pay the Basic Toll Free Access query rate for each query received and processed by **SBC-12STATE**'s database. When applicable, the charge for the additional features (Designated 10-Digit Translation, Call Validation, and Call Handling and Destination) are per query and in addition to the Basic Toll Free Access query charge; and shall also be paid by CLEC.

5. MONTHLY BILLING

- 5.1 For information regarding billing, non-payment, disconnects, and dispute resolution, see the General Terms and Conditions of this Agreement.

6. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

- 6.1 Every interconnection, service and network element provided hereunder, shall be subject to the applicable rates, terms and conditions contained in this Agreement. The parties recognize that provisions in the General Terms and Conditions apply to services, interconnections and network elements provided under individual appendices or attachments to this Agreement. The parties further agree that this acknowledgment that the General Terms and Conditions apply to individual appendices is not intended to and does not limit, condition or void a third party's rights under 47 U.S.C. Section 252(i) and is consistent with Applicable Law.

APPENDIX 800
EXHIBIT I

1. SPECIFICATIONS AND STANDARDS

<u>1.1</u>	<u>Description of Subject Area And Issuing Organization</u>	<u>Document Number</u>
1.1.1	Telcordia, SS7 Specifications	TR-NWT-000246
1.1.1.1		TR-NWT-000271
1.1.1.2		TR-NWT-000533
1.1.2	Telcordia, CCS Network Interface Specifications	TR-TSV-000905
1.1.2.1		TP 76638
1.1.2.2		TR-NWT-00095

APPENDIX PHYSICAL COLLOCATION

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APPENDIX PHYSICAL COLLOCATION**1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Collocation provided by the applicable SBC Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and CLEC.
- 1.2 SBC Communications Inc. (SBC) means the holding company which owns the following ILECs: Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, Michigan Bell Telephone Company, Nevada Bell Telephone Company, The Ohio Bell Telephone Company, Pacific Bell Telephone Company, The Southern New England Telephone Company, Southwestern Bell Telephone Company and/or Wisconsin Bell, Inc. d/b/a Ameritech Wisconsin.
- 1.3 **SBC-13STATE** - As used herein, **SBC-13STATE** means the applicable above listed ILECs doing business Arkansas, California, Connecticut, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.4 **SBC-12STATE** - As used herein, **SBC-12STATE** means the applicable above listed ILEC(s) doing business in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.
- 1.5 **SBC-8STATE** - As used herein, **SBC-8STATE** means an applicable above listed ILEC(s) doing business in Arkansas, California, Connecticut, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.6 **SBC-7STATE** - As used herein, **SBC-7STATE** means the applicable above listed ILEC(s) doing business in Arkansas, California, Kansas, Missouri, Nevada, Oklahoma, and Texas.
- 1.7 **SBC-AMERITECH** - As used herein, **SBC-AMERITECH** means the applicable above listed ILEC(s) doing business in Illinois, Indiana, Michigan, Ohio, and Wisconsin.
- 1.8 **SBC-MOKA** - As used herein, **SBC-MOKA** means the applicable above listed ILEC doing business in Arkansas, Kansas, Missouri, and Oklahoma.
- 1.9 **SWBT-TX** -As used herein, **SWBT-TX** means the applicable SBC owned ILEC doing business in Texas.
- 1.10 **AM-MI** - As used herein, **AM-MI** means the applicable SBC owned doing business in Michigan.

- 1.11 **AM-IN** - As used herein, **AM-IN** means the applicable SBC owned ILEC doing business in Indiana.
- 1.12 **AM-IL** - As used herein, **AM-IL** means the applicable SBC owned ILEC doing business in Illinois.
- 1.13 **AM-WI** - As used herein, **AM-WI** means the applicable SBC owned ILEC doing business in Wisconsin.
- 1.14 **AM-OH** - As used herein, **AM-OH** means the applicable SBC owned ILEC doing business in Ohio.
- 1.15 **PACIFIC** - As used herein, **PACIFIC** means the applicable above listed ILEC doing business in California.
- 1.16 **NEVADA** - As used herein, **NEVADA** means the applicable above listed ILEC doing business in Nevada.
- 1.17 **SNET** - As used herein, **SNET** means the applicable above listed ILEC doing business in Connecticut.

2. **DEFINITIONS**

- 2.1 “**Active Central Office Space**” denotes the existing, central office switchroom space, which can be designated for physical or virtual collocation, with sufficient infrastructure systems. *Also denotes central office space that may contain obsolete unused equipment.*
- 2.2 “**Adjacent Structure**” is a Collocator provided structure placed on **SBC-13STATE** property adjacent to an Eligible Structure. This arrangement is only permitted when space for physical collocation is legitimately exhausted inside the Eligible Structure and to the extent technically feasible.
- 2.3 “**Application Fee**” includes the costs incurred by **SNET/PACIFIC/NEVADA** to process the Collocator’s application for physical collocation arrangements.
- 2.4 “**Approved Vendor**” is a vendor who is qualified by **SBC-13STATE** for installation, and/or removal of central office equipment, which is administered by **SBC** Procurement on a state by state basis.

- 2.5 “**Augment**” is a request from a Collocator to add equipment, cable, and/or Collocation services to an existing physical collocation arrangement.
- 2.6 “**Caged Physical Collocation**” is a cage or similar structure (not including a top) enclosing Collocator’s dedicated collocation space in which a Collocator may install its telecommunications equipment.
- 2.7 “**Cageless Physical Collocation**” is a Collocation arrangement, provided in single bay increments, and does not require the construction of a cage or similar structure.
- 2.8 “**Collocation Area for Physical Collocation**” is the common area providing access to an area surrounding the Collocator’s dedicated space *as well as the space dedicated to Collocators*.
- 2.9 “**Collocation Interconnection Power Panel (CIPP)**” (**SBC- 8STATE ONLY**) is a DC Power panel for Power termination. *Two DC Power panels are available: (1) A DC power panel designed to provide either 20, 40 or 50 (Maximum) AMPS (redundant) of DC voltage, (2) A DC Power Panel designed to provide either 100 or 200 (Maximum) AMPS (redundant) of DC voltage.*
- 2.10 “**COBO**” the Central Office Build Out that represents the typical conditioning costs (not to include Extraordinary build out Expenses) to make an unused Premises space suitable for a collocation arrangement (Dedicated Collocation Space) in **SBC-AMERITECH**.
- 2.11 “**Collocator**” is any individual, partnership, association, joint-stock company, trust corporation, or governmental entity or any other entity who is collocated in Utility location, for purposes of Interconnection, access to Unbundled Network Elements (UNE), or both.
- 2.12 “**Day**” means calendar day within the Collocation Appendix unless specifically stated otherwise.
- 2.13 “**Dedicated Collocation Space**” is the space dedicated for the Collocator’s physical collocation arrangement located within an **SBC-13STATE** Eligible Structure.
- *2.14 “**Delivery Date**” the date upon which the ILEC will turn over the completed functional collocation space in accordance with the requesting carrier’s application.

* This Section 2.14 in entirety is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications

- 2.15 “Eligible Structure” is identical to the definition of “Premises” adopted by the FCC at 47 C.F.R. § 51.5, as amended by the FCC in FCC 00-297.
- 2.16 “**Engineering Design Charge**” is the cost for **SBC-MOKA** employees to perform the central office survey for caged and cageless serving arrangements and to implement the collocation area.
- 2.17 “**Extraordinary Costs** or extraordinary expenses include such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, individualized DC power system infrastructure needs, increasing the capacity of the AC system, or the existing commercial power facility requirements, installation, maintenance, repair, monitoring of securing measures, conversion of non-collocation space, compliance with federal and state requirements or other modifications required by local ordinances in **SBC-AMERITECH**.
- 2.18 “**Individual Case Basis (ICB)**” is a pricing method used for services that are not tariffed or are not standard offerings or configurations.
- 2.19 “**Interconnector’s Collocation Services Handbook**” is a publication provided to the CLECs which provides information on how to order collocation arrangements from **SBC-13STATE**. The document also provides information about **SBC-13STATE**’s collocation processes and requirements and is located on the CLEC website (<https://clec.sbc.com/>).
- 2.20 “**Non Standard Collocation Request (NSCR)**” in **SBC-AMERITECH**, is a pricing method used for services that are not tariffed or are not standard offerings or configurations.
- 2.21 “**Occupancy date**” the date that **SBC-AMERITECH** may begin billing recurring charges and the Dedicated Collocation Space is made available for occupancy by the CLEC or Requesting Carrier.
- 2.22 “**Other Central Office Space**” denotes the space within the central office which can be designated for physical collocation where infrastructure systems do not currently exist and must be constructed.

- 2.23 **“Preparation Charges”** are the charges applicable to the preparation of **SBC-AMERITECH** Premises for Collocation, including any COBO charges, cage enclosure charges, cage enclosure charges, and extraordinary charges or expense.

- 2.24 **“Point of Termination (POT)”** denotes the point of demarcation, within an Eligible Structure at which the **SBC-13STATE** responsibility for the provisioning of service ends.
- 2.25 **“Project Coordination Fee”** reflects **SNET/PACIFIC/NEVADA**’s labor costs to manage the provisioning of the individual Collocator’s space requirements for a particular physical collocation space request. This fee is applicable upon the submission of an application.
- 2.26 **“Shared Physical Collocation Cage”** is a caged dedicated collocation space that is shared by two or more Collocators within the **SBC-13STATE**’s Eligible Structure.
- 2.27 **“Unused Space”** denotes any space in the Eligible Structure which is not occupied by **SBC-13STATE** personnel and/or occupied by or reserved for **SBC-13STATE** network equipment including affiliates and 3rd parties. May also be used to denote space within a specific Collocator’s area that is not occupied by or reserved for Collocator’s equipment. (See also sections 4.1.2.1, 4.1.3.1, 5.12, & 10.1)
- 2.28 **“Project Management Fee”** reflects **SBC-13STATE**’s labor costs to manage the provisioning of the individual Collocator’s space requirements for a particular physical collocation space request. This fee is applicable upon the submission of an application.

3. PURPOSE AND SCOPE OF AGREEMENT

- 3.1 The purpose of this Appendix is to set forth the terms and conditions, including pricing, in which **SBC-13STATE** will provide Physical Collocation to Collocator. In the event the FCC amends its collocation rules, the Parties agree to negotiate in good faith amendments to the collocation requirements, which negotiations must be completed within thirty (30) days of the effective date of any such amendments. The Parties further agree to implement any such modifications to the agreement expeditiously by filing the necessary amendments to the agreement and requesting expedited approval by the appropriate state agency.
- 3.2 Preparation Prior to Regulatory Approval
- 3.2.1 Upon the written request of Collocator, **SBC-13STATE** shall consider an application for collocation space submitted prior to receiving the approval of this Interconnection Agreement. Upon such an election, this Appendix shall become effective but only insofar as to be applicable to the consideration of an application for collocation space. In the event that the Appendix does not become fully effective as contemplated by this Section, Collocator shall not be

entitled to any refund or return of any such payments beyond any portion of the charges paid but not attributable to costs incurred by **SBC-13STATE**. To the extent that **SBC-13STATE** has incurred preparation costs not included within any payment made by Collocator, Collocator shall pay those costs within thirty (30) calendar days of notice by **SBC-13STATE**.

3.2.2 Collocator is responsible for obtaining an approved Interconnection Agreement (ICA) and meeting the State Certification requirements. The following shall apply:

3.2.2.1 If the State Commission has not approved the ICA prior to completion of the build-out, **SBC-13STATE** will not process service orders for interconnection or access to UNEs. However, the requested space will be turned over to the Collocator if the final non-recurring costs have been received. Monthly recurring charges will commence when space is turned over and accepted by Collocator in accordance with section 3.3 of this Appendix.

3.2.2.2 If the Collocator has not received their State Certification prior to completion of the build-out, **SBC-13STATE** will not process service orders for interconnection or access to UNEs. However, the requested space will be turned over to the Collocator if the final non-recurring costs have been received. Monthly recurring charges will commence when space is turned over and accepted by Collocator in accordance with section 3.3 of this Appendix.

3.2.2.3 Unless otherwise mutually agreed by the Parties, if the Collocator has not received their State Certification or the State Commission has not approved the ICA by Day one hundred eighty (180) after space turnover, then the Collocator (forfeits) all charges collected to date by **SBC-13STATE** and the collocation space. The Collocator will have thirty (30) calendar days to remove any equipment and bays placed by the Collocator in the premise.

3.2.3.1 The Parties agree that billing for all costs incurred in the establishment of Physical Collocation for the Collocator will be provided to the Collocator within one hundred eighty (180) calendar days of the billing cycle. Billing will be subject to true up if interim rates are pending State or Federal Commission approval.

3.3 TESTING AND ACCEPTANCE

- 3.3.1 Collocator and **SBC-13STATE** will complete an acceptance walk-through of the Physical Collocation Space prior to **SBC-13STATE** turning the Physical Collocation Space over to Collocator. Exceptions that are noted during this acceptance walk-through shall be corrected by **SBC-13STATE** as soon as commercially reasonable after those exceptions are provided in writing, which exceptions shall be provided no more than five (5) business days after the walk through. The correction of these exceptions from Collocator's Physical Collocation request shall be at **SBC-13STATE's** expense. Monthly recurring charges shall not commence until **SBC-13STATE** has made their corrections and Collocator has completed a follow-up acceptance walk through
- 3.3.2 Once the Collocator's equipment installation is successfully completed, power must be turned up and tested, and connectivity must be tested. Power testing, and connectivity testing in certain situations, will require a cooperative test involving the Collocator, its **SBC-13STATE** approved installation contractor, **SBC-13STATE**, and/or **SBC-13STATE** vendor.
- 3.3.3 All installations of equipment must be in accordance with the **SBC-13STATE** TP76300MP and subject to review by an **SBC-13STATE** maintenance engineer for compliance. Should **SBC-13STATE** maintenance engineer determine during their review audit that the installation is not compliant with specifications, the Collocator or its **SBC-13STATE** Approved Vendor must correct non compliant items and schedule an additional review audit after corrective work has been performed.
- 3.3.4 Collocator shall be responsible for coordination with its **SBC-13STATE** Approved Vendor to be at the site for acceptance testing.
- 3.3.5 Once Collocator has accepted the facilities, the Collocator will order either interconnection or access to UNEs from **SBC-13STATE** to be connected to their equipment.

4. GENERAL OFFERINGS

- 4.1 Except where physical collocation is not practical for technical reasons or because of space limitations, **SBC-13STATE** will provide physical collocation to CLEC for the purpose of interconnecting with **SBC-13STATE's** network or for obtaining access to **SBC-13STATE's** unbundled network elements pursuant to 47 U.S.C. 251(c). Physical collocation shall be provided on a non-discriminatory basis, on a "first-come, first served" basis, and otherwise in accordance with the requirements of the Act (including 47 U.S.C. 251(c)(6), and applicable FCC rules thereunder. **SBC-**

13STATE's physical collocation offering includes the following:

4.1.1 Caged Physical Collocation

4.1.1.1 In the **SBC-13STATE**'s, CLEC may apply for Caged Physical Collocation in initial increments of 50 square feet. The caged serving arrangement is an area designated by **SBC-13STATE** within an Eligible Structure to be used by a CLEC for the sole purpose of installing, maintaining and operating Collocator provided equipment. **SBC-13STATE** will provide floor space, floor space conditioning, cage common systems and safety and security on a per square foot basis. **SBC-13STATE** will prorate the charge for site conditioning and preparation undertaken to construct or condition the collocation space so the first Collocator in a **SBC-13STATE** premise will not be responsible for the entire cost of site preparation.

4.1.2 Shared Caged Collocation

4.1.2.1 Upon request, **SBC-13STATE** shall provide CLEC Shared Caged Collocation in any Unused Space. "**Shared Caged Collocation**" is caged Physical Collocation space shared by CLEC and one or more other CLECs pursuant to terms and conditions agreed upon by such carriers.

4.1.2.1.1 A CLEC may request that **SBC-13STATE** provide Shared Caged Collocation via a new request for Physical Collocation whereby the CLEC requesting such space allocates the requested space among the number of CLECs initially requesting such space ("**New Shared Collocation**") or a request by CLEC to enter into a sublease arrangement with another Resident Collocators(s) in CLEC's existing Physical Collocation ("**Subleased Shared Collocation**"). In each Shared Caged Collocation arrangement, **SBC-13STATE**'s single point of contact (SPOC) with respect to such arrangement shall be referred to as the "**Primary Collocator**". For New Shared Collocation, the Primary Collocator shall be the single CLEC that submits the request for New Shared Collocation on behalf of the other Resident Collocators. For Subleased Shared Collocation, the Primary Collocator shall be the CLEC that originally requested and

occupied such space and is the sublessor in such arrangement. For purposes of this section, each CLEC (including Resident Collocator(s) and the Primary Collocator) to a Shared Caged Collocation arrangement is sometimes referred to as a "**Resident Collocator**". An order for Shared Caged Collocation shall include blanket letters of authorization signed by the Primary Collocator that authorize each other Resident Collocator to utilize the Connecting Facility Assignments associated with the Primary Collocator and signed by each Resident Collocator that authorize the Primary Collocator to request and place firm orders for Shared Caged Collocation and facilities on behalf of such Resident Collocators.

- 4.1.2.1.2 New Shared Collocation is available in minimum increments of fifty (50) square feet (per caged space dimensions, not per CLEC). Resident Collocators shall request New Shared Collocation from **SBC-13STATE** in a single application. A request and any subsequent order for New Shared Collocation shall be submitted by the Primary Collocator. When making New Shared Collocation available, **SBC-13STATE** shall not, except as otherwise specifically required to accommodate a Resident Carrier's specific instructions, increase the Preparation Charges above the cost of provisioning a cage of similar dimensions and materials to a single collocating CLEC. **SBC-13STATE** will prorate the Preparation Charges incurred by **SBC-13STATE** to construct the shared Collocation cage or condition the space for Collocation use among the Resident Collocators utilizing the New Shared Collocation space, by determining the total preparation charges to make that space available and allocating that charge to each Resident Collocator based on the percentage attributable to each Resident Collocator as provided on the Collocation order by the Primary Collocator, provided that the percentage divided among the Resident Collocators in a New Shared Collocation space equals one hundred percent (100%) of such Preparation Charges. Allocation of Preparation Charges shall occur only upon the initial delivery of

New Shared Collocation and **SBC-13STATE** shall not be required to adjust such allocation if another Resident Collocator subsequently shares such space. Except with respect to prorated Preparation Charges, **SBC-13STATE** shall bill only the Primary Collocator for, and the Primary Collocator shall be the primary obligor with respect to the payment of, all charges other than Preparation Charges billed on New Shared Collocation. It is the Primary Collocator's responsibility to recover from each other Resident Collocator such CLEC's proportionate share of such other charges billed to the Primary Collocator for the New Shared Cage Collocation. If CLEC is a Resident Collocator but not the Primary Collocator in a New Shared Collocation arrangement, CLEC agrees that the rates, terms and conditions of the Collocation provisions of the Primary Collocator's Section 251/252 agreement shall apply to its New Shared Collocation arrangement in lieu of those set forth herein. Further, if CLEC is the Primary Collocator in a New Shared Collocation arrangement, as a condition of ordering New Shared Allocation, CLEC shall require its Resident Collocator(s) to execute an agreement prior to the Delivery Date that, *inter alia*, requires such Resident Collocator(s)' compliance with the terms, conditions and restrictions relating to Collocation contained in this Agreement and designates **SBC-13STATE** as a third party beneficiary of such agreement. CLEC, acting in its capacity as Primary Collocator, shall notify its Resident Collocator(s) of the obligation to comply with the Collocation provisions of this Agreement and shall be responsible for any breach of such provisions by the Resident Collocator(s).

- 4.1.2.1.3 For Subleased Shared Collocation, if the CLEC is the Primary Collocator, then CLEC shall be responsible for its and its Resident Collocator's compliance with the terms, conditions and restrictions of this Agreement. As a condition to permitting another CLEC to sublease space from CLEC, CLEC shall require such other CLEC(s) to execute a sublease agreement prior to the Delivery Date that, *inter alia*, requires such CLEC's compliance with the

terms, conditions and restrictions relating to Collocation contained in this Agreement and designates **SBC-13STATE** as a third party beneficiary of such agreement.

