

ATTACHMENT 12: COMPENSATION

1.0 INTRODUCTION

Both parties reserve all rights to contest any order or decision requiring the payment of reciprocal compensation for Internet Service Provider traffic, including the right to seek refunds or to implement a new system of reciprocal compensation, pursuant to regulatory or judicial approval in accordance with the intervening law provisions in the General Terms and Conditions. Nothing in this Attachment shall constitute an admission by AT&T that ISP Bound traffic (as defined in Section 1.2) is in fact Section 251(b)(5) Traffic (as defined below) subject to reciprocal compensation under the 1996 Federal Telecommunications Act. For purposes of this Agreement, Section 251(b)(5) Traffic shall mean all Local Traffic (as defined in Section 1.2). AT&T will make available to a CLEC that is similarly situated to another ILEC or CLEC (i.e., similar traffic types and the same geographic areas as defined by rate centers) each compensation arrangement for serving customers in optional or mandatory, one way or two way EAS, including ELCS, area serviced by such ILEC or CLEC similar to the corresponding arrangement that AT&T has with that ILEC or CLEC for serving those customers, provided the CLEC adopts the agreement containing the compensation arrangement in its entirety, taking all rates, terms, and conditions from the adopted agreement.

- 1.1 For purposes of compensation under this Agreement, the telecommunications traffic traded between CLEC and AT&T will be classified as either Section 251(b)(5) Traffic (including Local Traffic), ISP-bound Traffic, Transit Traffic, IntraLATA Interexchange Traffic, InterLATA Interexchange Traffic, Meet Point Billing, FX Traffic (Virtual, Dedicated and FX-type), FGA Traffic, or Cellular Traffic. The compensation arrangement for terminating calls from a Cellular provider to CLEC or AT&T end users is set forth in Section 14.0 of this Attachment. The Parties agree that, notwithstanding the classification of traffic under this Agreement, either Party is free to define its own "local" calling area(s) for purposes of its provision of telecommunications services to its end users. The provisions of this Attachment apply to calls originated over the originating carrier's facilities or over Unbundled Network Elements. The provisions of this Attachment do not apply to traffic originated over services provided under local Resale service.
- 1.2 Calls originated by CLEC's end users and terminated to AT&T's end users (or vice versa) will be classified as Section 251(b)(5) Traffic under this Agreement and subject to reciprocal compensation if the call: (i) originates and terminates to such end-users in the same AT&T exchange area; or (ii) originates and terminates to such end-users within different AT&T Exchanges, that share a common mandatory local calling area, e.g., mandatory Extended Area Service (EAS), mandatory Extended Local Calling Service (ELCS), or other like types of mandatory expanded local calling scopes. Calls originated by AT&T's end users and terminated to an ISP served by a CLEC (or vice versa) will be classified as compensable "ISP-Bound Traffic" in accordance with the FCC's Order on Remand and Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, CC Docket Nos. 96-98, 99-68 (rel. April 27, 2001) (FCC ISP Compensation Order").
- 1.3 CLEC may establish its own local calling areas or prices for purpose of retail telephone service offerings.
 - 1.3.1 The transport and termination compensation for Virtual FX, Dedicated FX, and FX-type Traffic will be "Bill and Keep."

Foreign Exchange (FX) services are retail service offerings purchased by FX customers which allow such FX customers to obtain exchange service from a mandatory local calling area other than the mandatory local calling area where the FX customer is physically located. FX service enables particular end-user customers to avoid what might otherwise be toll calls between the FX customer's physical location and customers in the foreign exchange. There are two types of FX service:

- 1.3.1.1 "Dedicated FX Traffic" shall mean those calls routed by means of a physical, dedicated circuit delivering dial tone or otherwise serving an end user's station from a serving Central Office (also known as End Office) located outside of that station's mandatory local calling area. Dedicated FX Service permits the end user physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another, "foreign," exchange, thereby creating a local presence in that "foreign" exchange.
- 1.3.1.2 "Virtual Foreign Exchange (FX) Traffic" and "FX-type Traffic" shall refer to those calls delivered to telephone numbers that are rated as local to the other telephone numbers in a given mandatory local calling area, but where the recipient end user's station assigned that telephone number is physically located outside of that mandatory local calling area. Virtual FX Service also permits an end user physically located in one exchange to be assigned telephone numbers resident in the serving Central (or End) Office in another, "foreign," exchange, thereby creating a local presence in the "foreign" exchange. Virtual FX Service differs from Dedicated FX Service, however, in that Virtual FX end users continue to draw dial tone or are otherwise served from a Central (or End) Office which may provide service across more than one Commission-prescribed mandatory local calling area, whereas Dedicated FX Service end users draw dial tone or are otherwise served from a Central (or End) Office located outside their mandatory calling area.
- 1.3.2 "FX Telephone Numbers" (also known as "NPA-NXX" codes) shall be those telephone numbers with different rating and routing points relative to a given mandatory local calling area. FX Telephone Numbers that deliver second dial tone and the ability for the calling party to enter access codes and an additional recipient telephone number remain classified as Feature Group A (FGA) calls, and are subject to the originating and terminating carrier's tariffed Switched Exchange Access rates (also known as "Meet Point Billed" compensation),.
- 1.3.3 The Terminating Carrier shall be responsible for not billing any minutes of use on its network that are "Virtual FX Traffic," "FX-type Traffic," or "Dedicated FX Service" as defined herein. To the extent minutes of use are nevertheless billed and paid by the originating carrier, but later found to be Virtual FX, Dedicated FX, or FX-type Traffic that should have been subject to Bill and Keep, the terminating carrier will be responsible for reimbursing the originating carrier the amount of compensation paid, plus interest at the interest rate referenced in the General Terms & Conditions of this Agreement.
- 1.4 Rates, terms and conditions for compensation for Section 251(b)(5) Traffic are contained below in Section 3.0. The FCC's interim ISP terminating compensation rate plan for ISP Bound Traffic is contained below in Section 1.7.
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1.7 Contract Rates for Section 251(b)(5) Traffic and FCC's Interim ISP Terminating Compensation Plan rate for ISP-Bound Traffic

The rates, terms, and conditions for Section 251(b)(5) Traffic are contained in Section 3.0 of this Attachment. The rates, terms and conditions for ISP-Bound Traffic in Sections 1.7.1 through 1.7.5 are based on the FCC ISP Compensation Order.

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1.7.2 Intercarrier Compensation Rate for ISP-Bound Traffic:

1.7.2.1 The rates, terms, conditions in this Section 1.7.2 apply only to the termination of ISP-Bound Traffic. Notwithstanding anything contrary in this Attachment, the rebuttable presumption will apply to CLEC and AT&T.

1.7.2.2 The Parties agree to compensate each other for ISP-Bound Traffic on a minute of use basis at \$.0007 per minute of use.

1.7.2.3 Payment of Reciprocal Compensation on ISP-Bound Traffic will not vary according to whether the traffic is routed through a tandem switch or directly to an end office switch. Where the terminating party utilizes a hierarchical or two tier switching network, the Parties agree that the payment of these rates in no way modifies, alters, or otherwise affects any requirements to establish Direct End Office Trunking, or otherwise avoids the applicable provisions of the Interconnection Agreement and industry standards for interconnection, trunking, CPN, call transport, and switch usage recordation.

1.7.3 Intentionally Omitted

1.7.4 Intentionally Omitted

1.7.5 ISP-Bound Traffic Rebuttable Presumption

In accordance with Paragraph 79 of the FCC's ISP Compensation Order, CLEC and AT&T agree that there is a rebuttable presumption that any of the combined Section 251(b)(5) Traffic and ISP-Bound traffic exchanged between CLEC and AT&T exceeding a 3:1 terminating to originating ratio is presumed to be ISP-Bound Traffic subject to the compensation and terms in this Section 1.7. Either Party has the right to rebut the 3:1 ISP presumption by identifying the actual ISP-Bound Traffic by any means mutually agreed by the Parties, or by any method approved by the Commission. If a Party seeking to rebut the presumption takes appropriate action at the Commission pursuant to section 252 of the Act and the Commission agrees that such Party has rebutted the presumption, the methodology

and/or means approved by the Commission for use in determining the ratio shall be utilized by the Parties as of the date of the Commission approval. During the pendency of any such proceedings to rebut the presumption, CLEC and AT&T will remain obligated to pay the presumptive rates (reciprocal compensation rates for traffic below a 3:1 ratio, the rates set forth in Section 1.7.2.2 for traffic above the ratio) subject to a true-up upon the conclusion of such proceedings.

- 1.7.6 For combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties which does not exceed a 3:1 terminating to originating ratio as set forth in Section 1.7.5 above, such traffic shall be defined as "In-Balance" traffic. Each party will invoice the other party on a monthly basis for such "In-Balance" traffic at the reciprocal compensation rates set forth in Section 3.0 for Section 251(b)(5) Traffic.
- 1.7.7 For combined Section 251(b)(5) Traffic and ISP-Bound Traffic exchanged between the Parties exceeding a 3:1 terminating to originating ratio as set forth in Section 1.7.5 above, such traffic shall be defined as "Out-of-Balance" traffic. The Carrier whose traffic is "Out-of-Balance" will, on a monthly basis, calculate the amount of traffic that will be invoiced as follows: (1) for Section 251(b)(5) traffic, the rates shall be the reciprocal compensation rates set forth in Section 3.0; (2) for ISP-Bound Traffic, the rates shall be the FCC's interim ISP terminating compensation rates set forth in Section 1.7.2.2.

2.0 RESPONSIBILITIES OF THE PARTIES

- 2.1 Each Party to this Agreement will be responsible for the accuracy and quality of its data as submitted to the respective Parties involved.
- 2.2 Each Party will include in the information transmitted to the other for each call being terminated on the other's network (where technically available to the transmitting party), the originating Calling Party Number (CPN). For all traffic including, without limitation, Interexchange Circuit-Switched Traffic, IP Traffic and wireless traffic, each Party shall provide Calling Party Number as defined in 47 C.F.R. § 64.1600(c) ("CPN") in accordance with Section 2.4 and shall not strip, alter, modify, add, delete, change, or incorrectly assign any CPN. CPN shall, at a minimum, include information that accurately reflects the physical location of the end user that originated and/or dialed the call, when including such information is technically feasible. If either party identifies improper, incorrect, or fraudulent use of local exchange services (including, but not limited to PRI, ISDN and/or Smart Trunks), or identifies stripped, altered, modified, added, deleted, changed, and/or incorrectly assigned CPN, the Parties agree to cooperate with one another to investigate and take corrective action.
- 2.3 If one Party is passing CPN but the other Party is not properly receiving information, the Parties will work cooperatively to correct the problem.
- 2.4 For traffic which is delivered by AT&T or CLEC to be terminated on the other Party's network, if the percentage of calls passed with CPN is greater than ninety percent (90%), calls exchanged without CPN information will be billed as either Section 251(b)(5) Traffic or IntraLATA Toll Traffic in direct proportion to the MOUs of calls exchanged with CPN information. If the percentage of calls passed with CPN is less than 90%, all calls passed without CPN will be billed as Intrastate IntraLATA Toll Traffic.

3.0 RECIPROCAL COMPENSATION FOR TERMINATION OF SECTION 251(B)(5) TRAFFIC

3.1 In accordance with Section 1.7 of this Attachment, the compensation set forth below will apply to all Section 251(b)(5) Traffic as defined in Section 1.2 of this Attachment.

3.2 Applicability of Rates:

3.2.1 The rates, terms, conditions in this Section 3.0 apply only to the termination of Section 251(b)(5) Traffic, except as explicitly noted.

3.2.2 The Parties agree to compensate each other for the termination of Section 251(b)(5) Traffic on a minute of use (MOU) basis and a Per Message basis.

3.3 Rate Elements:

3.3.1 Tandem Switching - compensation for the use of tandem switching functions. The applicable rate is set forth in the Pricing Schedule.

3.3.2 Tandem Transport - compensation for the transmission facilities between the local tandem and the end offices subtending that tandem. The applicable rates are set forth in the Pricing Schedule.

3.3.3 End Office Switching - compensation for the local end office switching and line termination functions necessary to complete the transmission. It consists of a call set-up rate element and a duration rate element and the applicable rates are set forth in the Pricing Schedule.

4.0 RECIPROCAL COMPENSATION FOR SECTION 251(B)(5) TRAFFIC TERMINATED BY A PARTY UTILIZING A HIERARCHICAL OR TWO-TIER SWITCH NETWORK

4.1 Transport and termination rates will vary according to whether the traffic is routed through a tandem switch or directly to an end office switch. The transport and termination rates assessed on the originating carrier shall reflect the functions performed by the terminating carrier in transporting and terminating the calls. Where the terminating party utilizes a hierarchical or two-tier switch network (i.e., separate switches performing tandem and end office functions), the compensation rate for Section 251(b)(5) Traffic terminated to the party's tandem switch shall consist of the summation of the rates for tandem switching, tandem transport and end office switching as listed in Section 3.3 above.

4.2 Where the terminating party utilizes a hierarchical or two-tier switch network, the End Office Switching rate, as described in Section 3.3.4. above, applies to direct-routed Section 251(b)(5) Traffic terminating at the carrier's End Office Switch. This includes direct-routed Section 251(b)(5) Traffic that terminates to offices that have combined tandem and end office functions.

5.0 RECIPROCAL COMPENSATION FOR SECTION 251(B)(5) TRAFFIC TERMINATED BY A PARTY THAT DOES NOT UTILIZE A HIERARCHICAL OR TWO-TIER SWITCH NETWORK

5.1 For Section 251(b)(5) Traffic terminated by a LEC that does not have a two-tier or hierarchical switch, but instead employs multiple-function switches, a tandem blended rate applies. This rate is calculated as follows:

- 5.2 End Office Switching + .42 [Tandem Switching Duration + (Tandem Transport Termination + (14 * Tandem Transport Facility)]
- 5.3 For purposes of this tandem blended rate, the end office rate, the tandem switching rate, and the tandem transport rates are the rates defined in Section 3.3.
- 5.4 The percentage is the approximate percentage of traffic terminated on AT&T's network using tandems (42%), which serves as the proxy for AT&T traffic terminated on the CLECs' networks that involves the performance of tandem or tandem-like functions. This tandem blended rate applies until a 3:1 ratio (terminating to originating traffic) threshold is reached. After the 3:1 ratio is reached, only the end office rate applies, unless the terminating carrier demonstrates actual tandem or tandem-like functionality.
- 5.5 The terminating carrier may demonstrate actual tandem or tandem-like functionality in the delivery of this "excess" traffic, in either an arbitration proceeding or other appropriate proceeding designated by the Commission, such as a post-interconnection agreement dispute proceeding, using various network design factors that demonstrate the existence of a network serving an area comparable to the ILEC's geographic area with tandem or tandem-like functions, a network designed to both send and receive customer traffic for the purpose of serving a dispersed customer base. Merely evidencing a capability to serve a comparable geographic area will not rebut the presumption. The network design factors upon which a carrier may make its case include, but are not limited to:
- 5.6 The number and capacity of central office switches;
- 5.7 the number of points of interconnection offered to other local exchange carriers;
- 5.8 the number of collocation cages;
- 5.9 the presence of SONET rings and other types of transport facilities;
- 5.10 the presence of local distribution facilities such as coaxial cable and/or unbundled loops; or
- 5.11 any other indicia reliably demonstrating that the carrier is transporting a significant volume of traffic to a geographically dispersed area.
- 5.12 Upon a demonstration of actual tandem or tandem-like functionality, the terminating carrier will receive, on a going-forward basis, compensation in the range of 0% to 100% of the tandem rate, depending on the extent to which actual tandem or tandem-like functionality is proven to occur. This rate shall prospectively apply to all of traffic terminated on the terminating carrier's network.

6.0 OTHER TELECOMMUNICATIONS TRAFFIC

- 6.1 The Parties recognize and agree that traffic could also be traded outside of the applicable local calling scope, or routed in ways that could make the rates and rate structure in Sections 1.7 and 3.0 above not apply to calls that fit the definitions of:
- Transit Traffic
 - IntraLATA Interexchange Traffic
 - 800, 888, 877, ("8YY") Traffic

- FX Traffic

6.2 The Parties agree that, for the purposes of this Attachment, either Parties' end users remain free to place on a "Non-Local" basis under any of the above classifications. The applicable rates, terms and conditions for: Transit Traffic are set forth in Section 7.0, "8YY" Traffic are set forth in Section 10.0, FX Traffic are set forth in Section 1.3, IntraLATA Interexchange Traffic are set forth in Section 10.0.

7.0 TRANSIT TRAFFIC COMPENSATION

7.1 AT&T will provide CLEC with AT&T's Transit Service to deliver Local and intraLATA toll traffic to all Third Party Carriers with whom AT&T is interconnected. AT&T's Transit Service is a service provided to carriers, that are interconnected with AT&T, for the transmission of Section 251(b)(5) Traffic, ISP-Bound Traffic, (collectively "Local Transit Traffic"), and/or IntraLATA Interexchange Traffic ("IntraLATA Toll Transit Traffic") as defined in Sections 7.2, 7.2.1, 7.2.2 and 7.2.3 below. At no time shall either Party provide transit service to an Interexchange Carrier (IXC) or any other Third Party Carrier for the purposes of avoiding paying appropriate access charges.

7.2 For the purposes of this Agreement, Transit Traffic is defined as traffic between CLEC's end users and a Third Party Carrier's end user (e.g. Competitive Local Exchange Carriers, Incumbent Local Exchange Carriers, or Commercial Mobile Radio Service providers) that is routed utilizing an AT&T tandem switch where an AT&T end user is neither the originating nor the terminating party.

7.2.1 Local Transit Traffic is defined as Transit Traffic between CLEC's local end users and the local end users of a Third Party Carrier originated and terminated within the same mandatory local calling area. The applicable local transit rate(s) are set forth in the Pricing Schedule.

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7.2.3 IntraLATA Toll Transit Traffic is defined as Transit Traffic between CLEC's end users and the end users of a Third Party Carrier originated in one mandatory local calling area and terminated in a different mandatory local calling area but where both mandatory local calling areas are within the same LATA. The transit rates set forth in the Pricing Schedule shall apply for intraLATA Toll Transit Traffic.

7.2.4 CLEC shall establish direct interconnection to third parties as detailed in Attachment ITR.

7.3 When CLEC utilizes AT&T's Transit Service, CLEC shall indemnify AT&T against any and all charges levied by a Third Party Carrier upon AT&T, including any termination charges related to such traffic as well as any attorneys fees and expenses. AT&T shall not be required to function as a billing intermediary, (e.g. clearinghouse) when AT&T's Transit Service is provided.

7.4 When a Third Party Carrier originates Local, or intraLATA toll traffic to be transited by AT&T to CLEC AT&T agrees to pass the originating CPN information to the terminating Party when the Third Party Carrier provides such information and/or the Originating Carrier Information (OCN) identifying the carrier AT&T immediately receives traffic from when such information is available.

7.5 CLEC shall not bill AT&T for terminating any traffic that is originated by a Third Party Carrier whether that traffic or carrier is identified or unidentified, (i.e. whether CPN is sent or is not sent by

the Third Party Carrier or the OCN is or is not available) even though AT&T is acting as the transit service provider.

- 7.6 CLEC agrees to seek terminating compensation for Transit Traffic delivered to CLEC from AT&T directly from the Third Party Carrier that is originating traffic. AT&T, as the Transit Service Provider, is not obligated to pay CLEC for such Transit Traffic or be considered as the default originator.
- 7.7 Each Party will calculate terminating interconnection minutes of use based on standard Automatic Message Accounting ("AMA") recordings made within each Party's network. Except as may otherwise be provided in this Agreement, these recordings will be the basis for each Party to generate bills to the other Party and, in connection with Transit Traffic, if necessary, to third-party LECs. Each Party agrees to forward to the other Party call information, via the SS7 network, that may be used to identify the originating and terminating telephone numbers for each call. CLEC shall not bill AT&T for terminating any traffic that is originated by a Third Party Carrier whether that traffic or carrier is identified or unidentified, (i.e. whether CPN is sent or is not sent by the Third Party Carrier or the OCN information is or is not available) even though AT&T is acting as the transit service provider.
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- 7.9 Each Party agrees that any third party (including without limitation an Affiliate of one Party) may make use of that Party's network to terminate traffic to the other Party. However, nothing in this section precludes the other party from exercising its right to establish direct interconnections with the third party. The other party shall accept the transit traffic if direct interconnection with the third party is unavailable. If the Affiliate has a separate traffic termination agreement with the other Party, the Parties agree that they will work cooperatively to develop an acceptable method for accounting appropriately for that traffic. Unless CLEC requests otherwise, the rating for transit calls when CLEC provides the transit service shall be the same between the Parties as the rating for calls transited by AT&T to or from any similarly situated third party carrier.
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- 9.0 **SEGREGATING AND TRACKING FX TRAFFIC**
- 9.1 In order to ensure that Virtual FX, Dedicated FX, and FX-type Traffic is being properly segregated from other types of intercarrier traffic, the terminating carrier will be responsible for keeping a written record of all FX Telephone Numbers (whether Dedicated, Virtual, and FX-type) for which bill and keep applies and providing an NXX level summary of the minutes of use to FX Telephone Numbers on its network to the originating carrier each month (or in each applicable billing period, if not billed monthly).
- 9.2 Each Party shall maintain reports, records and data relevant to the billing of such FX services addressed herein for a period of not less than twenty-four (24) months after creation thereof, unless a longer period is required by Applicable Law.
- 9.3 Alternatively, CLEC may elect to assign a Percentage of FX Usage (PFX) which shall represent the estimated percentage of minutes of use that is attributable to all Dedicated FX, Virtual FX, and FX-

type Traffic in a given usage month. Once the CLEC elects this method to estimate the percentage of minutes of use that is attributable to FX traffic, Section 9.1 no longer applies, until and unless the Parties mutually agree to segregate and track such traffic at an NXX level summary. If the parties can not reach agreement on the appropriate FX Factor, the Parties shall engage in the dispute resolution process set forth in this agreement. During the dispute resolution process, disputed amounts for FX Traffic will remain unpaid by the Party billed and are not subject to interest during the pendency of such Inter-carrier Compensation dispute.

- 9.3.1 The PFX must be agreed upon in writing prior to the usage month (or other applicable billing period) in which the PFX is to apply and may only be adjusted once each quarter. The parties may agree to use traffic studies, retail sales of Dedicated FX lines, or any other agreed method of estimating the FX traffic to be assigned the PFX.

10.0 COMPENSATION FOR TERMINATION OF INTRALATA INTEREXCHANGE TOLL TRAFFIC

- 10.1 IntraLATA Interexchange traffic, not considered EAS traffic and carried on the jointly-provided ILEC network, is considered as IntraLATA Toll traffic and, is subject to tariff access charges. Billing arrangements are outlined in Section 12.
- 10.2 Compensation for the termination of this traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge, as set forth in each Party's intrastate access service tariff.
- 10.3 For interstate IntraLATA service, compensation for terminating of intercompany traffic will be at terminating access rates for Message Telephone Service (MTS) and originating access rates for 800 Service, including the Carrier Common Line (CCL) charge, as set forth in each Party's interstate access service tariff.

11.0 COMPENSATION FOR ORIGINATION AND TERMINATION OF SWITCHED ACCESS SERVICE TRAFFIC TO OR FROM AN INTEREXCHANGE CARRIER (IXC) (MEET-POINT BILLING (MPB) ARRANGEMENTS)

- 11.1 For interLATA traffic and intraLATA traffic, compensation for termination of intercompany traffic will be at access rates as set forth in each Party's own applicable interstate or intrastate access tariffs.
- 11.2 The Parties will establish MPB arrangements in order to provide Switched Access Services to Interexchange Carriers via a Party's access tandem switch, in accordance with the MPB guidelines adopted by and contained in the Ordering and Billing Forum's MECOD and MECAB documents.
- 11.3 The Parties will maintain provisions in their respective federal and state access tariffs, or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor tariff, sufficient to reflect this MPB arrangement, including MPB percentages.
- 11.4 As detailed in the MECAB document, the Parties will exchange all information necessary to accurately, reliably and promptly bill third parties for Switched Access Services jointly handled by the parties via the MPB arrangement. The Parties will exchange the information in Exchange Message Interface (EMI) format or via a mutually acceptable electronic file transfer protocol. Where the EMI records cannot be transferred due to a transmission failure, records can be provided via a mutually acceptable medium. The exchange of Access Usage Records ("AURs") to accommodate meet point billing will be on a reciprocal, no charge basis. Each Party agrees to

provide the other Party with AURs based upon mutually agreed upon intervals. Each Party will act as the Official Recording Company for switched Access usage when it is jointly provided between the Parties. As described in the MECAB document, the Official Recording Company for tandem routed traffic is: (1) the end office company for originating traffic, (2) the tandem company for terminating traffic and (3) the SSP company for originating 800 traffic.