CLEC, acting in its capacity as Primary Collocator, shall notify its Resident Collocator(s) of the obligation to comply with the Collocation provisions of this Agreement and shall be responsible for any breach of such provisions by the Resident Collocator(s). If CLEC is the subleasee (i.e., not the Primary Collocator) in a Subleased Shared Collocation arrangement, CLEC agrees that the rates, terms and conditions of the Collocation provisions of the Primary Collocator's Section 251/252 agreement shall apply to its Subleased Shared Collocation arrangement in lieu of those set forth herein.

4.1.2.1.4 The Primary Collocator represents and warrants to **SBC-13STATE** that each Resident Collocator with which it shares Shared Caged Collocation space shall Collocate equipment only as permitted by **5.1** and which is necessary to Interconnect with **SBC-13STATE** or for access to **SBC-13STATE**'s unbundled Network Elements. **SBC-13STATE** shall provide CLEC access to **SBC-13STATE**'s unbundled Network Elements and permit CLEC to Interconnect its network with **SBC-13STATE** from Shared Caged Collocation, regardless if CLEC was the original Collocator. CLEC, however, shall have no right to request and **SBC-13STATE** shall have no obligation to provide CLEC's Resident Collocators access to **SBC-13STATE**'s unbundled Network Elements or **SBC-13STATE**'s network. Instead, a Resident Collocator's rights shall be as determined by such Resident Collocator's contractual arrangement (Section 251/252 agreement or tariff, as applicable) with **SBC-13STATE**.

4.1.2.1.5 As a condition of entering into Shared Caged Collocation, CLEC agrees that if it is not the Primary Collocator in a New Shared Collocation, or if it is the subleasee in a Subleased Shared Collocation arrangement, it unconditionally and irrevocably undertakes and guarantees **SBC-13STATE** the prompt and full payment of any charges assessed on the Shared Caged

Collocation. If the Primary Collocator in a Shared Caged Collocation arrangement no longer occupies the space, the other Resident Collocators must immediately identify a new Primary Collocator. If only one CLEC remains in the Shared Cage Collocation, that CLEC shall become the Primary Collocator. **SBC-13STATE** shall bill the new Primary Collocator any applicable charges to change **SBC-13STATE**'s records and databases to reflect such new Primary Collocator.

4.1.3 Cageless Physical Collocation

4.1.3.1 Subject to technical feasibility and security requirements, **SBC-13STATE** will allow CLEC to collocate in any unused space (space that is vacant and does not contain **SBC-13STATE** equipment, is not reserved for growth, is not used for administrative or other functions, and is not needed for access to, egress from, or work within occupied or reserved space) in **SBC-13STATE**'s Eligible Structure (e.g. Central Office), without requiring the construction of a cage or similar structure, and without requiring the creation of a separate entrance to CLEC's dedicated space. **SBC-13STATE** will designate the space to be used for cageless collocation. **SBC-13STATE** may require CLEC to use a central entrance to the building in which the cageless collocation is provided, but may not require construction of a new entrance for CLEC's or other collocating carriers' use, and once inside the building, **SBC-13STATE** must permit CLEC to have direct access to CLEC's equipment.

4.1.3.2 **SBC-13STATE** may not require CLEC to use an intermediate interconnection arrangement (i.e., a POT bay) that simply increases collocation costs without a concomitant benefit to incumbents, in lieu of direct connection to **SBC-13STATE**'s network if technically feasible. In addition, **SBC-13STATE** may not require CLEC to collocate in a room or isolated space, separate from **SBC-13STATE**'s own equipment, which only serves to increase the cost of collocation and decrease the amount of available collocation space. **SBC-13STATE** may take reasonable steps to protect its own equipment, such as, but not limited to, enclosing **SBC-13STATE** equipment in its own cage, and other reasonable security measures examples of which are described herein. **SBC-13STATE** may utilize reasonable segregation requirements that do not impose unnecessary additional cost on CLEC.

4.1.3.3 **SBC-13STATE** must make cageless collocation space available in single-bay increments, meaning that CLEC can purchase space in single bay increments. **SBC-13STATE** will prorate the charge for site conditioning and preparation undertaken to construct or condition the collocation space so the first Collocator in a **SBC-13STATE** premise will not be responsible for the entire cost of site preparation.

4.1.4 Adjacent Structure Collocation

4.1.4.1 When space for physical collocation is legitimately exhausted inside an **SBC-13STATE** Eligible Structure, **SBC-13STATE** will permit CLEC to physically collocate in an Adjacent Structure (e.g. controlled environmental vaults or similar structures such as those used by **SBC-13STATE** to house telecommunications equipment) to the extent technically feasible. **SBC-13STATE** will permit CLEC to construct or otherwise procure such adjacent structure, subject to reasonable safety and maintenance requirements, zoning and other state and local regulations, and **SBC-13STATE**'s right to exercise reasonable control over the design, construction, and placement of such Adjacent Structures. **SBC-13STATE** will allow the CLEC to provide equipment installed within the Adjacent Structure. CLEC will be responsible for securing the required licenses and permits, the required site preparations, and will retain responsibility for building and site maintenance associated with placing the Adjacent Structure. **SBC-13STATE** may reserve reasonable amounts of space adjacent to its Eligible Structure needed to expand its Eligible Structure to meet building growth requirements. **SBC-13STATE** will assign the location of the Designated Space where the Adjacent Structure will be placed.

4.1.4.2 When requested, **SBC-13STATE** will provide up to 100 AMPS of AC power to the Adjacent Structure when Central Office Switchboard AC capacity exists and up to 200 AMPS of DC power to the Adjacent Structure up to 50 cable feet from the Central Office power source. When power requirements are beyond these office capacities and distance limitations, **SBC-13STATE** and CLEC will mutually agree on a solution for provisioning power via NSCR. At its option, CLEC may choose to provide its own AC and DC power to the Adjacent Structure. In this instance, CLEC must use an **SBC-13STATE** Approved Power Installation Vendor. If CLEC selects **SBC-13STATE** to provide power, then **SBC-13STATE** will

provide power and physical collocation services and facilities to such Adjacent Structures, subject to the same nondiscrimination requirements as other physical collocation arrangements in this Agreement.

- 4.1.4.3 SBC-13STATE rates, terms and conditions for Adjacent Structure Collocation will be determined on an individual case basis (ICB)/Non Standard Collocation Request (NSCR).
- 4.2 All requests for Other Physical Collocation arrangements will be considered on a case-by-case basis (ICB or NSCR). When CLEC requests a particular collocation arrangement, the CLEC is entitled to a rebuttable presumption that such arrangement is technically feasible if any incumbent LEC with a substantially similar network has deployed such collocation arrangement in any incumbent LEC Dedicated Space. If **SBC-13STATE** refuses to provide a collocation arrangement, or an equally cost effective arrangement, it may do so if it rebuts the presumption before the state commission that the particular premises in question cannot support the arrangement because of either technical reasons or lack of space.
- 4.3 The Collocator's **SBC-13STATE** Approved Vendor will be permitted access to the **SBC-13STATE** Main Distribution Frame and/or other interconnection points for placement and termination of interconnection cabling and the cabling arrangement to provide grounding for equipment. Collocator must use an **SBC-13STATE** Approved Power Installation Vendor to place power cable leads from the Collocator's dedicated space to **SBC-13STATE's** Battery Distribution Fuse Bay (BDFB) or Power Plant, whichever is applicable. Check sections 9.6.5 and 9.7 of this appendix for further requirements.
- 4.4 (Reserved).
- 4.5 Cross-connects between CLEC and other telecommunication carriers collocated at **SBC-13STATE** premises will be allowed as specified in the rules, regulations and orders of the FCC.
 - 4.5.1 (Reserved).
- 4.6 (Reserved).
- 4.7 **SBC-13STATE** shall permit CLEC to place its own connecting transmission facilities within **SBC-13STATE's** Eligible Structure in the physical collocation space, without requiring the Collocator to purchase any equipment or connecting facilities solely from

SBC-13STATE, subject to reasonable safety limitations. As provided herein, **SBC-13STATE** may require reasonable security arrangements to protect its equipment and ensure network reliability. Except as provided below, **SBC-13STATE** may only impose security arrangements that are as stringent as the security arrangements that **SBC-13STATE** maintains at its own premises for its own employees or authorized contractors. **SBC-13STATE** must allow CLEC to access its installed physical collocation equipment 24 hours a day, seven days a week, in **SBC-13STATE** Eligible Structures without requiring either a security escort of any kind or delaying a CLEC's employees' entry into **SBC-13STATE**'s Eligible Structure. Reasonable security measures that **SBC-13STATE** may adopt include, but are not limited to, the following:

- 4.7.1 Installing security cameras or other monitoring systems; or
 - 4.7.2 Requiring CLEC personnel to use badges with computerized tracking systems;
or
 - 4.7.3 Requiring CLEC employees to undergo the same level of security training, or its equivalent, that **SBC-13STATE**'s own employees, or third party contractors providing similar functions, must undergo; provided, however, that **SBC-13STATE** may not require CLEC employees to receive such training from **SBC-13STATE** itself, but must provide information to CLEC on the specific type of training required so CLEC's employees can conduct their own training.
 - 4.7.4 **SBC-13STATE** may take reasonable steps to protect its own equipment, such as enclosing the equipment in a cage.
- 4.8 **Relocation** – In the event **SBC-13STATE** determines it necessary for Dedicated Collocation Space to be moved within the Eligible Structure in which the Dedicated Collocation Space is located or to another Eligible Structure, CLEC is required to do so. If such relocation arises from circumstances beyond the reasonable control of **SBC-13STATE**, including condemnation or government order or regulation that makes the continued occupancy of the dedicated collocation space or Eligible Structure too costly in **SBC-13STATE**'s sole judgment, CLEC shall be responsible for the cost of preparing the new dedicated collocation space at the new location. Otherwise **SBC-13STATE** shall be responsible for any reasonable preparation costs
- 4.8.1 In the event that CLEC requests that the Dedicated Collocation Space be moved within the **SBC-13STATE** Eligible Structure or to another Eligible Structure, **SBC-13STATE** shall permit CLEC to relocate the Dedicated Collocation Space, subject to the availability of space and associated requirements. CLEC shall be responsible for all charges associated with the move, including the reinstallation of its equipment and facilities and the

preparation of the new Dedicated Collocation Space and the new Wire Center as applicable.

- 4.9 CLECs will conduct background checks of their personnel and technicians who will have access to the Collocation Area. CLEC technicians will be security qualified by the CLEC and will be required to be knowledgeable of **SBC-13STATE**'s security standards. CLEC personnel and technicians will undergo the same level of security training, or its equivalent that **SBC-13STATE**'s own employees and authorized contractors must undergo. **SBC-13STATE** will not, however, require CLECs to receive security training from **SBC-13STATE**. CLECs can then provide their employees with their own security training. Qualification program and security training details shall be included in **SBC-13STATE**'s technical publications and/or Collocation website(s).
- 4.10 CLECs and **SBC-13STATE** will each establish disciplinary procedures up to and including dismissal or denial of access to the Eligible Structure and other **SBC-13STATE**'s property for certain specified actions that damage, or place the equipment, facilities, or the network or personnel of the CLECs or **SBC-13STATE** in jeopardy. The following are actions that could damage or place the Eligible Structure, or the network or the personnel of the CLECs or **SBC-13STATE**, in jeopardy and may justify disciplinary action up to and including dismissal or the denial of access to the Eligible Structure and other **SBC-13STATE** property:
- 4.10.1 Theft or destruction of **SBC-13STATE**'s or any CLEC's property.
- 4.10.2 Use or attempted use/sale of alcohol or illegal drugs on **SBC-13STATE**'s property.
- 4.10.3 Industrial espionage.
- 4.10.4 Threats or violent acts against other persons on **SBC-13STATE**'s property.
- 4.10.5 Knowing violations of any local, state or federal law on **SBC-13STATE**'s property.
- 4.10.6 Permitting unauthorized persons access to **SBC-13STATE**'s or CLEC's equipment on **SBC-13STATE**'s property.
- 4.10.7 Carrying a weapon on **SBC-13STATE**'s property.
- 4.11 In addition, the CLEC and **SBC-13STATE** will take appropriate disciplinary steps as determined by each party to address any violations reported by **SBC-13STATE** or the

CLEC of **SBC-13STATE**'s policies and practices on security, safety, network reliability, and business conduct as defined in **SBC-13STATE**'s Interconnector's Collocation Services Handbook and/or Collocation website(s), provided the such information and any and all updates to it are timely provided to the CLEC.

- 4.12 CLECs will provide indemnification and insurance as set forth in this agreement to cover any damages caused by the CLEC's technicians at a level commensurate with the indemnification and insurance provided by **SBC-13STATE**'s authorized contractors with equivalent access. The indemnification provisions and requirements are reciprocal to **SBC-13STATE** as well.
- 4.13 **SBC-13STATE** may use reasonable security measures to protect its equipment, including, but not limited to, enclosing its equipment in its own cage, the use of security cameras or other monitoring devices, badges with computerized tracking systems, identification swipe cards, keyed access, and/or logs, as appropriate for the Eligible Structures where physical collocation will take place. **SBC-13STATE**'s enclosure of its own equipment will not be a basis for a claim that space is exhausted.

5. **SPACE AVAILABILITY**

- 5.1 At the request of CLEC, **SBC-13STATE** will provide space for physical collocation as described above. **SBC-13STATE** will provide physical collocation at a particular Eligible Structure unless it demonstrates that physical collocation is not technically feasible or because of space limitations. In such cases and with the qualifications set forth above, **SBC-13STATE** will provide Adjacent Structure Collocation as described above or Virtual Collocation, except at points where **SBC-13STATE** proves that Adjacent Structure Collocation and/or Virtual Collocation is not technically feasible. If Adjacent Structure Collocation or Virtual Collocation is not technically feasible, **SBC-13STATE** will make a good faith effort to negotiate other methods of interconnection and access to unbundled network elements to the extent technically feasible.
- 5.2 The determination whether there is sufficient space to accommodate physical collocation at a particular Eligible Structure will be made initially by **SBC-13STATE**. **SBC-13STATE** will notify CLEC within ten (10) calendar days of submission of a completed Application for physical collocation by CLEC as to whether its request for space has been granted or denied due to a lack of space. If **SBC-13STATE** determines that Collocator's Physical Collocation Application is unacceptable, **SBC-13STATE** shall advise Collocator of any deficiencies within this ten (10) calendar day period. **SBC-13STATE** shall provide Collocator with sufficient detail so that Collocator has a reasonable opportunity to cure each deficiency. To retain its place in the queue to obtain the Physical Collocation arrangement, Collocator must cure any deficiencies in its Application and resubmit such Application within ten (10) calendar days after being

advised of deficiencies. Any changes requested by Collocator and not resulting from a request of **SBC-13STATE**, to the amount or type of floor space, interconnection terminations, and power from the originally submitted Physical Collocation Application will not be considered a deficiency, but rather as a new Physical Collocation Application with a new ten (10) calendar day space notification and delivery interval.

5.2.1 When space for physical collocation in a particular Eligible Structure is not available, **SBC-13STATE** shall place CLEC on the waiting list for collocation in a particular Eligible Structure according to the date CLEC submitted its application for physical collocation in that Eligible Structure

5.2.2 (Reserved).

5.3 If **SBC-13STATE** contends space for physical collocation is not available in a premises, **SBC-13STATE** must allow CLEC to tour the entire central office or other Eligible Structure in question, not just the area in which space was denied, without charge, within ten calendar days, or such later date as mutually agreed, of the receipt of **SBC-13STATE**'s denial of space. Prior to taking a tour, each representative must execute and deliver to **SBC-13STATE** a standard nondisclosure agreement. In no event shall any camera or other video/audio-recording device be brought on or utilized during any tour of an **SBC-13STATE**'s Premises.

5.3.1 If Collocator disputes **SBC-13STATE**'s determination, Collocator can elect a review to be made by a mutually agreed to third party engineer or a Commission designate, under a non-disclosure agreement. All costs of the third-party inspection including, but not limited to, all payments to the third-party engineer or Commission designate in connection with the inspection, shall be shared equally by **SBC-13STATE** and the Collocator. The engineer shall take into consideration **SBC-13STATE**'s planned use for the Eligible Structure under review and, to the extent it can be determined Collocator space and how it is used.

5.3.2 If **SBC-13STATE** denies a Collocator's request for Physical Collocation because of space limitations and, after touring the applicable Eligible Structure, the Parties are unable to resolve the issue of whether the denial of space was proper, **SBC-13STATE** shall, in connection with any complaint filed by Collocator, file with the appropriate Commission detailed floor plans or diagrams of such Eligible Structure along with whatever additional information has been ordered by such Commission, subject to protective order. These floor plans or diagrams must show what space, if any, **SBC-13STATE** or any of its affiliates has reserved for future use, and must describe in detail the

specific future uses for which the space has been reserved and the length of time for each reservation.

- 5.4 **SBC-13STATE** will maintain a publicly available document, posted for viewing on **SBC-13STATE**'s Internet site(s), indicating all premises that are full, and will update such a document within ten calendar days of the date at which a premises runs out of physical collocation space.
- 5.5 Upon request, **SBC-13STATE** must submit to the requesting carrier within ten calendar days of the submission of the request a report indicating the available collocation space in a particular **SBC-13STATE** Eligible Structure. This report will specify the amount of collocation space available at each requested Dedicated Space, the number of Collocators, and any modifications in the use of the space since the last report. This report will also include measures that **SBC-13STATE** is taking to make additional space available for collocation. When CLEC makes multiple requests on any given day, **SBC-13STATE** will provide a report for 2 to 5 requests in ten (10) calendar days and 6 to 20 requests in twenty (20) calendar days unless the Parties agree otherwise. Should the CLEC submit more than 20 requests at once for central offices where there is no current collocation or collocation forecasted, **SBC-13STATE** will provide the information on a scheduled basis of ten additional offices every ten (10) calendar days.
- 5.5.1 In **SBC-13STATE**, Reports shall be ordered via the Collocation order form and shall specifically identify the CLLI code of each Premises for which a report is ordered.
- 5.6 In any Central Office in which all options for physical collocation offered by **SBC-13STATE** have been exhausted, **SBC-13STATE** shall not be permitted to provide additional space in that Central Office for any of its affiliates
- 5.7 **SBC-13STATE** is not required to lease or construct additional space to provide for physical collocation when existing space has been exhausted. Moreover, **SBC-13STATE** is not required to, nor shall this Appendix create any obligation or expectation, to relinquish used, or forecasted space to undertake the construction of new quarters or to construct additions to existing quarters in order to satisfy any request for additional space or the placement of CLEC equipment or facilities, whether through an initial request for physical collocation or a subsequent request for more space in an Eligible Structure. **SBC-13STATE** and CLEC shall not unreasonably warehouse forecasted space.
- 5.8 To the extent possible, **SBC-13STATE** will make contiguous space available to CLEC

if CLEC seeks to expand an existing physical collocation arrangement and such request meets **SBC-13STATE**'s non-discriminatory practices regarding efficient space utilization.

- 5.9 When planning renovations of existing Eligible Structures or constructing or leasing new Eligible Structures, **SBC-13STATE** will take into account future demand based upon its knowledge of CLEC demand for Collocation. CLEC will provide **SBC-13STATE** with a two (2)-year rolling non-binding forecast of its requirements for Collocation that will be reviewed jointly on a yearly basis by the Parties.
- 5.10 **SBC-13STATE** may retain a limited amount of floor space for **SBC-13STATE**'s own specific future uses for a time period on terms no more favorable to **SBC-13STATE** than those that apply to other telecommunications carriers, including CLEC, seeking to reserve Collocation space for their own future use. Except for space needed for switching equipment "turnaround" (e.g., the installation of new switching equipment to replace then-existing switching equipment), other telecommunications equipment and infrastructure, if any, and/or otherwise permitted or directed by applicable rule or order, **SBC-13STATE** will relinquish any space held for future use before denying a request for Virtual Collocation on grounds of space limitations, unless **SBC-13STATE** proves to the Commission that Virtual Collocation at that point is not technically feasible, including that space does not exist. In any such event, **SBC-13STATE** and CLEC will attempt to reach a mutually agreeable alternative method of interconnection.
- 5.11. At the request of the Commission or CLEC, **SBC-13STATE** shall remove any obsolete and unused equipment (e.g., retired in-place") from its Premises. **SBC-13STATE** shall be permitted to recover the cost of removal and/or relocation of such equipment if **SBC-13STATE** incurs expenses that would not otherwise have been incurred (at the time of the request or subsequent thereto) except to increase the amount of space available for collocation (e.g., costs to expedite removal of equipment or store equipment for reuse).
- 5.12 **SBC-13STATE** may impose reasonable restrictions on its provision of additional unused space available for Collocation (so-called "warehousing") as described in paragraph 586 of the First Report and Order (96-325); provided, however, that **SBC-13STATE** shall not set a maximum space limitation on CLEC unless **SBC-13STATE** proves to the Commission that space constraints make such restrictions necessary.