- 11.5 Initially, billing to interexchange carriers for the Switched Access Services jointly provided by the parties via the MPB arrangement will be according to the multiple bill single tariff method. As described in the MECAB document each Party will render a bill in accordance with its tariff for its portion of the service. Each Party will bill its own network access service rates to the IXC. The residual interconnection charge (RIC), if any, will be billed by the Party providing the End Office function.
- 11.6 MPB will also apply to all jointly provided Switched Access MOUs bearing the 900, or toll free NPAs (e.g., 800, 877, 866, and 888 NPAs or any other non-geographical NPAs). The Party that performs the SSP function (launches the query to the 800 database) will bill the 800 Service Provider for this function.

12.0 BILLING ARRANGEMENTS FOR TERMINATION OF SECTION 251(B)(5), ISP- BOUND TRAFFIC AND INTRALATA TOLL TRAFFIC

- 12.1 In AT&T Illinois, each Party, unless otherwise agreed, will calculate terminating interconnection minutes of use based on standard switch recordings made within the terminating carrier's network for Section 251(b)(5) Traffic, ISP-Bound Traffic and IntraLATA Toll Traffic. These terminating recordings are the basis for each Party to generate bills to the other Party.
- 12.2 ISP-Bound Traffic will be calculated using the 3:1 Presumption as outlined in Section 1.7.5 above.
- 12.3 The measurement of minutes of use over Local Interconnection Trunk Groups shall be in actual conversation seconds. The total conversation seconds over each individual Local Interconnection Trunk Group will be totaled for the entire monthly bill and then rounded to the next whole minute.
- 12.4 In the event of a loss of data, both Parties shall cooperate to reconstruct the lost data within sixty (60) days of notification and if such reconstruction is not possible, shall accept a reasonable estimate of the lost data, based upon no more than three (3) to twelve (12) consecutive months of prior usage data.

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16.0 Parties have been unable to agree as to whether and under what circumstances IP-Enabled Traffic should be compensated as Exchange Access Traffic. Notwithstanding the foregoing, and without waiving any rights with respect to either Party's position as to the jurisdictional nature of various forms of IP-Enabled Traffic, the IP Enabled Service that is the subject of the FCC's Order in WC Docket 02-361, Petition for Declaratory Ruling that AT&T's Phone to Phone IP Telephony Services are Exempt from Access Charges, 119 FCC Rcd. 7457 (Rel. April 21, 2004) shall be subject to compensation as Exchange Access.

ATTACHMENT 13: ANCILLARY FUNCTIONS

1.0 Introduction

1.1 This Attachment 13: Ancillary Functions, and its Appendices set forth the Ancillary Functions that AT&T agrees to offer to CLEC under this Agreement, and the requirements associated therewith. AT&T will offer these Ancillary Functions to CLEC on rates, terms and conditions that are just, reasonable, and non-discriminatory and in accordance with the terms and conditions of this Agreement.

2.0 Collocation

2.1 Certain provisions applicable to the Parties' rights and obligations pertaining to physical collocation are set forth in Appendix Collocation, attached hereto.

3.0 Rights of Way (ROW), Conduits and Pole Attachments

3.1 The provisions concerning CLEC's access to and use of space on or within a pole, duct, conduit, or right-of-way owned or controlled by AT&T are set forth in Appendix Poles, Conduits, and Rights-Of-Way, attached hereto.

APPENDIX COLLOCATION

- 1.0 AT&T will provide caged, shared caged, common caged, cageless, and other physical collocation arrangements within its Eligible Structures, and where space is Legitimately Exhausted inside an Eligible Structure, AT&T will provide adjacent space for on-site collocation, and interconnection facilities to access unbundled network elements through adjacent off-site collocation, for physical collocation as set forth in Part 23 Section 4 of the Illinois Tariff #22 entitled "Physical Collocation."
- 2.0 In addition, in AT&T's Central Offices, and, at AT&T's other eligible structures (CEV's, huts, and cabinets) where physical collocation space is available, AT&T will provide Virtual collocation wherein AT&T maintains and repairs the collocation equipment consistent with the terms of the above referenced tariff, or Virtual collocation wherein the CLEC maintains and repairs the virtually collocated equipment consistent with the terms of the Illinois Tariff #22.
- 3.0 CLEC shall be permitted, at its option, to place its own BDFB in its physical collocation space; however, AT&T may reject such installation if the structural integrity of the collocated space is jeopardized.
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- 5.0 **Access to Information**
 - 5.1 AT&T shall make available to CLEC at no charge an enhancement to the APOT verification tool in TOOLBAR to permit CLEC to enter a range of APOTS. Until such time as the enhancement is available, AT&T shall allow CLEC to view the online TIRKS Reports at any time without charge.
- 6.0 **Collocation Price Quotes**
 - 6.1 Each AT&T price quote, except for ICB quotes, for a collocation arrangement must include for every individual price component, the applicable USOC, non-recurring charge(s) and monthly recurring charge(s).

APPENDIX POLES, CONDUITS, AND RIGHTS-OF-WAY

MASTER AGREEMENT FOR ACCESS TO POLES, DUCTS, CONDUITS, AND RIGHTS-OF-WAY

This Appendix is made by and between Illinois Bell Telephone Company d/b/a AT&T Illinois ("AT&T ILLINOIS") and _____ (CLEC LEGALNAME) ("CLEC"). As provided in this Appendix, AT&T will provide CLEC nondiscriminatory access, in accordance with the Pole Attachment Act, the Telecommunications Act of 1996, and applicable rules, regulations, and commission orders, to poles, ducts, conduits, and rights-of-way owned or controlled by AT&T and located in this state.

ARTICLE 1: PARTIES

- 1.01 Illinois Bell Telephone Company, L.P. d/b/a AT&T Illinois. Illinois Bell Telephone Company d/b/a AT&T ("AT&T"). AT&T's principal office is located at One AT&T Plaza, 208 S. Akard, Dallas, Texas 75202.
- 1.02 CLEC Legal Name. CLEC Legal Name ("CLEC") is a corporation chartered in the State of _____. CLEC maintains an office at (spell out street names and state) example: 123 South Main Street Boulevard (address), Dallas (city), Texas (state), 75202 (zip). CLEC is more fully described in EXHIBIT II ("Identification of CLEC").

ARTICLE 2: PURPOSE OF APPENDIX

The Communications Act of 1934, as amended by the Telecommunications Act of 1996, states that each local exchange carrier has the duty to afford access to the poles, ducts, conduits, and rights-of-way of such carrier on rates, terms, and conditions that are consistent with the Pole Attachment Act, 47 U.S.C. § 224, as amended by the Telecommunications Act of 1996. The primary purpose of this Appendix is to set forth the basic rates, terms, conditions, and procedures under which CLEC shall have access to AT&T's poles, ducts, conduits, and rights-of-way. AT&T shall provide CLEC with nondiscriminatory access to poles, ducts, conduits, or rights-of-way owned solely or in part by it, or controlled by it, as the term "nondiscriminatory access" is defined in the Telecommunications Act of 1996. This Appendix is intended by the parties to implement, rather than abridge, their respective rights and remedies under federal and state law.

- 2.01 Access Ancillary to Arrangements for Interconnection, Collocation, and Access to Unbundled Network Elements. Nothing contained in this Appendix shall be construed as precluding CLEC from having such additional access to AT&T's poles, ducts, conduits, and rights-of-way as may be necessary to effectuate the terms of other arrangements between CLEC and AT&T relating to interconnection, collocation, and access to unbundled network elements. To the extent that this Appendix does not provide the access required, additional terms of access may be included in any tariff or agreement between the parties establishing arrangements for interconnection, collocation, or access to unbundled network elements.

ARTICLE 3: DEFINITIONS

- 3.01 Definitions In General. As used in this Appendix, the terms defined in this article shall have the meanings set forth below in Sections 3.02 to 3.47 except as the context otherwise requires.
- 3.02 Anchor. The term "anchor" refers to a device, structure, or assembly which stabilizes a pole and holds it in place. An anchor assembly may consist of a rod and fixed object or plate, typically embedded in the ground, which is attached to a guy strand or guy wire which, in turn, is attached to the pole. The term "anchor" does not include the guy stand which connects the anchor to the pole.
- 3.03 Appendix. When capitalized, the term "Appendix" refers to this Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way. The term "Appendix" includes all appendices, attachments, and addenda to this Appendix.

- 3.04 Assigned. When used with respect to pole, duct, conduit, or right-of-way space, the term "assigned" refers to space that is occupied by, or has been designated for occupancy by, either party or by another telecommunications carrier, cable television system, provider of telecommunications services, governmental entity, or other person or entity having occupancy rights. Except as otherwise specifically provided in this Appendix, no person or entity shall have the right to occupy space assigned to another person or entity (other than on a temporary basis in the event of emergency) until the assignment has been released or lapsed. Assignment is further described in Article 8 of this Appendix.
- 3.05 Authorized contractor. "Authorized contractors" are contractors selected by CLEC who may, subject to CLEC's direction and control, perform facilities modification or make-ready work which would ordinarily be performed by AT&T or persons acting on AT&T's behalf. As used in this Appendix, the term "authorized contractor" does not refer to contractors performing routine installation, maintenance, or repair work on CLEC's behalf or other contractors who may be selected by CLEC to perform work on CLEC's behalf without AT&T's approval. More specifically, the term "authorized contractor" refers only to those contractors included on a list of contractors mutually approved by CLEC and AT&T to perform one or more of the following tasks within a specified AT&T construction district: (a) installation of those sections of CLEC's ducts or facilities which connect to AT&T's conduit system as provided in Section 6.08(c); (b) installation of inner duct as provided in Section 10.02(b); (c) excavation work in connection with the removal of retired or inactive (dead) cables as provided in Section 10.02(c); or (d) make-ready work as provided in Sections 10.04 and 10.05. A person or entity approved as an authorized contractor is only an authorized contractor with respect to those tasks for which such person or entity has been approved by both parties and is an authorized contractor only in those AT&T construction districts agreed to by both parties. Designation of an authorized contractor for a specific category of tasks shall not be deemed to be the designation of such person or entity as an authorized contractor for other purposes, nor shall approval of an authorized contractor by one AT&T construction district constitute approval of such authorized contractor for the area served by a different AT&T construction district; provided, however, that if a specific construction job extends beyond the boundaries of a single construction district, an authorized contractor shall, for the purposes of that job, be deemed to have been approved by all AT&T construction districts in which the work is to be performed.
- 3.06 Available. When used with respect to pole, duct, conduit, and right-of-way space, the term "available" refers to space that is not occupied or assigned. In conduit systems owned or controlled by AT&T, maintenance ducts shall not be considered "available" for assignment. All other unassigned ducts, inner ducts, sub-ducts, and partitioned conduits in a conduit system owned or controlled by AT&T shall be deemed available for assignment.
- 3.07 Cables. The term "cable" includes but is not limited to twisted-pair copper, coaxial, and fiber optic cables. Cables are transmissions media which may be attached to or placed in poles, ducts, conduits, and rights-of-way but are not themselves poles, ducts, conduits, or rights-of-way. Nothing contained in this Appendix shall be construed as a grant of access to cables attached to AT&T's poles or placed in AT&T's ducts, conduits, or rights-of-way.
- 3.08 Conduit. The term "conduit" refers to all AT&T conduits subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, conduits are tubes or structures, usually underground or on bridges, containing one or more ducts used to enclose cables, wires, and associated transmission equipment. Except as the context otherwise requires, the term "conduit" refers only to conduit owned or controlled by AT&T, including the re-enterable manholes and handholes used to connect ducts and provide access to the cables, wires, and facilities within the ducts. As used in this Appendix, the term "conduit" refers only to conduit structures (including ducts, manholes, and handholes) and space within those structures and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other AT&T structures (such as huts and cabinets) which branch off from AT&T's conduit.
- 3.09 Conduit occupancy. The term "conduit occupancy" refers to the presence of wire, cable, optical conductors, or other within any part of AT&T's conduit system.

- 3.10 Conduit system. The term "conduit system" refers to any combination of ducts, conduits, manholes, and handholes joined to form an integrated whole. As used in this Appendix, the term "conduit system" refers only to conduit systems owned, or controlled by AT&T and does not include (a) cables and other telecommunications equipment located within conduit structures or (b) central office vaults, controlled environment vaults, or other AT&T structures (such as huts and cabinets) which branch off from AT&T's conduit.
- 3.11 Construction District. The term "construction district" refers to the AT&T organization responsible for outside plant construction in a specified geographic area. The term "construction district" connotes responsibility for handling a function and not to the official name of the organization responsible for outside plant construction matters.
- 3.12 Cost/Cost-based. The terms "cost" and "costs" refer to costs determined in a manner consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders. The term "cost-based" refers to rates, fees, and other charges which are based on costs and determined in a manner consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders.
- 3.13 Duct. The term "duct" refers to all AT&T ducts subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). In general, a duct is a single enclosed tube, pipe, or channel for enclosing and carrying cables, wires, and other facilities. As used in this Appendix, the term "duct" includes "inner ducts" created by subdividing a duct into smaller channels. Except as the context otherwise requires, the term "duct" refers only to ducts owned or controlled by AT&T and space within those ducts and does not include cables and other telecommunications equipment located within such ducts.
- 3.14 Exhibit. The capitalized term "EXHIBIT" refers to one of the following exhibits to this Appendix.
- EXHIBIT I: Pole and Conduit Attachment Rates
 - EXHIBIT II: Identification of CLEC
 - EXHIBIT III: Administrative Forms and Notices
 - EXHIBIT IV: Insurance Requirements
 - EXHIBIT V: Nondisclosure Agreement
 - EXHIBIT VI: Notices to CLEC
 - EXHIBIT VII: Notices to AT&T
 - EXHIBIT VIII: Identification of Utility Liaison Supervisor (ULS)
 - SW-9433: Pole Attachments
 - SW-9434: Access Application and Make-Ready Authorization Work
 - SW-9435: Conduit Occupancy
 - SW-9436A: Notification of Surrender or Modification of Pole Attachment License by Licensee
 - SW-9436B: Notification of Surrender or Modification of Conduit Occupancy License by CLEC
 - SW-9436C: Notification of Unauthorized Attachments by CLEC
- 3.15 Facilities. The terms "facility" and "facilities" refer to any property, equipment, or items owned or controlled by any person or entity.
- 3.16 FCC. The acronym "FCC" refers to the Federal Communications Commission.
- 3.17 First Interconnection Order. The term "First Interconnection Order" refers to the First Report and Order adopted by the FCC on September 1, 1996, and released on September 8, 1996, in CC Docket No. 96-98, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and CC Docket No. 95-185, In the Matter of Interconnection between Local Exchange Carriers and

Commercial Mobile Radio Service Providers. Access to poles, ducts, conduits, and rights-of-way is addressed in the First Interconnection Order in Paragraphs 1119-1240.

- 3.18 Handhole. The term "handhole" refers to a structure similar in function to a manhole, but which is too small for personnel to enter. As used in this Appendix, the term "handhole" refers only to handholes which are part of AT&T's conduit system and does not refer to handholes which provide access to buried cables not housed within AT&T ducts or conduits. As used in this Appendix, the term "handhole" refers only to handhole structures owned or controlled by AT&T and does not include cables and other telecommunications equipment located within handhole structures.
- 3.19 Interconnection agreement. The term "interconnection agreement" refers to the interconnection agreement, if any, to which this Appendix has been made an appendix, attachment, or exhibit, or, as the context may require, any other interconnection agreement between the parties.
- 3.20 Jacket. The term "jacket" refers to a single enclosed outer covering containing communications wires, fibers, or other communications media. As used in this Appendix, the term "jacket" refers to the outermost sheath or jacket of a cable.
- 3.21 Joint user. The term "joint user" refers to any person or entity which has entered or may enter into an agreement or arrangement with AT&T permitting it to attach its facilities to AT&T's poles or anchors or place its facilities in AT&T's conduit system.
- 3.22 License. The term "license" refers to a written instrument confirming that AT&T has afforded CLEC or another joint user access to specific space on or within a pole, duct, conduit, or right-of-way owned or controlled by AT&T in accordance with applicable federal and state laws and regulations. The term "license" includes licenses issued by AT&T pursuant to this Appendix and may, if the context requires, refer to licenses issued by AT&T prior to the date of this Appendix.
- 3.23 Local service provider ("LSP"). The terms "local service provider" and "LSP" refer to telecommunications carriers authorized by applicable federal and state laws and regulations to provide local exchange service. As used in this Appendix, these terms include AT&T.
- 3.24 Maintenance duct. The term "maintenance duct" generally refers to a full-sized duct (typically three inches in diameter or larger) which may be used by AT&T and joint users (including CLEC) on a short-term basis for maintenance, repair, or emergency restoration activities. Maintenance ducts will be available, on a nondiscriminatory basis, to all persons and entities (including AT&T, CLEC, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located for (a) short-term emergency repairs as provided in Article 15 of this Appendix and (b) short-term non-emergency maintenance or repair activities as provided in Articles 12 and 13 of this Appendix. No more than one full-sized duct within any given conduit system cross-section shall be designated by AT&T as the maintenance duct. In those locations where, on the effective date of this Appendix, there is not a full-sized duct available to be used as a maintenance duct, AT&T will designate an inner duct, if one is available, as the maintenance duct although such inner duct may be too small to accommodate some of the cables occupying the conduit section in which such inner duct is located. The term "maintenance duct" does not include ducts and conduits extending from a AT&T manhole to customer premises. Maintenance ducts shall not be considered "available" (as defined in Section 3.06) for assignment to AT&T, CLEC, or joint users for purposes other than short-term use as contemplated in this section; provided, however, that AT&T may assign the duct currently designated as a maintenance duct if another suitable full-sized duct will be made available to serve as a replacement maintenance duct and may assign an inner duct currently designated as a maintenance duct if another inner duct will be made available to serve as a replacement maintenance duct. Maintenance duct designations may change from time to time and may or may not be reflected in AT&T's outside plant records. When only one usable full-sized duct remains in a conduit section, that duct shall be deemed to be the maintenance duct.
- 3.25 Make-ready work. The term "make-ready work" refers to all work performed or to be performed to prepare AT&T's poles, ducts, conduits, and rights-of-way and related facilities for the requested occupancy or attachment of CLEC's facilities. Make-ready work does not include the actual installation of CLEC's

facilities. "Make-ready work" includes, but is not limited to, clearing obstructions (e.g., by "rodding" ducts to ensure clear passage), the rearrangement, transfer, replacement, and removal of existing facilities on a pole or in a conduit system where such work is required to accommodate CLEC's facilities (as contrasted from work performed on AT&T's behalf in furtherance of AT&T's own business needs, or convenience). "Make-ready work" may require "dig-ups" of existing facilities and may include the repair, enlargement or modification of AT&T's facilities (including, but not limited to, conduits, ducts, handholes and manholes), or the performance of other work required to make a pole, anchor, duct, conduit, manhole, handhole or right-of-way usable for the initial placement of CLEC's facilities. All splicing and associated wire work related to any make ready request will be completed by the owner of the facilities involved. The cost for performing this work will be paid for by the party requiring the make ready.

- 3.26 Manhole. The term "manhole" refers to an enclosure, usually below ground level and entered through a hole on the surface covered with a cast iron, cast aluminum, steel, or concrete manhole cover, which personnel may enter and use for the purpose of installing, operating, and maintaining facilities in a conduit. The term "handhole" refers to a structure similar in function to a manhole, but which is usually too small for personnel to enter. As used in this Appendix, the term "manhole" refers only to manhole structures owned or controlled by AT&T and does not include cables and other telecommunications equipment located within manhole structures.
- 3.27 Occupancy. The term "occupancy" refers to the physical presence of facilities on a pole, in a conduit or duct, or within a right-of-way.
- 3.28 Overlashing. The term "overlashing" refers to the practice of placing an additional cable or inner duct by lashing spinning wire over both existing cables and existing strands supporting those cables or inner ducts.
- 3.29 Person acting on CLEC's behalf. The terms "person acting on CLEC's behalf," "personnel performing work on CLEC's behalf," and similar terms include both natural persons and firms and ventures of every type, including, but not limited to, corporations, partnerships, limited liability companies, sole proprietorships, and joint ventures. The terms "person acting on CLEC's behalf," "personnel performing work on CLEC's behalf," and similar terms specifically include, but are not limited to, CLEC, its officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, and other persons or entities performing services at the request of or as directed by CLEC and its respective officers, directors, employees, agents, and representatives. An authorized contractor selected by CLEC to perform make-ready work shall be deemed to be a person acting on CLEC's behalf while performing such work at CLEC's request.
- 3.30 Person acting on AT&T's behalf. The terms "person acting on AT&T's behalf," "personnel performing work on AT&T's behalf," and similar terms include both natural persons and firms and ventures of every type, including but not limited to corporations, partnerships, limited liability companies, sole proprietorships, and joint ventures. The terms "person acting on AT&T's behalf," "personnel performing work on AT&T's behalf," and similar terms specifically include, but are not limited to, AT&T, its officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, and other persons or entities performing services at the request or on behalf of AT&T and its respective officers, directors, employees, agents, and representatives. An authorized contractor selected by AT&T to perform make-ready work shall be deemed to be a person acting on AT&T's behalf while performing such work at AT&T's request.
- 3.31 Pole. The term "pole" refers to all AT&T poles subject to the Pole Attachment Act and the provisions of the Telecommunications Act of 1996 codified as 47 U.S.C. §§ 251(b)(4) and 271(c)(2)(B)(iii). Except as the context otherwise requires, the term "pole" refers only to utility poles and anchors which are either owned or controlled by AT&T and does not include cables and other telecommunications equipment attached to pole structures.
- 3.32 Pole Attachment. As defined in the Pole Attachment Act, 47 U.S.C. § 224(a)(4), the term "pole attachment" refers to "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility." In this Appendix, except as the context otherwise requires, the term "pole attachment" refers to any attachment by a cable television system or provider of telecommunications service to a pole (and associated anchors) owned or controlled by AT&T. The term "pole attachment" includes all such facilities attached to or supported by a AT&T pole, including

but not limited to cables, risers and U-guards, equipment boxes, drop wires, anchors, bolts, clamps, drive rings, guys, hooks, strands, and other hardware affixed to the pole. Groupings of associated pole attachments for billing purposes shall be consistent with the Pole Attachment Act and applicable rules, regulations, and commission orders. Except as otherwise authorized by applicable FCC rules, regulations, or orders, CLEC's pole attachments occupying the same usable space (or otherwise associated with facilities occupying the same usable space on a pole) shall be treated as a single attachment for billing purposes.

- 3.33 Pole Attachment Act. The term "Pole Attachment Act" refers to those provisions of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, now codified as 47 U.S.C. § 224, as those provisions may be amended from time to time.
- 3.34 Pre-license survey. The term "pre-license survey" refers to work and activities performed or to be performed by AT&T or by persons acting on AT&T's behalf for the primary purpose of:
- (a) confirming or determining the existing availability and capacity of a pole duct, conduit, or right-of-way and identifying capacity, safety, reliability, or engineering concerns, if any, relating to CLEC's application;
 - (b) confirming or determining the extent, if any, to which modifications to AT&T's poles, ducts, conduits, or rights-of-way are required to accommodate CLEC's facilities;
 - (c) confirming or determining what make-ready work, if any, will be required to prepare AT&T's poles, ducts, conduits, or rights-of-way to accommodate CLEC's facilities; and
 - (d) estimating the costs, if any, that CLEC will be required to pay for any such make-ready work or facilities modifications.
- 3.35 Pre-occupancy survey. The term "pre-occupancy survey" refers to work and activities performed or to be performed by CLEC or persons acting on behalf of CLEC for the primary purpose of enabling CLEC to determine:
- (a) whether AT&T's poles, ducts, conduits, or rights-of-way, in their existing condition, are suitable for CLEC's intended use;
 - (b) the extent, if any, to which modifications of AT&T's poles, ducts, conduits, or rights-of-way will be proposed by CLEC to expand the capacity of AT&T's poles, ducts, conduits, or rights-of-way to accommodate CLEC's facilities; and
 - (c) what make-ready work, if any, is required to prepare the poles, conduits, or conduit system to accommodate CLEC's facilities.
- 3.36 Primary point of contact. The term "primary point of contact" refers to the persons designated by CLEC and AT&T, respectively, to coordinate arrangements for CLEC's access to AT&T's poles, ducts, conduits, and rights-of-way and records relating to such poles, ducts, conduits, and rights-of-way. AT&T's designated primary point of contact shall be the Utility Liaison Supervisor unless the parties have arranged for that function to be performed by a designated account representative who will serve as an intermediary between CLEC and the Utility Liaison Supervisor.
- 3.37 Rights-of-way. As used in this Appendix, the term "rights-of-way" refers generally to legal rights to pass over or use the land of another for limited purposes as defined in a statute, ordinance, easement, grant or other conveyance. Rights-of-way include, but are not limited to public rights-of-way authorizing AT&T to locate facilities on, under, or over public lands and roadways servitudes created by private easements or obtained through the exercise of eminent domain authority enabling AT&T to pass over, place facilities on, and have rights of ingress and egress to the land of another. Rights-of-way also include easements which, at the time of land development or subdivision, were dedicated for use by public or private utilities and are being occupied, in whole or in part, by AT&T's facilities.
- 3.38 Sheath. The term "sheath" refers to an enclosed covering containing communications wires, fibers, or other communications media. A cable may include both inner and outer sheaths.