6. ELIGIBLE EQUIPMENT FOR COLLOCATION

- 6.1 In accordance with Section 251(c)(6) of the Telecommunications Act, and 47 CFR Part 51, CLEC may collocate equipment "necessary for interconnection or access to unbundled network elements." Multifunctional equipment may be collocated consistent with all

Applicable Laws, regulations, and orders of the FCC. Equipment may also be collocated to terminate basic transmission facilities pursuant to sections 64.1401 and 64.1402 of 47 C.F.R.

6.2 (Reserved).

6.3 (Reserved).

6.4 (Reserved).

6.5 (Reserved).

6.6 (Reserved).

6.7 (Reserved).

6.8 (Reserved).

6.9 **SBC-13STATE** does not assume any responsibility for the installation, furnishing, designing, engineering, or performance of the Collocator's equipment and facilities in the Collocator's physical collocation space.

6.10 All types of equipment placed in **SBC-13STATE** Eligible Structures or on its Premises by Collocators must meet the **SBC-13STATE** minimum safety standards. The minimum safety standards are as follows: (1) equipment complying with **SBC-13STATE** LEC document TP76200MP; network equipment power, grounding, environmental, and physical design requirements, Level 1 safety requirements except in Texas, and any other state that has adopted the same approach as Texas, where Collocator's equipment must meet Telcordia Level 1 safety requirements as set forth in Telcordia documents SR-3580 and GR-63-CORE, Network Equipment Building Systems (NEBS); or, (2) Collocator must demonstrate that its equipment has a history of safe operation defined by installation in an ILEC (including **SBC-13STATE**) prior to January 1, 1998 with no known history of safety problems.

6.11 **SBC-13STATE** will not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that **SBC-13STATE** applies to its own network equipment. **SBC-13STATE** will not object to the collocation of equipment on the ground that the equipment fails to comply with Network Equipment and Building Specifications performance standards or any other performance standards.

- 6.12 In the event that **SBC-13STATE** denies Collocation of Collocator's equipment, citing minimum safety standards, **SBC-13STATE** will provide within five (5) business days of Collocator's written request to **SBC-13STATE** representative(s), a list of **SBC-13STATE** equipment placed since January 1, 1998 within the network areas of the Eligible Premise for which Collocation was denied together with an affidavit attesting that all of such **SBC-13STATE** equipment met or exceeded the then current minimum safety standards when such equipment was placed in the Eligible Premise. The affidavit will set forth in detail: the exact safety requirement that the CLEC's equipment does not satisfy; **SBC-13STATE**'s basis for concluding that the CLEC's equipment does not meet this safety requirement; and **SBC-13STATE**'s basis for concluding why collocation of the equipment not meeting this safety requirement would compromise network safety.
- 6.13 In the event Collocator submits an application requesting collocation of certain equipment and **SBC-13STATE** determines that such equipment is not necessary for interconnection or access to UNEs or does not meet the minimum safety standards or any other requirements of this Appendix, the Collocator must not collocate the equipment. If Collocator disputes such determination by **SBC-13STATE**, Collocator may not collocate such equipment unless and until the dispute is resolved in its favor. If **SBC-13STATE** determines that Collocator has already collocated equipment which is not necessary for interconnection or access to UNEs or does not meet the minimum safety requirements or any other requirements of this Appendix, the Collocator must remove the equipment from the collocation space within ten (10) business days of written notice from **SBC-13STATE**. Collocator will be responsible for the removal and all resulting damages. If Collocator disputes such determination, the status quo will be maintained pending resolution of dispute, except that corrections to meet minimum safety requirements shall be completed within the 10-day period. If the Parties do not resolve the dispute, **SBC-13STATE** or Collocator may file a complaint at the Commission seeking a formal resolution of the dispute.

7. DEDICATED COLLOCATION SPACE CHARGES

7.1 Dedicated Collocation Space

7.1.1 For each Eligible Structure in which Collocator desires to physically collocate equipment, Collocator must submit a Physical Collocation Application with the applicable Application and Project Management Fees. **SBC-13STATE** shall refund the application fee if it is unable to provision the collocation space to the CLEC's specifications. A copy of the Physical Collocation Application may be obtained from the **SBC-13STATE** Collocation Services Account Manager or from the **SBC-13STATE** web-site(s). The Physical Collocation application must also be used for each subsequent request to place equipment in an Eligible Structure. However, a reduced fee shall apply to all subsequent requests to place

equipment.

- 7.2 **SBC-13STATE** will contract for and perform the construction and preparation activities necessary to prepare the dedicated space, Dedicated Space using the same or consistent practices that are used by **SBC-13STATE** for other construction and preparation work performed in the Eligible Structure.
- 7.2.1 Notwithstanding the above, **SBC-13STATE** will permit CLEC to subcontract the construction of Physical Collocation arrangements with contractors approved by **SBC-13STATE**, provided that **SBC-13STATE** will not unreasonably withhold approval of contractors.
- 7.2.1.1 Certification by **SBC-8STATE** will be based on the same criteria **SBC-8STATE** uses in certifying contractors for its own purposes.
- 7.3 **Recurring/Non-Recurring charges** - CLEC shall pay **PACIFIC/SWBT-TX/SNET/SBC-AMERITECH** a per month charge and non-recurring charges for use of the Dedicated Collocation Space and any Telco provided equipment/facilities therein. These charges are contained in the state specific Appendix Pricing and/or in the applicable tariff. The recurring monthly charges for each Dedicated Collocation Space shall stay fixed for the term of this agreement and may be modified upon renegotiation of the Interconnection Agreement.
- 7.3.1 An ICB quote is prepared by **SBC-MOKA/NEVADA** to estimate non-recurring and recurring charges associated with the requested collocation space. This ICB quote is prepared specifically for collocation requests and is not associated in any way with the Bona Fide Request (BFR) process used to request UNEs or other unique items not contained in a CLEC Interconnection Agreement.
- 7.4 CLEC shall pay its proportionate share of any reasonable security arrangements **SBC-13STATE** employs to protect **SBC-13STATE** equipment and ensure network reliability.
- 7.5 **Payment of Preparation Charge** - Prior to any obligation by **SBC-13STATE** to begin any preparation work associated with the Dedicated Collocation Space that CLEC shall pay fifty percent (50%) of the COBO charge in states where the COBO is a non-recurring charge. *FIFTY PERCENT* (50%) of the COBO charge is due at the completion of the Dedicated Collocation Space. Any extraordinary expenses, if applicable, must be agreed to by the CLEC prior to actual commencement of the physical construction of the Dedicated Collocation Space. CLEC also has the option of submitting a surety bond in lieu of payments due before the final payment.

- 7.6 Occupancy Conditioned on Payment - **SBC-13STATE** shall permit CLEC to have access to the dedicated collocation space for any non-operational purpose such as planning or inspection during construction of CLEC's dedicated physical collocation space until **SBC-13STATE** is in receipt of complete payment of the Preparation Charge and any Custom Work charges and/or applicable COBO, after which the CLEC shall have access for operational purposes. .
- 7.7 Breach Prior to Commencement Date - In the event that the CLEC materially breaches this Agreement by purporting to terminate this Agreement after **SBC-13STATE** has begun preparation of the dedicated collocation space but before **SBC-13STATE** has been paid the entire amounts due under this Article, then in addition to any other remedies that **SBC-13STATE** might have, the CLEC shall be liable in the amount equal to the non-recoverable costs less estimated net salvage. Non-recoverable costs include the non-recoverable cost of equipment and material ordered, provided or used; the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided or used; labor; transportation and any other directly associated costs.
- 7.8 Late Payment Charge - In the event that any charge is not paid when due, the unpaid amounts shall bear interest in accordance with the terms and conditions set forth in **SBC-13STATE**'s intrastate tariff late payment provision(s) applicable to access services for the State in which the dedicated collocation space is located, or the highest rate permitted by law, whichever is lower, from the due date until paid.
- 7.9 Charges will begin to accrue on the Effective Billing Date - The Effective Billing Date is the date **SBC-13STATE** turns over a functional Dedicated Collocation Space to CLEC.
- 7.9.1*** **PACIFIC/NEVADA**: The charges for a Physical Collocation arrangement in an Eligible Structure where interstate expanded interconnection is required to be provided pursuant to 47 C.F.R. sections 64.1401(a) and 64.1401(b) shall be as set forth in the applicable Tariff(s). To the extent that any of those charges are subject to appeal, the result of any such appeal shall be retroactively applied to any Physical Collocation arrangement ordered or provided under any such charge. To the extent that rates are not provided in the applicable Tariff(s), rates shall be determined on Individual Case Basis "ICB." Any ICB quote shall

*** Available only in the State of California and Nevada. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1.

be included as part of the quote provided to the CLEC in response to its Physical Collocation application.

- 7.10 The monthly recurring charge(s) shall begin to apply within, but no later than 30 days from the date that **SBC-13STATE** has turned over the functional dedicated space to the CLEC, Dedicated Space regardless of any failure by CLECs to complete its work. The fact that **SBC-13STATE** may have additional work to perform after CLEC does complete its work shall not bar the start of such charges so long as the remaining work does not materially impair the CLEC from operating in the space.
- 7.11 The charges for an Adjacent Structure Collocation and for a Physical Collocation arrangement that is provided in Eligible Structures other than Central Offices shall be determined on Individual Case Basis (ICB/NSCR) in the **SBC-13STATEs**.
- 7.12 Restroom access and parking will be provided on a reasonable basis in the **SBC-13STATEs**.
- 7.13 **NEVADA**: In the event that any CLEC Telecom Equipment that is to be placed in the Premises was not contemplated by that interstate tariff (which was based upon the requirements of 47 C.F.R. § 64.1401), CLEC may be subject to charges under an ICB if **NEVADA**'s costs of providing the necessary Premises requirements (e.g., space, power, environmental, grounding) for any such CLEC Telecom Equipment is not recovered by those tariffed rates. Any ICB quote shall be included as part of the quote provided to the CLEC in response to its Physical Collocation application.
- 7.14*** CLEC and **PACIFIC/NEVADA** will complete an acceptance walk-through of the Dedicated Space prior to turning the Dedicated Space over to CLEC. Exceptions that are noted during this acceptance walk-through shall be corrected by **PACIFIC/NEVADA** as soon as commercially reasonable after those exceptions are provided in writing, which exceptions shall be provided no more than 5 business days after the walk through. The correction of these exceptions from CLEC's Physical Collocation request shall be at **PACIFIC/NEVADA**'s expense.
- 7.15 **SBC-13STATE** shall ensure that the Dedicated Space and the Eligible Structure comply with all applicable fire and safety codes. The preparation shall be arranged by **SBC-13STATE** in compliance with all applicable codes, ordinances, resolutions, regulations and laws.

*** Available only in the State of California and Nevada. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS Paragraph 2.10.1.

8. USE OF DEDICATED COLLOCATION SPACE

- 8.1 Nature of Use – The dedicated collocation space is to be used by CLEC for purposes of collocating equipment and facilities, pursuant to 47 U.S.C. 251(c)(2), and for obtaining access to **SBC-13STATE**'s unbundled network elements, pursuant to 47 U.S.C. 251 (c)(3). Consistent with the nature of the Eligible Structure and the environment of the dedicated collocation space, CLEC shall not use the dedicated collocation space for office, retail, or sales purposes. No signage or markings of any kind by CLEC shall be permitted on the Eligible Structure or on the grounds surrounding the Building.
- 8.2 CLEC shall not have access to **SBC-13STATE**'s Main Distribution Frame or Intermediate Distribution Frame, DSXs, DCS, or any other **SBC-13STATE** equipment or facilities not specifically designated by **SBC-13STATE** for CLEC access.
- 8.3 A list of all of CLEC Telecom Equipment that will be placed within the Dedicated Space shall be set forth on the CLEC's Physical Collocation application, which includes associated power requirements, floor loading, and heat release of each piece of CLEC Telecom Equipment. CLEC warrants and represents that the Physical Collocation application contains a complete and accurate list of such CLEC Telecom Equipment. CLEC shall not place or leave any other equipment or facilities within the Dedicated Space without the express written consent of **SBC-13STATE**.
- 8.4 (Reserved).
- 8.5 CLEC may use the Dedicated Space for placement of CLEC telecommunications equipment that is necessary ("used or useful") for interconnection or access to UNE's. CLEC's employees, agents and contractors shall be permitted access to the Dedicated Space at all times, provided that CLEC's employees, agents and contractors comply with **SBC-13STATE**'s policies and practices pertaining to fire, safety and security. CLEC agrees to comply promptly with all laws, ordinances and regulations affecting the use of the Dedicated Space.
- 8.6 CLEC Telecom Equipment, CLEC operating practices, or other activities or conditions attributable to CLEC that represent a demonstrable threat to **SBC-13STATE**'s network, equipment, or facilities, including the Eligible Structure, or to the network, equipment, or facilities of any person or entity located in the Eligible Structure, are strictly prohibited.
- 8.7 Operation of any equipment, facilities or any other item placed in the Dedicated Space shall not interfere with or impair service over **SBC-13STATE**'s network, equipment, or facilities, or the network, equipment, or facilities of any other person or entity located in

the Eligible Structure; create hazards for or cause damage to those networks, equipment, or facilities, the Dedicated Space, or the Eligible Structure; impair the privacy of any communications carried in, from, or through the network, equipment, facilities the Dedicated Space or the Eligible Structure; or create hazards or cause physical harm to any person, entity, or the public. Any of the foregoing events would be a material breach of this Appendix.

- 8.8 Subject to the limitations and restrictions of this Appendix, CLEC may place or install in or on the Dedicated Space such fixtures and unpowered facilities as it shall deem desirable for the proper use of the Dedicated Space as described above, in **SBC-13STATE**s. Personal property, fixtures and unpowered facilities placed by CLEC in the Dedicated Space shall not become a part of the Dedicated Space, even if nailed, screwed or otherwise fastened to the Dedicated Space, but shall retain their status as personal property and may be removed by CLEC at any time. Any damage caused to the Dedicated Space by the removal of such property shall be repaired at CLEC's expense.
- 8.9 In no case shall CLEC or any person or entity purporting to be acting through or on behalf of CLEC make any significant rearrangement, modification, improvement, addition, repair, or other alteration to the Dedicated Space or the Eligible Structure without the advance written permission and direction of **SBC-13STATE**. **SBC-13STATE** shall consider a modification, improvement, addition, repair, or other alteration requested by CLEC, provided that **SBC-13STATE** shall have the right to reject or modify any such request. **SBC-13STATE** will perform any such construction, and the associated cost shall be paid by CLEC in accordance with **SBC-13STATE**'s then-standard custom work order process or NSCR.
- 8.10 This Appendix and the Collocation provided hereunder is made available subject to and in accordance with Sections 8.10.1, 8.10.2, 8.10.3, 8.10.4, and 8.10.5. CLEC shall strictly observe and abide by each in **SBC-13STATE**'s.
- 8.10.1 SBC Local Exchange Carriers TP 76200MP, Network Equipment: Power, Grounding, Environmental, and Physical Design Requirements, and any successor document(s), including as such may be modified at any time and from time to time;
- 8.10.2 **SBC-13STATE**'s most current Interconnector's Collocation Services Handbook and any successor document(s), as may be modified from time to time as set forth below. However, modifications of the handbook cannot supercede or modify terms of this interconnection agreement, or attempt to interpret provisions of this agreement unless first approved by the appropriate state regulatory commission.

- 8.10.3 TP 76300MP, SBC Local Exchange Carriers Installation Requirements, and any successor documents should be followed in installing network equipment, and facilities within **SBC-13STATE** central offices and may be modified from time to time.
- 8.10.4 Any statutory and/or regulatory requirements in effect at the time of the submission of the Physical Collocation application or that subsequently become effective and then when effective.
- 8.10.5 The Interconnector's Collocation Services Handbook, TP 76300MP and the TP 76200MP Standards are not incorporated herein but are available on the appropriate SBC ILEC's Collocation Internet site.
- 8.11 If the Interconnector's Collocation Services Handbook, Collocation website(s) or the TP 76300MP, is modified subsequent to the effective date of this agreement from the attached, subject to 8.10.2, the following shall apply:
- 8.11.1 If a modification is made after the date on which CLEC has or orders a Physical Collocation arrangement, **SBC-13STATE** shall provide CLEC with a list of those modifications or with revised versions of such, separately highlighting all such modifications. Any such modification shall become effective and thereafter applicable under this Agreement thirty (30) days after such amendment is released by **SBC-13STATE**, except for those specific amendments to which CLEC objects to within thirty (30) days of receipt, providing therewith an explanation for each such objection. The Parties shall pursue such objections informally with each other and, if not resolved within forty-five (45) days, either Party will have fourteen (14) days to invoke the dispute resolution procedures applicable to this Agreement. If neither Party invokes those procedures, the modification is deemed effective and applicable.
- 8.11.2 If a modification is made after this Appendix becomes part of an effective "Statement of Generally Available Terms and Conditions" or similar document for **SBC-13STATE** (and the modification has not been included in a change to that "Statement" or this Appendix), then **SBC-13STATE** will provide CLEC with a copy of such modifications or the most recent version or revision of the particular document promptly after receipt of CLEC's physical collocation application. Any CLEC objection to those modifications must be received by **SBC-13STATE** by the thirtieth (30th) day after their receipt by CLEC. Thereafter, the same process and procedure (including timelines) for resolving any objection made under Section 8.11.1 shall apply.

- 8.11.3 Notwithstanding Sections 8.11.1 and/or 8.11.2, any modification made to address situations potentially harmful to **SBC-13STATE**'s or another's network, equipment, or facilities, the Eligible Structure, the Dedicated Space, or to comply with statutory or regulatory requirements shall become effective immediately and shall not be subject to objection. **SBC-13STATE** will immediately notify CLEC of any such modification.
- 8.12 The terms and conditions expressly set forth in this Appendix shall control in the event of an irreconcilable conflict with the Collocation Services Handbook, Collocation website(s) and the TP 76300MP, or the TP76200MP (including any modification to any of them that can be objected to under this Section 8.11, regardless of whether CLEC objected to such modification) in the **SBC-13STATE**s. Notwithstanding the immediately preceding, modifications that are governed by Section 8.11.3 shall apply regardless of any conflict or inconsistency with any other term or condition governing a Physical Collocation arrangement unless contrary to law.
- 8.12.1 CLEC warrants and represents, for each item of the CLEC Telecom Equipment, that such equipment meets the **SBC-13STATE** minimum safety standards. The minimum safety standards are: (1) Equipment compliance to SBC LEC technical publication TP 76200MP Level One requirements and to corrosion protection requirements contained in Telcordia NEBS document GR-1089-CORE, Criteria [72, 73], except in the State of Texas where equipment compliance to Telcordia NEBS Level 1 requirements are the minimum safety requirements for CLEC equipment, or (2) Equipment history of safe operation demonstrated by placement as network equipment in an ILEC prior to January 1, 1998 with no documented or known history of safety problems. CLEC also warrants and represents that any other telecommunications equipment or ancillary telecommunications facilities that may be placed in the Dedicated Space as permitted hereunder or otherwise shall be so compliant. **SBC-13STATE** may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that **SBC-13STATE** applies to its own equipment. **SBC-13STATE** may not deny collocation of Collocator equipment because the equipment fails to meet TP76200MP reliability standards. If **SBC-13STATE** denies collocation of CLEC equipment, citing non-compliance to the minimum safety standards, **SBC-13STATE** must provide to the CLEC within five business days of the denial a list of all network equipment that **SBC-13STATE** has placed within the network area(s) of the premises in question since January 1, 1998, together with an affidavit attesting that all of that equipment meets or exceeds the minimum safety standards. DISCLOSURE OF ANY NON-COMPLIANT EQUIPMENT OR FACILITIES TO **SBC-13STATE** IN A PHYSICAL COLLOCATION

APPLICATION OR OTHERWISE SHALL NOT QUALIFY THIS ABSOLUTE CERTIFICATION REQUIREMENT IN ANY MANNER.

- 8.13 Unless otherwise expressly agreed in writing, **SBC-13STATE** will provide for all AC and DC power requirements in the Eligible Structure. The CLEC is not permitted to, and will not, place any AC or DC power-generating or power-storing devices (including, for example but not limited to rectifiers, battery plants, AC or DC generators) in the Eligible Structure. Power will support CLEC Telecom Equipment at the specified DC and AC voltages. At a minimum, the Power and **SBC-13STATE**'s associated performance, availability, restoration, and other operational characteristics shall be at parity with that provided to **SBC-13STATE**'s substantially similar telecommunications equipment unless otherwise mutually agreed in writing. Loads specified by the CLEC represent the peak current that will be imposed on a power feeder at any voltage within the emergency operating limits of the equipment and any normal operating condition (i.e. not a short circuit or other malfunction). Even though circuit design is based on peak current, DC power plant design sizing by the **SBC-13STATE**'s is based on demand management. All necessary Power will be supplied on a timely basis. A physical collocation space will be considered timely delivered only if it is fully operational, including power, at the time it is turned over to CLEC.
- 8.14 Other than the security restrictions described herein, **SBC-13STATE** shall place no restriction on access to CLEC's central office Dedicated Space by CLEC's employees and designated agents. Such space shall be available to CLEC designated agents twenty-four (24) hours per day each day of the week. **SBC-13STATE** will not impose unreasonable security restrictions for the Eligible Structure, including the Dedicated Space.
- 8.15 Fiber Entrances – CLEC shall use a single mode dielectric fiber optic cable as a transmission medium to the dedicated collocation space. CLEC shall be permitted no more than two (2) entrance routes into the Building, if available.
- 8.16 Demarcation Point – **SBC-13STATE** shall designate the point(s) of termination within the Eligible Structure as the point(s) of physical demarcation between CLEC's network and **SBC-13STATE**'s network, with each being responsible for maintenance and other ownership obligations and responsibilities on its side of that demarcation point.

9. OPERATIONAL RESPONSIBILITIES

- 9.1 CLEC and **SBC-13STATE** are each responsible for providing to the other contact numbers for technical personnel who are readily accessible twenty-four (24) hours a day, seven (7) days a week.
- 9.2 CLEC and **SBC-13STATE** are each responsible for providing trouble report status or any network trouble of problems when requested by the other.
- 9.3 **SBC-13STATE** shall provide an interconnection point or points, physically accessible by both **SBC-13STATE** and CLEC (typically a **SBC-13STATE** manhole) at which a CLEC fiber optic cable can enter the Eligible Structure, provided that **SBC-13STATE** will designate interconnection points as close as reasonably possible to the Eligible Structure. **SBC-13STATE** will provide at least two such interconnection points at each Eligible Structure where there are at least two entry points for **SBC-13STATE**'s cable facilities and at which space is available for new facilities in at least two of those entry points.
- 9.3.1 CLEC is responsible for bringing its fiber optic cable to an accessible point outside of the Eligible Structure designated by **SBC-13STATE**, and for leaving sufficient cable length in order for **SBC-13STATE** to fully extend such CLEC-provided cable to the Dedicated Space.
- 9.3.2 (Reserved).
- 9.4 Regeneration of either DS-1 or DS-3 signal levels may be provided by CLEC or **SBC-13STATE** under its then-standard custom work order process or NSCR, including payment requirements prior to the installation of the regeneration equipment.
- 9.5 If CLEC fails to remove its equipment and facilities from the Dedicated Space within thirty (30) days after discontinuance of use, **SBC-13STATE** may perform the removal and shall charge CLEC for any materials used in any such removal, and the time spent on such removal at the then-applicable hourly rate for custom work. Further, in addition to the other provisions herein, CLEC shall indemnify and hold **SBC-13STATE** harmless from any and all claims, expenses, fees, or other costs associated with any such removal by **SBC-13STATE**.

9.6 Collocator is solely responsible for the design, engineering, testing, performance, and maintenance of the Collocator Telecom Equipment used by Collocator in the Physical Collocation Space. Collocator may not disassemble, remove or otherwise reconfigure the cage enclosure (Physical Collocation Space) at any time unless it has been provided by the Collocator. Collocator is also responsible for servicing, supplying, repairing, installing and maintaining the following facilities within the Physical Collocation Space in the **SBC-13STATE**s:

9.6.1 Its fiber optic cable(s);

9.6.2 Its Collocator Telecom Equipment;

9.6.3 Collocator requested dedicated point of termination frame maintenance, including replacement of fuses and circuit breaker restoration, to the extent that such fuses and circuit breakers are within Collocator's Physical Collocation Space; and

9.6.4 The connection cable and associated equipment which may be required within Collocator's Physical Collocation Space to the point(s) of termination of that cable within Collocator's Physical Collocation Space.

9.6.5 **SBC-13STATE** requires that a Collocation Interconnect Power Panel (CIPP) must be used when the Physical Collocation arrangement is not served from **SBC-13STATE**'s BDFB. No CIPP is required for 20, 40, 50 or 100/200 (maximum) amp redundant increments of DC power. The CIPP is always required for 100/200 amp or greater power arrangements. The Collocator will furnish and install the (CIPP) within a Collocator-provided equipment bay designated by Collocator. The CIPP must meet TP76200MP Level 1 requirements.

9.6.6 (Reserved).

9.7 **SBC-13STATE** will allow CLEC to select its own contractors for all required engineering and installation services associated with the CLEC Telecom Equipment (*e.g.*, **SBC-13STATE** shall not require CLEC to use **SBC-13STATE**'s internal engineering or installation work forces for the engineering and installation of the CLEC Telecom Equipment). Installation of the CLEC Telecom Equipment in the Dedicated Space must nevertheless comply with TP76300MP.. CLEC-selected contractors must agree to all policies and procedures in this appendix. Access to the Eligible Structure and the Dedicated Space for CLEC contractors must meet the same requirements as the CLEC.

9.7.1 (Reserved).

- 9.8 In **SBC-13STATE**, each Party is responsible for immediate verbal notification to the other of significant outages or operations problems which could impact or degrade that other's network, equipment, facilities, or services, and for providing an estimated clearing time for restoration. In addition, written notification must be provided within twenty-four (24) hours.
- 9.9 CLEC is responsible for coordinating with **SBC-13STATE** to ensure that services are installed in accordance with a service request.
- 9.10 CLEC is responsible for testing, isolating and clearing trouble when the trouble has been isolated to inside the Dedicated Space, or to any piece of CLEC Telecom Equipment, or any other CLEC-provided facility or piece of equipment. If **SBC-13STATE** testing is also required, it will be provided at applicable charges.
- 9.11 **SBC-13STATE** will be responsible for determining equipment location within the Eligible Structure. Procurement, placement and termination of interconnection cabling between Collocator's dedicated space and **SBC-13STATE** Main Distribution Frame and/or other interconnection points will be installed by the Collocator's **SBC-13STATE** Approved Vendor. The Collocator's **SBC-13STATE** Approved Vendor must obtain an approved Method of Procedures (MOP) from **SBC-13STATE** and follow the **SBC-13STATE's** standards and requirements for installation of equipment and facilities. **SBC-13STATE** will install and stencil the termination blocks or panels at **SBC-13STATE's** Main Distribution Frame and/or other interconnection points for the hand off of the Interconnection Connection(s) to the Collocator.
- *9.12 Unless otherwise expressly agreed in writing, where the Collocator has entered into an agreement with **SBC-13STATE** to virtually collocate its equipment, **SBC-13STATE** will provide for all AC and DC power requirements in the Eligible Structure. Where the Collocator has entered into an agreement with **SBC-13STATE** to physically collocate, the Collocator shall be fully responsible for cabling, and shall contract with an **AM-IL**

* This Section 9.12 is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

Approved Vendor to provide the same. The Collocator is not permitted to, and will not, place any AC or DC power-generating or power-storing devices (including, for example but not limited to rectifiers, battery plants, AC or DC generators) in the Eligible Structure. Power will support Collocator Telecom Equipment at the specified DC and AC voltages. At a minimum, the Power and **SBC-13STATE**'s associated performance, availability, restoration, and other operational characteristics shall be at parity with that provided to **SBC-13STATE**'s substantially similar telecommunications equipment unless otherwise mutually agreed in writing. Loads specified by the Collocator represent the peak current that will be imposed on a power feeder at any voltage within the emergency operating limits of the equipment and any normal operating condition (i.e. not a short circuit or other malfunction). Even though circuit design is based on peak current, DC power plant design sizing by the **SBC-13STATE**'s is based on demand management. **SBC-13STATE** will engineer, design, and place cable racks for all power cable routes within the Eligible Structure. **SBC-13STATE** will supply and place the power cable leads from the dedicated space to **SBC-13STATE**'s Battery Distribution Fuse Bay (BDFB) or Power Plant, whichever is applicable. **SBC-13STATE** will terminate the Collocator's power cable leads and place fuses at the BDFB or Power Plant, whichever is applicable. The Collocator must contact the assigned **SBC-13STATE** Project Manager five (5) business days prior to scheduling the power cable terminations and fuse placement.

9.12.1 The Collocator's SBC-13STATE Approved Power Installation Vendor must obtain an approved Method of Procedures (MOP) from SBC-13STATE and follow the SBC-13STATE's standards and requirements for installation of equipment and facilities.

9.13 Orders for additional space or additional Connecting Facility Assignments (CFAs), whether a new arrangement or an augment to an existing space or CFA, will not be accepted until each existing Dedicated Space or specific CFA type (i.e. DS0, DS1, Fiber, etc.) of the Collocator, in the requested Eligible Structure, is "efficiently used." "Efficiently used space" means all existing collocation space, caged and/or cageless, currently existing in a particular Eligible Structure, measured in "single bay" increments, except for one, must be at one hundred percent (100%) utilization, with only one caged or cageless arrangement utilizing between sixty percent (60%) and one hundred percent (100%) of the assigned space. "Efficiently used CFA," means that at least sixty percent (60%) of the specific type of CFA (cable pairs, coaxial or fiber facilities) is currently being used. The determination as to whether this criterion is met within the reasonable judgment of **SBC-13STATE**.

10. CASUALTY LOSS

10.1 If the Eligible Structure or the Dedicated Space are damaged by fire or other casualty, and:

10.1.1 The Dedicated Spaces are not rendered untenable in whole or in part, **SBC-13STATE** shall repair the same at its expense (as herein limited) and the recurring charges shall not be abated, or

10.1.2 The Dedicated Spaces are rendered untenable in whole or in part and such damage or destruction can be repaired within ninety (90) days, **SBC-13STATE** has the option to repair the Dedicated Space at its expense (as herein limited) and the recurring charges shall be proportionately abated to the extent and while CLEC was deprived of the use. If the Dedicated Space cannot be repaired within ninety (90) days, or **SBC-13STATE** opts not to rebuild, then the Physical Collocation arrangement provided in the Dedicated Space shall (upon notice to CLEC within thirty (30) days following such occurrence) terminate as of the date of such damage. **SBC-13STATE** shall endeavor to relocate CLEC equipment in alternative location, or assist CLEC in developing alternative to physical location.

10.2 Any obligation on the part of **SBC-13STATE** to repair the Dedicated Space shall be limited to repairing, restoring and rebuilding the Dedicated Space as originally prepared for CLEC and shall not include any obligation to repair, restore, rebuild or replace any alterations or improvements made by CLEC or by **SBC-13STATE** on request of CLEC; any CLEC Telecom Equipment; or other facilities or equipment located in the Dedicated Space by CLEC or by **SBC-13STATE** on request of CLEC.

10.3 In the event that the Eligible Structure shall be so damaged by fire or other casualty that closing, demolition or substantial alteration or reconstruction thereof shall be necessary then, notwithstanding that the Dedicated Space may be unaffected thereby, **SBC-13STATE**, at its option, may terminate any Physical Collocation arrangement in that Eligible Structure by giving CLEC ten (10) days prior written notice within thirty (30) days following the date of such occurrence, if at all possible.

11. DELIVERY INTERVALS

- *11.1 The delivery interval relates to the period in which **SBC-13STATE** shall construct and turnover to the Collocator the requested Physical Collocation space. The delivery interval begins on the date **SBC-13STATE** receives an accurate and complete Physical Collocation Application (as defined in paragraph 5.2) from the Collocator. The Collocator must provide **SBC-13STATE**, within seven (7) calendar days from the date of notification granting the application request, a confirmatory response in writing to continue construction along with the 50% payment of non-recurring charges (unless payment was received with application) or the delivery interval provided will not commence until such time as **SBC-13STATE** has received such response and payment. If the Collocator has not provided **SBC-13STATE** such response and payment by the twelfth (12) calendar day after the date **SBC-13STATE** notified Collocator its request has been granted, the application will be canceled. Dedicated space is not reserved until **SBC-13STATE's** receipt of the confirmatory response in writing from the Collocator with applicable fees. The delivery interval for all forms of physical collocation (except requests for Adjacent Structure Collocation) is determined by **SBC-13STATE** with the variables in Table (1) below, except to the extent a state sets its own deadlines or **SBC-13STATE** has demonstrated to the state commission that physical collocation is not practical for technical reasons or because of space limitations. The delivery interval is determined by **SBC-13STATE** with the variables in Table (1) below. The delivery interval assigned will be provided to the Collocator by **SBC-13STATE** with the ten- (10) calendar day space notification. Each complete and accurate Physical Collocation Application received by **SBC-13STATE** from the Collocator will be processed in the order received unless the Collocator provides a priority list, whichever is applicable.

* This Section 11.1 in entirety is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

Table (1)

Number of Applications submitted by One Collocator per state or metering region	Overhead Racking Exists for Active Collocation Use	Overhead Racking Does Not Exist for Active Collocation Use	Additional Power or HVAC is not Required for the assigned Inactive Collocation Space	Additional Power or HVAC is Required for the assigned Inactive Collocation Space
1 – 10	60 calendar days	80 calendar days	140 calendar days	180 calendar days
11-20	65 calendar days	85 calendar days	145calendar days	185 calendar days

11.1.1 **AM-MI - ONLY** The delivery intervals for collocation in Michigan are those contained in MPSC Tariff 20R, Part 23, Section 4, as such intervals have been approved by the MPSC in Case U-11830.

11.1.2 **AM-WI – ONLY** The delivery intervals for collocation in Wisconsin are those contained in PSCW Tariff 20, Part 23, Section 4, per the order of PSCW in the Final Decision (Phase 1) in docket 6720-T1-160 issued 9/25/01.

11.1.3 **AM-IL – ONLY** Tariff 20, Part 23, Section 4, as such delivery intervals have been approved by the ICC in Docket No. 99-0615.

Should the Collocator submit twenty-one (21) or more applications within ten (10) business days, the above delivery intervals will be increased by five (5) days for every five (5) additional applications or more. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above. All Physical Collocation Applications (except requests for Adjacent Structure Collocation) received by **SBC-13STATE** from a Collocator within a ten (10) business day period shall be treated as submitted at the same time for purposes of administering the above staggering intervals. However, for purposes of this paragraph, each physical collocation application shall be deemed submitted no more than ten (10) business days from the date it was actually submitted. In addition, for purposes of determining the number of applications submitted within a ten (10) business day period, each ten (10) business day period shall start with a collocation application and end ten (10) business days later. A subsequent ten- (10) business day period cannot begin until the previous ten- (10) business day period has concluded. To complete the provisioning of a collocation

arrangement, an incumbent LEC must finish construction in accordance with the requesting carrier's application and turn functional space over to the requesting carrier. However, it is expressly understood that if CLEC is unable to install power cabling due to the unavailability of an incumbent LEC approved power cabling vendor, rent will not be due until such a vendor is available.

For example, but not by way of limitation, if a Collocator submits twelve (12) Physical Collocation Applications in a state, the delivery intervals assigned by **SBC-13STATE** will depend on which variables apply within each Eligible Structure Physical Collocation is requested:

If Applications (1-4) are for Physical Collocation Space where Active Collocation Space is available and overhead racking exists, the delivery intervals assigned will be sixty (60) days. If Applications (5-6) are for Physical Collocation Space and only Inactive Collocation Space exist and additional power or HVAC is not required, the delivery interval assigned will be one hundred forty (140) calendar days. If Applications (7-12) are for Physical Collocation Space where Active Collocation Space is available and overhead racking does not exist, the delivery intervals assigned to Applications (7-10) will be eighty (80) calendar days and for Applications (11-12) will be assigned eighty five (85) calendar days.

*11.2 The second fifty- percent (50%) payment must be received by **SBC-13STATE** prior to the functional space being turned over to the Collocator. At space turnover, the Actual Point of Termination (APOT) Connection(s) will be provided to the Collocator by **SBC-13STATE**.

11.3 For the following interconnection cabling Augments, the Collocator must submit a complete and accurate Physical Collocation Application:

- 168 DS1 connections and/or
- 48 DS3 connections and/or

* This Section 11.2 in entirety is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

- 400 Copper (shielded or nonshielded) cable pair connections
- 12 fiber pair connections

This application must include an up-front payment of the Application Fee and fifty percent (50%) of all applicable non-recurring charges.

The delivery interval is determined by **SBC-13STATE** with the variables in Table (2) below. The delivery interval assigned will be provided to the Collocator by **SBC-13STATE** with the ten- (10) calendar day Augment notification. Each complete and accurate Physical Collocation Application received by **SBC-13STATE** from the Collocator will be processed in the order received unless the Collocator provides a priority list, whichever is applicable.

Table (2)

Number of Applications submitted by One Collocator per state or metering region	Necessary Elements such as Racking and Power are in place	Necessary Elements such as Racking and Power are not in place
1 – 10	30 calendar days	60 calendar days
11-20	35calendar days	65 calendar days

Should the Collocator submit twenty-one (21) or more Physical Collocation Applications for cabling Augments within ten (10) business days, the above delivery intervals will be increased by five (5) days for every five (5) additional application or fraction thereof. Any material revision to a Physical Collocation Application for cabling Augments will be treated as a new application and will be subject to the delivery intervals set forth in Table (2) above. All applications received by **SBC-13STATE** from a Collocator within a ten (10) business day period shall be treated as submitted at the same time for purposes of administering the above staggering intervals. However, for purposes of this paragraph, each physical collocation application shall be deemed submitted no more than ten (10) business days from the date it was actually submitted. In addition, for purposes of determining the number of applications submitted within a ten (10) business day period, each ten (10) business day period shall start with a collocation application and end ten (10) business days later. A subsequent ten- (10) business day period cannot begin until the previous ten- (10) business day period has concluded.

For example, but not by way of limitation, if a Collocator submits twelve (12) Physical

Collocation Applications for cabling Augments in a state, the delivery intervals assigned will depend on which variables apply within each Eligible Structure requested:

If Applications (1-4) are for Physical Collocation cabling Augments where necessary elements such as overhead racking and power exists, the delivery interval assigned will be thirty (30) days. If Applications (5-12) are for Physical Collocation where necessary elements such as overhead racking and power does not exist, the delivery interval assigned to Applications (5-10) will be sixty (60) calendar days and for Applications (11-12) sixty five (65) calendar days.

- 11.4 For all Augments other than provided above, **SBC-13STATE** will work cooperatively with Collocator to negotiate a mutually agreeable delivery interval.
- 11.5 **SBC-13STATE** will provide to Collocator reasonable access to its designated collocation space while **SBC-13STATE** prepares the space for collocation. **SBC-13STATE** and the Collocator will come to an agreement regarding Collocator inspection visits during the construction of the Physical Collocation space. These visits will be allowed during regular business hours only and will require that the Collocator be escorted by an **SBC-13STATE** employee. These visits will be jointly agreed upon by **SBC-13STATE** and the Collocator and will be determined on a case by case basis.
- 11.7 Adjacent Structure Collocation Delivery Intervals
- 11.7.1 **SBC-13STATE** Delivery Interval, rates, terms and conditions for Adjacent Structures Collocation will be determined on an individual case basis (ICB)/Non Standard Collocation Request (NSCR).

12. RE-ENTRY

- 12.1 Unless otherwise set forth herein, if CLEC shall default in performance of any material term or condition herein, and the default shall continue for thirty (30) days after receipt of written notice, or if CLEC is declared bankrupt or insolvent or makes an assignment for the benefit of creditors, **SBC-13STATE** may, immediately or at any time thereafter, without notice or demand, enter and repossess the Dedicated Space, expel CLEC and any claiming under CLEC, remove any CLEC Telecom Equipment and any other items in the Dedicated Space, forcibly if necessary, and thereupon such Physical Collocation arrangement shall terminate, without prejudice to any other remedies **SBC-13STATE** might have. **SBC-13STATE** may exercise this authority on a Dedicated Space-by-Dedicated Space basis. **SBC-13STATE** may also refuse additional applications for collocation and/or refuse to complete any pending orders for additional space or collocation by CLEC at any time thereafter.