- 3.39 Spinning. The term "spinning" refers to a method of attaching a cable or inner-duct to a supporting strand. "Spinning" is sometimes referred to as "lashing."
- 3.40 State. When capitalized, the term "State" (as used in terms such as "this State") refers to the State of Illinois.
- 3.41 State Commission. The term "State Commission" refers to the Illinois Commerce Commission.
- 3.42 Strand. The term "strand" refers to support wires, typically stranded together, or other devices attached to a pole and connecting that pole to an anchor or to another pole for the purpose of increasing pole stability or supporting wires, cables, and associated facilities. The term "strand" includes, but is not limited to, strands sometimes referred to as "anchor strands," "anchor/guy strands," "down guys," "guy strands," "pole-to-pole guys," and "messengers."
- 3.43 Telecommunications Act of 1996. The term "Telecommunications Act of 1996" refers to the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, enacted February 8, 1996.
- 3.44 Third party. The terms "third party" and "third parties" refer to persons and entities other than the parties to this Appendix (that is, persons and entities other than CLEC and AT&T).
- 3.45 Utility Liaison Supervisor ("ULS"). The terms "Utility Liaison Supervisor" and "ULS" refer to the person or persons designated by AT&T to be responsible for handling and processing requests for access to AT&T's poles, ducts, conduits, and rights-of-way in this State. The term "ULS" connotes responsibility for handling a function and is not a job title. Except as otherwise specifically provided in this Appendix or in the parties' interconnection agreement, if any, the ULS shall serve as CLEC's single point of contact for arranging access to AT&T's poles, ducts, conduits, and rights-of-way and access to AT&T's records relating to AT&T's poles, ducts, conduits, and rights-of-way. The Utility Liaison Supervisor for this State is identified in EXHIBIT VIII.
- 3.46 Vault. The term "vault" includes central office vaults and controlled environment vaults ("CEVs"). Vaults may be connected to, but are not considered part of, AT&T's conduit system. Access, if any, to vaults (and to ducts, conduits, and risers which serve no purpose other than to provide a means of entry to and exit from such vaults) shall be governed by the tariffs, agreements, or commission orders, if any, establishing arrangements for interconnection, collocation, and access to unbundled network elements, and not by this Appendix.
- 3.47 "Vicinity of" When used in terms such as "vicinity of AT&T's conduit system," "vicinity of AT&T's poles," "vicinity of AT&T's rights-of-way," or "vicinity of AT&T's poles, ducts, conduits, or rights-of-way," the term "vicinity of" includes sites on, within, near to, surrounding, or adjoining AT&T's poles, ducts, conduits, and rights-of-way. These sites include, but are not limited to, all sites within a distance of 10 feet of any AT&T pole, duct, conduit, or right-of-way.

ARTICLE 4: NATURE AND SCOPE OF AGREEMENT

- 4.01 Scope of Agreement. This Appendix establishes procedures for grants of non-discriminatory access to AT&T poles, ducts, conduits, and rights-of-way located within this State, without regard to whether the site is located on public or private property.
- 4.02 No Transfer of Property Rights. Nothing contained in this Appendix or any license issued hereunder shall create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other. The payment of fees and charges as provided by this Appendix and licenses issued hereunder shall not create or vest (or be construed as creating or vesting) in either party any right, title, or interest in or to any real or personal property owned by the other. No use, however extended, of AT&T's poles, ducts, conduits, or rights-of-way shall create or vest (or be construed as creating or vesting) in CLEC any right, title, or interest in or to any real or personal property owned by AT&T, and the placement of CLEC's facilities on or in AT&T's poles, ducts, conduits and rights-of-way shall not create or vest in AT&T any right, title, or interest in such facilities.

- 4.03 No Effect on AT&T's Right to Abandon, Convey or Transfer Poles, Ducts, Conduits, or Rights-of-Way. Except as provided in subsections (a)-(b) of this section, nothing contained in this Appendix or any license subject to this Appendix shall in any way affect AT&T's right to abandon, convey, or transfer to any other person or entity AT&T's interest in any of AT&T's poles, ducts, conduits, or rights-of-way.
- (a) AT&T shall give CLEC no less than 60 days written notice prior to abandoning, conveying, or transferring any pole, duct, conduit, or right-of-way (1) to or in which CLEC has attached or placed facilities pursuant to this Appendix or (2) with respect to which CLEC has been assigned pole attachment or conduit occupancy space. The notice shall identify the transferee, if any, to whom any such pole, duct, conduit, or right-of-way is to be conveyed or transferred.
- (b) Transfers or conveyances of poles, ducts, conduits, or rights-of-way to any entity controlling, controlled by, or under common control with AT&T or to any entity which acquires or succeeds to ownership of substantially all of AT&T's assets shall be subject to CLEC's rights under this Appendix and licenses subject to this Appendix.
- 4.04 No Effect on AT&T's Rights to Manage its Facilities. Except to the extent expressly provided by the provisions of this Appendix and subject to the provisions of the Telecommunications Act of 1996 and other applicable laws, rules, and regulations, nothing contained in this Appendix shall be construed as limiting or interfering with AT&T's rights to:
- (a) locate, relocate, move, replace, modify, maintain, and operate its own facilities (including but not limited to AT&T's poles, ducts, conduits and rights-of-way, and any of AT&T's facilities attached thereto or located therein) at any time and in any manner which AT&T deems appropriate to serve its own customers, avail itself of new business opportunities, or otherwise meet its own business needs; or
- (b) enter into new agreements or arrangements with other persons or entities permitting them to attach or place their facilities on or in AT&T's poles, ducts, conduits, or rights-of-way,
- provided, however, that such relocations, moves, replacements, modifications, maintenance, and operations or new agreements or arrangements shall not interfere with CLEC's pole attachment, right-of-way, or conduit occupancy use rights provided pursuant to this Appendix.
- 4.05 No Effect on CLEC's Rights to Manage its Own Facilities. This Appendix shall not be construed as limiting or interfering with CLEC's right to conduct its normal business operations in serving its customers or to avail itself of new business opportunities except to the extent expressly provided by the provisions of this Appendix or by the Telecommunications Act of 1996 or other applicable laws, rules or regulations.
- 4.06 No Right to Interfere with Facilities of Others. Except to the extent expressly provided by the provisions of this Appendix or by the Telecommunications Act of 1996 or other applicable laws, rules, or regulations, the provisions of this Appendix shall not be construed as authorizing either party to this Appendix, or persons acting on their behalf, to rearrange or interfere in any way with the facilities of the other party or joint users or with the use of or access to such facilities by the other party or joint users.

ARTICLE 5: ACCESS TO RIGHTS-OF-WAY

- 5.01 Public Rights-of-Way. AT&T and CLEC agree that neither party has the right to restrict or interfere with the other party's access to public rights-of-way. AT&T and CLEC shall each be responsible for obtaining their own rights-of-way and permission to use real or personal property owned or controlled by any governmental body, subject to the procedures set forth in Section 5.03 below.
- 5.02 Private Rights-of-Way Not Owned or Controlled by AT&T. AT&T and CLEC agree that neither party has the right to restrict or interfere with the other party's access to private rights-of-way not owned or controlled by AT&T. Each party shall make its own, independent legal assessment of its right to enter upon or use the land or property of third-party property owners and shall bear all expenses, including legal expenses, involved in making such determinations, subject to the procedures set forth in Section 5.03 below.
- 5.03 Access to Associated Rights-of-Way. Each pole attachment and conduit occupancy license made under this Appendix shall include access to and use of all associated rights-of-way, including, but not limited to,

rights-of-way required by CLEC for ingress, egress, or other access to any sites where AT&T's solely or partly owned or controlled poles, manholes, conduit, ducts, or other parts of AT&T's solely or partly owned or controlled conduit system are located, but only to the extent, if any, that AT&T has the legal authority to grant such access and use. AT&T also agrees to provide nondiscriminatory access to rights-of-way containing Controlled Environment Vaults (CEVs), huts, cabinets, and other similar structures to the extent that collocation to such facilities is agreed or required by order of any court or governmental agency having jurisdiction over the subject matter. AT&T agrees that it shall place no restrictions on CLEC's ability to construct, maintain, and monitor its facilities at these sites that are more restrictive than those AT&T places on itself.

- (a) Although AT&T shall afford access to rights-of-way owned or controlled by it and permit CLEC to utilize AT&T's rights-of-way to the extent that AT&T has legal authority to do so, CLEC acknowledges that AT&T may not own or control certain rights-of-way to the extent necessary to permit CLEC full access to such rights-of-way. The following general principles shall be applied with respect to access to rights-of-way on third-party real estate:
 - (1) CLEC shall first attempt to obtain right-of-way directly from the property owner.
 - (2) If AT&T has legal authority to permit access by CLEC to a right-of-way on third-party property, AT&T will not restrict CLEC's use of the right-of-way.
 - (3) If CLEC has the right of eminent domain under state law, CLEC shall independently attempt to obtain the right-of-way it seeks through the exercise of that right.
- (b) AT&T and CLEC agree that dark fiber and unused four-wire copper cable are not considered "poles, conduits, and rights-of-way".

5.04 Access to Rights-of-Way Incident to the Use of CEVs and Similar Structures. AT&T will provide CLEC nondiscriminatory access, consistent with the requirements of the Pole Attachment Act and Telecommunications Act of 1996, and as provided in Sections 5.03 above, to rights-of-way containing Controlled Environment Vaults (CEVs), huts, cabinets, and other similar structures. AT&T will place no restrictions on access to such rights-of-way that are more restrictive than those AT&T places on itself; provided, however, that neither party shall conduct activities on such rights-of-way which interfere with the facilities of the other party, with the privacy of communications carried over the other party's network, or with the other party's access to and use of its own facilities. This section relates only to access to rights-of-way and shall not be construed as granting access to the CEVs, huts, cabinets, and similar structures located on such rights-of-way. Access, if any, to CEVs, huts, cabinets, and similar structures, and to ducts, conduits, and risers which serve no purpose other than to provide a means of entering or exiting such structures, shall be governed by the tariff, agreement, or order, if any, granting CLEC access to such structures.

ARTICLE 6: SPECIFICATIONS

- 6.01 Compliance with Requirements, Specifications, and Standards. CLEC agrees that CLEC's facilities attached to AT&T's poles or occupying space in its ducts, conduits, and rights-of-way shall be attached, placed, constructed, maintained, repaired, and removed in full compliance with the requirements, specifications, and standards specified in this Appendix.
- 6.02 Design to Minimize the Need for Access to AT&T's Poles, Ducts, and Conduits. The parties shall each design their facilities to minimize the need for the parties to access AT&T's poles, ducts, and conduits.
- 6.03 Infrequent Construction Techniques and Connectivity Solutions. Unless precluded by documented engineering criteria or written guidelines AT&T applied to itself as of January 1, 1996, consistent with considerations of safety, reliability, and or engineering practices, AT&T agrees to permit CLEC at its own expense to utilize the following techniques to avoid high or unusual expenditures: (a) placement of pole attachments on both the "field" side and "road" side of a pole; (b) placement of extension arms or stand-off brackets on poles; and (c) building conduit branches into AT&T's conduit systems. CLEC acknowledges that use of the above techniques will be rare, and will be permitted only on a case-by-case basis.

- 6.04 Published Standards. AT&T and CLEC agree that the following standards equally apply to either party with respect to facilities attached to or placed in AT&T's poles, ducts, conduits, and rights-of-way and further agree that facilities shall be placed, constructed, maintained, repaired, and removed in accordance with, current (as of the date when such work is performed) editions of the following publications:
- (a) the Blue Book Manual of Construction Procedures, Special Report SR-TAP-001421, published by Bell Communications Research, Inc. ("Bellcore"), and sometimes referred to as the "Blue Book";
 - (b) the National Electrical Safety Code ("NESC"), published by the Institute of Electrical and Electronic Engineers, Inc. ("IEEE"); and
 - (c) the National Electrical Code ("NEC"), published by the National Fire Protection Association ("NFPA").
- 6.05 Additional Electrical Design Specifications: Conduit. The parties agree that, in addition to the specifications and requirements referred to in Sections 6.01 through 6.04 above, facilities placed in AT&T's conduit system after the effective date of this Appendix shall meet all of the electrical design specifications set forth in this Section.
- (a) No facilities shall be placed in AT&T's conduit system in violation of FCC regulations, including regulations relating to electrical interference. In addition, neither party shall place any facility in AT&T's conduit system which causes or may cause electrical interference with the facilities of the other party or joint users sufficient to jeopardize network integrity or degrade the quality of any communications services offered by either party or a joint user. If either party is notified by the other party or a joint user that its facilities are causing, or have the potential to cause, unacceptable levels of electrical interference, the party notified shall either correct the problem, remove the facility, or initiate good faith negotiations with the complaining party or joint user to resolve the issue.
 - (b) Facilities placed in AT&T's conduit system shall not be designed to use the earth as the sole conductor for any part of the circuits.
 - (c) Facilities placed in AT&T's conduit system and carrying more than 50 volts AC (rms) to ground or 135 volts DC to ground shall be enclosed in an effectively grounded sheath or shield.
 - (d) No coaxial cable shall be placed in AT&T's conduit system unless such cable meets the voltage limitations of Article 820 of the National Electrical Code.
 - (e) Coaxial cable placed in AT&T's conduit system may carry continuous DC voltages up to 1800 volts to ground where the conductor current will not exceed one-half ampere and where such cable has two separate grounded metal sheaths or shields and a suitable insulating jacket over the outer sheath or shield. The power supply shall be so designed and maintained that the total current carried over the outer sheath shall not exceed 200 microamperes under normal conditions. Conditions which would increase the current over this level shall be cleared promptly.
 - (f) CLEC shall not circumvent the corrosion mitigation measures of AT&T or joint users.
- 6.06 Additional Physical Design Specifications: Conduit. Facilities placed in AT&T's conduit system following the effective date of this Appendix shall meet all of the following physical design specifications:
- (a) Except as otherwise specifically agreed in this Appendix or licenses issued hereunder CLEC's facilities shall enter AT&T's conduit system at locations consistent with the physical design specifications that AT&T applies to itself (typically through a manhole) or at such other designated locations agreed upon in writing (e.g., through the licensing process) by the parties in accordance with Section 6.03 (infrequent construction techniques and connectivity solutions).
 - (b) Cables bound or wrapped with cloth or having any kind of fibrous coverings or impregnated with an adhesive material shall not be placed in AT&T's conduit or ducts.
 - (c) The integrity of AT&T's conduit system and overall safety of personnel require that "dielectric cable" be used within AT&T's conduit system when a cable facility utilizes a duct or route shared in the same trench by any electric transmissions facility such as the facilities of a power utility.

- (d) New construction splices in cables (including but not limited to fiber optic and twisted pair cables) shall be located in manholes, pull boxes or handholes.
- 6.07 Efficient Use of Conduit. To ensure efficient use of conduits, AT&T will, when cable diameters permit, install inner ducts in multiples that fully utilize duct space (typically three or four inner ducts in a full four-inch duct) as needed for AT&T's own business purposes and to accommodate CLEC and other joint users; provided, however, that AT&T shall not be required to install inner duct in anticipation of potential future requests for access by CLEC and other joint users.
- 6.08 Specifications Applicable to Connections: Conduit. Except as otherwise specifically agreed in this Appendix or licenses issued hereunder, or as mutually agreed upon by the parties in writing, the following specifications apply to connections of CLEC's conduit to AT&T's conduit system:
- (a) CLEC shall not bore, make, or enlarge any hole in, or otherwise structurally modify or alter any manhole, handhole, duct, conduit, or other facility which is part of AT&T's conduit system except as provided in this Appendix or licenses issued hereunder, or as mutually agreed upon by the parties in writing.
 - (b) Nothing contained in subsection (a) shall be construed as precluding CLEC or qualified personnel acting on CLEC's behalf from reattaching cable racks or performing similar routine work which is minor in nature and associated with the placing and splicing of cable.
 - (c) Where CLEC's duct or facility physically connects with AT&T's manhole the section of CLEC's facility which connects to AT&T's manhole shall be installed by AT&T or its contractor at CLEC's expense (which shall be AT&T's actual costs or the price charged AT&T by the contractor). AT&T will perform this work in an interval consistent with the intervals AT&T performs work for itself. If AT&T's interval for beginning or completing this work does not meet CLEC's needs, CLEC as an authorized contractor may perform the work itself or use subcontractor(s) selected by CLEC from a list of mutually agreeable qualified "bidders" developed by AT&T and CLEC.
 - (d) AT&T will have the option to monitor the entrance and exit of CLEC's facilities into AT&T's conduit system and the physical placement of CLEC's facilities in AT&T's conduit system. Notice requirements for, and expenses associated with, this monitoring are addressed in Section 6.11 of this Appendix.
 - (e) If CLEC constructs or utilizes a duct connected to AT&T's conduit system, the duct and all connections between that duct and AT&T's conduit system shall be sealed to prevent the entry of gases or liquids into AT&T's conduit system. If CLEC's duct enters a building, it shall also be sealed where it enters the building and at all other locations necessary to prevent the entry of gases and liquids from the building into AT&T's conduit system.
- 6.09 General Requirements Relating to Personnel, Equipment, Materials, and Public Safety. The parties contemplate that CLEC, its contractors, and other persons acting on its behalf will perform work for CLEC on, within, and in the vicinity of AT&T's poles, ducts, conduits, and rights-of-way. The provisions of this Section are intended to protect the integrity of the networks, facilities and operations of AT&T, CLEC and joint users, to protect the health and safety of persons working on, within, or in the vicinity of AT&T's poles, ducts, conduits, and rights-of-way, and to protect the public at large.
- (a) Neither party nor any person acting on such party's behalf shall permit any person to climb on or work on AT&T's poles or in the vicinity of AT&T's poles, or enter AT&T's manholes or work within or in the vicinity of AT&T's conduit system, unless such person has the training, skill, and experience required to recognize potentially dangerous conditions relating to the pole or conduit system and to perform the work safely.
 - (b) Neither party nor any person acting on such party's behalf shall permit any person acting on its behalf to perform any work on, within, or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way without first verifying, to the extent practicable, on each date when such work is to be performed, that conditions at the work site (including but not limited to the physical condition of the pole or any part of AT&T's conduit system) are sufficiently safe for the work to be performed. If CLEC or any person acting on CLEC's behalf determines that the condition of the pole, duct, conduit, conduit system, or

- rights-of-way is not safe enough for the work to be performed, CLEC shall notify AT&T of the condition of the pole or conduit system in question and shall not proceed with the work until CLEC is satisfied that the work can be safely performed.
- (c) Neither party nor any person acting on such party's behalf shall knowingly permit defective equipment or materials to be used on, within, or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way.
 - (d) When CLEC or personnel performing work on its behalf are working on, within, or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way located within, under, over, adjacent to, or in the vicinity of streets, highways, alleys or other traveled rights-of-way, CLEC and all personnel performing work on CLEC's behalf shall follow procedures which CLEC deems appropriate for the protection of persons and property. CLEC and its contractors shall be responsible, at all times, for determining and implementing the specific steps required to protect persons and property at the site. CLEC or its designated contractor will provide all traffic control and warning devices required to protect pedestrian and vehicular traffic, workers, and property from danger. CLEC and its contractors shall have sole responsibility for the safety of all personnel performing work on CLEC's behalf, for the safety of bystanders, and for insuring that all operations conform to current OSHA regulations and all other governmental rules, ordinances or statutes.
 - (e) Neither party nor any persons acting on such party's behalf shall engage in any conduct which damages public or private property in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way or creates a hazard or nuisance on such property (including but not limited to a hazard or nuisance resulting from any abandonment of or failure to remove its facilities or any construction debris from the property, failure to erect warning signs or barricades as may be necessary to give notice to others of unsafe conditions on the premises while work performed on its behalf is in progress, or failure to restore the property to a safe condition after such work has been completed).
 - (f) CLEC shall promptly suspend activities on, within, or in the vicinity of AT&T's poles, ducts, or conduits, if notified by AT&T that such activities create an unreasonable risk of injury to persons or property (including unreasonable risks of service interruptions). CLEC shall not resume such activities on or in the vicinity of CLEC's poles until CLEC is satisfied that the work may safely proceed and that any hazardous conditions at the site have been rectified and shall not resume such activities within or in the vicinity of AT&T's conduit system until both CLEC and AT&T are satisfied that the work may safely proceed and that any hazardous conditions at the site have been rectified. In the event that AT&T requires CLEC to suspend work activities and it is later determined that there was no reasonable basis for the work suspension, AT&T agrees to compensate CLEC for the cost resulting from the delay.
 - (g) All personnel acting on CLEC's behalf shall, while working on or in AT&T's poles, ducts, conduits, or rights-of-way, carry with them suitable identification and shall, upon the request of any AT&T employee or representative, produce such identification.
 - (h) CLEC (and any person acting on CLEC's behalf) may report unsafe conditions on, within, or in the vicinity of AT&T's poles or conduit system to AT&T.

6.10 Specific Requirements Relating to Personnel, Equipment, Materials, and Construction Practices Within or in the Vicinity of AT&T's Conduit Systems. When AT&T or CLEC, their contractors, and other persons acting on their behalf perform work on, within, or in the vicinity of AT&T's ducts, conduits, and rights-of-way where such ducts or conduits are located, they will be guided by the following:

- (a) Except as may be mutually agreed upon by the parties in writing, CLEC shall not "rod" or clear any duct or inner duct in AT&T's conduit system other than a duct or inner duct assigned to CLEC. Following the assignment of a specific duct or inner duct to CLEC, CLEC may request that AT&T rod or clear the duct or inner duct. If the duct or inner duct cannot be cleared, AT&T shall assign to CLEC the next available duct or inner duct. CLEC's request for assignment of the next available duct shall be in writing, may be transmitted to AT&T via fax or other transmission media mutually agreed upon by the parties, and shall be processed within the same intervals applicable to the processing of similar requests by AT&T's own personnel.

- (b) Personnel performing work within AT&T's conduit system on either party's behalf shall not climb on, step on, or otherwise disturb the cables, air pipes, equipment, or other facilities located in any manhole or other part of AT&T's conduit system.
- (c) Personnel performing work within or in the vicinity of AT&T's conduit system (including any manhole) on either party's behalf shall, upon completing their work, make reasonable efforts to remove all tools, unused materials, wire clippings, cable sheathing and other materials brought by them to the work site.
- (d) All of CLEC's facilities shall be firmly secured and supported in accordance with Bellcore and industry standards and any applicable construction standards adopted by AT&T and applicable to AT&T's own facilities.
- (e) CLEC's facilities shall be plainly identified with CLEC's name in each manhole with a firmly affixed permanent tag that meets the identification standards set by AT&T for its own facilities.
- (f) Manhole pumping and purging required in order to allow work operations to proceed shall be performed in accordance with the requirements of Sections 6.14 and 6.15.
- (g) Planks or other types of platforms shall be supported only by cable racks.
- (h) Any leak detection liquid or device used by CLEC or personnel performing work on CLEC's behalf within or in the vicinity of AT&T's conduit system shall be of a type approved by AT&T and included on AT&T's then-current list of approved types of leak-detection liquids and devices; provided, however, that CLEC may use any type of leak detection liquid or device which meets Bellcore's published standards if AT&T has not provided CLEC AT&T's list of approved types of leak detection liquids or devices at least 60 days in advance of CLEC's work.
- (i) CLEC and its contractors shall be responsible for providing proper ventilation while work is being performed in AT&T's conduit system on CLEC's behalf. Except for protective screens, no temporary cover shall be placed over an open manhole unless it is at least four feet above the surface level of the manhole opening.
- (j) Smoking or the use of any open flame is prohibited in manholes, in any other portion of the conduit system, or within 10 feet of any open manhole entrance.
- (k) Artificial lighting, when required by CLEC, will be provided by CLEC. Only explosion-proof lighting fixtures shall be used.
- (l) Neither AT&T nor CLEC nor personnel performing work on its behalf shall allow any combustible gas, vapor, liquid, or material to accumulate in AT&T's conduit system (including any manhole) during work operations performed within or in the vicinity of AT&T's conduit system.
- (m) All parties shall abide by any laws, regulations, and ordinances regarding the use of spark producing tools, equipment, or devices (including but not limited to such tools as electric drills and hammers, meggers, breakdown sets, induction sets, and the like) in manholes or in any other portions of the conduit system.
- (n) Cable lubricants used in conduit systems shall be of a type or types approved by AT&T and included on AT&T's then-current list of approved types of cable lubricants; provided, however, that CLEC may use any type of cable lubricant which meets Bellcore's published standards if AT&T has not provided CLEC AT&T's list of approved types of cable lubricants at least 60 days in advance of CLEC's work.