13. LIMITATION OF LIABILITY

13.1 (Reserved)

- 13.1.1 Neither party shall be responsible to the other for any indirect, special, consequential, lost profit, or punitive damages, whether in contract or tort.
- 13.1.2 Each party shall be indemnified and held harmless by the other against claims and damages by any third party arising from provision of the other party's services or equipment except those claims and damages directly associated with the provision of services to the other party which are governed by the provisioning party's applicable tariffs.
- 13.1.3 Neither party shall have any liability whatsoever to the customers of the other party for claims arising from the provision of the other party's service to its customers, including claims for interruption of service, quality of service or billing disputes.
- 13.1.4 The liability of either party for its willful misconduct, if any, is not limited by this Agreement. With respect to any other claim or suit, by a customer or by any others, for damages associated with the installation, provision, preemption, termination, maintenance, repair or restoration of service, **SBC-13STATE**'s liability, if any, shall not exceed an amount equal to the proportionate monthly charge for the affected period.
- 13.1.5 **SBC-13STATE** shall not be liable for any act or omission of any other carrier or customer providing a portion of a service, nor shall **SBC-13STATE** for its own act or omission hold liable any other carrier or customer providing a portion of a service.
- 13.1.6 When CLEC is provided service under this Agreement, **SBC-13STATE** shall be indemnified, defended and held harmless by CLEC against any claim, loss or damage arising from the customer's use of services offered under this Agreement, involving:
- 13.1.6.1 Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the customer's own communications;

13.1.6.2 Claims for patent infringement arising from the customer's acts combining or using the service furnished by **SBC-13STATE** in connection with facilities or equipment furnished by the customer; or

13.1.6.3 All other claims arising in connection with any act or omission of in the course of using services provided pursuant to this Agreement.

* 13.2 Third Parties – CLEC acknowledges and understands that **SBC-13STATE** may provide space in or access to the Eligible Structure to other persons or entities ("Others"), which may include competitors of CLEC; that such space may be close to the dedicated collocation space, possibly including space adjacent to the dedicated collocation space and/or with access to the outside of the dedicated collocation space; and that if CLEC requests a cage around its equipment, the caged dedicated collocation space is a permeable boundary that will not prevent the Others from observing or even damaging CLEC's equipment and facilities. In addition to any other applicable limitation, **SBC-13STATE** shall have absolutely no liability with respect to any action or omission by any other, except to the degree of culpability of **SBC-13STATE**, and regardless of whether any claimed **SBC-13STATE** liability arises in tort or in contract. CLEC shall save and hold **SBC-13STATE** harmless from any and all costs, expenses, and claims associated with any such acts or omission by any Other acting for, through, or as a result of CLEC.

14. **INDEMNIFICATION OF SBC-13STATE**

14.1 In addition to any other provision hereof, CLEC agrees to indemnify, defend and save harmless **SBC-13STATE** (including its officers, directors, employees, and other agents) from any and all claims, liabilities, losses, damages, fines, penalties, costs, attorney's fees or other expenses of any kind, arising in connection with CLEC's use of the dedicated collocation space, conduct of its business or any activity, in or about the dedicated collocation space, performance of any terms of this Agreement, or any act or

* This Section 13.2 in entirety is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

omission of CLEC (including its officers, directors, employees, agents, contractors, servants, invitees, or licensees).

15. OSHA STATEMENT

15.1 CLEC, in recognition of **SBC-13STATE**'s status as an employer, agrees to abide by and to undertake the duty of compliance on behalf of **SBC-13STATE** with all federal, state and local laws, safety and health regulations relating to the dedicated collocation space which CLEC has assumed the duty to maintain pursuant to this Agreement, and to indemnify and hold **SBC-13STATE** harmless for any judgments, citations, fines, or other penalties which are assessed against **SBC-13STATE** as the result of CLEC's failure to comply with any of the foregoing. **SBC-13STATE**, in its status as an employer, shall comply with all federal, state and local laws, safety and health standards and regulations with respect to the structural and those other portions of the dedicated collocation space which **SBC-13STATE** has agreed to maintain pursuant hereto.

16. NOTICES

16.1 Except in emergency situations, **SBC-13STATE** shall provide CLEC with written notice five (5) business days prior to those instances where **SBC-13STATE** or its subcontractors may be undertaking a major construction project in the general area of the Dedicated Space or in the general area of the AC and DC power plants which support the Dedicated Space.

16.2 **SBC-13STATE** will inform CLEC by telephone of any emergency-related activity that **SBC-13STATE** or its subcontractors may be performing in the general area of the Dedicated Space occupied by CLEC or in the general area of the AC and DC power plants which support the Dedicated Space. Notification of any emergency related activity should be made to CLEC as soon as reasonably possible so that CLEC can take any action required to monitor or protect its service.

16.3 **SBC-13STATE** will provide CLEC with written notification within ten (10) business days of any scheduled AC or DC power work or related activity in the Eligible Structure that will cause an outage or any type of power disruption to CLEC Telecom Equipment. **SBC-13STATE** shall provide CLEC immediate notification by telephone of any emergency power activity that would impact CLEC Telecom Equipment.

16.4 Except as may be specifically permitted in this Agreement, any notice or demand, given by one party to the other shall be in writing and shall be valid and sufficient if dispatched

by registered or certified mail, return receipt requested, postage prepaid, in the United States mails, or by facsimile transmission; provided, however, that notices sent by such registered or certified mail shall be effective on the third business day after mailing and those sent by facsimile transmission shall only be effective on the date transmitted if such notice is also sent by such registered or certified mail no later than the next business day after transmission, all addressed as follows:

If to **SBC-13STATE**:

Account Manager - Collocation
Four Bell Plaza, 9th Floor
311 S. Akard St.
Dallas, TX 75202-5398

If to CLEC:

McLeodUSA Telecommunications Services,
Inc.
Collocation Project Manager
6400 C Street SW, P.O. Box 3177
Cedar Rapids, IA 52406-3177
Fax Number: (319) 790-7127

Either party hereto may change its address by written notice given to the other party hereto in the manner set forth above.

- 16.5 Except as may be specifically permitted in this Agreement, any payment desired or required to be given by one party to the other shall be dispatched by registered or certified mail, return receipt requested, postage prepaid, in the United States mails, and shall be addressed as follows:

If to **SBC-8STATE**

ICSC
Attn: Kathy Smith
2180 N. Glenville Dr., 2nd Floor
Richardson, TX 75082

If to **SBC-AMERITECH**

AIIS Service Center
Attn: Collocation
2nd Floor
804 North Milwaukee
Milwaukee, WI 53202

If to CLEC: McLeodUSA Telecommunications Services, Inc.
Thomas A. Vater
Group Vice President, Finance
6400 C Street SW, P.O. Box 3177
Cedar Rapids, IA 52406-3177
Fax Number: (319) 790-7799

17. INSURANCE

17.1 Collocator shall furnish **SBC-13STATE** with certificates of insurance which evidence the minimum levels of insurance set forth in the General Terms and Conditions of this Agreement, and state the types of insurance and policy limits provided by Collocator. **SBC-13STATE** shall be named as an ADDITIONAL INSURED on general liability policy.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED OR MATERIALLY CHANGED, THE ISSUING COMPANY WILL MAIL THIRTY (30) CALENDAR DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER (S).

- *17.1.1 In addition to the insurance requirements set forth in the General Terms and Conditions, Collocator must maintain all Risk Property coverage on a full replacement cost basis insuring all of Collocator's personal property situated on or within the Eligible Structure. Collocator releases **SBC-13STATE** from and waives any and all right of recovery, claim, action or cause of action against **SBC-13STATE**, its agents, directors, officers, employees, independent contractors, and other representatives for any loss or damage that may occur to equipment or any other personal property belonging to Collocator or located on or in the space at the request of Collocator when such loss or damage is by reason of fire or water or the elements or any other

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risks that would customarily be included in a standard all risk insurance policy covering such property, regardless of cause or origin, excluding negligence of **SBC-13STATE**, its agents, directors, officers, employees, independent contractors, and other representatives.

- 17.1.2 The limits for insurance set forth in the General Terms and Conditions of this Agreement may be increased by **SBC-13STATE** from time to time during the term of a Collocation arrangement to at least such minimum limits as shall then be customary in respect of comparable situations within the existing **SBC-13STATE** structure.
- 17.1.3 All policies purchased by Collocator shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by **SBC-13STATE**.
- 17.1.4 All insurance must be in effect on or before occupancy date and shall remain in force as long as any of Collocator's equipment or other Collocator facilities or equipment remains within the Eligible Structure.
- 17.1.5 Collocator shall submit certificates of insurance reflecting the coverages specified in the General Terms and Conditions of this Agreement prior to, and as a condition of, **SBC-13STATE**'s obligation to turn over the Physical Collocation Space to Collocator or to permit any Collocator-designated subcontractors into the Eligible Structure. Collocator shall arrange for **SBC-13STATE** to receive thirty-(30) calendar day's advance written notice from Collocator's insurance company(ies) of cancellation, non-renewal or substantial alteration of its terms.
- 17.1.6 Collocator must also conform to recommendations made by **SBC-13STATE**'s Property Insurance Company, if any, unless a recommendation is also applicable to **SBC-13STATE** and **SBC-13STATE** does not so conform in the Eligible Structure where the Physical Collocations space is located.
- 17.1.7 Failure to comply with the provisions of this "Insurance" Section will be deemed a material breach of this Agreement.

18. PROTECTION OF SERVICE AND PROPERTY

- 18.1 **SBC-13STATE** shall use its existing power back-up and power recovery plan in accordance with its standard policies for the specific Central Office.
- 18.2 For the purpose of notice permitted or required by this Appendix, each Party shall provide the other Party a Single Point of Contact (SPOC) available twenty-four (24) hours a day, seven (7) days a week.

- 18.3 Except as may otherwise be provided:
- 18.3.1 **SBC-13STATE** and CLEC shall each exercise reasonable care to prevent harm or damage to the other Party, its employees, agents or customers, or their property; and
- 18.3.2 Each Party, its employees, agents, or representatives agree to take reasonable and prudent steps to ensure the adequate protection of property and services of the other Party.
- 18.3.3 Each Party shall restrict access to the Eligible Structure and the Dedicated Space to employees and authorized agents of that other Party to the extent necessary to perform their specific job function.
- 18.4 **SBC-13STATE** shall use electronic access controls to protect all spaces which house or contain CLEC equipment or equipment enclosures, but if electronic controls are not available, **SBC-13STATE** shall either furnish security guards at those **SBC-13STATE** locations already protected by security guards on a seven (7) day per week, twenty-four (24) hour a day basis; and if none, **SBC-13STATE** shall permit CLEC to install monitoring equipment in the collocation space to carry data back to CLEC's work center for analysis. CLEC agrees that CLEC is responsible for problems or alarms related to CLEC's equipment or equipment enclosures located on **SBC-13STATE**'s Dedicated Space.
- 18.5 **SBC-13STATE** shall furnish CLEC with the identifying credentials to be carried by its employees and authorized agents to be paid for by the CLEC. The CLEC must maintain an updated list of all authorized employees and authorized agents on a Dedicated Space-by-Dedicated Space basis for every Eligible Structure where there are **SBC-13STATE** security guards.
- 18.6 CLEC shall comply with the security and safety procedures and requirements of **SBC-13STATE**, including but not limited to sign-in, and identification.
- 18.7 **SBC-13STATE** shall furnish CLEC with all keys, entry codes, lock combinations, or other materials or information that may be needed to gain entry into any secured CLEC space in central offices. In the event of an emergency, CLEC shall contact a SPOC provided by **SBC-13STATE** for access to spaces which house or contain CLEC equipment or equipment enclosures.
- 18.8 **SBC-13STATE** shall use reasonable measures to control unauthorized access from passenger and freight elevators to spaces which contain or house CLEC equipment or equipment enclosures.

- 18.9 **SBC-13STATE** shall use best efforts to provide notification within two (2) hours to designated CLEC personnel to indicate an actual security breach.
- 18.10 **SBC-13STATE** shall be responsible for the security of the Eligible Structure. If a security issue arises or if CLEC believes that **SBC-13STATE**'s security measures are unreasonably lax, CLEC shall notify **SBC-13STATE** and the Parties shall work together to address the problem. **SBC-13STATE** shall, at a minimum, do the following:
- 18.10.1 Where a cage is used, **SBC-13STATE** shall design collocation cages to prevent unauthorized access; provided, however, that CLEC realizes and assents to the fact that the cage will be made of wire mesh.
- 18.10.2 **SBC-13STATE** shall establish procedures for controlling access to the collocation areas by employees, security guards and others. Those procedures shall limit access to the collocation areas to **SBC-13STATE**'s employees, agents or invitees having a business need, such as a periodic review of the Dedicated Space, to be in these areas. **SBC-13STATE** shall require all persons entering the collocation areas to wear identification badges.
- 18.10.3 **SBC-13STATE** shall provide card key access to all collocation equipment areas where a secured pathway to the collocation space is made available to Collocators, along with a positive key control system for each Collocator's caged Dedicated Space. **SBC-13STATE** shall respond immediately to reported problems with CLEC key cards.
- 18.10.4 In emergency situations common courtesy will be extended between CLEC and **SBC-13STATE**'s employees, including the provision of first aid and first aid supplies.
- 18.11 CLEC shall limit access to CLEC employees directly to and from the Dedicated Space and will not enter unauthorized areas under any circumstances.

19. MISCELLANEOUS

- 19.1 Variations – In the event of variation or discrepancy between any duplicate originals hereof, including exhibits, the original Agreement held by **SBC-13STATE** shall control.
- 19.2 Governing Law – This Agreement shall be governed by the laws of the State in which the dedicated collocation space is located, without regard to the choice of law principles

thereof.

- 19.3 Joint and Several – If CLEC constitutes more than one person, partnership, corporation, or other legal entities, the obligation of all such entities under this Agreement is joint and several.
- 19.4 Future Negotiations – **SBC-13STATE** may refuse requests for space in an Eligible structure if CLEC is in material breach of this Agreement, including, but not limited to, having any undisputed past due charges hereunder. In any and each such event, CLEC hereby releases and holds **SBC-13STATE** harmless from any duty to negotiate with CLEC or any of its Affiliates for any additional space or physical collocation with respect to each State where such breach occurred or otherwise relates.
- 19.5 Severability – With the exception of the requirements, obligations, and rights set forth in this Appendix, if any of the provisions herein are otherwise deemed invalid, such invalidity shall not invalidate the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid provision(s), and the rights and obligations of **SBC-13STATE** and CLEC shall be construed accordingly.
- 19.6 Paragraph Headings and Article Numbers – The headings of the articles and paragraphs herein are inserted for convenience only and are not intended to affect the meaning or interpretation of this Agreement.
- 19.7 Entire Agreement – This Agreement along with any schedules, exhibits, referenced documentation and materials set forth the entire understanding of the parties and supersedes all prior agreements, arrangements and understandings relating to this subject matter and may not be changed except in writing by the parties; provided, however, that this provision shall not affect current or pending tariffs, under investigation or otherwise, including any charges due thereunder. No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein, and there are no other oral or written understandings or agreements between the parties relating to the subject matter hereof except as may be referenced herein.
- 19.8 No Third Party Beneficiaries – Nothing in this Agreement is intended, nor shall be deemed, to confer any rights or remedies upon any person or legal entity not a party hereto.
- 19.9 Construction – This Agreement shall be interpreted and governed without regard to which party drafted this Agreement.
- 19.10 Multiple Originals – This Agreement may be executed in multiple copies, each of which

shall be deemed an original.

19.11 Waver of Obligations

19.11.1 Whenever this Agreement requires the consent of a party, any request for such consent shall be in writing.

19.11.2 Neither party shall be deemed to have waived or impaired any right, authority, or option reserved by this Agreement (including the right to demand exact compliance with every term, condition and covenant herein, or to declare any breach hereof to be a default and to terminate this Agreement prior to the expiration of its term), by virtue of any custom or practice of the parties at variance with the terms hereof or any failure, refusal or neglect to exercise any right under this Agreement or to insist upon exact compliance by the other with its obligations hereunder, including any rule or procedure, or any waiver, forbearance, delay, failure or omission by either Party to exercise any right, power or option, whether of the same, similar or different nature, with respect to the other Party or to one or more other Collocators.

19.12 Rights of Review with Remedies – The parties acknowledge and agree that the rates, terms, and conditions set forth in this Amendment, including among others those above relating to cageless collocation, are subject to any legal or equitable rights of review and remedies (including, but not limited to, the need to renegotiate this Amendment if any agency reconsideration and/or court review results in changes in FCC 99-48).

19.13 Rights Cumulative – The rights of a party hereunder are cumulative and no exercise or enforcement by such party of any right or remedy hereunder shall preclude the exercise or enforcement of any other right or remedy hereunder or to which such party is entitled to enforce.

19.14 Binding Effect – This Agreement is binding upon the parties hereto, their respective executors, administrators, heirs, assigns and successors in interest. All obligations by either party which expressly or by their nature survive the expiration or termination of this Agreement shall continue in full force and effect subsequent to and notwithstanding its expiration or termination and until they are satisfied in full or by their nature.

19.15 Impossibility of Performance – Neither party shall be liable for loss or damage or deemed to be in breach of this Agreement if its failure to perform its obligations results from: (a) compliance with any law, ruling, order, regulation, requirement or instruction of

any federal, state or municipal government or any department or agency thereof or court of competent jurisdiction; (b) acts of God; (c) acts of omissions of the other party; (d) fires, strikes, labor difficulties, embargoes, war, insurrection or riot; or any other intervening act beyond the reasonable control of the party claiming such a delay. Any delay resulting from any of said causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable. In any such event, CLEC's authorized agents and contractors will comply with the Emergency Operating Procedures established by **SBC-13STATE**.

19.16 Survival – The terms, provisions, representations, and warranties contained in this Agreement that by their nature and/or context are intended to survive the performance thereof by either or both parties hereunder shall so survive the completion of performances and termination of this Agreement, including the making of any and all payments due hereunder.

19.17 Successors Bound – The conditions and agreements contained herein shall bind and inure to the benefit of **SBC-13STATE**, CLEC and their respective successors and, except as otherwise provided herein, assigns.

19.18 (Reserved).

19.19 Non-Exclusive Remedies – No remedy herein conferred upon is intended to be exclusive of any other remedy in equity, provided by law, or otherwise, but each shall be in addition to every other such remedy.

19.20 Assignment – CLEC shall not assign or otherwise transfer this Agreement, neither in whole nor in part, or permit the use of any part of the dedicated collocation space by any other person or entity, without the prior written consent of **SBC-13STATE** which shall not be unreasonable withheld. Any purported assignment or transfer made without such consent shall be voidable at the option of **SBC-13STATE** including subleased or shared caged physical collocation arrangements.

20. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS

20.1 Every interconnection, service and network element provided hereunder, shall be subject to the applicable rates, terms and conditions contained in this Agreement, The parties recognize that provisions in the General Terms and Conditions apply to services, interconnections and network elements provided under individual appendices or attachments to this Agreement. The parties further agree that this acknowledgment that that General Terms and Conditions apply to individual appendices is not intended to and does not limit, condition or void a third party's rights under 47 U.S.C. Section 252(i) and consistent with Applicable Law.

APPENDIX VIRTUAL COLLOCATION

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22. APPLICABILITY OF OTHER RATES, TERMS AND CONDITIONS.....40**APPENDIX VIRTUAL COLLOCATION****1. INTRODUCTION**

- 1.1 This Appendix sets forth terms and conditions for Virtual Collocation provided by the applicable **SBC** Communications Inc. (SBC) owned Incumbent Local Exchange Carrier (ILEC) and Collocator.