6.11 Opening of Manholes and Access to Conduit. The following requirements apply to the opening of AT&T's manholes and access to AT&T's conduit system.

- (a) CLEC will notify AT&T not less than 5 business days in advance before entering AT&T's conduit system to perform non-emergency work operations. Such operations shall be conducted during normal business hours except as otherwise agreed by the parties. The notice shall state the general nature of the work to be performed.
- (b) The parties contemplate that CLEC may need to perform operations in AT&T's conduit system other than during normal business hours and may occasionally require access to manholes on shorter notice

than contemplated in subsection (a) above. Under these circumstances, CLEC shall notify AT&T as soon as is reasonably possible of its intent to enter and perform work in the conduit system and AT&T shall not, without due cause and justification, insist on literal compliance with the scheduling requirements of subsection (a) in such circumstances. AT&T will establish procedures enabling AT&T to receive notices from CLEC under this subsection 24 hours a day, seven days a week.

- (c) Each party must obtain any necessary authorization from appropriate authorities to open manholes for such party's own conduit work and operations therein.
- (d) Where CLEC personnel, certified based on industry standards, perform installation, maintenance and similar routine work at AT&T sites, AT&T may, at its option, send one or more employees to review such work. CLEC and AT&T shall share the cost of a single AT&T employee reviewing the work during emergency and non-emergency situations. AT&T will not be compensated by CLEC for any additional employees reviewing the work. The AT&T employees assigned for review and inspection of CLEC personnel work must be available during all normal business hours for such assignments to minimize inconvenience to CLEC. If the work at AT&T sites is performed by a contractor agreed upon by CLEC and AT&T, AT&T shall be responsible for the costs of its employees sent to inspect the contractor's work. However, if the CLEC personnel perform work at the site of an interconnection point where the participation of AT&T personnel is integral for the successful completion of the work, CLEC is responsible for paying the costs of AT&T personnel reasonably needed for such work.

6.12 OSHA Compliance. Each party agrees:

- (a) its facilities attached to AT&T's poles or placed in AT&T's ducts, conduits, and rights-of-way shall be constructed, placed, maintained, repaired, and removed in accordance with the Occupational Safety and Health Act (OSHA) and all rules and regulations promulgated thereunder and
- (b) all persons shall, when working on, within, or in the vicinity of AT&T's poles or conduit system, comply with OSHA and all rules and regulations thereunder.

6.13 Environmental Contaminants in AT&T's Conduit System. CLEC acknowledges that, from time to time, environmental contaminants may enter AT&T's conduit system and accumulate in manholes or other conduit facilities.

- (a) CLEC may, at its expense, perform such inspections and tests at the site of any pole, duct, conduit, or right-of-way occupied by or assigned to CLEC as CLEC may deem necessary to determine the presence at such sites of environmental contaminants. AT&T will assist CLEC, at CLEC's request and expense, in the performance of such inspections and tests.
- (b) AT&T makes no representations to CLEC or personnel performing work on CLEC's behalf that AT&T's poles, ducts, conduits, or rights-of-way will be free from environmental contaminants at any particular time. Before entering a manhole or performing any work within or in the vicinity of AT&T's conduit system or any other site subject to access under this Appendix, CLEC or personnel acting on CLEC's behalf shall independently determine, to their satisfaction, whether such contaminants are present and conduct their work operations accordingly.
- (c) Each party shall promptly notify the other of environmental contaminants known by such party to be present on, within or in the vicinity of poles, ducts, conduits, or rights-of-way occupied by or assigned to CLEC if, in the sole judgment of such party, such environmental contaminants create a serious danger to (1) the health or safety of personnel working within or in the vicinity of the conduit or (2) the physical condition of the other party's facilities placed or to be placed within the conduit.
- (d) Nothing contained in this Appendix (including but not limited to the acknowledgments and representations set forth in this Section) shall relieve either party from its responsibility to comply with all applicable environmental laws or its responsibility for any liability arising out of such party's failure to comply with such laws.

6.14 Compliance with Environmental Laws and Regulations. CLEC and AT&T agree to comply with the following provisions relating to compliance with environmental laws and regulations.

- (a) All persons acting on CLEC's or AT&T's behalf, including but not limited to CLEC's or AT&T's employees, agents, contractors, and subcontractors, shall, when working on, within or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way, comply with all applicable federal, state, and local environmental laws, including but not limited to all environmental statutes, ordinances, rules, and regulations.
- 6.15 Compliance with Other Governmental Requirements (Including Aeronautical Navigation Safeguards). CLEC and AT&T agree that their facilities attached to AT&T's poles or placed in AT&T's ducts, conduits, and rights-of-way shall be constructed, placed, maintained, repaired, and removed in accordance with the ordinances, rules, and regulations of any governing body having jurisdiction of the subject matter (including but not limited to any valid ordinances, rules, and regulations requiring permits, certificates, licenses or the like). CLEC and AT&T shall comply with all statutes, ordinances, rules, regulations, and other laws requiring the marking and lighting of aerial wires, cables, and other structures to ensure that such wires, cables, and structures are not a hazard to aeronautical navigation.
- 6.16 Responsibility for Condition of Facilities. Each party will be responsible at all times for the condition of its facilities (including but not limited to those extending from AT&T's poles, ducts, conduits, or rights-of-way directly to any other location) and for its compliance with the requirements and specifications of this article and all applicable laws, rules, regulations, and ordinances.

ARTICLE 7: PRIMARY POINTS OF CONTACT, ACCESS TO RECORDS, AND PRE-OCCUPANCY INSPECTIONS

- 7.01 Designation of Primary Points of Contact. Each party will, at the request of the other party, designate a primary point of contact to facilitate communications between the parties and the timely processing of CLEC's applications for access to AT&T's poles, ducts, conduits, and rights-of-way located within this State. Designations of primary points of contact will be made by written notices including the name, title, address, phone number, and fax number of the person designated as the primary point of contact; provided, however, that unless and until a different designation is made, AT&T's primary point of contact shall be the Utility Liaison Supervisor identified in EXHIBIT VIII. Designation of primary points of contact pursuant to this Section shall not affect notice requirements or other legal requirements set forth in other provisions of this Appendix or the parties' interconnection agreement.
- 7.02 Determinations by CLEC of Suitability and Availability. CLEC shall make its own, independent assessment of the suitability of AT&T's poles, ducts, conduits, and rights-of-way for CLEC's intended purposes.
- 7.03 Access to Records Relating to AT&T's Poles, Ducts, Conduits, and Rights-of-Way. This Section establishes procedures through which certain records and information relating to AT&T's poles, ducts, conduits, and rights-of-way will be made available to CLEC. Access to such records and information shall be conditioned on CLEC's execution of a nondisclosure agreement equivalent in substance to the Nondisclosure Agreement (AT&T Pole, Duct, Conduit, and Rights-of-Way) attached to this Appendix as Exhibit V or such other nondisclosure agreement as shall be mutually acceptable to the parties, and no person acting on CLEC's behalf shall be granted access to such records and information without first signing such a nondisclosure agreement. CLEC shall reimburse AT&T for all reasonable costs incurred by AT&T in granting CLEC's requests for access to records and information under this Section.
- (a) CLEC shall, after the effective date of this Appendix, have reasonable access to AT&T's pole and conduit maps and records. CLEC shall be permitted to examine these records during regular business hours at a location where copies of such records are maintained or at such other location as may be mutually agreed upon by the parties. Access to such maps and records shall be by appointment only, and AT&T shall make such maps and records available for inspection by CLEC on two business days notice; provided, however, that CLEC shall, as a courtesy, whenever feasible, provide AT&T with additional advance notice (e.g., 10 business days) of its intent to examine such records.
- (b) The access described in subsection (a) shall include the right to make copies, at CLEC's expense. In all instances, such access shall include the ability to take notes and make drawings with references to those maps and records. No references to cable counts or circuit information may be included in any

such copies, notes, or drawings. With respect to customer-specific information, CLEC copies, notes, or drawings may include only such information as needed for bona fide engineering and construction purposes. CLEC's copies, notes, and drawings may include estimates regarding the physical characteristics (such as size and weight) of cables when necessary to make engineering determinations regarding the capacity, safety, reliability, or suitability of AT&T's poles, ducts, conduits, and rights-of-way for CLEC's intended uses.

AT&T shall provide CLEC the best information available from AT&T's current pole and conduit maps and records. AT&T represents that such records reflect approximate geographical locations of the facilities depicted and may not accurately reflect information such as:

- (1) the exact location of the facilities depicted;
- (2) the physical size, characteristics, or condition of the facilities depicted;
- (3) the ducts or inner ducts presently occupied, assigned, or available within any particular conduit segment or manhole;
- (4) the arrangement of facilities attached to a pole, the position of facilities suspended between poles or their relationship to each other and to the ground, or the positioning of cables and other facilities housed within ducts, conduits, manholes or other portions of AT&T's conduit system; and
- (5) other information which must be assessed before it can be determined that space is available on or in a pole, duct, or conduit for the attachment or occupancy of CLEC's facilities or that the pole, duct, or conduit depicted is suitable for CLEC's intended use.

7.04 Pre-Occupancy Inspection of Poles, Ducts, Conduits, and Rights-of-Way. CLEC shall be permitted to view and inspect specified poles, ducts, conduits, and rights-of-way on a pre-occupancy basis as provided in this Section.

- (a) After the effective date of this Agreement, AT&T shall permit CLEC to view specified poles, ducts, conduits, and rights-of-way on a pre-occupancy basis. Nothing contained in this Section shall preclude CLEC from visually inspecting AT&T's poles, ducts, conduits, or rights-of-way from any vantage point lawfully accessible to CLEC without AT&T's permission.
- (b) CLEC shall not enter any AT&T manhole for the purpose of performing a pre-occupancy inspection without complying with all applicable requirements set forth in Article 6 of this Appendix, including but not limited to the provisions of Section 6.11 relating to the opening of manholes.

ARTICLE 8: POLE, DUCT, AND CONDUIT SPACE ASSIGNMENTS

8.01 Selection of Space. AT&T will select or approve CLEC's selection of the space CLEC will occupy on poles or in conduit systems based upon the same criteria AT&T applies to itself as referenced in Article 6. In conduit systems owned or controlled by AT&T, maintenance ducts (as defined in Section 3.24) shall not be considered available for CLEC's use except as specifically provided elsewhere in this Appendix. All other ducts, inner ducts, sub-ducts, and partitioned conduits which are not assigned or occupied shall be deemed available for use by AT&T, CLEC, and third parties entitled to access under the Pole Attachment Act.

8.02 Pole, Duct, and Conduit Space Assignments. Pole, duct, and conduit space will be assigned to CLEC as provided in this Section. Information received by AT&T in connection with this Section shall be subject to the provisions of Article 23 of this Appendix (Confidentiality of Information).

- (a) On receipt of CLEC's application for a pole attachment or conduit occupancy license, the associated pole, duct, and conduit space shall be assigned to CLEC for a pre-occupancy period not to exceed 12 months, beginning with the date of such assignment. The assignment (and date and time) of assignment shall be logged and recorded in the appropriate AT&T records.
- (b) CLEC's obligation to pay semi-annual pole attachment or conduit occupancy fees shall commence from the date the assignment or provisional assignment is logged and recorded in the appropriate AT&T records.

- (c) During the 12-month assignment period following the date space is assigned to CLEC and entered into the appropriate AT&T record, AT&T shall not occupy or use such space without CLEC's permission, shall not assign such space to any party other than CLEC, and shall not knowingly permit any party other than CLEC to occupy or use such space without CLEC's permission except as otherwise specifically provided in this Appendix. The assignment to CLEC shall automatically lapse 12 months after the date the assignment has been entered into the appropriate AT&T record if CLEC has not occupied such assigned space within such 12-month period; provided, however, that if CLEC's failure to occupy the space within such 12-month period results from AT&T's failure to perform make-ready work on schedule, the parties shall negotiate a single extension of the assignment period, which extension shall not extend the assignment period beyond three months from the date of completion of AT&T's make-ready work; and, provided further, that if CLEC can demonstrate that its failure to occupy the space within such 12-month period results from the actions of AT&T or third parties other than persons acting on CLEC's behalf, or from acts of God, the assignment may be extended for a period no longer than three months from the date CLEC is first able to commence construction activities at the site involved. Assignments to third parties shall be subject to the same rules applicable to CLEC under this subsection. Extensions permitted under this subsection must be requested in writing before expiration of the original 12-month period and shall be recorded on the appropriate AT&T records available for inspection under Section 7.03.
- (d) AT&T may assign space to itself by making appropriate entries in the same records used to log assignments to CLEC and third parties. If AT&T assigns pole, duct, or conduit space to itself, such assignment shall automatically lapse 12 months after the date the assignment has been entered into the appropriate AT&T record if AT&T has not occupied such assigned space within such 12-month period; provided, however, that if AT&T's failure to occupy the space within such 12-month period results from the actions of CLEC or third parties other than persons acting on AT&T's behalf, or from acts of God, AT&T's assignment may be extended for a period no longer than three months from the date AT&T is able to commence construction at the site involved. Extensions permitted under this subsection must be recorded before expiration of the original 12-month period on the appropriate AT&T records available for inspection under Section 7.03.
- (e) If facilities modifications, capacity expansions, or other make-ready work are required due to the assignment of space to CLEC or AT&T under this Section, the party to whom such space has been assigned shall reimburse the person or entity incurring the costs for such facilities modifications, capacity expansions, or make-ready work, if the party to whom such space has been assigned fails to occupy the assigned space within the 12-month assignment period or any extension thereof.
- (f) Except as provided in subsections (c)-(d) above, assignments shall not be extended, renewed, or sequentially repeated in any manner (other than by actual occupancy) that enables CLEC, AT&T, or any joint user to preclude access by others to unused pole attachment or conduit occupancy space for any period greater than 12 months after the date of initial assignment.

8.03 Intentionally Left Blank.

ARTICLE 9: APPLICATIONS AND PRE-LICENSE SURVEYS

- 9.01 Licenses Required. CLEC shall apply in writing for and receive a license before attaching facilities to specified AT&T poles or placing facilities within specified AT&T ducts or conduits manholes, or handholes. License applications and information received by AT&T in connection with such applications shall be subject to the provisions of Article 23 of this Appendix (Confidentiality of Information).
- 9.02 Application Form. To apply for a pole attachment or conduit occupancy license under this Appendix, CLEC shall submit to AT&T two signed copies of the appropriate application forms. AT&T represents that the forms specified in subsections (a) and (b) are forms in use prior to the effective date of this Appendix and that AT&T plans to revise such forms to conform to the provisions of this Appendix and to streamline the application process. The parties therefore agree that the forms specified in subsections (a) and (b) shall be interim forms only. AT&T reserves the right to change the format and content of these forms upon 60 days written notice to CLEC.

- (a) To apply for a pole attachment license, CLEC shall submit to AT&T two signed copies of AT&T's Form SW-9434 ("Access Application and Make-Ready Authorization") together with completed Form SW-9433. An application for a pole attachment license shall not be complete or subject to processing by AT&T until these forms have been submitted to AT&T; provided, however, that such forms shall be deemed to be substantially complete if they contain the information specified in subsections (c)-(g) below, as applicable. Copies of Forms SW-9433 and SW-9434, are attached to this Appendix as parts of Exhibit III.
- (b) To apply for a conduit occupancy license, CLEC shall submit to AT&T two signed copies of AT&T's Form SW-9434 ("Access Application and Make-Ready Authorization") together with completed Form SW-9435 ("Conduit Occupancy"). An application for a conduit occupancy license shall not be complete or subject to processing by AT&T until these forms have been submitted to AT&T; provided, however, that such forms shall be deemed to be substantially complete if they contain the information specified in subsections (c)-(g) below, as applicable. Copies of Forms SW-9434 and SW-9435, are attached to this Appendix as parts of Exhibit III.
- (c) Each application for a license under this Appendix shall include the following information, at a minimum:
 - (1) the poles, ducts, and conduits (including all manholes) along CLEC's proposed route to or within which CLEC desires to attach or place its facilities, as well as associated maps and manhole detailed butterfly drawings;
 - (2) a description of the facilities to be attached to AT&T's poles and a description of the facilities to be placed within each component of AT&T's conduit system (including but not limited to ducts, conduits, manholes, and handholes) along the proposed route; and
 - (3) for poles, the proposed points of attachment.
 - (4) if applicable, a conspicuous notation that the space requested is not to be assigned (or billed) to CLEC until AT&T has received CLEC's written instruction to make such assignment or issued a license authorizing CLEC to occupy the space requested; and
 - (5) if applicable, a conspicuous statement (e.g., the words "immediate occupancy" in capital letters) or indication that CLEC intends to occupy the space before the issuance of a license, as provided in Section 8.03 of this Appendix.
- (d) Facilities descriptions which apply to multiple pole attachments or conduit occupancies need only be described once on any form. Facilities descriptions shall include, at a minimum, the following information:
 - (1) the number and types of cables, including the physical size (diameter) and weight (weight per foot);
 - (2) the number and types of strands, if any, which will be used to support the cables, including the rated holding capacity expressed in thousand pound increments (e.g., 2.2M) of such strands; and,
 - (3) sufficient information to identify and describe the physical characteristics (size, dimensions, and weight) of permitted apparatus enclosures and other facilities to be attached to AT&T's poles or placed in AT&T's conduit system.
- (e) When it appears to CLEC that facilities modification, capacity expansion, or make-ready work, may be required to accommodate CLEC's access requests, CLEC shall describe the facilities modification, capacity expansion or make-ready work which CLEC proposes. CLEC shall also describe its intent to use any infrequent construction techniques or connectivity solutions under Section 6.03 to avoid high or unusual expenditures and its reasons for the utilization of such techniques or solutions.
- (f) CLEC acknowledges that the poles along a particular pole line or route may include poles owned by firms (such as electric utilities) other than AT&T, that it may be necessary for AT&T to rearrange its facilities or perform other make-ready work on poles other than poles it owns or controls in order to accommodate CLEC's request for access to AT&T's poles and that, at the time an application is submitted, CLEC shall identify all poles utilized by AT&T (without regard to ownership) along the

proposed route. If CLEC does not identify all poles, CLEC may contract with AT&T to do so, at CLEC's expense.

- (g) Each application for a license under this Appendix shall be accompanied by a construction schedule showing CLEC's projected dates for beginning and completing construction at the sites specified in the application. Information on this schedule may be used by AT&T's engineering and outside plant construction personnel in scheduling work required to process CLEC's applications and scheduling such capacity expansions, make-ready work, and facilities modifications, if any, as may be necessary to accommodate CLEC's facilities.

9.03 Cooperation in the Application Process. The orderly processing of applications submitted by CLEC and other parties seeking access to AT&T's poles, ducts, conduits, and rights-of-way requires good faith cooperation and coordination between AT&T's personnel and personnel acting on behalf of CLEC and other firms seeking access. The parties therefore agree to the following transitional procedures which shall remain in effect during the term of this Appendix unless earlier modified by mutual agreement of the parties.

- (a) Before submitting a formal written application for access to AT&T's poles, ducts, conduits, and rights-of-way, CLEC shall make a good faith determination that it actually plans to attach facilities to or place facilities within the poles, ducts, conduits, or rights-of-way specified in the application. Applications shall not be submitted for the purpose of holding or reserving space which CLEC does not plan to use or for the purpose of precluding AT&T or any other provider of telecommunications services from using such poles, ducts, conduits, or rights-of-way.
- (b) CLEC shall only submit applications for access to poles, ducts, conduits, and rights-of-way which it plans to use within one year following the date access is granted and will use its best efforts to submit applications in an orderly manner in accordance with CLEC's needs. If CLEC contemplates the need to submit more than 10 applications within any 45-day period with respect to poles, ducts, conduits, and rights-of-way within the territory of any single AT&T construction district, CLEC shall give AT&T 30 days notice with a priority list as noted in 9.04.
- (c) No more than 300 poles (and their associated anchors and anchor/guy strands) shall be the subject of any single pole attachment license application.
- (d) No more than 20 manholes shall be the subject of any single conduit occupancy license application.

9.04 CLEC's Priorities. When CLEC has multiple applications on file within a single AT&T construction district, CLEC shall, at AT&T's request, designate its desired priority of completion of pre-license surveys, capacity expansions, make-ready work, and facilities modifications with respect to all such applications.

9.05 Pre-license Survey. A pre-license survey (including a review of records and field inspection, if necessary) will be completed by AT&T after CLEC has submitted its written license application as specified in Section 9.02 of this Appendix. AT&T will not, without due cause and justification, repeat pre-occupancy survey work performed by CLEC.

- (a) The field inspection portion of the pre-license survey, which includes the visual inspection of existing pole and conduit facilities, shall be performed by AT&T or its authorized representative. Primary purposes of the field inspection will be to enable AT&T to (1) confirm or determine the facilities modification, capacity expansion, and make-ready work, if any, necessary to accommodate CLEC's facilities; (2) plan and engineer the facilities modification, capacity expansion, and make-ready work, if any, required to prepare AT&T's poles, ducts, conduits, rights-of-way, and associated facilities for CLEC's proposed attachments or occupancy; and (3) estimate the costs associated with such facilities modification, capacity expansion, or make-ready work.
- (b) The administrative processing portion of the pre-license survey (which includes processing the application and reviewing records) will be performed by AT&T.
- (c) Before performing any portion of the pre-license survey, AT&T shall obtain CLEC's written authorization to perform such work. Authorization may be given, when possible, when the application is submitted.

**ARTICLE 10: ISSUANCE AND DENIAL OF LICENSES
(INCLUDING FACILITIES MODIFICATIONS, CAPACITY EXPANSIONS, AND MAKE-READY WORK)**

- 10.01 Response Within 45 Days. Within 45 days of CLEC's submission of a license application pursuant to Section 9.02 of this Appendix, or within such other period of time as may be mutually agreed upon in writing by the parties, AT&T shall respond to the application. The response shall state whether the application is being granted or denied. If denial is anticipated, or if AT&T personnel involved in the processing of CLEC's request for access become aware of hazardous substances at the site requested by CLEC, AT&T shall promptly advise CLEC and shall, at CLEC's request, discuss alternatives to denial and issues associated with the presence of such hazardous substances.
- (a) If access is granted, AT&T shall, no later than 45 days after CLEC's submission of the license application, further advise CLEC in writing (1) what facilities modifications, capacity expansions, or make-ready work, if any, will be required to prepare AT&T's pole or conduit facilities (2) provide CLEC an estimate of charges for such facilities modifications, capacity expansions, or make-ready work, (3) disclose to CLEC any hazardous substances known by AT&T to be present at the site.
 - (b) If access is denied, AT&T will confirm the denial in writing by the 45th day after the receipt by AT&T of CLEC's completed application. The denial of access shall be specific, shall include all relevant evidence and information supporting the denial, and shall explain how such evidence and information relates to a denial of access for reasons of lack of capacity, safety, reliability, or generally applicable engineering purposes. If CLEC in its completed application sets forth in writing specific proposals for expanding capacity, the denial statement shall specifically address such proposals.
 - (c) CLEC agrees that if, at any time prior to the 45th day, it has determined that it no longer seeks access to specific poles, ducts, or conduit facilities, CLEC shall promptly withdraw or amend its application, thereby minimizing the administrative burdens on AT&T of processing and responding to the application.
 - (d) Notwithstanding the 45-day deadline, AT&T will, pursuant to Section 8.03 of this Appendix, make available to CLEC for immediate occupancy any duct, conduit, or pole space not currently assigned, not designated as the maintenance duct, and not subject to applicable make-ready requirements. Availability shall be based on the appropriate AT&T records to be maintained by AT&T but which will be made available for viewing by CLEC on two business days notice as provided in Section 7.03 of this Appendix. CLEC will bear all risks resulting from the possibility that space which appears from the records to be available is not in suitable condition to be used by CLEC.
 - (e) If AT&T fails to respond in writing within 30 days of AT&T's documented receipt of a license application pursuant to Section 9.02 of this Appendix, or within such other period of time as may be mutually agreed upon in writing by the parties, CLEC may by written notice inquire whether AT&T intends to deny CLEC's request for access. After such notice has been given and receipt by AT&T of a properly submitted license application has been confirmed, AT&T's failure to respond in writing within 15 days after receipt of the notice shall be deemed to constitute approval of the request for access. In such event, CLEC shall be entitled to occupy the space requested without the formality of a license; provided, however, that nothing contained in this subsection shall authorize CLEC to occupy space already occupied or subject to a prior valid space assignment to AT&T or any third-party; and provided further that nothing in this subsection authorizes CLEC, without first obtaining AT&T's written authorization, to (1) place its facilities on any pole or in any duct or conduit that requires make-ready work (other than third-party make-ready work arranged directly by CLEC) or (2) utilize any infrequent construction technique or connectivity solution described in Section 6.03.
- 10.02 Obligation to Construct or Modify Facilities: Capacity Expansions. The parties agree that AT&T may grant access subject to CLEC's approval of such make-ready work or facilities modifications as may be required to expand capacity to accommodate CLEC's request, in which event CLEC shall either accept such conditions, initiate good faith negotiations to explore other potential accommodations, or withdraw its request for access. If AT&T does not offer to expand capacity and denies CLEC's request for access, AT&T shall promptly notify CLEC of such determination. AT&T shall not deny CLEC's request for access on lack

of capacity grounds when capacity can be expanded as provided in this Section and in Section 6.03 of this Appendix dealing with infrequent construction techniques and connectivity solutions:

- (a) AT&T agrees to modify its outside plant facilities to the extent that CLEC agrees to pay for the modification at cost, such as but not limited to cable consolidations, as long as such modifications are consistent with capacity, safety, reliability, and engineering considerations which AT&T would apply to AT&T if the work were performed for its own benefit. AT&T may recover from CLEC the costs of modifying its outside plant facilities for CLEC's space. AT&T will require payment of the full amount in advance, subject to true-up of the estimated costs with the actual costs. To facilitate the sharing of costs by all parties benefiting from the modification, AT&T notify CLEC if any entity attaches facilities to additional capacity on AT&T's poles or conduits created at CLEC's expense.
- (b) AT&T agrees to install inner duct in a timely manner to accommodate CLEC's space needs in accordance with the same time interval AT&T provides to itself. If AT&T's interval for beginning or completing make-ready work does not meet CLEC's needs, CLEC, as a qualified contractor, may perform the inner-duct installation itself or utilize authorized subcontractor(s) selected by CLEC from a list of qualified "bidders" developed by AT&T and CLEC. When inner duct is installed by CLEC or an authorized contractor in AT&T's conduit system, CLEC shall bear all installation expenses. Inner duct installed by CLEC or an authorized contractor shall be installed in accordance with the same standards and practices which would be followed if the inner duct were being installed by AT&T or AT&T's contractors. CLEC will indemnify AT&T for damages, resulting from CLEC's self-provisioning of the inner-duct.
- (c) AT&T agrees to, remove cables at its expense that are retired or inactive (dead) to free-up requested duct and pole space, provided that such removal is reasonably feasible (i.e. cable pulls easily without incident). If a section of cable is "frozen" in a duct and would require excavation to remove, CLEC, at its option, may excavate the obstruction or request that AT&T excavate the obstruction. The excavation would be at CLEC's expense; removal of the cable would be at AT&T's expense.

10.03 Issuance of Licenses and Immediate Access When No Make-ready Work is Required. If, on the basis of CLEC's representations or AT&T's field inspection, if any, AT&T determines that no make-ready work is necessary to accommodate CLEC's facilities, AT&T will issue a license without performing make-ready work and pole attachment or conduit occupancy space will be made available to CLEC for immediate occupancy. Immediate occupancy prior to the issuance of a license shall be governed by Section 8.03.

10.04 Performance of Make-ready Work. Except as otherwise specifically provided in Section 10.02 and in this Section, make-ready work shall be performed by AT&T or by authorized contractors or other persons acting on AT&T's behalf and shall be performed by AT&T in accordance with the same time intervals which would be applicable if AT&T were performing the work for itself.

- (a) AT&T will maintain the list of authorized contractors who may be selected by CLEC to perform make-ready work when AT&T's interval for beginning or completing such make ready work does not meet CLEC's needs.
- (b) If AT&T's interval for beginning or completing make-ready work does not meet CLEC's needs, CLEC may, as an authorized contractor, perform the make-ready work itself or arrange for the work to be performed by an authorized contractor selected by CLEC from the applicable list of authorized contractors. Subject to the availability of personnel, CLEC may also request that AT&T perform the work on an expedited basis; provided, however, that make-ready work will not be performed on an expedited basis unless CLEC first approves any overtime or premium rates or charges associated with performance of the work on an expedited basis.
- (c) From time to time, additional contractors or other vendors may be approved by CLEC and AT&T to perform make-ready work in the event that the workload exceeds the capacity of the authorized contractors on the approved list to perform the make-ready work in a timely manner.

- (d) Nothing contained in this Section authorizes CLEC, any authorized contractor selected by CLEC, or any other person acting on CLEC's behalf to consolidate AT&T's cables, remove slack or perform any splicing (wire work).
- 10.05 Make-ready Work. If AT&T determines that make-ready work will be necessary to accommodate CLEC's facilities, AT&T shall promptly notify CLEC of the make-ready work proposed to enable the accommodation of CLEC's facilities.
- (a) The notice shall be given in writing no later than 45 days after the receipt by AT&T of CLEC's completed application pursuant to Section 9.02 of this Appendix or within such other period of time as may be mutually agreed upon in writing by the parties.
- (b) The notice will include AT&T's estimate of make-ready charges, which estimate shall be stated on AT&T Form SW-9434 ("Access Application and Make-Ready Authorization"), a copy of which is attached hereto as part of EXHIBIT III.
- (c) CLEC shall have 20 days (the "acceptance period") after receiving AT&T's estimate of make-ready charges to authorize completion of the make-ready work proposed by AT&T or to advise AT&T of its willingness to perform the proposed make-ready work itself. If CLEC advises AT&T that it is willing to perform the make-ready work proposed by AT&T in accordance with a design approved by AT&T, and AT&T's specifications, AT&T will not, without due cause and justification, refuse to accept CLEC's offer to perform the work. Authorization shall be accomplished by CLEC's signing the estimate and returning it to AT&T within the 20-day acceptance period.
- (d) Within the 20-day acceptance period, the parties may negotiate modifications of the make-ready work to be performed. If the parties reach agreement through negotiation, a new estimate shall be prepared and authorization shall be accomplished by CLEC's signing the revised estimate and returning it to AT&T within the original 20-day acceptance period, or within such period of time as may be mutually agreed upon by the parties.
- (e) If CLEC does not sign and return the estimate within the 20-day acceptance period, or within such other period of time as may be mutually agreed upon in writing by the parties, CLEC shall notify AT&T in writing by the 20th day whether CLEC is withdrawing its application, electing to perform the make-ready work itself as provided in subsection (c) or electing to treat AT&T's make-ready requirements as a denial of access.
- (1) If no such notice is given by the 20th day, or such later date as may be mutually agreed upon by the parties, AT&T shall contact CLEC to determine whether CLEC intends to withdraw its application. CLEC shall be deemed to have withdrawn its application if, in response to AT&T's inquiry, CLEC does not immediately sign and return the estimate to AT&T.
- (2) If CLEC timely notifies AT&T that it is electing to treat AT&T's make-ready requirements as a denial of access, AT&T shall, within 20 days after receiving the notice, provide CLEC with a written statement explaining its decision to grant access only if the specified make-ready work is performed. The statement shall be specific, shall include all relevant evidence and information supporting AT&T's decision to grant access only if the specified make-ready work is performed, and shall explain how such evidence and information relates to AT&T's decision for reasons of lack of capacity, safety, reliability, or generally applicable engineering purposes. The statement shall also set forth the basis for AT&T's make-ready proposals and specifically address AT&T's rationale for rejecting CLEC's alternative written proposals, if any.
- 10.06 Multiple Applications. Applications shall be processed on a first-come, first-served basis. Applications filed on the same date shall be treated as having been filed simultaneously and shall be processed accordingly.
- 10.07 Payments to Others for Expenses Incurred in Transferring or Arranging Their Facilities. CLEC shall make arrangements with the owners of other facilities attached to AT&T's poles or occupying space in AT&T's conduit system regarding reimbursement for any expenses incurred by them in transferring or rearranging their facilities to accommodate the attachment or placement of CLEC's facilities to or in AT&T's poles, ducts, and conduits.

- 10.08 Reimbursement for the Creation or Use of Additional Capacity. If any additional capacity is created as a result of make-ready work performed to accommodate CLEC facilities, CLEC shall not have a preferential right to utilize such additional capacity in the future and shall not be entitled to any fees subsequently paid to AT&T for the use of such additional capacity. If AT&T utilizes additional space or capacity created at CLEC's expense, AT&T will reimburse CLEC on a pro rata basis for AT&T's share, if any, of CLEC's capacity expansion costs, to the extent reimbursement is required by applicable rules, regulations, and commission orders. AT&T will notify CLEC if any entity, including AT&T, attaches facilities to additional capacity on AT&T's structure created at CLEC's expense. AT&T shall not be required to collect or remit any such amounts to CLEC, to resolve or adjudicate disputes over reimbursement between CLEC and Other Users.
- 10.09 License and Attachment. After all required make-ready work is completed, AT&T will issue a license confirming that CLEC may attach specified facilities to AT&T's poles or place specified facilities in AT&T's conduit system. CLEC shall have access to attach or place only those facilities specifically described in licenses subject to this Appendix, and no others, except as otherwise specifically provided in (a) Sections 8.03 and 12.03 or other provisions of this Appendix, (b) any other written agreement between the parties providing for such access, or (c) the provisions of any applicable tariffs or commission orders.

ARTICLE 11: CONSTRUCTION OF CLEC'S FACILITIES

- 11.01 Responsibility for Attaching and Placing-Facilities. Each party shall be responsible for the actual attachment of its facilities to AT&T's poles and the actual placement of its facilities in AT&T's ducts, conduits, and rights-of-way and shall be solely responsible for all costs and expenses incurred by it or on its behalf in connection with such activities. In this regard, each party shall be solely responsible for (a) paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the construction and attachment of its facilities and (b) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of AT&T's poles, ducts, conduits, and rights-of-way.
- 11.02 Construction Schedule. After the issuance of a license, CLEC shall provide AT&T with an updated construction schedule and shall thereafter keep AT&T informed of anticipated changes in the construction schedule. Construction schedules received by AT&T shall be subject to the provisions of Article 27 of this Appendix (Confidentiality of Information). Construction schedules required by this Section shall include, at a minimum, the following information:
- (a) the name, title, business address, and business telephone number of the manager responsible for construction of the facilities;
 - (b) the names of each contractor and subcontractor that will be involved in the construction activities;
 - (c) the estimated dates when construction will begin and end; and
 - (d) the approximate dates when CLEC or personnel working on CLEC's behalf will be performing construction work in connection with the attachment of CLEC's facilities to AT&T's poles or the placement of CLEC's facilities in any part of AT&T's conduit system.

ARTICLE 12: USE AND ROUTINE MAINTENANCE OF CLEC'S FACILITIES

- 12.01 Use of CLEC's Facilities. Each license granted under this Appendix authorizes CLEC to have access to CLEC's facilities on or within AT&T's poles, ducts, and conduits as needed for the purpose of serving CLEC's customers.
- 12.02 Routine Maintenance of CLEC's Facilities. Each license granted under this Appendix authorizes CLEC to engage in routine maintenance of facilities located on or within AT&T's poles, ducts, and conduits pursuant to such license. Routine maintenance does not include the replacement or modification of CLEC's facilities

in any manner which results in CLEC's attachments differing substantially in size, weight, or physical characteristics from the attachments described in CLEC's license.

12.03 Installation of Drive Rings and J-Hooks. CLEC may install drive rings and J-hooks on AT&T's poles for the attachment of drop wires as specified in this Section.

- (a) Drive rings and J-hooks may be installed as specified in pole attachment licenses issued to CLEC.
- (b) If attachment space has already been licensed to CLEC on a given AT&T pole, CLEC may install drive rings and J-hooks within the space assigned to CLEC (e.g., typically six inches above and six inches below CLEC's point of attachment on the pole if the point of attachment is in the center of the space assigned to CLEC) without applying for or obtaining a new or amended license. No additional attachment charges shall apply with respect to drive rings and J-hooks installed in CLEC's licensed attachment space.
- (c) CLEC's first choice for placement of drive rings and J-hooks shall be the licensed attachment space assigned to CLEC as provided in subsections (a) and (b) above; provided, however, that if attachment space already licensed to CLEC on a given AT&T pole is not adequate for CLEC's drive rings or J-hooks, CLEC may, when necessary, and without applying for or obtaining a new or amended license, install such drive rings and J-hooks above or below CLEC's licensed attachment space as described in subsection (b) above. No additional attachment charges shall apply with respect to drive rings and J-hooks installed outside CLEC's licensed attachment space as provided in this subsection.
- (d) If CLEC has not already been licensed attachment space on a given pole, CLEC may, when necessary, install drive rings and J-hooks on unassigned space on such pole without first obtaining a license for such attachment and shall, promptly following such installation, notify AT&T of the attachment. Such notification shall be made on a form to be developed by AT&T for this purpose and shall constitute an application for a license. Such application may be conditionally granted without a prelicense survey or other inquiry by AT&T, and AT&T shall not be required to process the application, log the attachment as an assignment in its outside plant records, or issue a permanent license unless its specifically requested by CLEC to do so; provided, however, that a conditionally granted application under this subsection shall be subject to revocation if it is subsequently determined that such attachment has been made in violation of subsection (e) of this Section or other provisions of this Appendix. Drive-rings and J-hooks installed pursuant to this subsection are pole attachments and charges for such attachments shall be determined in accordance with the Pole Attachment Act and applicable rules, regulations, and commission orders.
- (e) Notwithstanding the provisions of subsections (c)-(d) above, CLEC may not install drive rings and J-hooks in space assigned to AT&T or another joint user without the approval of AT&T or such other joint user and may not install drive rings and J-hooks in unassigned space in any manner which will block or preclude the subsequent occupancy or use of such space by AT&T or other joint users. If the presence of such CLEC facilities in space not assigned to CLEC will block or preclude the use of assigned or otherwise assignable space by AT&T or other joint users, CLEC shall, on AT&T's request, promptly relocate the facilities in order to accommodate the facilities of other users and shall bear all expenses associated with such relocation.
- (f) AT&T may not install drive rings and J-hooks in space assigned to CLEC without CLEC's approval and shall, at CLEC's request, promptly relocate the facilities in order to accommodate CLEC's facilities and bear all expenses associated with such relocation. If AT&T drive rings or J-hooks have been installed in space subsequently assigned to CLEC, or if the presence of AT&T drive rings or J-hooks blocks or precludes the use of otherwise assignable space on AT&T's poles, AT&T shall, at CLEC's request, relocate such facilities, if it is feasible to do so, as make-ready work.
- (g) CLEC shall, at the request of AT&T or another joint user, at CLEC's expense, promptly relocate or, if necessary, remove any drive rings and J-hooks placed on AT&T's poles other than as permitted in this Section.

- 12.04 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities. Maintenance ducts shall be available, on a nondiscriminatory basis, for short-term (not to exceed 30 days) non-emergency maintenance or repair activities by any person or entity (including but not limited to AT&T, CLEC, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located; provided, however, that use of the maintenance duct for non-emergency maintenance and repair activities must be scheduled by AT&T. A person or entity using the maintenance duct for non-emergency maintenance or repair activities shall immediately notify AT&T of such use and must either vacate the maintenance duct within 30 days or, with AT&T's consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if a designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such party occupies the maintenance duct. Cables temporarily placed in the maintenance duct on a non-emergency basis shall be subject to such accommodations as may be necessary to rectify emergencies which may occur while the maintenance duct is occupied.
- 12.05 Responsibility for Maintenance of Facilities. Each party shall be solely responsible for maintaining its own facilities and (a) paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with the maintenance of such party's facilities and (b) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of AT&T's poles, ducts, conduits, and rights-of-way.
- 12.06 Information Concerning the Maintenance of CLEC's Facilities. Promptly after the issuance of a license, CLEC shall provide AT&T with the name, title, business address, and business telephone number of the manager responsible for routine maintenance of CLEC's facilities and shall thereafter notify AT&T of changes to such information. The manager responsible for routine maintenance of CLEC's facilities shall, on AT&T's request, identify any authorized contractor or other person performing maintenance activities on CLEC's behalf at a specified site.

ARTICLE 13: MODIFICATION OF CLEC'S FACILITIES

- 13.01 Notification of Planned Modifications. CLEC shall notify AT&T in writing at least 30 days before adding to, relocating, replacing or otherwise modifying its facilities attached to a pole, or located in any AT&T duct or conduit. The notice shall contain sufficient information to enable AT&T to determine whether the proposed addition, relocation, replacement, or modification is permitted under CLEC's present license or requires a new or amended license. No notice shall be required for such routine modifications as the installation or placement of drive rings or J-hooks, terminals, and other ancillary apparatus routinely used in providing service to customers, having no effect on the structural integrity of AT&T's poles, ducts, or conduits, and having no effect on the ability of AT&T or joint users to use or have access to AT&T's poles, ducts, conduits, or rights-of-way.
- 13.02 New or Amended License Required. A new or amended license will be required if the proposed addition, relocation, replacement, or modification:
- (a) requires that CLEC occupy additional space on AT&T's poles (except on a temporary basis in the event of an emergency);
 - (b) requires that CLEC occupy additional space (other than space in the maintenance duct in accordance with Sections 12.04, 13.03, and 15.02 of this Appendix) in any AT&T duct or conduit except on a temporary basis in the event of an emergency;
 - (c) results in the facilities attached being different from those described as authorized attachments in CLEC's present application, current license, notice of intent to occupy, or license application and supplemental documentation (e.g., different duct or size increase causing a need to re-calculate storm loadings, guying, or pole class);
 - (d) requires additional holding or loading capacity on a permanent basis.

- 13.03 Use of Maintenance Duct in Connection with Facility Modifications and Replacements. Non-emergency access to the maintenance duct in connection with facilities modifications and replacements shall be subject to the provisions of Section 12.04 of this Appendix.
- 13.04 Replacement of Facilities and Spinning/Overlashing Additional Cables. CLEC may replace existing facilities with new facilities occupying the same pole, duct, or conduit space, and may spin or overlash additional cables to its own existing facilities; provided, however, that such activities shall not be considered to be routine maintenance and shall be subject to the requirements of this article. CLEC will be required to ensure pole loadings are not exceeded.
- 13.05 Streamlined Procedures for the Issuance of Amended Licenses. AT&T may streamline procedures for the issuance of amended licenses with respect to proposed additions, relocations, replacements, or modifications of CLEC's facilities when it appears to AT&T that the proposed additions, relocations, replacements, or modifications will not require make-ready work by AT&T, will not interfere with AT&T's use of its poles, conduit systems, or facilities attached or connected thereto or contained therein, and will not interfere with the use of existing facilities attached or connected thereto or contained therein by joint users.

ARTICLE 14: REARRANGEMENT OF CLEC'S FACILITIES

- 14.01 Notice of Planned Modifications. The parties acknowledge that the Pole Attachment Act recites in part that "Whenever the owner of a pole, duct, conduit, or right-of-way intends to modify or alter such pole, duct, conduit, or right-of-way, the owner shall provide written notification of such action to any entity that has obtained an attachment to such conduit or right-of-way so that such entity may have a reasonable opportunity to add to or modify its existing attachment." The parties further acknowledge that the FCC, in its First Report and Order in CC Docket No. 96-98, recites that "... absent a private agreement establishing notification procedures, written notification of a modification must be provided to parties holding attachments on the facility to be modified at least 60 days prior to the commencement of the physical modification itself." This article is intended by the parties to alter the above-described notification requirements only as provided in Section 14.02(b) below.
- 14.02 Rearrangement of CLEC's Facilities at AT&T's Request. CLEC acknowledges that, from time to time, it may be necessary or desirable for AT&T to rearrange facilities on or within its poles or conduit systems, change out poles, add poles to a pole line, relocate or reconstruct poles, pole lines, conduit segments, or conduit runs, enlarge manholes, reinforce conduit, or otherwise modify poles, pole lines, or portions of its conduit system and that such changes may be necessitated by AT&T's own business needs or by factors outside of AT&T's control, such as the decision by a municipality to widen streets or the decision by another person or entity to seek access to AT&T's poles, ducts, conduits, or rights-of-way.
- (a) CLEC agrees that CLEC will cooperate with AT&T and joint users in making such rearrangements as may be necessary to enable such changes to be made and that costs incurred by CLEC in making such rearrangements shall, in the absence of a specific agreement to the contrary, be borne by the parties in accordance with then-applicable statutes, rules, regulations, and commission orders, including the Pole Attachment Act and rules, regulations and commission orders thereunder.
- (b) CLEC shall make all rearrangements of its facilities within 60 days after receiving written notification by AT&T of the required rearrangements. AT&T may request that such modification be made within a shorter period of time, in which event CLEC shall not refuse to comply such request without due cause and justification. In determining due cause and justification, the following factors, among others, may be considered:
- (1) the circumstances under which the rearrangements are sought (e.g., street-widening project, request by a competing provider for access);
 - (2) the timeliness of AT&T's request to CLEC;
 - (3) the nature and number of rearrangements sought;
 - (4) the impact on the ability of the parties and joint users to meet customer service needs; and

- (5) risks of service interruption to customers of the parties and joint users.
- (c) Nothing contained in this article shall preclude CLEC from advising AT&T, within 60 days from the date of the notice, of its desire to add to or modify its existing attachments.

ARTICLE 15: EMERGENCY REPAIRS AND POLE REPLACEMENTS

- 15.01 Applicability. The parties acknowledge that in the event of an emergency, services provided by the parties and joint users to their respective customers may be interrupted, that it may not be possible for all service providers with facilities attached to AT&T's poles to restore service to all customers at the same time, that disputes may arise between the parties concerning the manner in which emergency repairs shall be made, that it is essential that decisions be made quickly and that it is highly desirable that all service providers utilizing AT&T's poles, ducts, and conduits enter into appropriate arrangements relating to emergency repairs and service restoration. In the absence of prearranged agreements it is expected that disputes will be immediately resolved at the site among the affected parties based upon the criteria set forth in Section 15.05 of this Appendix. The parties further agree that the provisions of this article shall apply in the absence of more comprehensive agreements relating to emergency repairs.
- 15.02 Responsibility for Emergency Repairs; Access to Maintenance Duct. In general, each party plans and practices which will enable it to make such emergency repairs.
- (a) Nothing contained in this Appendix shall be construed as requiring either party to perform any repair or service restoration work of any kind with respect to the other party's facilities or the facilities of joint users.
- (b) Maintenance ducts shall be available, on a nondiscriminatory basis, for emergency repair activities by any person or entity (including but not limited to AT&T, CLEC, other local service providers, and other joint users) with facilities in the conduit section in which the maintenance duct is located; provided, however, that a party using the maintenance duct for emergency repair activities shall immediately notify AT&T of such use and must either vacate the maintenance duct within 30 days or, with AT&T's consent, which consent shall not be unreasonably withheld, rearrange its facilities to ensure that at least one full-sized replacement maintenance duct (or, if a designated maintenance duct was an inner duct, a suitable replacement inner duct) is available for use by all occupants in the conduit section within 30 days after such party occupies the maintenance duct. The parties agree not to exceed 30 days' use except in unusual emergencies that may require longer than 30 days to rectify.
- (c) If necessary, other unoccupied ducts may be used on a short-term basis when the maintenance duct is unavailable. Any such use shall be subject to the same rules applicable to the maintenance duct and shall be subject to the rights of any party or joint user to whom such duct has been assigned.
- 15.03 Designation of Emergency Repair Coordinators and Other Information. For each AT&T construction district, CLEC shall provide AT&T with the emergency contact number of CLEC's designated point of contact for coordinating the handling of emergency repairs of CLEC's facilities and shall thereafter notify AT&T of changes to such information.
- 15.04 Reporting of Conditions Requiring Emergency Repairs. CLEC shall notify AT&T at the earliest practicable opportunity after discovering any condition on or in any of AT&T's poles, ducts, conduits, or rights-of-way requiring emergency repairs to AT&T's facilities and AT&T shall notify CLEC at the earliest practicable opportunity after discovering any condition on or in any of AT&T's poles, ducts, conduits, or rights-of-way requiring emergency repairs to CLEC's facilities.
- 15.05 Order of Precedence of Work Operations; Access to Maintenance Duct and Other Unoccupied Ducts in Emergency Situations. When notice and coordination are practicable, AT&T, CLEC, and other affected parties shall coordinate repair and other work operations in emergency situations involving service disruptions. Disputes will be immediately resolved at the site by the affected parties in accordance with the following principles:
- (a) Emergency service restoration work requirements shall take precedence over other work operations.