2. DEFINITIONS

- 2.1 **“Approved Vendor”** is a vendor who is qualified by SBC-13STATE for installation, and/or removal of central office equipment, which is administered by **SBC** Procurement on a state by state basis.
- 2.2 **“Active Central Office Space”** denotes the existing, central office switch room space, which can be designated for virtual collocation, with sufficient infrastructure systems. Also, denotes central office space that may contain obsolete unused equipment.
- 2.3 **“Application Fee”** includes the costs incurred by SBC-13STATE to process the Collocator’s application for virtual collocation arrangements.
- 2.4 **“Augment”** is a request from the Collocator to add equipment, cable, and/or Collocation services to (1) a pending Virtual Collocation arrangement which is more than fifteen (15) calendar days into the construction interval or (2) an existing Virtual Collocation arrangement.
- 2.5 **“Collocator”** is any individual, partnership, association, joint-stock company, trust corporation, or governmental entity or any other entity who is collocated in SBC-13 STATE location, for purposes of interconnection or access to Unbundled Network Elements (UNEs).
- *2.6 **“Delivery Date”** is the date upon which the Collocator or Requesting Carrier will be

* This Section 2.6 in entirety is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by AM-IL and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND

provided the functional collocated space by SBC-13STATE.

- 2.7 **“Eligible Structure”** is (1) a SBC-13STATE central office, serving wire center or tandem office, or (2) a building or similar structure owned or leased by SBC-13STATE that houses its network facilities, or (3) a structure that houses SBC-13STATE transmission facilities on public rights-of-way.
- 2.8 **“Entrance Fiber Facility”** is an arrangement when a Collocator provided single mode fire retardant dielectric fiber optic cable that extends from the SBC-13STATE designated manhole into the SBC-13STATE Eligible Structure designated splice point. It is used as a transmission medium to the designated splice point. Collocator shall be permitted no more than two (2) entrance routes into the SBC-13STATE Eligible Structure, if available.
- 2.9 **“Fiber Distribution Frame (FDF)”** is an architecture which serves as the primary interface between outside plant (OSP) fiber optic facilities entering a Central Office structure and the fiber optic equipment installed within that same location. The FDF provides a centralized point for the organization and administration of the fiber optic facility and intra-building fiber equipment cables, provides a flexible platform for future fiber growth, and provides rearrangeable connections between any two terminations or appearances.
- 2.10 **“Individual Case Basis (ICB)”** is a pricing method used for services that are not tariffed or are not standard offerings or configurations.
- 2.11 **Infrastructure Systems** - Infrastructure systems include, but are not limited to, structural components, such as floors capable of supporting equipment loads, frames, heating, ventilating and air conditioning ("HVAC") systems, electrical systems (AC power), DC Power, power distribution via frames or bays, including but not limited to Battery Distribution Fuse Bays ("BDFBs"), high efficiency filtration, humidity controls, remote alarms, compartmentation, and smoke purge.
- 2.12 **“Interconnector’s Collocation Services Handbook”** or like document is a publication provided to the Collocators, which provides information on how to order collocation arrangements and the processes and requirements for collocation in the SBC-13STATE, which is located on the SBC-13STATE CLEC ONLINE Web-Site (<https://clec.sbc.com>).
- 2.13 **“Project Management Fee”** reflects SBC-13STATE labor costs to manage the provisioning of the individual Collocator's space requirements for a particular virtual

collocation space request. This fee is applicable upon submission of an application.

- 2.14 **“Technically Feasible”** - A collocation arrangement is technically feasible if, in accordance with either national standards or industry practice, there is no significant technical impediment to its establishment. Deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a Collocator seeking collocation in **SBC-13STATE's** Eligible Structures that such an arrangement is technically feasible.
- 2.15 **“Virtual Collocation”** is as defined in 4.2 of this Appendix.

3. **PURPOSE AND SCOPE OF APPENDIX**

- 3.1 The purpose of this Appendix is to set forth the terms and conditions, including pricing, in which **SBC-13STATE** will provide Virtual Collocation to Collocator.
- 3.2 Preparation Prior to Regulatory Approval
- 3.2.1 Upon the written request of Collocator, **SBC-13STATE** shall consider an application for collocation space submitted prior to receiving the approval. Upon such an election, this Appendix shall become effective but only insofar as to be applicable to the consideration of an application for collocation space. In the event that the Appendix does not become fully effective as contemplated by this Section, Collocator shall not be entitled to any refund or return of any such payments beyond any portion of the charges paid but not attributable to costs incurred by **SBC-13STATE**. To the extent that **SBC-13STATE** has incurred preparation costs not included within any payment made by Collocator, Collocator shall pay those costs within thirty (30) calendar days of notice by **SBC-13STATE**.
- 3.2.2 Collocator is responsible for obtaining an approved Interconnection Agreement (ICA) and meeting the State Certification requirements. The following shall apply:
- 3.2.2.1 If the State Commission has not approved the ICA prior to completion of the build-out, **SBC-13STATE** will not process service orders for interconnection or access to UNEs. However, the requested space will be turned over to the Collocator if the final non-recurring costs have been received. Monthly recurring charges will commence when space is turned over.
- 3.2.2.2 If the Collocator has not received their State Certification prior to

completion of the build-out, **SBC-13STATE** will not process service orders for interconnection or access to UNEs. However, the requested space will be turned over to the Collocator if the final non-recurring costs have been received. Monthly recurring charges will commence when space is turned over.

3.2.2.3 If the Collocator has not received their State Certification or the State Commission has not approved the ICA by Day one hundred eighty (180) after space turnover, then the Collocator (forfeits) all charges collected to date by **SBC-13STATE** and the collocation space. The Collocator will have thirty (30) calendar days to remove any equipment and bays placed by the Collocator in the premise.

3.3 The Parties agree that billing for all costs incurred in the establishment of Virtual Collocation for the Collocator will be provided to the Collocator within one hundred eighty (180) days of the billing cycle. Billing will be subject to true up if interim rates are pending State or Federal Commission approval.

4. GENERAL OFFERINGS

4.1 Except where Virtual Collocation is not practical for technical reasons or because of space limitations, **SBC-13STATE** will provide Virtual Collocation to Collocator for the purpose of interconnecting to **SBC-13STATE** network for the transmission and routing of telephone exchange service or exchange access, or both pursuant to 47 U.S.C. §251 (c)(2), or for obtaining access to **SBC-13STATE** Unbundled Network Elements (“UNEs”) for the provision of a telecommunications service pursuant to 47 U.S.C. §251 (c)(3) of the FTA 96. Virtual Collocation will be provided on a "first come, first served" basis, in accordance with the requirements of the Act (including 47 U.S.C. 251 (c)(6) of the FTA 96).

*4.2 In the case of **SBC-13STATE** Virtual Collocation, the Collocator is responsible for engineering and furnishing the virtually collocated equipment.

* This Section 4.2 in entirety is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

It must use an **SBC-13STATE** Approved Vendor to perform the installation of such in the **SBC-13STATE** Eligible Structure. The Collocator's **SBC-13STATE** Approved Vendor will be permitted access to the **SBC-13STATE** Main Distribution Frame or its equivalent for placement and termination of interconnection cabling. **SBC-13STATE** will provide for (i.e., purchase and install on behalf of Collocator) all AC and DC power requirements in the Eligible Structure. Additional requirements relating to installation and placement of interconnection cabling and power cabling is set forth in Section 10.5 and 10.6 of this Appendix. **SBC-13STATE** will exercise physical control over, but not ownership of, the equipment installed by Collocator in a Virtual Collocation arrangement. The equipment and associated facilities will be maintained and repaired at the direction of the Collocator by **SBC-13STATE**.

- 4.2.1 Collocator will install their own bay(s) by an **SBC-13STATE** Approved Vendor. **SBC-13STATE** will provide space for the bay(s) in either a Standard Bay arrangement of 10-sq. ft. or a Non-Standard Bay arrangement of 18 sq. ft. The standard bay and non-standard bay dimensions are as follows:
 - 4.2.1.1 Standard bay dimensions cannot exceed 7'0" high, and 23" interior width, 26" exterior width, and up to 15" deep.
 - 4.2.1.2 Non-standard bay dimensions cannot exceed 7'0" high, 36" in width, and up to 36" in depth.
 - 4.2.1.3 **SBC-13STATE** prefers that the equipment mounted in the bay be flush mounted with the front of the bay, however the equipment must not be mounted beyond the lower front kick plate (normally 5") for appropriate egress. The total depth of bay, including equipment, should not exceed 15" for a standard bay.
 - 4.2.1.4 At **SBC-13STATE** option, where an individual standard bay owned by **SBC-13STATE** in a Central Office is shared with a Collocator, the standard bay will be apportioned on a quarter rack basis.
- 4.2.2 Virtual Collocation is available at **SBC-13STATE** Eligible Structures as specified in the National Exchange Carrier Association, Inc., Tariff FCC No. 4.
- 4.2.3 **SBC-13STATE** will exercise physical control, but not ownership, over any equipment deployed for the purposes of Virtual Collocation.
- 4.2.4 **SBC-13STATE** will designate upon request the floor space for the "occupancy" of a Collocator provided storage cabinet for circuit packs, plug-ins, test

equipment, etc.

4.2.4.1 **SBC-13STATE** standard floor space for Collocator's provided storage cabinet is 10 sq. ft. that cannot exceed 7'0 high, 31" exterior

width, up to 15" depth with a swing radius of (Front) aisle egress of 36" or (Rear) aisle egress of 30".

4.2.4.2 **SBC-13STATE** non-standard floor space for Collocator's provided storage cabinet is 18 sq. ft. that cannot exceed 7'0 high, 38" exterior width, and up to 36" depth with a swing radius of (Front) aisle egress of 36" or (Rear) aisle egress of 36".

- 4.2.5 Virtual Collocation is separate and distinct from Physical Collocation. Requests to convert from Virtual Collocation to Physical Collocation will require re-design and re-termination of the services to a physical collocation arrangement. Any requests to convert requires a new physical application be submitted, and the appropriate charges will apply.
- 4.2.6 The Collocator is responsible for all alarm monitoring of their virtually collocated equipment and all expenses associated. Since the maintenance of the Collocator's equipment is at the direction and control of the Collocator, **SBC-13STATE** will not be responsible for responding to alarms and will only conduct maintenance and repair activities at the direction of the Collocator.
- 4.2.7 Virtual Collocation is ordered as set forth in **SBC-13STATE** Virtual Interconnector's Collocation Services Handbook or like document found on the **SBC-13STATE** CLEC ONLINE Web-Site for Virtual Collocation. **SBC-13STATE** will designate the location or locations within its wire centers, CEVs, Huts and Cabinets for the placement of all equipment and facilities associated with virtual collocation. Virtual Collocation does not involve the reservation of segregated Central Office or CEV, Hut and Cabinet space for the use of Collocators.
- 4.2.8 Virtual Collocation is available for the direct connection of one Collocator provided facility to a separate Collocator provided facility within the same **SBC-13STATE** wire center provided the Collocators are interconnected with **SBC-13STATE** network. Available connections include copper cable, coaxial cable, and fiber optic cable.

4.2.8.1 **SBC-13STATE** will designate the route, place cable racking (if

applicable) and provide space to be used for such facilities. **SBC-13STATE** shall permit Collocator's **SBC-13STATE** Approved Vendor to construct such facilities using copper or optical fiber facilities subject to the same reasonable safety requirements that **SBC-13STATE** imposes on its own equipment and facilities,

without requiring the Collocator to purchase any equipment or connecting facilities solely from **SBC-13STATE**.

5. SPACE AVAILABILITY

- 5.1 At the request of Collocator, **SBC-13STATE** will provide space for Virtual Collocation as described above. **SBC-13STATE** is not required to provide Virtual Collocation at a particular Eligible Structure, if it demonstrates that Virtual Collocation is not practical for technical reasons or because of space limitations. When Virtual Collocation is not technically feasible, **SBC-13STATE** will make a good faith effort to negotiate other methods of interconnection and access to unbundled network elements to the extent technically feasible.
- 5.2 **SBC-13STATE** will provide Virtual Collocation arrangements in Eligible Structures on a “first-come, first-served” basis. The determination whether there is sufficient space to accommodate Virtual Collocation at a particular Eligible Structure will be made initially by **SBC-13STATE**. **SBC-13STATE** will notify Collocator as to whether its request for space has been granted or denied due to a lack of space within ten (10) calendar days from receipt of a Collocator's accurate and complete Virtual Collocation Application. If **SBC-13STATE** determines that Collocator's Virtual Collocation Application is unacceptable, **SBC-13STATE** shall advise Collocator of any deficiencies within this ten-(10) calendar day period. **SBC-13STATE** shall provide Collocator with sufficient detail so that Collocator has a reasonable opportunity to cure each deficiency. To retain its place in the queue to obtain the Virtual Collocation arrangement, Collocator must cure any deficiencies in its Application and resubmit such Application within ten (10) calendar days after being advised of the deficiencies.
- 5.2.1 When space for Virtual Collocation in a particular Eligible Structure is not available, **SBC-13STATE** shall place Collocator on the waiting list for Virtual Collocation in a particular Eligible Structure according to the date the Collocator submitted its application for Virtual Collocation in that Eligible Structure.

6. ELIGIBLE EQUIPMENT FOR COLLOCATION

- 6.1 In accordance with Section 251(c)(6) of the Telecommunications Act, and 47 CFR Part 51, CLEC may collocate equipment "necessary for interconnection or access to unbundled network elements." Multifunctional equipment may be collocated consistent with all Applicable Laws, regulations, and orders of the FCC. Equipment may also be collocated to terminate basic transmission facilities pursuant to sections 64.1401 and 64.1402 of 47 C.F.R.
- 6.2 (Reserved).
- 6.3 (Reserved).
- 6.4 (Reserved).
- 6.5 (Reserved).
- 6.6 (Reserved).
- 6.7 (Reserved).
- 6.8 (Reserved).
- 6.9 **SBC-13STATE** does not assume any responsibility for the installation, furnishing, designing, engineering, or performance of the Collocator's equipment and facilities.
- 6.10 All types of equipment placed in **SBC-13STATE** Eligible Structures by Collocators must meet the **SBC-13 STATE** minimum safety standards. The minimum safety standards are as follows: (1) equipment complying with **SBC-13STATE** LEC document TP76200MP; network equipment power, grounding, environmental, and physical design requirements, Level 1 safety requirements except in Texas, and any other state that has adopted the same approach as Texas, where Collocator's equipment must meet Telcordia Level 1 safety requirements as set forth in Telcordia documents SR-3580 and GR-63-CORE, Network Equipment Building Systems (NEBS); or, (2) Collocator must demonstrate that its equipment has a history of safe operation defined by installation in an ILEC (including **SBC-13STATE**) prior to January 1, 1998 with no known history of safety problems.
- 6.11 **SBC-13STATE** will not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that **SBC-13STATE** applies to its own network equipment. **SBC-13STATE** will not object to the collocation of equipment on the ground that the equipment fails to comply with Network Equipment and Building Specifications performance standards or any other performance standards.

- 6.12 In the event that **SBC-13STATE** denies Collocation of Collocator's equipment, citing minimum safety standards, **SBC-13STATE** will provide within five (5) business days of Collocator's written request to **SBC-13STATE** representative(s), a list of **SBC-13STATE** equipment placed since January 1, 1998 within the network areas of the Eligible Premise for which Collocation was denied together with an affidavit attesting that all of such **SBC-13STATE** equipment met or exceeded the then current minimum safety standards when such equipment was placed in the Eligible Premise. The affidavit must set forth in detail the exact safety requirement that the Collocator's equipment does not satisfy; SBC-13STATE's basis for concluding that the Collocator's equipment does not meet this safety requirement; and SBC-13STATE's basis for concluding why collocation of equipment not meeting this safety requirement would compromise network safety.
- 6.13 In the event Collocator submits an application requesting collocation of certain equipment and **SBC-13STATE** determines that such equipment is not necessary for interconnection or access to UNEs or does not meet the minimum safety standards or any other requirements of this Appendix, the Collocator must not collocate the equipment. If Collocator disputes such determination by **SBC-13STATE**, Collocator may not collocate such equipment unless and until the dispute is resolved in its favor. If **SBC-13STATE** determines that Collocator has already collocated equipment which is not necessary for interconnection or access to UNEs or does not meet the minimum safety requirements or any other requirements of this Appendix, the Collocator must remove the equipment from the collocation space within ten (10) days written notice from **SBC-13STATE**. Collocator will be responsible for the removal and all resulting damages. If Collocator disputes such determination, Collocator must remove such equipment pending the resolution of the dispute. If the Parties do not resolve the dispute, **SBC-13STATE** or Collocator may file a complaint at the Commission seeking a formal resolution of the dispute.
- 6.14 Collocation equipment or operating practices representing a significant demonstrable technical or physical threat to **SBC-13STATE** personnel, network or facilities, including the Eligible Structure or those of others is strictly prohibited. Notwithstanding any other provision herein, the characteristics and methods of operation of any equipment or facilities placed in the Virtual Collocation space shall not create hazards for or cause damage to those facilities, the Virtual Collocation space, or the Eligible Structure in which the Virtual Collocation space is located; impair the privacy of any communications carried in, from, or through the Eligible Structure in which the Virtual Collocation space is located; or create hazards or cause physical harm to any individual or the public. Any of the foregoing would be in violation of this Appendix.

7. VIRTUAL COLLOCATION SPACE CHARGES

7.1 Virtual Collocation Space

7.1.1 For each Eligible Structure in which Collocator desires to virtually collocate equipment, Collocator must submit a Virtual Collocation Application with the applicable Application and Project Management Fees. A copy of the Virtual Collocation Application may be obtained from the **SBC-13STATE** Collocation Services Account Manager or from the **SBC-13STATE** CLEC ONLINE Web-Site. The Virtual Collocation Application must also be used for each subsequent request to place equipment in an Eligible Structure.

7.2 **SBC-13STATE** will contract for and perform the construction and preparation activities necessary to prepare the Virtual Collocation Space, using the same or consistent practices that are used by **SBC-13STATE** for other construction and preparation work performed in the Eligible Structure.

7.3 Recurring/Non-Recurring charges - Collocator shall pay **SBC-13STATE** all associated non-recurring and recurring charges for use of the Virtual Collocation Space. These charges may be generated on an ICB basis or may be contained in the state specific Appendix Pricing attached. The recurring monthly charges for each Virtual Collocation space shall stay fixed for the term of this Agreement unless modified upon re-negotiation of the Interconnection Agreement and/or pursuant to a Commission order.

7.3.1 An ICB quote is prepared by **SBC-13STATE** to estimate non-recurring and recurring charges associated with the requested Virtual Collocation Space where a state specific rate element does not exist in the attached Appendix Pricing. This ICB quote is prepared specifically for collocation requests and is not associated in any way with the Bona Fide Request (BFR) process used to request UNEs or other unique items not contained in a Collocator's ICA. The ICB will be subject to true-up one hundred-twenty (120) days following the job completion date.

7.4 Payment of Space Preparation/Site Preparation - Prior to any obligation on **SBC-13STATE** to start any preparation of the Virtual Collocation space, Collocator shall pay **SBC-13STATE** fifty percent (50%) of the non-recurring charges and eighty-five percent (85%) of any custom work charge required to create or vacate any entrance facility for the Collocator ("Custom Work"). The remainder of the non-recurring charges and any custom work charge are due upon completion and prior to occupancy by the Collocator.

7.5 Occupancy Conditioned on Payment - **SBC-13STATE** shall not permit Collocator's **SBC-13STATE** Approved Vendor to have access to the Virtual Collocation space for any purpose during construction of the Collocator's Virtual Collocation space until **SBC-**

13STATE is in receipt of complete payment of the non-recurring and any custom work charges.

- 7.6 **Breach Prior to Commencement Date** - In the event that the Collocator materially breaches this Agreement by purporting to terminate this Agreement after **SBC-13STATE** has begun preparation of the Virtual Collocation space but before **SBC-13STATE** has been paid the entire amounts due under this Article, then in addition to any other remedies that **SBC-13STATE** might have, the Collocator shall be liable in the amount equal to the non-recoverable costs less estimated net salvage. Non-recoverable costs include the non-recoverable cost of equipment and material ordered, provided or used; the non-recoverable cost of installation and removal, including the costs of equipment and material ordered, provided or used; labor; transportation and any other associated costs.
- 7.7 **Late Payment Charge** - In the event that any charge, when billed in a timely manner is not paid when due, the unpaid amounts shall bear interest in accordance with the terms and conditions set forth in **SBC-13STATE** General Terms and Conditions (GT&C) attached.
- 7.8 **Charges will begin to accrue on the Effective Billing Date** The Effective Billing Date is the date **SBC-13STATE** finished construction in accordance with the Collocator's application and Collocator has accepted the collocation space. Collocator cannot refuse to accept the collocation space if the space is completed to specifications per the Collocator's collocation order. Exceptions noted by Collocator causing payment refusal will be identified by Collocator per the terms of Section 11, Appendix Virtual Collocation.
- 7.9 (Reserved).
- 7.10 **SBC-13STATE** shall ensure that the Virtual Collocation space and the Eligible Structure comply with all applicable fire and safety codes. The preparation shall be arranged by **SBC-13STATE** in compliance with all applicable codes, ordinances, resolutions, regulations and laws.