- (b) Except as otherwise agreed upon by the parties, restoration of lines for emergency services providers (e.g., 911, fire, police, and hospital lines) shall be given the highest priority and temporary occupancy of the maintenance duct (and, if necessary, other unoccupied ducts) shall be assigned in a manner consistent with this priority. Secondary priority shall be given to restoring services to the local service providers with the greatest numbers of local lines out of service due to the emergency being rectified. The parties shall exercise good faith in assigning priorities and shall base their decisions on the best information then available to them at the site in question, and may, by mutual agreement at the site, take other factors into consideration in assigning priorities and sequencing service restoration activities.
 - (c) AT&T shall determine the order of precedence of work operations and assignment of duct space in the maintenance duct (and other unoccupied ducts) only if the affected parties are unable to reach prompt agreement; provided, however, that these decisions shall be made by AT&T on a nondiscriminatory basis in accordance with the principles set forth in this Section.
- 15.06 Unilateral Corrective Action. When AT&T or CLEC reasonably believes that, due to the condition of either party's facilities placed on, within, or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way, there is an immediate or imminent threat to the safety or health of employees or any other person, to the physical integrity or functioning of AT&T's or CLEC's facilities, or AT&T's or CLEC's ability to meet its service obligations, AT&T or CLEC may unilaterally perform such limited corrective work as may be necessary to prevent or mitigate against the injury threatened. For example, if facilities have become detached or partially detached from a pole, or detached or partially detached from supporting racks or wall supports within a manhole, AT&T or CLEC may reattach them as provided in this Section but shall not be obligated to do so.
- (a) Before performing any corrective work involving facilities, AT&T or CLEC shall attempt to notify the other party. After such notice has been given, the parties shall coordinate corrective work.
 - (b) When an emergency situation exists such that advance notice and coordination are not practicable, AT&T or CLEC may perform corrective work without first giving notice to the other, and shall promptly notify the other of the corrective work performed and the reason why notice was not given.
- 15.07 Emergency Pole Replacements. CLEC agrees to cooperate fully with AT&T when emergency pole replacements are required.
- (a) When emergency pole replacements are required, AT&T shall promptly make a good faith effort to contact CLEC to notify CLEC of the emergency and to determine whether CLEC will respond to the emergency in a timely manner.
 - (b) If notified by AT&T that an emergency exists which will require the replacement of a pole, CLEC shall transfer its facilities immediately, provided such transfer is necessary to rectify the emergency. If the transfer is to a AT&T replacement pole, the transfer shall be in accordance with AT&T's placement instructions.
 - (c) If CLEC is unable to respond to the emergency situation immediately, CLEC shall so advise AT&T and thereby authorize AT&T (or any joint user sharing the pole with AT&T) to perform such emergency-necessitated transfers (and associated facilities rearrangements) on CLEC's behalf.
- 15.08 Expenses Associated with Emergency Repairs. Each party shall bear all reasonable expenses arising out of or in connection with any emergency repairs of its facilities and transfers or rearrangements of its facilities associated with emergency pole replacements made in accordance with the provisions of this article.
- (a) Each party shall be solely responsible for paying all persons and entities who provide materials, labor, access to real or personal property, or other goods or services in connection with any such repair, transfer, or rearrangement of such party's facilities.
 - (b) CLEC agrees to reimburse AT&T for the costs incurred by AT&T for work performed by AT&T on CLEC's behalf in accordance with the provisions of this article; provided, however, that when the costs incurred by AT&T are for work performed in part for CLEC and in part for AT&T and third parties, CLEC shall only reimburse AT&T for CLEC's share of the costs.

ARTICLE 16: INSPECTION BY AT&T OF CLEC'S FACILITIES

- 16.01 AT&T's Right to Make Periodic or Spot Inspections. AT&T shall have the right, but not the duty, to make periodic or spot inspections at any time of CLEC's facilities attached to AT&T's poles or placed within AT&T's ducts, conduits, or rights-of-way. Such inspection may be conducted for the purpose of determining whether facilities attached to AT&T's poles or placed in AT&T's conduit system are in compliance with the terms of this Appendix and licenses hereunder, AT&T may charge CLEC for inspection expenses only if the inspection reflects that CLEC is in substantial noncompliance with the terms of this Appendix. If the inspection reflects that CLEC's facilities are not in compliance with the terms of this Appendix, CLEC shall bring its facilities into compliance promptly after being notified of such noncompliance and shall notify AT&T in writing when the facilities have been brought into compliance.
- 16.02 Report of Inspection Results. AT&T will provide CLEC the results of any inspection of CLEC's facilities performed under Section 16.01 of this Appendix.

ARTICLE 17: TAGGING OF FACILITIES AND UNAUTHORIZED ATTACHMENTS

- 17.01 Facilities to Be Marked. CLEC shall tag or otherwise mark all of CLEC's facilities placed on or in AT&T's poles, ducts, conduits, and rights-of-way in a manner sufficient to identify the facilities as CLEC's facilities.
- 17.02 Removal of Untagged or Unauthorized Facilities. Subject to the provisions of subsections (a)-(c) of this Section, AT&T may, without notice to any person or entity, remove from AT&T's poles or any part of AT&T's conduit system any untagged or unmarked facilities, including any such facilities owned or used by CLEC, if AT&T determines that such facilities are not the subject of any current license authorizing their continued attachment to AT&T's poles or occupancy of AT&T's conduit system and are not otherwise lawfully present on AT&T's poles or in AT&T's conduit system.
- (a) Before removing any such untagged or unmarked facilities, AT&T shall first attempt to determine whether the facilities are being used by CLEC or any other firm, are authorized by any license subject to this Appendix, or are otherwise lawfully present on AT&T's poles or in AT&T's conduit system.
 - (b) AT&T shall not remove untagged or unmarked facilities which are thought to be operational without first making reasonable efforts to (1) determine the identity of the owner or other person or entity thought to be responsible for the facilities and (2) give advance written notice to such person or entity.
 - (c) If the facilities appear to be facilities which are subject to a current license granted to CLEC, AT&T shall give written notice to CLEC requesting CLEC to tag or mark the facilities within 60 days and CLEC shall either tag the facilities within 60-day period, advise AT&T in writing of its schedule for tagging the facilities, or notify AT&T in writing that it disclaims ownership of or responsibility for the facilities. If CLEC disclaims ownership of or responsibility for the facilities, CLEC shall disclose to AT&T the identity of the owner or other party thought by CLEC to be responsible for the facilities.
 - (d) If any of CLEC's facilities for which no license is presently in effect are found attached to AT&T's poles or within any part of AT&T's conduit system or rights-of-way, AT&T shall send a written notice to CLEC advising CLEC that no license is presently in effect with respect to the facilities. Within 30 days of receiving such notice, CLEC shall acknowledge receipt of the notice and submit to AT&T, in writing, an application for a new or amended license with respect to such facilities. CLEC shall be liable to AT&T for all fees and charges associated with the unauthorized attachments. Such fees and charges shall continue to accrue until the unauthorized attachments are removed from AT&T's poles, conduits or rights-of-way or until a new or amended occupancy permit is issued and shall include, but not be limited to, all fees and charges which would have been due and payable if CLEC and its predecessors had continuously complied with all applicable AT&T licensing requirements. In addition, CLEC shall be liable for an unauthorized attachment fee in the amount of 5 times the annual attachment and occupancy fees in effect on the date CLEC is notified by AT&T of the unauthorized attachment or occupancy. CLEC shall also rearrange or remove its unauthorized facilities at AT&T's request to

comply with applicable placement standards and shall remove its facilities from any space occupied by or assigned to AT&T or another entity within 30 days of receiving notice to do so. CLEC shall pay AT&T for all costs incurred by AT&T in connection with any rearrangements, modifications or replacements necessitated as a result of the presence of CLEC's unauthorized facilities. All fees and charges associated with the unauthorized attachments shall be due and payable 30 days after the date of the bill or invoice stating such fees and charges. If CLEC does not obtain a new or amended license with respect to unauthorized facilities within the specified period of time, AT&T shall by written notice advise CLEC to remove its unauthorized facilities with 60 days from the date of notice and CLEC shall remove the facilities within the time specified in the notice. If the facilities have not been removed within the time specified in the notice, AT&T may, at AT&T's option, remove CLEC's facilities at CLEC's expense.

- 17.03 Updating of Plant Location Records. CLEC shall furnish AT&T, upon request, with such information as may from time to time be necessary for AT&T to correct and update AT&T's pole and conduit maps and records, cable plat maps, and other plant location records, if any, recording or logging assignments of pole, duct, and conduit space.

ARTICLE 18: REMOVAL OF CLEC'S FACILITIES

- 18.01 Responsibility for Removing Facilities. CLEC shall be responsible for and shall bear all expenses arising out of in connection with the removal of its facilities from AT&T's poles, ducts, conduits, and rights-of-way. Such removals shall be performed in accordance with the provisions of this article.
- (a) CLEC shall give AT&T, when practicable, at least 30 days' advance notice in writing of its intent to remove facilities from any part of AT&T's conduit system and the proposed method of removal. The notice shall include the locations of the facilities to be removed, the name, telephone number of the manager responsible for the removal of the facilities, and the estimated dates when the removal of the facilities will begin and end.
 - (b) CLEC shall, if requested by AT&T to do so, place a pull mandrel (slug) through all or any specified part of the duct which was occupied by CLEC.
 - (c) Except as otherwise agreed upon in writing by the parties, CLEC must, after removing its facilities, plug all previously occupied ducts at the entrances to AT&T's manholes (if AT&T would itself plug the ducts under the same circumstances) in accordance with the standards set by AT&T for its operations, provided that such standards have been communicated in writing to CLEC at least 10 days in advance of the removal of CLEC's facilities.
 - (d) CLEC shall be solely responsible for the removal of its own facilities and for (1) paying all persons and entities which provide materials, labor, access to real or personal property, or other goods or services in connection with the removal of CLEC's facilities from AT&T's poles, ducts, conduits, or rights-of-way and (2) directing the activities of all such personnel while they are physically present on, within, or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way.
 - (e) When CLEC no longer intends to occupy space on a pole or in a conduit CLEC will provide written notification to AT&T that it wishes to terminate the license with respect to such space and will remove its facilities from the space described in the notice. Upon removal of CLEC's facilities, the license shall terminate and the space shall be available for reassignment.
- 18.02 Removal of Facilities Not in Active Use. At AT&T's request, CLEC shall remove from AT&T's poles, ducts, conduits, and rights-of-way any of CLEC's facilities which are no longer in active use; provided, however, that CLEC shall not be required to remove such facilities when due cause and justification exists for allowing them to remain in place. CLEC shall not be required to remove retired or inactive (dead) cables that have been overlashed by other facilities which remain in active use unless removal expenses are paid by the person or entity requesting removal of such facilities. CLEC shall not be required to remove cables that would require excavation to remove unless the person or entity requesting removal of such cables bears the expenses of such excavation in a manner analogous to the provisions of Section 10.02(c) of this Appendix. CLEC shall not abandon any of its facilities by leaving them on AT&T's poles, in AT&T's ducts, conduits, or

rights-of-way, at any location where they may block or obstruct access to AT&T's poles or any part of AT&T's conduit system, or on any public or private property (other than property owned or controlled by CLEC) in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way.

- 18.03 Removal Following Termination of License. CLEC shall remove its facilities from AT&T's poles, ducts, conduits, or rights-of-way within 60 days, or within such other period of time as shall be mutually agreeable to the parties, after termination of the license authorizing the attachment of such facilities to AT&T's poles or the placement of such facilities in AT&T's ducts, conduits, or rights-of-way.
- 18.04 Removal Following Replacement of Facilities. Except as provided in Section 18.02, CLEC shall remove facilities no longer in service from AT&T's poles or conduit system within 60 days, or within such other period of time as shall be mutually agreeable to the parties, after the date CLEC replaces existing facilities on a pole or in a conduit with substitute facilities on the same pole or in the same conduit; provided, however, that removal of facilities from the maintenance duct shall be governed by Sections 12.04, 13.03, and 15.02 of this Appendix and not by this subsection.
- 18.05 Notice of Completion of Removal Activities. CLEC shall give written notice to AT&T stating the date on which the removal of its facilities from AT&T's poles, ducts, conduits, and rights-of-way has been completed. Charges shall continue to accrue with respect to such facilities until CLEC's facilities have been removed, pull mandrels (slugs) have been pulled if required by Section 18.01(b) of this Appendix, CLEC has plugged all previously occupied ducts at the entrances to AT&T's manholes as required by Section 18.01(c) of this Appendix, and the notice required by this Section has been given.
- 18.06 Notice of AT&T's Intent to Remove Facilities. If CLEC fails to remove its facilities from AT&T's poles or conduit system, in accordance with the provisions of Sections 18.01 and 18.05 of this Appendix, AT&T may remove such facilities 60 days after giving CLEC written notice of its intent to do so. The notice shall state:
- (a) the date when AT&T plans to commence removal of CLEC's facilities, and that CLEC may remove the facilities at CLEC's sole cost and expense at any time before the date specified;
 - (b) AT&T's plans with respect to disposition of the facilities removed; and
 - (c) that CLEC's failure to remove the facilities or make alternative arrangements with AT&T for removal and disposition of the facilities shall constitute an abandonment of the facilities and of any interest therein.
- 18.07 Removal of Facilities by AT&T. If AT&T removes any of CLEC's facilities pursuant to this article, CLEC shall reimburse AT&T for AT&T's costs in connection with the removal, storage, delivery, or other disposition of the removed facilities.
- 18.08 Reattachment or Subsequent Attachment Following Removal. After CLEC's facilities have been properly removed pursuant to the provisions of this article, neither the removed facilities nor replacement facilities shall be attached to AT&T's poles or placed in AT&T's conduit system until CLEC has first submitted new applications for the facilities and complied with the provisions of this Appendix.
- 18.09 Termination of Licenses After Removal of Facilities. CLEC agrees to provide written notice to AT&T when it ceases to use facilities attached to AT&T's poles or placed in any part of AT&T's conduit system. Upon the giving of such notice and the removal of such facilities, CLEC's license with respect to such facilities and the space occupied by those facilities shall terminate.

ARTICLE 19: RATES, FEES, CHARGES, AND BILLING

- 19.01 Application Fee. AT&T will charge CLEC an Application Fee for each application requesting access to poles, conduits and rights-of-way as set forth in the Pricing Schedule.
- 19.02 Semiannual Attachment and Occupancy Fees. AT&T's semiannual fees for attachments to AT&T's poles and occupancy of AT&T's ducts and conduits are specified in Exhibit I. For all attachments to AT&T's poles and occupancy of AT&T's ducts and conduits, CLEC agrees to pay AT&T's semiannual charges as specified in Exhibit I.

- 19.03 Billing for Attachment and Occupancy Fees. Semiannual attachment and occupancy fees under this Appendix and licenses issued hereunder shall be payable in advance. Fees for pole attachments shall be based on the number of poles attachments for which licenses have been issued as of the date of billing by AT&T, shall be determined in accordance with the schedule of charges set forth in Exhibit I, and shall be payable semiannually in advance. Fees for conduit occupancy shall be based on the number of duct feet subject to occupancy by CLEC under licenses issued as of the date of billing by AT&T, shall be determined in accordance with the schedule of charges set forth in Exhibit I, and shall be payable semiannually in advance. Pole attachment and conduit occupancy space assigned to CLEC prior to the issuance of a license shall be billed in the same manner as if a license had been issued.
- (a) Bills shall be submitted to CLEC for two semiannual billing periods, the first period including charges for the months of January through June and the second including charges for the months of July through December.
 - (b) Charges associated with newly licensed pole attachments and conduit occupancy shall be prorated on a daily basis and billed with the next semiannual bill.
 - (c) Charges shall be adjusted and retroactively prorated on a daily basis following the removal of CLEC's facilities (in accordance with Article 18) and shall be retroactively adjusted as a credit on the next semiannual bill.
- 19.04 Pre-license Survey Fees. With respect to pre-license surveys conducted by AT&T pursuant to Section 9.05 of this Appendix, AT&T may charge CLEC cost-based pre-license survey fees pursuant to such methodologies as shall be approved by the Illinois Commerce Commission following the filing of AT&T of any required study providing cost justification for the imposition of pre-license survey fees.
- 19.05 Make-Ready Charges. CLEC agrees to pay make-ready charges, if any, as specified in this Section. AT&T may recover from CLEC the costs of make-ready work performed by AT&T or persons acting on AT&T's behalf. AT&T will require payment of the full amount in advance, subject to true-up of the estimated costs with the actual costs.
- 19.05A Charges for Work Performed by AT&T Employees. Except as otherwise specifically required by applicable commission orders, AT&T's charges to CLEC for worked performed by AT&T employees pursuant to this Appendix shall be computed by multiplying the fully loaded hourly rates for such employees times the number of hours required to perform the work. Disputes over AT&T's charges for work performed by AT&T employees, including disputes between the parties concerning the number of hours required to perform the work, shall be subject to the dispute resolution procedures of Article 30. Notwithstanding the execution of this Appendix, CLEC shall have the right to challenge the methodology utilized by AT&T to determine hourly rates for AT&T employees at any time in any forum having jurisdiction over the subject matter.
- 19.06 Due Date for Payment. For all fees and charges other than make ready charges, each bill or invoice submitted by AT&T to CLEC for any fees or charges under this Appendix shall state the date that payment is due, which date shall be not less than 60 days after the date of the bill or invoice. CLEC agrees to pay each such bill or invoice on or before the stated due date.

ARTICLE 20: PERFORMANCE AND PAYMENT BONDS

- 20.01 Bond May Be Required. AT&T may require CLEC, authorized contractors, and other persons acting on CLEC's behalf to execute performance and payment bonds (or provide other forms of security) in amounts and on terms sufficient to guarantee the performance of their respective obligations arising out of or in connection with this Appendix only as provided in subsections (a)-(b) of this Section. Bonds shall not be required for entities meeting all self-insurance requirements of Section 21.02 of this Appendix.
- (a) If CLEC elects to perform facilities modification, capacity expansion, or make-ready work under Section 6.08(c) or Sections 10.02 through 10.05 of this Appendix, AT&T may require CLEC, authorized contractors, and other persons acting on CLEC's behalf to execute bonds equivalent to those which would be required by AT&T if the work had been performed by contractors, subcontractors, or other persons selected directly by AT&T. No bonds shall be required of CLEC, authorized contractors, or

- other persons acting on CLEC's behalf except in those situations where a bond would be required if the work were being performed on AT&T's behalf.
- (b) No other bond shall be required of CLEC to secure obligations arising under this Appendix absence of due cause and justification.
 - (c) If a bond or similar form of assurance is required of CLEC, an authorized contractor, or other person acting on CLEC's behalf, CLEC shall promptly submit to AT&T, upon request, adequate proof that the bond remains in full force and effect and provide certification from the company issuing the bond that the bond will not be canceled, changed or materially altered without first providing AT&T 60 days written notice.
 - (d) AT&T may communicate directly with the issuer of any bond issued pursuant to this Section to verify the terms of the bond, to confirm that the bond remains in force, and to make demand on the issuer for payment or performance of any obligations secured by the bond.

ARTICLE 21: INSURANCE

21.01 Insurance Required. CLEC shall comply with the insurance requirements specified in this Section.

- (a) Unless CLEC has provided proof of self-insurance as permitted in Section 21.02 below, CLEC shall obtain and maintain in full force and effect, for so long as this Appendix remains in effect, insurance policies specified in Exhibit IV of this Appendix. Each policy shall name AT&T as an additional insured and shall include provisions requiring the insurer to give AT&T notice of any lapse, cancellation, or termination of the policy or any modification to the policy affecting AT&T's rights under the policy, including but not limited to any decrease in coverage or increase in deductibles.
- (b) Exclusions from coverage or deductibles, other than those expressly permitted in EXHIBIT IV, must be approved in writing by AT&T.
- (c) Authorized contractors and other contractors performing work on, within, or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way on CLEC's behalf shall be required to meet the same insurance requirements applicable to contractors performing similar work on AT&T's behalf. CLEC shall be responsible for securing compliance by its contractors with this requirement and shall be liable to AT&T for any damages resulting from its failure to do so.
- (d) Self-insurance shall be permitted for persons and entities (including but not limited to CLEC and authorized contractors) meeting the self-insurance requirements set forth in Section 21.02 of this Appendix.

21.02 Proof of Insurance or Self-insurance. Proof of insurance or self-insurance shall be made pursuant to the provisions of this Section.

- (a) CLEC shall submit to AT&T adequate proof (as determined by AT&T) that the companies insuring CLEC are providing all coverages required by this Appendix. CLEC's insurers shall provide AT&T with certifications that the required coverages will not be canceled, changed, or materially altered (e.g., by increasing deductibles or altering exclusions from coverages) except after 30 days written notice to AT&T.
- (b) AT&T will accept certified proof of a person or entity's qualification as a self-insurer for Workers' Compensation and Employers Liability, where self-insurance is permitted, upon receipt of a current copy of a Certificate of Authority to Self-insure issued by the Workers' Compensation Commission of this State. AT&T will accept self-insurance by a person or entity in lieu of other Commercial General Liability and Automobile Liability Coverage if such person or entity warrants that its net worth, as shown by its most recent audited financial statement with no negative notes, is at least 10 times the minimum liability limits set forth in Exhibit IV and AT&T is satisfied that such person or entity will be able to meet its liability obligations under this Appendix.

21.03 Licensing Contingent on Proof of Insurance. All insurance required in accordance with Exhibit IV, or self-insurance as permitted in Section 21.02, must be in effect before AT&T will issue pole attachment or conduit

occupancy licenses under this Appendix and shall remain in force until all of CLEC's facilities have been removed from AT&T's poles, ducts, conduits, and rights-of-way.

- 21.04 Failure to Obtain or Maintain Coverage. CLEC's failure to obtain and maintain the required levels and types of insurance coverage required under this Appendix may be grounds for termination of this Appendix and licenses subject to policies of insurance required under this Appendix will be canceled or changed in any manner which will result in CLEC's failure to meet the requirements of this Appendix, AT&T may terminate this Appendix and all licenses subject to this Appendix not less than 60 days after giving CLEC written notice of its intention to do so, and such termination shall be effective on the termination date specified in the notice unless CLEC has obtained (or made arrangements satisfactory to AT&T to obtain) the required coverage from another source. In the alternative, AT&T may, in its sole discretion, elect to take such action as may be necessary to keep the policy in effect with the required coverages.

ARTICLE 22: TERMINATION OF AGREEMENT OR LICENSES; REMEDIES FOR BREACHES

- 22.01 Termination of Appendix Due to Non-Use of Facilities. CLEC shall, by written notice to AT&T, terminate this Appendix if CLEC ceases to do business in this State, or ceases to make active use of AT&T's poles, ducts, conduits, and rights-of-way in this State.
- 22.02 Limitation, Termination, or Refusal of Access Due to Certain Material Breaches. CLEC's access to AT&T's poles, ducts, conduits, and rights-of-way will not materially interfere with or impair service over any facilities of AT&T or any joint user, cause material damage to AT&T's plant or the plant of any joint user, impair the privacy of communications carried over the facilities of AT&T or any joint user, or create serious hazards to health or safety of any persons working on, within, or in the vicinity of AT&T's poles, ducts, rights-of-way or to the public. Upon reasonable notice and opportunity to cure, AT&T may limit, terminate or refuse access if CLEC violates this provision; provided, however, that such limitation, termination or refusal will be limited to CLEC's access to poles, ducts, conduits, and rights-of-way located in the AT&T construction district in which the violation occurs, shall be as narrowly limited in time and geographic scope as may be necessary to enable CLEC to adopt suitable controls to prevent further violations, and shall be subject to review, at CLEC's request, pursuant to the dispute resolution procedures set forth in this Appendix (or, if applicable, the parties' Interconnection Agreement) or, as permitted by law, before any court, agency, or other tribunal having jurisdiction over the subject matter. In the event CLEC invokes dispute resolution procedures or seeks review before a court, agency, or other tribunal having jurisdiction over the subject matter, the limitation, termination, or refusal of access may be stayed or suspended by agreement of the parties or by order of the tribunal having jurisdiction over the parties' dispute.
- 22.03 Notice and Opportunity to Cure Breach. In the event of any claimed breach of this Appendix by either party, the aggrieved party may give written notice of such claimed breach as provided in this Section.
- (a) The notice shall set forth in reasonable detail:
- (1) the conduct or circumstances complained of, together with the complaining party's legal basis for asserting that a breach has occurred;
 - (2) the action believed necessary to cure the alleged breach; and
 - (3) any other matter the complaining party desires to include in the notice.
- (b) Except as provided in Section 22.02 and subsection (c) of this Section, the complaining party shall not be entitled to pursue any remedies available under this Appendix or relevant law unless such notice is given and (1) the breaching party fails to cure the breach within 30 days of such notice, if the breach is one which can be cured within 30 days, or (2) the breaching party fails to commence promptly and pursue diligently a cure of the breach, if the required cure is such that more than 30 days will be required to effect such cure; provided, however, that nothing contained in this Section shall preclude either party from invoking the dispute resolution procedures set forth in Article 30 of this Appendix, or any complaint or dispute resolution procedures offered by the FCC or State Commission, at any time.

- (c) Nothing contained in this Section shall preclude either party from filing a complaint or bringing suit in any court, agency, or other tribunal of competent jurisdiction to restrain or enjoin any conduct of the other party which threatens the complaining party with irreparable injury, loss or damage without first giving the notice otherwise required by subsection (b).

ARTICLE 23: CONFIDENTIALITY OF INFORMATION

- 23.01 Information Provided by CLEC to AT&T. Except as otherwise specifically provided in this Appendix, all company-specific and customer-specific information submitted by CLEC to AT&T in connection with this Appendix (including but not limited to information submitted in connection with CLEC's applications for the assignment of pole attachment and occupancy space and for pole attachment and conduit occupancy licenses) shall be deemed to be "Confidential" or "Proprietary" information of CLEC and shall be subject to the terms set forth in this article. Confidential or Proprietary information specifically includes information or knowledge related to CLEC's review of records regarding a particular market area, or relating to assignment of space to CLEC in a particular market area, and further includes knowledge or information about the timing of CLEC's request for or review of records or its inquiry about AT&T facilities. This article does not limit the use by AT&T of aggregate information relating to the occupancy and use of AT&T's poles, ducts, conduits, and rights-of-way by firms other than AT&T (that is, information submitted by CLEC and aggregated by AT&T in a manner that does not directly or indirectly identify CLEC).
- 23.02 Access Limited to Persons with a Need to Know. Confidential or Proprietary information provided by CLEC to AT&T in connection with this Appendix shall not be disclosed to, shared with, or accessed by any person or persons (including but not limited to personnel involved in sales, marketing, competitive intelligence, competitive analysis, strategic planning, and similar activities) other than those who have a need to know such information for the limited purposes set forth in Sections 23.03 to 23.06.
- 23.03 Permitted Uses of CLEC's Confidential or Proprietary Information. AT&T and persons acting on AT&T's behalf, except for personnel involved in sales, marketing, competitive intelligence, competitive analysis, strategic planning, and similar activities, may utilize CLEC's Confidential or Proprietary information for the following purposes (a) posting information, as necessary, to AT&T's outside plant records; (b) placing, constructing, installing, operating, utilizing, maintaining, monitoring, inspecting, repairing, relocating, transferring, conveying, removing, or managing AT&T's poles, ducts, conduits, and rights-of-way and any AT&T facilities located on, within, or in the vicinity of such poles, ducts, conduits, and rights-of-way; (c) performing AT&T's obligations under this Appendix and similar agreements with third parties; (d) performing AT&T's general obligations to afford nondiscriminatory access to telecommunications carriers and cable television systems under the Pole Attachment Act; (e) determining which of AT&T's poles, ducts, conduits, and rights-of-way are (or may in the future be) available for AT&T's own use, and making planning, engineering, construction, and budgeting decisions relating to AT&T's poles, ducts, conduits, and rights-of-way; (f) preparing cost studies; (g) responding to regulatory requests for information; (h) maintaining AT&T's financial accounting records; and (i) complying with other legal requirements relating to poles, ducts, conduits, and rights-of-way.
- 23.04 Access by Third Parties. Information reflecting the assignment of pole attachment and conduit occupancy space to CLEC may be made available to personnel of third parties seeking access to AT&T's records under provisions, and subject to protections, equivalent to those contained in and required by Section 7.03 of this Appendix.
- 23.05 Defense of Claims. In the event of a dispute between AT&T and any person or entity, including CLEC, concerning AT&T's performance of this Appendix, satisfaction of obligations under similar agreements with third parties, compliance with the Pole Attachment Act, compliance with the Telecommunications Act of 1996, or compliance with other federal, state, or local laws, regulations, commission orders, and the like, AT&T may utilize Confidential or Proprietary information submitted by CLEC in connection with this Appendix as may be reasonable or necessary to demonstrate compliance, protect itself from allegations of wrongdoing, or comply with subpoenas, court orders, or reasonable discovery requests; provided, however, that AT&T shall not disclose CLEC's Proprietary or Confidential Information without first, at AT&T's option, (a) obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and

proprietary nature of the information; (b) seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or (c) providing CLEC notice of the subpoena or order and the opportunity to protect the Proprietary or Confidential Information.

- 23.06 Response to Subpoenas, Court Orders, and Agency Orders. Nothing contained in this article shall be construed as precluding AT&T from complying with any subpoena, civil or criminal investigative demand, or other order issued or entered by a court or agency of competent jurisdiction; provided, however, that AT&T shall not disclose CLEC's proprietary or confidential information without first, at AT&T's option: (a) obtaining an agreed protective order or nondisclosure agreement that preserves the confidential and proprietary nature of CLEC's information; (b) seeking such a protective order as provided by law if no agreed protective order or nondisclosure agreement can be obtained; or (c) providing CLEC notice of the subpoena, demand, or order and an opportunity to take affirmative steps of its own to protect such proprietary or confidential information.
- 23.07 Other Uses of Confidential Information. No other uses of Confidential or Proprietary information received from CLEC pursuant to this Appendix are authorized or permitted without CLEC's express written consent.

EXHIBIT I

POLE AND CONDUIT ATTACHMENT RATES

AT&T may charge reasonable, cost based ancillary fees to recover administrative costs incurred in processing CLEC's request for pole attachments and conduit space. The rates are set forth in the Pricing Schedule.

EXHIBIT II IDENTIFICATION OF APPLICANT (ILLINOIS)

This Exhibit is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

Applicant's legal name is: _____.

Applicant's principal place of business is located in the State of _____.

Applicant does business under the following assumed names:

_____.

Applicant is:

- a corporation organized under the laws of the State of _____,
charter no. _____;
- a partnership organized under the laws of the State of _____;
or
- another entity, as follows:

_____.

Applicant represents that Applicant is:

- (1) a cable system (as defined in 47 U.S.C. §§ 153(37) and 522(7)) seeking a pole attachment or conduit occupancy license solely to provide cable service (as defined in 47 U.S.C. § 522(6));
- (2) a telecommunications carrier, as defined in 47 U.S.C. § 153(49), as modified by 47 U.S.C. § 224;
or
- (3) a person or entity which is neither (1) nor (2) above, as follows:

EXHIBIT III ADMINISTRATIVE FORMS AND NOTICES (ILLINOIS)

This Exhibit is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached and contains administrative forms referred to in the Master Agreement or used in connection with the provision of access to AT&T's poles, ducts, conduits, and rights-of-way. The forms are forms presently in use and have not been fully conformed to the Master Agreement. The forms may be further revised by AT&T to conform to the Master Agreement and revised from time to time to reflect changes in the applicable law, changes in the Master Agreement, and changes in the procedures through which access to poles, ducts, conduits, and rights-of-way is afforded by AT&T to CLEC and others.

- SW-9433: Pole Attachments
- SW-9434: Access Application and Make-Ready Authorization
- SW-9435: Conduit Occupancy
- SW-9436A: Notification of Surrender or Modification of Pole Attachment License by Licensee
- SW-9436B: Notification of Surrender or Modification of Conduit Occupancy License by Applicant
- SW-9436C: Notification of Unauthorized Attachments by Applicant

EXHIBIT IV INSURANCE REQUIREMENTS (ILLINOIS)

This Exhibit is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

1) Premises. As used in this Exhibit, the term "premises" refers to any site located on, within, or in the vicinity of AT&T's poles, ducts, conduits, or rights-of-way and any location where CLEC or any person acting on CLEC's behalf may be physically present while traveling to or departing from any such site.

2) Requirements Applicable to CLEC and All Persons and Entities Acting on CLEC's Behalf. CLEC shall maintain, at all times during the term of this Agreement, all insurance and coverages set forth below. Such insurance and coverages shall not only cover CLEC but all contractors, subcontractors, and other persons or entities acting on CLEC's behalf at the premises described in 1) above. CLEC should require that all contractors, subcontractors, and other persons or entities acting on CLEC's behalf at premises described in 1) above obtain the same insurance and coverages.

3) Workers' Compensation Insurance. CLEC shall maintain, at all times during the term of the Agreement, Workers' Compensation Insurance and Employer's Liability Insurance with minimum limits of \$100,000 for bodily injury-each accident, \$100,000 for bodily injury by disease-each employee, and \$500,000 for bodily injury by disease-policy limits, for all employees performing work or otherwise present on the premises described in 1) above. Such insurance must comply with the Workers' Compensation laws of this State and shall provide coverage, at a minimum, for all benefits required by such Worker's Compensation laws. CLEC shall require any contractor, subcontractor, or other person or entity acting on CLEC's behalf to provide Workers' Compensation Insurance and Employer's Liability Insurance for their respective employees unless such employees are covered by the protection afforded by CLEC.

4) General Liability Insurance. To protect AT&T from any liability for bodily injury or property damage, CLEC shall maintain, at all times during the term of the Master Agreement, General Liability insurance satisfactory to AT&T. AT&T shall be added as an additional insured in the standard policy or an endorsement thereto. CLEC shall also require any contractor, subcontractor, or other person or entity acting on CLEC's behalf to provide General Liability coverage with the same limits and with AT&T added as an additional insured unless such contractor, subcontractor, or other person or entity is covered by the General Liability protection afforded by CLEC.

- a) The following coverages must be included in (and may not be excluded from) the policy or policies obtained to satisfy the General Liability insurance requirements of CLEC and any contractor, subcontractor, or other person or entity acting on CLEC's behalf. The coverages may be provided by the standard policy or endorsements thereto. Exclusion endorsements deleting these coverages will not be accepted.
- 1) Personal Injury and Advertising Injury coverage.
 - 2) Premises/Operations coverage, including also coverage for any newly acquired ownership or controlled premises or operations.
 - 3) Independent Contractors coverage to provide protection for CLEC's contractors, subcontractors, and other persons or entities acting on CLEC's behalf.
 - 4) Explosion, Collapse, and Underground Hazard (XCU) coverage.
 - 5) Completed Operations coverage providing for bodily injury and property damage liabilities which may occur once the operations have been completed or abandoned.
 - 6) Contractual Liability coverage to provide financial responsibility for CLEC to meet its indemnification obligations.
 - 7) Broad Form Property Damage (BFPD) coverage for damage to property in the care or custody of CLEC and damage to work performed by or on behalf of CLEC.

- b) Minimum policy limits shall be as follows:

General Aggregate Limit: \$1,000,000.

Sublimit for all bodily injury, property damages, or medical expenses incurred in any one occurrence: \$1,000,000.

Sublimit for personal injury and advertising: \$1,000,000.

Products/Operations Aggregate Limit: \$1,000,000.

Each occurrence sublimit for Products/Operations: \$1,000,000.

- c) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.
- d) Policy language or endorsements adding AT&T as an additional insured shall not include exclusions or exceptions which defeat the purpose of protecting AT&T from any liability for bodily injury or property damage arising out of CLEC's operations.

5) Automobile Liability Insurance. The parties contemplate that CLEC and personnel acting on CLEC's behalf will utilize automobiles, trucks, and other motor vehicles on public and private property, including public rights-of-way, in the vicinity of AT&T' poles, ducts, conduits, and rights-of-way. Accordingly, CLEC shall maintain, at all times during the term of the Agreement, Automobile Liability insurance with minimum limits of \$1,000,000 combined single limits per occurrence for bodily injury and property damage which may arise out of the operation or use of motor vehicles of any type. Coverage shall extend to "any auto" -- that is, coverage shall be extended to all owned, non-owned, and hired vehicles used by CLEC or by any person or entity acting on CLEC's behalf in connection with any work performed, or to be performed, on, within, or in the vicinity of AT&T' poles, ducts, conduits, or rights-of-way.

6) Layering of General Liability and Automobile Liability coverages. CLEC's insurance may be written via a primary policy with either an excess or umbrella form over the primary policy. If coverage is written in this manner, the total of the combined policy limits must meet or exceed the minimum limits specified in the Agreement.

- 7) Deductibles. No deductibles shall be allowed without the express written consent of AT&T.

- 8) Claims Made Policies. Claims Made Policies will not be accepted.

9) Proof of Insurance. Certificates of Insurance stating the types of insurance and policy limits provided the insured, or other proof of insurance satisfactory to AT&T, must be received by AT&T prior to the issuance of any licenses pursuant to the Agreement and before CLEC or any person acting on CLEC's behalf performs any work on the premises described in 1) above.

- a) Certificates of Insurance using the insurance industry standard ACORD form are preferred.
- b) Certificates provided with respect to General Liability policies and certificates provided with respect to Automobile Liability policies shall indicate AT&T as an Additional Insured.
- c) Deductibles, if permitted, shall be listed on the Certificate of Insurance.
- d) The cancellation clause on the certificate of insurance shall be amended to read as follows:

"SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED OR MATERIALLY CHANGED BEFORE THE EXPIRATION DATE, THE ISSUING COMPANY WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT."

A certificate which does not include the phrase "or materially changed" does not meet AT&T' requirements. A certificate reciting that the issuing company will "endeavor to" mail 30 days written notice to the certificate holder does not meet AT&T's requirements. The language "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" or similar language must be deleted from the certificate.

- e) The certificate holder shall be:

Illinois, Indiana, Michigan, Ohio, Wisconsin
Structure Access Manger

23500 Northwestern Highway, Room E230

Southfield, Michigan 48075

(888)395-ASAC (2722)

- f) Failure to object to any coverage described in a certificate shall not constitute written permission from AT&T to any variance from or alteration of any requirement set forth in this Exhibit and shall not be construed as a waiver by AT&T of any rights under the Agreement.

10) Rating of Insurers. AT&T requires that companies affording insurance coverage have a B+VII or better rating, as rated in the current A.M. Best Key Rating Guide for Property and Casualty Insurance Companies.

11) Self-insurance. If authorized in the Master Agreement, self-insurance shall be allowed in lieu of the above requirements upon CLEC's submission of proof that it has met the self-insurance requirements stated in the Master Agreement.

EXHIBIT V NONDISCLOSURE AGREEMENT (ILLINOIS)

Nondisclosure Agreement (AT&T Pole, Duct, Conduit, and Right-of-Way)

This Nondisclosure Agreement, effective as of the _____ day of _____, 20____, has been entered into by and between Illinois Bell Telephone Company d/b/a AT&T Illinois ("AT&T") and the undersigned person or firm ("Recipient") as a condition of access to certain records and information maintained by AT&T. The parties stipulate and agree as follows:

1) AT&T maintains records and information, including but not limited to outside plant engineering and construction records, which relate to poles, ducts, conduits, and rights-of-way which AT&T owns or controls. AT&T represents that such records and information are not made generally available for inspection or copying by the public and include business, economic, and engineering information (including but not limited to plans, designs, maps, diagrams, cable counts and cable-specific information, circuit records, and other competitively sensitive information) which AT&T intends to keep secret and which has economic value by virtue of not being generally known to or readily ascertainable by the public, including AT&T's competitors.

2) AT&T has agreed to make certain of its records and information relating to poles, ducts, conduits, and rights-of-way available to cable television systems and telecommunications carriers who are presently entitled under federal law to have access to the poles, ducts, conduits, and rights-of-way owned or controlled by AT&T.

3) Recipient represents that Recipient is a cable television system or telecommunications carrier entitled under federal law to access to poles, ducts, conduits, and rights-of-way owned or controlled by AT&T, or, if an individual, that he or she is acting on behalf of _____, which is such a cable television system or telecommunications carrier. Recipient further represents that Recipient is seeking access to AT&T's records and information relating to poles, ducts, conduits, and rights-of-way for the limited purpose of enabling engineering and construction personnel employed by or acting on behalf of such cable television system or telecommunications carrier to make engineering and construction decisions necessary to utilize AT&T' poles, ducts, conduits, and rights-of-way.

4) AT&T agrees that permitted uses of records and information concerning AT&T's poles, ducts, conduits, and rights-of-way are (a) determining which poles, ducts, conduits, and rights-of-way owned or controlled by AT&T are available for use by such cable television systems or telecommunications carriers as permitted by federal law, (b) designing, engineering, constructing, installing, maintaining, and removing equipment which is to be attached to or placed within such poles, ducts, conduits, and rights-of-way, and (c) contesting decisions, if any, by AT&T not to provide access to such poles, ducts, conduits, and rights-of-way as requested. No other uses of such records or information are authorized or permitted under this Agreement.

5) Recipient agrees that Recipient will not use, or permit any other person or entity to use or have access to AT&T's records and information relating to poles, ducts, conduits, or rights-of-way or information for any purpose other than the limited purposes stated in 4) above and that such records and information shall not be disclosed or shared with any person or persons other than those who have a need to know such information for such limited purposes. Recipient specifically agrees that such records and information shall not be used or accessed by any person involved in sales, marketing, competitive intelligence, competitive analysis, strategic planning, and similar activities. Recipient further agrees that Recipient shall not furnish copies of such records or disclose information contained in such records to any person or entity which has not executed and delivered to AT&T a counterpart of this Agreement prior to receipt of such copies or information.

6) Recipient agrees that Recipient will not without AT&T's express written authorization copy, duplicate, sketch, draw, photograph, download, photocopy, scan, replicate, transmit, deliver, send, mail, communicate, or convey any of AT&T's records relating to poles, ducts, conduits, or rights-of-way. Recipient further agrees that Recipient will not conceal, alter, or destroy any AT&T records furnished to Recipient pursuant to this Agreement.

7) Notwithstanding the provisions of 6) above, and except as provided in 8) below, Recipient may copy, take notes from, make, and use (for the limited purposes specified herein) drawings with reference to the following records provided by AT&T to Recipient for inspection: pole and conduit route maps, cable plat maps, and plant location records reflecting approximate locations of AT&T's existing poles, ducts, conduits, and rights-of-way. All such copies, notes, and drawings (whether in hardcopy or electronic form) shall be marked with the legend: **"PROPRIETARY INFORMATION: NOT FOR USE BY OR DISCLOSURE TO ANY PERSON WHO HAS NOT EXECUTED A NONDISCLOSURE AGREEMENT (AT&T POLE, DUCT, CONDUIT, AND RIGHT-OF-WAY)."**

8) No references to cable counts, cable designations or cable-specific information, circuit information, or customer-specific information of any kind may be included in any copies, notes, or drawings made pursuant to 7) above; provided, however, that Recipient may make estimates regarding the physical characteristics (such as size and weight) of the cables being surveyed when necessary to make engineering determinations regarding the capacity, safety, reliability, or suitability of AT&T's poles, ducts, conduits, or rights-of-way for Recipient/Applicant's intended uses.

9) All records and information relating to poles, ducts, conduits, and rights-of-way provided to Recipient/Applicant by AT&T (whether in writing, orally, or in electronic or other formats) shall be deemed to be proprietary information subject to this Agreement without regard to whether such information, at the time of disclosure, has been marked with restrictive notations such as "Proprietary," "Restricted Proprietary," "Confidential," "Not to Be Copied or Reproduced," or the like.

10) This Agreement applies only to records and information provided to Recipient by AT&T and does not apply to records and information obtained by Recipient from other lawful sources.

11) This Agreement does not prohibit the disclosure of records or information in response to subpoenas and/or orders of a governmental agency or court of competent jurisdiction. In the event Recipient receives an agency or court subpoena requiring such disclosure, Recipient shall immediately, and in no event later than five calendar days after receipt, notify AT&T in writing.

12) The Parties agree that, in the event of a breach or threatened breach of this Agreement, AT&T may seek any and all relief available in law or in equity as a remedy for such breach, including but not limited to monetary damages, specific performance, and injunctive relief. The Parties acknowledge that AT&T's records and information relating to poles, ducts, conduits, and rights-of-way include valuable and unique information and that disclosure of such information (including circuit information) will result in irreparable injury to AT&T. In the event of any breach of this Agreement for which legal or equitable relief is sought, AT&T shall be entitled to recover from Recipient all reasonable attorney's fees and other reasonable costs (including but not limited to fees of expert witnesses) incurred by AT&T in connection with the prosecution of its claims against Recipient.

13) This Agreement shall be effective on the effective date shown above and shall remain in full force and effect until terminated by either party as provided herein. Either party may, at any time, with or without cause, terminate this Agreement by giving the other party 60 days' advance written notice of its decision to terminate. The parties further agree that termination of this Agreement shall have no effect on the duty of any person or entity, including Recipient, to abide by all terms of this Agreement with respect to records and information received by Recipient while this Agreement is in effect.

14) This Agreement shall benefit and be binding on the parties below and their respective heirs, successors, and assigns.

15) This Agreement will be governed by the laws of the State of Illinois.

16) This Agreement sets forth the entire agreement and understanding between the parties with respect to the subject matter hereof, and none of the terms of this Agreement may be amended or modified except by written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, or caused this Agreement to be executed by their duly authorized representatives, in duplicate, as of the dates set forth below.

Recipient (Print or Type Name)

Illinois Bell Telephone Company d/b/a
AT&T Illinois

By _____
Signature of Recipient or Representative

By _____
Signature

Name (Printed or Typed)

Name (Printed or Typed)

Address

Address

City, State, and Zip Code

City, State, and Zip Code

Phone

Phone

Date

Date

EXHIBIT VI NOTICES TO CLEC (ILLINOIS)

This Exhibit is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached. Notices to be sent to the CLEC include, but are not limited to, notices under the following provisions of the Master Agreement.

- 4.03(a) No Effect on AT&T's Right to Abandon, Convey or Transfer Poles, Ducts, Conduits, or Rights-of-Way.
- 8.XX All Notifications in Article 8
- 9.XX All Notifications in Article 9
- 10.05(a) Make-Ready Work
- 17.02 (b) Removal of Untagged or Unauthorized Facilities
- 17.02 (c) Removal of Untagged or Unauthorized Facilities
- 17.02 (d) Removal of Untagged or Unauthorized Facilities
- 18.06 Notice of AT&T's Intent to Remove Facilities
- 21.04 Failure to Obtain or Maintain Coverage
- 22.02 Limitation, Termination, or Refusal of Access Due to Certain Material Breaches

EXHIBIT VII NOTICES TO AT&T (ILLINOIS)

This Exhibit is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

Utility Liaison Supervisor (ULS). Except as otherwise stated in this Exhibit, all notices to AT&T shall be given to the Utility Liaison Supervisor (ULS) designated in EXHIBIT VIII of the Master Agreement. The Utility Liaison Supervisor is generally responsible for coordinating applications for access to AT&T's poles, ducts, conduits, and rights-of-way and serving as CLEC's initial point of contact for matters arising out of or in connection with the administration of the Master Agreement. Notices to the ULS shall be given in writing in the manner prescribed in Section 13 of the General Terms and Conditions of this Agreement. Notices to be sent to the ULS include, but are not limited to, notices under the following provisions of the Master Agreement.