8. USE OF VIRTUAL COLLOCATION SPACE

- 8.1 A list of all Collocator equipment that will be placed within the Virtual Collocation Space shall be set forth on the Collocator's Virtual Collocation Application, which includes associated power requirements, floor loading, and heat release of each piece of Collocator's equipment. Collocator warrants and represents that the Virtual Collocation Application contains a complete and accurate list of such Collocator equipment. Collocator's **SBC-13STATE** Approved Vendor shall not place or leave any other equipment or facilities within the Virtual Collocation space without the express written consent of **SBC-13STATE**.

- 8.2 In the event that subsequent to the submission of the Virtual Collocation Application and its list of the Collocator's equipment with the required technical information, Collocator desires to place in the Virtual Collocation Space any telecommunications equipment or such ancillary telecommunications facilities not so set forth in the Virtual Collocation Application, Collocator shall furnish to **SBC-13STATE** a new Virtual Collocation Application and any applicable charges to cover such equipment or facilities. Thereafter, consistent with its obligations under the Act and applicable FCC and Commission rules, orders, and awards, **SBC-13STATE** may provide such written consent or may condition any such consent on additional charges arising from the request, including any applicable fees and any additional requirements such as power and environmental requirements for such requested telecommunications equipment and/or facilities. Upon the execution by both **SBC-13STATE** and Collocator of a final list and description and receipt by **SBC-13STATE** of payment of any applicable non-recurring charges, the Virtual Collocation arrangement shall be deemed to have been amended and such requested telecommunications equipment and/or facilities shall be included within "Collocator's Equipment."
- 8.3 Collocator's equipment, operating practices, or other activities or conditions attributable to Collocator that represents a demonstrable threat to **SBC-13STATE** network, equipment, or facilities, including the Eligible Structure, or to the network, equipment, or facilities of any person or entity located in the Eligible Structure, are strictly prohibited.
- 8.4 Operation of any equipment, facilities or any other item placed in the Virtual Collocation space shall not interfere with or impair service over **SBC-13STATE** network, equipment, or facilities, or the network, equipment, or facilities of any other person or entity located in the Eligible Structure; create hazards for or cause damage to those networks, equipment, or facilities, the Virtual Collocation space, or the Eligible Structure; impair the privacy of any communications carried in, from, or through the network, equipment, facilities the Virtual Collocation space or the Eligible Structure; or create hazards or cause physical harm to any person, entity, or the public. Any of the foregoing events would be a material breach of this Appendix.
- 8.5 In no case shall Collocator's **SBC-13STATE** Approved Vendor or any person or entity purporting to be acting through or on behalf of Collocator make any significant rearrangement, modification, improvement, addition, repair, or other alteration to the Virtual Collocation space or the Eligible Structure without the advance written permission or direction of **SBC-13STATE**. **SBC-13STATE** shall consider a modification, improvement, addition, repair, or other alteration requested by Collocator, provided that **SBC-13STATE** shall have the right to reject or modify any such request. **SBC-13STATE** will perform any such construction, and the associated cost shall be paid by Collocator in accordance with **SBC-13STATE** then-standard custom work order process or ICB.

9. COLLOCATOR RESPONSIBILITIES

- 9.1 The Collocator will provide at its expense, all facilities and equipment necessary to facilitate interconnection and access to **SBC-13STATE** UNEs including, without limitation, the following:
- 9.1.1 All plug-ins and/or circuit packs (working, spare, and replacements).
 - 9.1.2 All provisioning of virtually collocated equipment.
 - 9.1.3 Any ancillary equipment and cabling used for remote monitoring alarms and control.
 - 9.1.4 Any technical publications and updates associated with all Collocator-owned and provided equipment.
 - 9.1.5 Any Product Change Notice (PCN) modifications, upgrades, and/or changes to the Collocator's equipment that requires the work to be performed within the Eligible Structure must be completed by an **SBC-13STATE** Approved Vendor or Manufacturer. Escort charges will apply.
 - 9.1.6 All training as specified in Section 9.14.
 - 9.1.7 All defective hard-wired equipment upgrades or changes within the Eligible Structure must be completed by an **SBC-13STATE** Approved Vendor or Manufacturer. Escort charges will apply.
 - 9.1.8 A storage cabinet or designated shelves for the storage of Collocator's spare circuit packs, unique tools, test equipment, etc. used by **SBC-13STATE** to maintain and repair virtually collocated equipment. The Collocator should indicate on the front equipment view drawing that is submitted with the Virtual Collocation Application, the Collocator's storage requirements.
 - 9.1.9 Procurement, placement and termination of interconnection cabling between Collocator's dedicated space and **SBC-13STATE** Main Distribution Frame or its equivalent by Collocator's **SBC-13STATE** Approved Vendor. Additional

requirements relating to placement and termination of interconnection cabling is set forth in Section 10.5 of this Appendix.

9.1.10 (Reserved).

9.2 The Collocator is responsible for coordinating with the LOC in arranging mutually agreed upon visits to the Eligible Structure during the following timeframes and escort charges will apply.

9.2.1 Once when beginning the initial equipment installation.

9.2.2 Once during the middle of the equipment installation.

9.2.3 Once at turn-up completion of such equipment installation.

9.2.4 One (1) general visit per calendar year.

9.2.5 Additional mutually agreed upon visits. (Examples: Acceptance of Virtual Collocation space and the purpose of performing an audit on the installed equipment completed by an **SBC-13STATE** Approved Vendor prior to turn-up.)

9.2.6 These visits must be arranged ten (10) business days in advance with the LOC. The LOC will generate the appropriate trouble ticket as described in Section 14. A maximum of two (2) Collocator's representatives per escort may participate in any one (1) of the site visits.

9.3 Collocator's **SBC-13STATE** Approved Vendor shall install all plug-ins and/or circuit packs (working and spare) for fully equipped bays. As an alternative to fully equipped bays, Collocator shall equip the bay(s) with sufficient common equipment and cabling for a minimum of one year's projected growth.

9.4 When Collocator requires additional capacity, a collocation augment application is required. For augments of this type, Collocator may fully equip the additional bay, or may equip the additional bay as described below.

9.4.1 For either an initial installation or an augment as described above, when a bay is in place but Collocator has elected under Section 9.3 above not to fully equip the bay.

9.4.2 All bays will be powered, cabled, and equipped with sufficient common plugs, so

that joint test and acceptance can be completed.

- 9.4.3 Collocator will pay the monthly recurring charges for the space occupied by the bay regardless of how many shelves are filled.
- 9.4.4 Collocator will be responsible for capacity management of the equipment placed.
- 9.5 After the initial installation, or an augment, **SBC-13STATE** shall only install additional plug-ins and circuit packs for a minimum of one (1) shelf at a time upon the Collocator's request. Collocator may use an **SBC-13STATE** Approved Vendor for installing plug-ins and circuit packs when less than one full shelf is required. Access for such services will be arranged by the Collocator by contacting the LOC. The LOC will generate appropriate trouble ticket as described in Section 14 for **SBC-13STATE** to perform the installation, routine maintenance, or to escort the **SBC-13STATE** Approved Vendor, whichever applies. If the Collocator's **SBC-13STATE** Approved Vendor has a current existing Installation Agreement (IA) in a central office, then escort charges will not apply.
- 9.6 In circumstances where shelves only capable of single use plug-in(s) and/or circuit pack(s), the Collocator shall, within thirty (30) calendar days, fully populate the shelf to which the plug-in(s) or circuit pack(s) will be added.
- 9.7 Standard offered interval for installation of plug-ins and/or circuit packs that involves no more than plugging in the circuit packs or plug-ins will be performed by **SBC-13STATE** as described in Section 14.
- 9.8 Non-standard offered interval request for the installation of plug-ins and/or circuit packs performed by **SBC-13STATE** that is less than the minimum standard requirement described in Section 9.5 and involves no more than plugging in the circuit packs and/or plug-ins will be charged a minimum of a 4-hour holiday call-out. This will be a mutual agreed arrangement with the LOC and the Collocator. The LOC will generate appropriate trouble ticket as described in Section 14 of this Appendix for **SBC-13STATE** to perform the installation and the shipment of the circuit packs and/or plug-ins will be arranged by the Collocator. If the interval exceeds the 4-hour call-out, the additional hours will be charged at 2.5 times the labor rate for the state the request is generated.
- 9.9 The Collocator must provide, at its expense, replacements for any recalled, obsolete, defective, or damaged interconnection or entrance cables, equipment, plug-ins, circuit packs, unique tools, test equipment, or any other item or material provided by the Collocator for placement in/on **SBC-13STATE** property. Collocator shall provide a stock of such items (excluding unique tools and test equipment) to **SBC-13STATE** to

replace non-functioning items when needed, with a goal of shipping replacement stock no more frequently than once per quarter. **SBC-13STATE** shall notify Collocator as it uses packs from the stock so that Collocator may replenish the stock. Collocator will provide pre-addressed postage paid mailing packages for return shipment of non-functioning circuit pack(s), plug-in(s), or any other item or material being used by **SBC-13STATE** to repair and maintain Collocator's virtually collocated equipment. **SBC-13STATE** shall notify Collocator when any other types of replacement parts or equipment are required. During repair calls, **SBC-13STATE** technician shall confirm to Collocator representative when **SBC-13STATE** has used a circuit pack/plug-in or other types of replacement parts or equipment. **SBC-13STATE** shall notify Collocator upon discovery that test equipment or tools are damaged or otherwise not functioning properly. Notification shall be given to the Collocator personnel participating in the repair efforts if the discovery is made during the course of a repair, or to a contact specified by the Collocator if the discovery is made at some other time.

- 9.10 The Collocator is responsible for providing the appropriate number of usable equipment spares. Arranging movement of any circuit pack(s) or plug-in(s) between Eligible Structures will be at the Collocator's expense and their responsibility. Replacements must be delivered to the **SBC-13STATE** central office or **SBC-13STATE** designated location using the equipment spare within five (5) business days of notification that a spare was used or tested defective.
- 9.11 The Collocator must provide identification markings on all circuit packs, spares, test equipment, equipment, bays, and any other Collocator owned property provided to **SBC-13STATE** for Virtual Collocation.
- 9.12 The Collocator will provide at the initial Method and Procedure (MOP) meeting the following:
 - 9.12.1 Escalation documentation.
 - 9.12.2 Test and acceptance package as described in the **SBC ILEC's** installation testing standards and requirements located on the **SBC-13STATE** CLEC ONLINE Web-Site.
 - 9.12.3 Contact names and numbers to arrange for return shipment of defective circuit packs and plug-ins. Collocator will keep this information current.
 - 9.12.4 Functional contacts for the virtual collocation arrangements, including names, telephone numbers, and each person's responsibilities (e.g., augments, trouble reports, emergency contact). Collocator will keep this information current.

- 9.13 To the extent known, the Collocator can provide non-binding forecasted information to **SBC-13STATE** on anticipated additional Virtual Collocation requirements. Non-binding forecasts are for planning purposes only and will not be used for provisioning space or interconnection arrangements.
- 9.14 **SBC-13STATE** will identify the training needs of **SBC-13STATE** personnel from the list of equipment received by the Collocator on the **SBC-13STATE** Virtual Application Form. The Collocator will be responsible for training **SBC-13STATE** personnel on the repair and maintenance of the Collocator's equipment, unless: (a) the equipment is already used by **SBC-13STATE** in the Eligible Structure; or (b) **SBC-13STATE** technicians assigned to the Eligible Structure have already been trained on the repair and maintenance of that type of equipment. Notwithstanding the foregoing, if the equipment is already used by **SBC-13STATE**, but Collocator uses the equipment in a different configuration, Collocator will be responsible for any additional training required for repair and maintenance of the equipment in the configuration used by the Collocator. **SBC-13STATE** will contact Collocator with the required number of **SBC-13STATE** personnel to be trained and the contact name for the Collocator to coordinate training schedules. The Collocator will be responsible for the following:
- 9.14.1 Arrange and pay to the training supplier, all costs for the training sessions, including required course material, transportation, and lodging.
- 9.14.2 Pay all costs associated with lodging, transportation, employees labor rate for time away from job, and per diem, if applicable that is required for **SBC-13STATE** employee to attend training.
- 9.14.3 **SBC-13STATE** may require additional training requirements to adequately provide 7 X 24-hour coverage on the Collocator's virtually collocated equipment when labor resources change for a particular Eligible Structure. **SBC-13STATE** will notify the Collocator when applicable.
- 9.14.4 Training may be provided on-site when possible.
- 9.14.5 The training for which the Collocator will be responsible includes training for the following functions to the extent such functions will be performed by **SBC-13STATE** and additional training is necessary.
- 9.14.5.1 Installation, repair, and maintenance of any unique cabling and circuits inside the bay of equipment.

- 9.14.5.2 Use of on-line documentation or schematics unique to the equipment and unlike that commonly used by **SBC-13STATE**.
- 9.14.5.3 Any testing, repair methods, and procedure documents utilized by Collocator, consistent with the manufacturer's operations and maintenance (O&M) manual.
- 9.14.5.4 Training when updates of technical publications or equipment information are issued.
- 9.14.5.5 **SBC-13STATE** will work cooperatively with Collocator to schedule and complete the training requirements prior to Collocator's equipment turn-up. When Collocator provides scheduled training, **SBC-13STATE** is responsible for employee attendance.
- 9.15 Collocator will provide remote, real-time network technical support, guidance and direction to **SBC-13STATE** for all collocated facilities and equipment using on-line telephone support.
- 9.16 Collocator is responsible for coordinating with **SBC-13STATE** to ensure that services are installed in accordance with a service request.
- 9.17 Collocator's **SBC-13STATE** Approved Vendor will, whenever possible, begin installation of the Collocator's equipment in the Virtual Collocation space within thirty (30) calendar days of space turnover or as mutually agreed between the Parties. Collocator's **SBC-13STATE** Approved Vendor must complete installation of Collocator equipment in the Virtual Collocation Space and interconnect to **SBC-13STATE** network or to its UNEs within one hundred eighty (180) calendar days after space turnover. If Collocator fails to do so, **SBC-13STATE** may, upon notice, terminate that Virtual Collocation arrangement, and Collocator shall be liable in an amount equal to the unpaid balance of the charges due under and, further, shall continue to be bound by the provisions of this Appendix, the terms or context of which indicate continued viability or applicability beyond termination. For purposes of this Section, Collocator equipment is considered to be interconnected when physically connected to **SBC-13STATE** network or a **SBC-13STATE** UNE for the purpose of Collocator providing a telecommunications service.

10. COOPERATIVE RESPONSIBILITIES

- 10.1 **SBC-13STATE** will work cooperatively with the Collocator to develop implementation plans including timelines associated with the following:

- 10.1.1 Ensuring that the Collocator's **SBC-13STATE** Approved Vendor meets required safety standards as contained in TP76200MP and **SBC ILEC's** standards and requirements for equipment and facility installations.
- 10.1.2 **SBC-13STATE** placement of Collocator's fiber into an **SBC-13STATE** Eligible Structure.
- 10.1.3 Location and completion of all splicing.
- 10.1.4 Completion of installation of equipment and facilities.
- 10.1.5 Removal of above facilities and equipment.
- 10.2 This Appendix and the Collocation provided hereunder is made available subject to and in accordance with Sections 10.2.1, 10.2.2, 10.2.3, 10.2.4 and 10.2.5. Collocator shall strictly observe and abide by each.
 - 10.2.1 **SBC ILEC's** TP 76200MP standards for network equipment, power, grounding, environmental, and virtual design, and any successor document(s), including as such may be modified at any time and from time to time.
 - 10.2.2 **SBC ILEC's** Interconnector's Collocation Services Handbook or like document, and any successor document(s), as may be modified from time to time as set forth below in Section 10.3.
 - 10.2.3 **SBC ILEC's** standards and requirements for equipment and facility installations, and any successor document(s) within **SBC-13STATE** central offices and may be modified from time to time.
 - 10.2.4 Any statutory and/or regulatory requirements in effect at the time of the submission of the Virtual Collocation Application or that subsequently become effective and then when effective.
 - 10.2.5 The **SBC ILEC's** Interconnector's Collocation Services Handbook or like document, standards and requirements for equipment and facility installations, and the TP 76200MP standards are not incorporated herein but are available on the appropriate **SBC-13STATE** CLEC ONLINE Web-Site.
- 10.3 If the **SBC ILEC's** Interconnector's Collocation Services Handbook or like document, standards and requirements for equipment and facility installations, and the TP 76200MP standards are modified subsequent to the effective date of this Appendix from the

attached, the following shall apply:

- 10.3.1 If a modification is made after the date on which Collocator has or orders a Virtual Collocation arrangement, **SBC-13STATE** shall provide Collocator with those modifications or with revised versions of such, listing or noting the modifications as appropriate. Any such modification shall become effective and thereafter applicable under this Appendix thirty (30) days after such amendment is released by **SBC-13STATE**, except for those specific amendments to which Collocator objects to within thirty (30) days of receipt, providing therewith an explanation for each such objection. The Parties shall pursue such objections informally with each other and, if not resolved within forty-five (45) days, either Party will have fourteen (14) days to invoke the dispute resolution procedures applicable to this Appendix. If neither Party
- 10.3.2 invokes those procedures, the modification is deemed effective and applicable.
- 10.3.2 If a modification is made after this Agreement becomes part of an effective “Statement of Generally Available Terms and Conditions” or similar document for **SBC-13STATE** (and the modification has not been included in a change to that “Statement” or this Appendix), then **SBC-13STATE** will provide Collocator with a copy of such modifications or the most recent version or revision of the particular document promptly after receipt of Collocator’s Virtual Collocation Application. Any Collocator objection to those modifications must be received by **SBC-13STATE** by the thirtieth (30th) day after their receipt by Collocator. Thereafter, the same process and procedure (including timelines) for resolving any objection made under Section 10.3.1 shall apply.
- 10.3.3 Notwithstanding Sections 10.3.1 and/or 10.3.2, any modification made to address situations potentially harmful to **SBC-13STATE** or another’s network, equipment, or facilities, the Eligible Structure, the Virtual Collocation space, or to comply with statutory or regulatory requirements shall become effective immediately and shall not be subject to objection. **SBC-13STATE** will immediately notify Collocator of any such modification.
- 10.4 **SBC-13STATE** shall provide an interconnection point or points, physically accessible by both **SBC-13STATE** and Collocator (typically a **SBC-13STATE** manhole) at which a Collocator fiber optic cable can enter the Eligible Structure, provided that **SBC-13STATE** will designate interconnection points as close as reasonably possible to the Eligible Structure. The Collocator's fiber must be a single mode fire retardant dielectric fiber optic cable used as a transmission medium to the dedicated splice point. The fiber cable will be spliced to a fiber cable tail at the dedicated splice point by **SBC-13STATE** and

terminated to the Fiber Distribution Frame (FDF) or panel. All fiber termination requests will be distributed from the FDF or panel to the Collocator's designated bay per the Front Equipment Drawing by fiber cross-connects with sufficient slack for the Collocator to terminate in their equipment. Collocator shall be permitted no more than two (2) entrance routes into the Eligible Structure, if available; **SBC-13STATE** will provide at least two such interconnection points at each Eligible Structure where there are at least two entry points for **SBC-13STATE** cable facilities and at which space is available for new facilities in at least two of those entry points.

10.4.1 Collocator is responsible for bringing its fiber optic cable to an accessible point outside of the Eligible Structure designated by **SBC-13STATE**, and

10.4.2 for leaving sufficient cable length in order for **SBC-13STATE** to fully extend such Collocator-provided cable to the vault.

10.4.2 **SBC-13STATE** will permit interconnection of copper or coaxial cable if first approved by the appropriate State Commission and will permit collocation of microwave transmission equipment along with the microwave entrance facility except where such collocation is not practical for technical reasons or because of space limitations.

10.5 **SBC-13STATE** will be responsible for determining equipment location within the Eligible Structure. Procurement, placement and termination of interconnection cabling between Collocator's dedicated space and SWBT Main Distribution Frame or its equivalent will be installed by the Collocator's **SBC-13STATE** Approved Vendor. The Collocator's **SBC-13STATE** Approved Vendor must obtain an approved Method of Procedures (MOP) from **SBC-13STATE** and follow the **SBC ILEC's** standards and requirements for installation of equipment and facilities. **SBC-13STATE** will install and stencil termination blocks or panels at **SBC-13STATE's** Main Distribution Frame or its equivalents for the hand off of the Actual Point of Termination (APOT) Connection(s) to the Collocator.

*10.6 Unless otherwise expressly agreed in writing, where the Collocator has entered into an

* This Section 10.6 in entirety is available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

agreement with **SBC-13STATE** to virtually collocate its equipment, **SBC-13STATE** will provide for all AC and DC power requirements in the Eligible Structure. Where the Collocator has entered into an agreement with **SBC-13STATE** to physically collocate, the Collocator shall be fully responsible for cabling, and shall contract with an **AM-IL** Approved Vendor to provide the same. The Collocator is not permitted to, and will not, place any AC or DC power-generating or power-storing devices (including, for example but not limited to rectifiers, battery plants, AC or DC generators) in the Eligible Structure. Power will support Collocator Telecom Equipment at the specified DC and AC voltages. At a minimum, the Power and **SBC-13STATE**'s associated performance, availability, restoration, and other operational characteristics shall be at parity with that provided to **SBC-13STATE**'s substantially similar telecommunications equipment unless otherwise mutually agreed in writing. Loads specified by the Collocator represent the peak current that will be imposed on a power feeder at any voltage within the emergency operating limits of the equipment and any normal operating condition (i.e. not a short circuit or other malfunction). Even though circuit design is based on peak current, DC power plant design sizing by the **SBC-13STATE**'s is based on demand management. **SBC-13STATE** will engineer, design, and place cable racks for all power cable routes within the Eligible Structure. **SBC-13STATE** will supply and place the power cable leads from the dedicated space to **SBC-13STATE**'s Battery Distribution Fuse Bay (BDFB) or Power Plant, whichever is applicable. **SBC-13STATE** will terminate the Collocator's power cable leads and place fuses at the BDFB or Power Plant, whichever is applicable. The Collocator must contact the assigned **SBC-13STATE** Project Manager five (5) business days prior to scheduling the power cable terminations and fuse placement.

- 10.6.1 The Collocator's **SBC-13STATE** Approved Power Installation Vendor must obtain an approved Method of Procedures (MOP) from **SBC-13STATE** and follow the **SBC-13STATE** standards and requirements for installation of equipment and facilities
 - 10.6 **SBC-13STATE** will provide negative DC and AC power, back-up power, lighting, ventilation, heat, air conditioning and other environmental conditions necessary for the Collocator's equipment in the same manner and at the same standards that **SBC-13STATE** provides such conditions for its own substantially similar equipment or facilities within that Eligible Structure.
 - 10.7 Regeneration of either DS-1 or DS-3 signal levels may be provided by Collocator or **SBC-13STATE** under the custom work order process or ICB, including payment requirements prior to the installation of the regeneration equipment.
 - 10.8 Collocator and **SBC-13STATE** are each responsible for providing to the other contact
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numbers for technical personnel who are readily accessible twenty-four (24) hours a day, seven (7) days a week.

- 10.9 **SBC-13STATE** shall maintain for the Eligible Structure customary building services, utilities (excluding telephone facilities), including janitor and elevator services, 24 hours a day.
- 10.10 **SBC-13STATE** agrees to make, at its expense, all changes and additions to the Eligible Structure required by laws, ordinances, orders or regulations of any municipality, county, state or other public authority including the furnishing of required sanitary facilities and fire protection facilities, except fire protection facilities specially required because of the installation of telephone or electronic equipment and fixtures in the Virtual Collocation space.
- 10.11 Collocator and **SBC-13STATE** are each responsible for providing trouble report status or any network trouble of problems when requested by the other.
- 10.12 Each Party is responsible for immediate verbal notification to the other of significant outages or operations problems which could impact or degrade that other's network, equipment, facilities, or services, and for providing an estimated clearing time for restoration. In addition, written notification must be provided within twenty-four (24) hours.
- 10.13 In the event **SBC-13STATE** determines it necessary for the Virtual Collocation space to be moved within the Eligible Structure in which the Virtual Collocation space is located or to another Eligible Structure, Collocator is required to do so. If such relocation arises from circumstances beyond the reasonable control of **SBC-13STATE**, including condemnation or government order or regulation that makes the continued occupancy of the Virtual Collocation Space or Eligible Structure too costly in **SBC-13STATE** sole judgment, Collocator shall be responsible for the cost of preparing the new Virtual Collocation Space at the new location. Otherwise **SBC-13STATE** shall be responsible for any reasonable preparation costs.
- 10.14 Upon termination of the Virtual Collocation arrangement, the Collocator will work cooperatively with **SBC-13STATE** to remove the Collocator's equipment and facilities from **SBC-13STATE** property subject to the condition that the removal of such equipment can be accomplished without damaging or endangering other equipment located in the central office. **SBC-13STATE** is not responsible for and will not guarantee the condition of such equipment. The Collocator is responsible for arranging for and paying for the removal of virtually collocated equipment including all costs associated with equipment removal, packing and shipping. Arrangements for and the removal of the Collocator

virtually collocated equipment must be made within thirty (30) business days after termination of the virtual collocation arrangement, unless a different time period is mutually agreed upon. The Collocator will pay all arrangement monthly charges until all equipment is removed. If the Collocator has not removed the equipment within this timeframe, **SBC-13STATE** has the right to remove the equipment and bill the Collocator for any reasonable expense associated with removal of the equipment. **SBC-13STATE** shall be responsible for exercising reasonable caution when removing virtually collocated equipment. **SBC-13STATE** will only be responsible for damage done to such equipment caused by gross negligence on the part of **SBC-13STATE** or its contractors during the removal process. However, Collocators will indemnify and hold **SBC-13STATE** harmless for any damage done to virtually collocated equipment if **SBC-13STATE** permits the Collocator to hire an **SBC-13STATE** approved contractor to remove virtually collocated equipment. Any equipment not removed in this time frame may be removed by **SBC-13STATE** and stored in a non- **SBC-13STATE** location, at the expense of the Collocator.

- 10.15 Upon termination of the Virtual Collocation, the Collocator must remove the fiber entrance cable used for the Virtual Collocation. If the entrance cable is not scheduled for removal within thirty (30) calendar days, **SBC-13STATE** may arrange for the removal, and the Collocator will be responsible for any charges incurred to remove the cable. **SBC-13STATE** and the Collocator will cooperatively manage the removal process. The Collocator is only responsible for physically removing entrance cables housed in conduits or inner-ducts and will only be required to do so when **SBC-13STATE** instructs the Collocator such removal can be accomplished without damaging or endangering other cables contained in a common duct or other equipment residing in the central office.
- 10.16 If Collocator fails to remove its equipment and facilities from the Virtual Collocation space within thirty (30) days after discontinuance of use, **SBC-13STATE** may perform the removal and shall charge Collocator for any materials used in any such removal, and the time spent on such removal at the then-applicable hourly rate for custom work. Further, in addition to the other provisions herein, Collocator shall indemnify and hold **SBC-13STATE** harmless from any and all claims, expenses, fees, or other costs associated with any such removal by **SBC-13STATE**.

11. TEST AND ACCEPTANCE

- 11.1 Collocator and **SBC-13STATE** will complete an acceptance walk-through visit of the Virtual Collocator's space prior to turning the Virtual Collocation space over to the Collocator's **SBC-13STATE** Approved Vendor. Exceptions that are noted during this acceptance walk-through visit shall be corrected by **SBC-13STATE** as soon as commercially reasonable after those exceptions are provided in writing, which exceptions shall be provided no more than five (5) business days after the walk through. The

correction of these exceptions from Collocator's Virtual Collocation request shall be at **SBC-13STATE** expense.

- 11.2 Prior to powering up equipment, and after the frame connections and equipment have been installed, Collocator will schedule a pre-performance audit visit with the LOC as specified in Section 9.2.5. The Collocator is responsible for auditing the installation and to assure compliance with technical publication specifications. This visit shall be scheduled to take place within ten (10) business days after Collocator's request and shall take no longer than eight (8) hours. Should Collocator determine during the audit that the installation is not compliant with specifications, Collocator may schedule an additional audit after corrective work has been performed. Collocator shall be responsible for coordination with its vendor to be at the site for audit acceptance testing and, when necessary, corrective work.

- 11.3 Two (2) business days prior to scheduled turn-up of the collocated equipment, the Collocator will arrange to deliver to the **SBC-13STATE** Central Office, or other pre-designated location by **SBC-13STATE**, any spare plug-ins, circuit packs, tests sets, unique tools, circuit design information, technical publications, and any other necessary items that are needed to maintain and repair the Collocator's equipment. It is the Collocator's responsibility to arrange with their **SBC-13STATE** Approved Vendor to place any of the items provided into the Collocator's designated storage cabinet or shelf, if applicable.
 - 11.3.1 Once the Collocator's equipment installation audit is successfully completed, power must be turned up and tested, the virtually collocated equipment and remote monitoring capabilities must be tested, and connectivity must be tested. Power testing, and connectivity testing in certain situations, will require a cooperative test involving the Collocator, its **SBC-13STATE** approved installation contractor, **SBC-13STATE**, and/or **SBC-13STATE** vendor. Collocator and its installation contractor will perform the equipment and remote monitoring testing. To the extent possible, **SBC-13STATE** will work with Collocator to coordinate testing to minimize the number of visits required by Collocator and its contractor.

- 11.4 All installations of equipment must be in accordance with the **SBC ILEC's** standards and requirements for equipment and facility installations and subject to review by an **SBC-13STATE** maintenance engineer for compliance. Should **SBC-13STATE** maintenance engineer determine during their review audit that the installation is not compliant with specifications, Collocator may schedule an additional audit after corrective work has been performed.

- 11.5 Collocator shall be responsible of coordination with its **SBC-13STATE** Approved Vendor to be at the site for acceptance testing.
- 11.6 Upon successful completion of the testing as described in Section 11.4 above, **SBC-13STATE** shall provide Collocator with written acceptance notification no more than five (5) business days after turnup of the virtually collocated equipment. Immediately following this notification, **SBC-13STATE** will begin to maintain and repair the virtual collocated equipment at the direction of the Collocator, if all training requirements have been met.
- 11.7 Collocator shall accept the installation of equipment and facilities prior to the installation of services using the equipment. Once the equipment is installed and accepted, Collocator will either order interconnection or network elements from **SBC-13STATE** to connect to the equipment.

12. DELIVERY INTERVALS

- *12.1 The delivery interval relates to the period in which **SBC-13STATE** shall construct and deliver to the Collocator the requested space. The delivery interval begins on the date **SBC-13STATE** receives an accurate and complete Virtual Collocation Application from the Collocator. The Collocator must provide the **SBC-13STATE**, within seven (7) days from the date of notification granting the application request, a confirmatory response in writing to continue construction along with the fifty percent (50%) payment of non-recurring charges (unless payment was received with application) or the construction interval provided in table below will not commence until such time as **SBC-13STATE** has received such response and payment. If the Collocator has not provided the **SBC-13STATE** such response and payment by the twelfth (12th) day after the date **SBC-13STATE** notified Collocator its request has been granted, the application will be canceled. Dedicated space is not reserved until **SBC-13STATE's** receipt of the confirmatory response in writing from the Collocator with applicable fees. **SBC-13STATE** will complete construction of all Active Collocation Space requests for virtual collocation in accordance to the following:

*Sections 12.1 and 12.2 in entirety are available only in the state of Illinois. The Parties agree that this language is a non-voluntary offering by **AM-IL** and consistent with the following order: Order of the Illinois Commerce Commission in McLeodUSA Telecommunications Services, Inc. Petition for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Illinois Bell Telephone Company (Ameritech Illinois) Pursuant to Section 252(b) of the Telecommunications Act of 1996, Docket 01-0623. Refer to INTERCONNECTION AGREEMENT: GENERAL TERMS AND CONDITIONS, Paragraph 2.10.

<u>Number of Complete and Accurate Applications by One Collocator per state or region</u>	<u>Virtual Construction Intervals</u>
1 – 5	90 Days
6-10	95 Days
11-15	100 Days
16-20	105 Days

Should the Collocator submit twenty-one (21) or more applications within five (5) days, the construction interval will be increased by five (5) days for every five (5) additional applications or fraction thereof. Any material revision to an application will be treated as a new application and will be subject to the time intervals set forth above. To complete the provisioning of a collocation arrangement, **SBC-13STATE** must finish construction in accordance with the requesting carrier's application and turn functional space over to the requesting carrier.

- * 12.2 The second fifty percent (50%) payment must be received by **SBC-13STATE** prior to the functional space being turned over to the Collocator. The Preliminary Point of Termination (PPOT) cable facility assignments will not be given to the Collocator by **SBC-13STATE** until all applicable non-recurring fees have been received and no earlier than fourteen (14) days before the space turn over due date. Augment cable facility assignments with less than sixty (60) day intervals will not be given to the Collocator by **SBC-13STATE** until the delivery interval due date.
- 12.3 Any revision(s) made on an existing Virtual Collocation Application must be submitted on a new Virtual Collocation Application form. When the revision(s) are submitted by the Collocator prior to day fifteen (15) of the scheduled delivery interval, the application will be subject to review by **SBC-13STATE**. A new delivery interval date may be established extending the original delivery interval due date up to two (2) months when adding or changing telecommunications equipment, additional power requirements, interconnection termination additions and/or changes, and additional bay space requirements. The Collocator will be notified by **SBC-13STATE** if a new delivery interval is required. If any revision(s) submitted by the Collocator are made after day fifteen (15) of the scheduled delivery interval to a Virtual Collocation Application, the Collocator must re-submit such revision(s) as an Augment on a new Virtual Collocation Application. The augment delivery interval will start on the date the augment is received by **SBC-13STATE**.
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12.4 **SBC-13STATE** will provide reduced construction intervals for Collocators that request the following interconnection cabling Augments. The Collocator must submit a completed Virtual Collocation Application. For this reduced construction interval to apply, this application must include an up-front payment of the Application Fee and fifty percent (50%) of all applicable non-recurring charges. In addition, the application must include an accurate front equipment view (rack elevation drawing) specifying bay(s) for the Collocator's point of termination for the requested cabling. Virtual Collocation Application(s) received with the up-front payment and meeting the criteria below will not require a quote or response and the construction interval will not exceed sixty (60) calendar days.

- 168 DS1's connections and/or
- 48 DS3's connections and/or
- 400 Copper (shielded or nonshielded) cable pair connections
- 12 fiber connections

These Augments will apply only when the Collocator provides a complete and accurate Virtual Collocation Application and the applicable fees. The job must be an Augment for an existing Virtual Collocation arrangement and consist only of connections listed above.

For Augments in which the Collocator requests power that exceeds current capacity ratings or augments that require placement of additional cable racks within the Active Central Office space, the construction interval will not exceed ninety (90) days from receipt of accurate and complete application for such augment along with the Application Fee and fifty percent (50%) of all applicable nonrecurring charges. For all other Augments, **SBC-13STATE** will work cooperatively with Collocator to negotiate mutually agreeable construction intervals.

13. REPAIR AND MAINTENANCE OF EQUIPMENT

13.1 Except in emergency situations, and/or except when **SBC-13STATE** network reliability is at risk, Collocator will initiate the repair and maintenance process by contacting **SBC-13STATE** LOC. Collocator-owned fiber optic facilities and central office terminating equipment will be repaired and maintained only upon the request and direction of the Collocator. In an emergency, **SBC-13STATE** may perform necessary repairs without prior notification or both Parties agree to delineate methods and procedures for emergency notification handling with the LOC. The labor rates applicable to Virtual Collocation are contained within the state specific Appendix Pricing that apply to **SBC-13STATE** central offices and **SBC-13STATE** CEVs, Huts and Cabinets for all maintenance and repairs performed at the direction of the Collocator by **SBC-13STATE**.

- 13.2 When initiating repair or maintenance requests of Collocator provided virtually collocated equipment, Collocator shall provide the LOC with the following:
- 13.2.1 Notification that the purpose of the call is to establish a virtual collocation trouble ticket;
 - 13.2.2 **SBC-13STATE** Eligible Structure's CLLI, circuit identification and/or telephone number;
 - 13.2.3 Location of virtually collocated equipment (Bay, frame, shelf, circuit pack, location and type);
 - 13.2.4 A detailed description of the trouble;
 - 13.2.5 The name and telephone number of the Collocator's employee who will cooperatively test with **SBC-13STATE** at no charge to **SBC-13STATE**; and
 - 13.2.6 The type of the trouble.
- 13.3 When an **SBC-13STATE** technician calls the Collocator to perform repair/maintenance initiated by a trouble ticket, the Collocator will provide the **SBC-13STATE** technician with the proper sequencing of repair tasks, including any testing necessary to determine needed repairs.
- 13.4 **SBC-13STATE** is not obligated to provide any test equipment to support the Collocator's equipment. To the extent that test equipment owned by **SBC-13STATE** is located in the central office with the Collocator's equipment, is compatible with Collocator's equipment and is not currently being used to repair **SBC-13STATE** owned equipment, **SBC-13STATE** can use this test equipment for test operations directed by the Collocator. **SBC-13STATE** assumes no liability for damage to Collocator's equipment caused by using **SBC-13STATE** test equipment. **SBC-13STATE** is not obligated to move test equipment from one central office to another or to provide any test equipment specifically for use on Collocator's equipment. **SBC-13STATE** is under no obligation to provide lists of test equipment available at central offices and availability is not implied or guaranteed. Test set availability can only be guaranteed by the Collocator providing test equipment for their exclusive use in maintaining their equipment.
- 13.5 Upon mutual agreement, when service affecting reports cannot be restored and it is determined support is necessary, the Collocator's **SBC-13STATE** Approved Vendor

may enter the Eligible Structure to assist in troubleshooting and resolving problems associated with the trouble report. If **SBC-13STATE**, working with the Collocator believes that it would be helpful to have them on site to aid in troubleshooting, it will so request. Charges for an escort will apply in either situation.

- 13.6 The Collocator may request **SBC-13STATE** to perform routine maintenance and scheduled events, at mutually agreed upon times, which will be billed on a time and material basis and performed on a case by case basis. When requesting maintenance on Collocator owned equipment, the Collocator shall provide **SBC-13STATE** with location and identification of the equipment, a detailed description of the maintenance requested, and the estimated time required performing the routine maintenance.
- 13.7 For routine maintenance, product upgrades, PCN's, Engineering Complaints, and generic upgrades, etc., the Collocator will contact the LOC to arrange access for the Manufacturer or Collocator's **SBC-13STATE** Approved Vendor to perform the necessary work and escort charges will apply as described in Section 14. For service affecting problems covered by the Manufacturer's warranty, **SBC-13STATE** shall perform repairs as described in Section 14 of this Appendix.
- 13.8 **SBC-13STATE** is responsible for maintaining 7 X 24 maintenance and repair schedule for the Collocator's virtual collocation equipment at the direction of the Collocator on at a time and material basis, however, maintenance and repair will only be provided on a 7 X 24 basis if the Collocator trains the adequate number of **SBC-13STATE** personnel provided to the Collocator per Eligible Structure.

14. MEAN TIME RESPONSE INTERVAL (MTRI)

- 14.1 **SBC-13STATE** will be responsible for repairing/maintaining Collocator's virtually collocated equipment at the direction of the Collocator with the same diligence it repairs/maintains its own equipment. At a minimum, **SBC-13STATE** agrees to meet service response interval for installation, repair, and/or maintenance as defined below. Collocator will advise the LOC verbally, of the priority level for each trouble report based on the criteria below. The response interval is defined as the time from the conclusion of a trouble report call from Collocator to the LOC, to the time a **SBC-13STATE** technician notifies the Collocator's technical support center from the specified trouble location, of the Collocator's virtually collocated equipment that the technician is ready to begin repairs. The Mean Time Response Intervals (MTRIs) for each priority level follows:

- 14.1.1 **Priority 1 Tickets.** The MTRI for a Priority 1 Ticket is as follows: two (2) hours Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. for Manned Offices; four (4) hours Monday through Friday between the hours of 5:01 p.m. to