- 7.01 Designation of Primary Points of Contact
- 7.03(a) Access to Records Relating to AT&T's Poles, Ducts, Conduits, and Rights-of-Way
- 8.XX All Notifications in Article 8
- 9.XX All Notifications in Article 9
- 10.05(e) Make-Ready Work
- 12.03(d) Installation of Drive Rings and J-Hooks
- 12.04 Short-term Use of Maintenance Ducts for Repair and Maintenance Activities
- 12.06 Information Concerning the Maintenance of CLEC's Facilities
- 13.01 Notification of Planned Modifications
- 14.02(c) Rearrangement of CLEC's Facilities at AT&T's Request
- 15.02(b) Responsibility for Emergency Repairs; Access to Maintenance Duct
- 15.03 Designation of Emergency Repair Coordinators and Other Information
- 16.01 AT&T's Right to Make Periodic or Spot Inspections
- 17.02(c) Removal of Untagged or Unauthorized Facilities
- 18.01(a) Responsibility for Removing Facilities
- 18.01(e) Responsibility for Removing Facilities
- 20.01(c) Bond May Be Required
- 22.01 Termination of Appendix Due to Non-Use of Facilities
- 22.03 Notice and Opportunity to Cure Breach

Other notices. The following notices may be given orally or in writing (including fax) and shall be given to AT&T's Local Service Provider Center (LSPC) at 1-800-486-5598 instead of the ULS.

- 6.05(a) Additional Electrical Design Specifications: Conduit - Notifications relating to electrical interference
- 6.09(h) General Requirements Relating to Personnel, Equipment, Materials, and Public Safety - Notifications of unsafe conditions
- 6.11(a) Opening of Manholes and Access to Conduit - Notification of manhole entry
- 6.13(c) Environmental Contaminants in AT&T's Conduit System - Notification of environmental contaminants

- 15.04 Reporting of Conditions Requiring Emergency Repairs - Notification of conditions requiring emergency repair
- 15.06(a) Unilateral Corrective Action - Notification of performing corrective work on emergency repair. (advanced notice)
- 15.06(b) Unilateral Corrective Action - Notification of performing corrective work on emergency repair. (no advanced notice)

Additional information and questions concerning notice requirements. The ULS, as CLEC's initial point of contact, will provide additional information to CLEC concerning notification procedures for notices to be given to LSPC. Questions to AT&T concerning notice requirements should be directed to the ULS. The ULS is not authorized to provide CLEC legal advice with respect to notice requirements. Questions by CLEC's personnel and other persons acting on CLEC's behalf concerning CLEC's legal obligations should be directed to CLEC's legal counsel or such other personnel as CLEC may direct.

Changes in notice requirements. Changes in the notice requirements set forth in this Exhibit may be made by AT&T from time to time in accordance with the provisions of Section 29.03 of the Master Agreement.

EXHIBIT VIII IDENTIFICATION OF UTILITY LIAISON SUPERVISOR (ILLINOIS)

This Exhibit is an integral part of the Master Agreement for Access to Poles, Ducts, Conduits, and Rights-of-Way to which it is attached.

The Utility Liaison Supervisor for Illinois is named below. Notices to the Utility Liaison Supervisor should be addressed as follow:

Illinois, Indiana, Michigan, Ohio, Wisconsin
Structure Access Manger

23500 Northwestern Highway, Room E230

Southfield, Michigan 48075

(888)395-ASAC (2722)

FIRM'S NAME: _____
AGREEMENT NO: _____
APPLICATION NO: _____

Wire Center _____ **TYPE:** _____
(CATV, Telecom, Other)

| Item # | Record # | Pole # | Ownership SWBT or Power | Street Address | Proposed Attachment Height | Guy Req'd Y or N | Make Ready Work Y or N | Make Ready Description | Pole Mntd Apparatus Height |
|--------|--------------|--------|-------------------------|----------------|----------------------------|------------------|------------------------|------------------------|----------------------------|
| 1 | | | | | | | | | |
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| 3 | | | | | | | | | |
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| 16 | | | | | | | | | |
| 17 | | | | | | | | | |
| 18 | | | | | | | | | |
| 19 | | | | | | | | | |
| 20 | | | | | | | | | |
| | TOTAL | | | | | | | | |

Number of Cables _____
Weight/per ft. and Size/ O.D. _____
Number and Types of Strands _____

Other Notes: _____

SIGNED: _____ **DATE:** _____
SWBT's Representative **TIME:** _____

SIGNED: _____ **DATE:** _____
Applicant's Representative **TIME:** _____

Official File Copy, If Checked in Red



PRE-OCCUPANCY CONDUIT SURVEY

FIRM'S NAME: _____
AGREEMENT NO: _____
APPLICATION NO: _____

Wire Center _____

TYPE: _____
(CATV, Telecom, Other)

| Item # | Oper. # | Record # | Manhole # | Street Address | Distance to Next Manhole (Ctr to Ctr) | Proposed Duct or Innerduct | Make Ready Work Y or N | Make Ready Description |
|--------------|---------|----------|-----------|----------------|---------------------------------------|----------------------------|------------------------|------------------------|
| 1 | | | | | | | | |
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| 15 | | | | | | | | |
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| 17 | | | | | | | | |
| 18 | | | | | | | | |
| 19 | | | | | | | | |
| 20 | | | | | | | | |
| TOTAL | | | | | 0 | | | |

Number of Cables _____
Size of Cable (O.D. Inches) _____

Splice Information Manhole # _____
Splice Information Manhole # _____
Slack Loop Information Manhole # _____
Slack Loop Information Manhole # _____

Details _____
Details _____
Details _____
Details _____

SIGNED: _____
SWBT's Representative

DATE: _____
TIME: _____

SIGNED: _____
Applicant's Representative

DATE: _____
TIME: _____

Official File Copy, If Checked in Red

**NOTIFICATION OF SURRENDER OR MODIFICATION
OF POLE ATTACHMENT LICENSE BY LICENSEE**

Page _____ of _____

Southwestern Bell Telephone Company:

In accordance with the terms and conditions of the Licensee Agreement between us, dated _____, _____ notice is hereby given that the licenses covering attachments to the following poles and/or anchors and/or utilization of anchor/guy strand is surrendered (or modified as indicated in Licensee's prior notification to Licensor, dated _____, _____) effective _____.

| | POLE NO. | ANCHOR A/GS (ASSOC. POLE. NO.) | LIC. NO. & DATE | SURRENDER OR MODIFICATION | DATE FAC. RMVD. OR MODIFIED |
|----|----------|-----------------------------------|-----------------|---------------------------|-----------------------------------|
| 1 | | | | | |
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| 14 | | | | | |
| 15 | | | | | |

| |
|-----------------------------------|
| Date Notification Received: _____ |
| Date Modification Accepted: _____ |
| By: _____ |
| Discontinued: |
| Poles: _____ |
| Anchors: _____ |
| Anchor/Guy Strands: _____ |

Name of Licensee

By: _____

Title: _____

**NOTIFICATION OF SURRENDER OR MODIFICATION
OF CONDUIT OCCUPANCY LICENSE BY APPLICANT**

License Agreement #: _____

 (Applicant)

 (Address)

In accordance with the terms and conditions of the Licensing Agreement between us, dated _____, _____ notice is hereby given that the licenses covering occupancy of the following conduit are surrendered (or modified as indicated in Applicant's prior notification to SWBT, dated _____, _____) effective _____.

| | CONDUIT LOCATION | LIC. NO. & DATE | SURRENDER OR MODIFICATION | DATE FAC./TAGS RMVD. OR MODIFIED |
|----|------------------|-----------------|---------------------------|----------------------------------|
| 1 | | | | |
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| 15 | | | | |

| | |
|------------------|-----------------------------------|
| S W B T | Date Notification Received: _____ |
| | Date Modification Accepted: _____ |
| | By: _____ |
| | Discontinued: _____ |
| | Total Duct Footage: _____ |

 (Applicant)
 By: _____
 (Name of Authorized Agent)
 Title: _____
 (Title of Authorized Agent)



Southwestern Bell
Telephone

NOTIFICATION OF UNAUTHORIZED ATTACHMENTS BY APPLICANT

Applicant Name: _____

In accordance with the terms and conditions of the Licensee Agreement between us, dated _____, _____ notice is hereby given that the license covering attachments to the following is unauthorized (as indicated in Applicant's prior lease agreement to SWBT, dated _____, _____) effective _____.

Southwestern Bell Telephone

By: _____

Title: _____

| | POLE NO. OR CONDUIT # | LOCATION (ASSOC. POLE NO.) MANHOLES Involved | LIC. NO. & DATE | UNAUTHORIZED ATTACHMENT | DATE FAC. RMVD. OR MODIFIED |
|----|-----------------------------|--|-----------------|-------------------------|-----------------------------------|
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| 15 | | | | | |

SKETCH OF UNAUTHORIZED ATTACHMENTS
ATTACHED

Date Notification Sent: _____

Name of Applicant

By: _____

Title: _____

ATTACHMENT 14: PERMANENT NUMBER PORTABILITY

1.0 Provision of Local Number Portability

1.1 AT&T and CLEC shall provide to each other, on a reciprocal basis, number portability in accordance with requirements of the Act.

2.0 Location Routing Number - Permanent Number Portability (LRN-PNP)

2.1 AT&T and CLEC shall work to implement the LRN-PNP solution in accordance with the relevant FCC rulings and NANC (North American Numbering Council) guidelines.

2.2 Requirements for LRN-PNP

2.2.1 The Parties agree that the industry has established local routing number (LRN) technology as the method by which permanent number portability (PNP) will be provided in response to FCC Orders in FCC 95-116 (i.e., First Report and Order and subsequent Orders issued to the date this agreement was signed). As such, the parties agree to provide PNP via LRN to each other as required by such FCC Orders or Industry agreed upon practices.

2.2.2 LRN-PNP employs an "N-1" Query Methodology.

2.2.2.1 For interLATA or intraLATA toll calls, the originating carrier will pass the call to the appropriate toll carrier who will perform a query to an external routing database and efficiently route the call to the appropriate terminating local carrier either directly or through an access tandem office. Where one carrier is the originating local service provider (LSP) and the other is the designated toll carrier, the originating LSP will not query toll calls delivered to the toll carrier or charge the toll carrier for such queries.

2.2.2.2 For a local call to a ported number, the originating carrier is the "N-1" carrier. It will perform an external database query and pass the call to the appropriate terminating carrier.

2.2.3 For local calls to an NXX in which at least one number has been ported via LRN-PNP at the request of a CLEC, the Party originating the call shall be responsible to query an LRN-PNP database or to pay for another Party to query this database as soon as the call reaches the first LRN-PNP-capable switch in the call path. The Party originating the call shall query on a local call to an NXX in which at least one number has been ported via LRN-PNP prior to any attempts to route the call to any other switch. Prior to the first number in an NXX being ported via LRN-PNP at the request of a CLEC, AT&T may query all calls directed to that NXX, subject to the billing provisions of Section 4.1, and provided that AT&T queries shall not adversely affect the quality of service to CLEC's customers or end-users as compared to the service AT&T provides its own customers and end-users.

2.2.4 A Party shall be charged for an LRN-PNP query by the other Party only if the Party to be charged is the N-1 carrier and it was obligated to perform the LRN-PNP query but failed to do so. The only exception will be if the FCC rules (Docket No. 95-116) that the terminating carrier may charge the N-1 carrier for queries initiated before the first number is ported in an NXX.

2.2.5 On calls originating from a Party's network, the Party will populate, if technically feasible, the Jurisdiction Information Parameter (JIP) with the first six digits of the originating LRN in the Initial Address Message.

2.3 SMS Administration

AT&T and CLEC shall cooperate to facilitate the expeditious deployment of LRN-PNP based LNP through the process prescribed in the documents referenced in Section 2.1 of this Attachment including, but not limited to development of SMS, as well as SMS testing for effective procedures, electronic system interfaces, and overall readiness for use consistent with that specified for Provisioning in this Agreement.

2.4 Ordering

- 2.4.1 Porting of numbers with PNP will be initiated via Local Service Requests (LSR) based on Ordering and Billing Forum (OBF) recommendations.
- 2.4.2 Both Parties agree to provide a Firm Order Confirmation (FOC) within Industry defined time frames when an LSR is sent to one Party by the other Party.
- 2.4.3 For the purposes of this Attachment, the parties may use a project management approach for the implementation of LSRs for large quantities of ported numbers or for complex porting processes. With regard to such managed projects ("projects"), the parties may negotiate implementation details such as, but not limited to: Due Date, Cutover Intervals and Times, Coordination of Technical Resources, and Completion Notice.

3.0 Requirements for PNP

3.1 Cut-Over Process

- 3.1.1 AT&T and CLEC shall cooperate in the process of porting numbers to minimize ported subscriber out-of-service time. For cutover to LRN-PNP, both AT&T and CLEC agree to update their switch translations, where necessary, after notification that physical cut-over has been completed (or initiated), as close to the requested time as possible, not to exceed 59 minutes for non-coordinated orders or as otherwise agreed to by the parties for coordinated orders or on a project specific basis.
- 3.1.2 AT&T and CLEC shall cooperate in the process of porting numbers from one carrier to another so as to limit service outage for the ported subscriber. AT&T and CLEC will use their best efforts to update their respective Local Service Management Systems (LSMS) from the NPAC SMS data within 15 minutes after receipt of a download from the NPAC SMS (the current North American Numbering Council goal for such updating).
- 3.1.3 If a Party, by its own error, disconnects the end user, that Party may not assess fees on the other Party or assess a charge to the end user to reconnect service.
- 3.1.4 At the time of porting a number via LRN-PNP, the Party from which the number is being ported shall insure that the LIDB entry for that number is deprovisioned.
- 3.1.5 The Parties will remove (as close to the requested time as possible, not to exceed 59 minutes for non-coordinated orders or as otherwise agreed to by the parties for coordinated orders or on a project specific basis.) a ported number from the end office from which the number is being ported, as coordinated by the Parties' respective technicians. The 59 minute period shall commence upon the Frame Due Time (FDT) shown on the receiving party's LSR, or as otherwise negotiated by the parties on a project basis, unless the unconditional PNP (10-digit) trigger is set. The parties recognize that it is in the best interest of the consumer for this removal to be completed in the most expedient manner possible. Therefore, AT&T and CLEC agree that a 30 minute interval is a goal towards which both companies will work, however both CLEC and AT&T recognize that there will be instances where the interval may be up to 59 minutes. If the unconditional PNP trigger is set, the ported number must be removed at the same time that the unconditional PNP trigger is removed.
- 3.1.6 The Party from whom a number is porting will set the 10-digit trigger at the other Party's request, either on an individual customer basis or for all customers, at the option of the requesting Party.

3.4 Excluded Numbers

- 3.4.1 Neither Party shall be required to provide number portability for excluded numbers (e.g., AT&T Official Communications Services (OCS) NXXs: 500 and 900 NPAs, 950 and 976 NXX number services, N11 numbers (e.g. 411 and 911); toll free service numbers (e.g. 800, 888, 877, and 866) and disconnected or unassigned numbers, and others as excluded by FCC rulings issued from time to time) under this Agreement.

3.5 Mass Calling

3.5.1 Both AT&T and CLEC are required to offer number portability of telephone numbers with “choke” (i.e., mass calling) NXXs in a manner that complies with the FCC’s criteria.

3.6 Operator Services, LIDB/LVAS and Directory Assistance

3.6.1 The Provisions of this Agreement pertaining to Operator Services, LIDB SMS and Directory Assistance shall also apply when LRN-PNP is in place.

3.6.2 If Integrated Services Digital Network User Part (ISUP) signaling is used, AT&T shall provide, if technically feasible, the Jurisdiction Information Parameter (JIP) in the SS7 Initial Address Message (IAM). (See Generic Switching and Signaling Requirements for Number Portability, Issue 1.0, February 12, 1996. [Editor - Lucent Technologies, Inc.]

3.7 Porting of DID Block Numbers

3.7.1 AT&T and CLEC shall offer number portability to customers for any portion of an existing DID block without being required to port the entire block of DID numbers.

3.7.2 AT&T and CLEC shall permit customers who port a portion of DID numbers to retain DID service on the remaining portion of the DID numbers, provided such is consistent with applicable tariffs; provided that the parties agree that nothing herein shall be deemed a waiver or estoppel of CLEC’s positions that: (1) AT&T should permit customers who port a portion of a DID block to retain DID service on the remaining portion of the DID block; and (2) that AT&T should offer customers who port a portion of a DID block a discount that is proportional to the amount of the DID block that has been ported, nor shall CLEC be prejudiced in any present or future proceedings from asserting said positions.

4.0 Pricing

4.1 The Parties agree that FCC approved rates for Service Provider Number Portability (SPNP) are found in FCC No. 2 Access Services Tariff – Section 6 . These rates define terms under which SPNP Query Service, SPNP Query Service-Database, and Basic SPNP Service are offered.

4.2 When a CLEC orders Coordinated Hot Cut (CHC) service, AT&T shall charge and the CLEC agrees to pay for service at the “additional time and material” rates set forth in Appendix Pricing UNE (T2A) Schedule of Prices.

4.2.1 Coordinated Hot Cut (CHC) is an option service that permits the CLEC to request AT&T to hold translations in the donor switch until the CLEC gives verbal instruction to implement the porting.

4.2.2 Parties agree to comply with all Illinois Commission decisions regarding batch hot cuts that may occur during proceedings implementing the FCC’s Triennial Review Order, subject to the final outcome of any appeals of those decisions. Upon approval by a state commission of the batch hot cut process, SBC will propose amendment language, based upon the rates, terms and conditions approved by the commission.

ATTACHMENT 15: E911

TERMS AND CONDITIONS FOR PROVIDING CONNECTION TO E911 UNIVERSAL EMERGENCY NUMBER SERVICE

This Attachment 15: E911 sets forth the terms and conditions under which AT&T will provide the connection between CLEC's local switch and E911 Universal Emergency Number Service.

1.0 DEFINITIONS

As used herein and for the purposes of this Attachment the following terms will have the meanings set forth below:

- 1.1. **"911 Trunk"** means a trunk capable of transmitting Automatic Number Identification (ANI), or a voice capable trunk utilizing the SS7 network to transmit Calling Party Number(CPN) associated with a call to 911 from CLEC's End Office to the E911 system
- 1.2. **"Automatic Location Identification" or "ALI"** means the automatic display at the PSAP of the caller's telephone number, the address/location of the telephone and, in some cases, supplementary emergency services information.
- 1.3. **"Automatic Number Identification"(ANI) or "Calling Party Number"(CPN)** allows for identification of the telephone number that originates a call. In some instances, the station number of the calling party is not identified using ANI or CPN , in these instances the Calling Party will be identified by using a billing telephone number.
- 1.4. **"Company Identifier" or "Company ID"** means a three to five (3 to 5) character identifier chosen by the Local Exchange Carrier that distinguishes the entity providing dial tone to the End-User. The Company Identifier is maintained by NENA in a nationally accessible database.
- 1.5. **"Database Management System" or "DBMS"** means a system of manual procedures and computer programs used to create, store and update the data required to provide Selective Routing and/or Automatic Location Identification for 911 systems.
- 1.6. **"Demarcation"** means the point of demarcation and/or interconnection between the telephone company communications facilities and terminal equipment, protective apparatus or wiring at a subscriber's premises.
- 1.7. **"E911 Gateway"** - A secure information management system that provides a CLEC the ability to send and receive 911 data files through a peer-to-peer connectivity from a CLEC Data Management System to SBC's E911 Database Management system.
- 1.8. **"E911 Customer"** - A municipality or other state or local governmental unit, or an authorized agent of one or more municipalities or other state or local government units to whom authority has been lawfully delegated to respond to public emergency telephone calls, at the minimum, for emergency police and fire service through the use of one telephone number, 911.
- 1.9. **"E911 Universal Emergency Number Service"** - (also referred to as **"Expanded 911 Service"** or **"Enhanced 911 Service"**) or **"E911 Service"** means a telephone exchange communications service whereby a public safety answering point (PSAP) answers telephone calls placed by dialing the number 911.

E911 includes the service provided by the lines and equipment associated with the service arrangement for the answering, transferring, and dispatching of public emergency telephone calls dialed to 911. E911 provides completion of a call to 911 via dedicated trunking facilities and includes Automatic Number Identification (ANI), Automatic Location Identification (ALI), and/or Selective Routing (SR).

- 1.10 **"Emergency Services"** means police, fire, ambulance, rescue, and medical services.
- 1.11 **"Emergency Service Number" or "ESN"** means a three to five digit number representing a unique combination of emergency service agencies (Law Enforcement, Fire, and Emergency Medical Service) designated to serve a specific range of addresses within a particular geographical area. The ESN facilitates selective routing and selective transfer, if required, to the appropriate PSAP and the dispatching of the proper service agency (ies).
- 1.12 **"National Emergency Number Association" or "NENA"** means the National Emergency Number Association is a not-for-profit corporation established in 1982 to further the goal of "One Nation-One Number". NENA is a networking source and promotes research, planning, and training. NENA strives to educate, set standards and provide certification programs, legislative representation and technical assistance for implementing and managing 911 systems.
- 1.13 **"Public Safety Answering Point" or "PSAP"** - An answering location for 911 calls originating in a given area. The E911 customer may designate a PSAP as primary or secondary, which refers to the order in which calls are directed for answering. Primary PSAPs respond first, secondary PSAPs receive calls on a transfer basis only. PSAPs are public safety agencies such as police, fire, emergency medical, etc., or a common bureau serving a group of such entities.
- 1.14 **"Centralized Automatic Message Accounting "CAMA" Trunk"** - A trunk capable of transmitting Automatic Number Identification associated with E911 customer calls from a switch to the E911 Network.
- 1.15 **"Selective Routing" and "Selective Router" or "SR"** means the routing and equipment used to route a call to 911 to the proper PSAP based upon the number and location of the caller. Selective routing is controlled by an ESN, which is derived from the location of the access line from which the 911 call was placed.
- 1.16 **"ALI Database"** - A database which stores information associated with end user customers' telephone numbers.
- 1.17 **"Signaling System 7" "SS7"** means a signaling protocol used by the CCS Network.

2.0 AT&T RESPONSIBILITIES

- 2.1. AT&T shall provide and maintain such equipment at the E911 SR and the DBMS as is necessary to perform the E911 services set forth herein when AT&T is the 911 Service Provider. AT&T shall provide 911 Service to CLEC as described this section in a particular Rate Center in which CLEC is authorized to provide local telephone exchange service and AT&T is the 911 Service Provider. This shall include the following:
 - 2.2. Call Routing
 - 2.2.1. AT&T will switch 911 calls through the SR to the designated primary PSAP or to designated alternate locations, according to routing criteria specified by the PSAP.
 - 2.2.2. AT&T will forward the calling party number (ANI) it receives from CLEC and the associated 911 Address Location Identification (ALI) to the PSAP for display. If no ANI is forwarded by CLEC, AT&T will forward an

Emergency Service Central Office (ESCO) identification code for display at the PSAP. If ANI is forwarded by the CLEC, but no ANI record is found in the E911 DBMS, AT&T will report this "No Record Found" condition to the CLEC in accordance with NENA standards.

2.2.3. Intentionally Left Blank.

2.3. Facilities and Trunking

2.3.1. AT&T shall provide and maintain sufficient dedicated E911 trunks from the AT&T SR to the PSAP of the E911 Customer, according to provisions of the appropriate state Commission approved tariff and documented specifications of the E911 Customer.

2.3.2. AT&T will provide facilities to interconnect the CLEC, as specified in the Interconnection Trunking Requirements (ITR) and Network Interconnection Methods (NIM) Appendices of this agreement. CLEC has the option to secure interconnection facilities from another provider or provide such interconnection using their own facilities.

2.3.3. Intentionally left Blank.

2.3.4. AT&T and CLEC will cooperate to promptly test all trunks and facilities between CLEC's network and the AT&T SR(s) in accordance with industry standards.

2.4. Database-FOR AT&T ONLY

2.4.1. Where AT&T manages the E911 database, AT&T shall store the CLEC's End User 911 Records [that is, the name, address, and associated telephone number(s) for each of CLEC's End Users served by CLEC's exchange(s)] in the electronic data processing database for the E911 DBMS. CLEC or its representative(s) is responsible for electronically providing End User 911 Records and updating this information.

2.4.2. AT&T shall coordinate access to the AT&T E911 DBMS for the initial loading and updating of CLEC End User 911 Records.

2.4.3. AT&T ALLI database shall accept electronically transmitted files that are based upon NENA standards. Manual entry shall be allowed only in the event that DBMS is not functioning properly.

2.4.4. AT&T will update CLEC's End User 911 Records in the E911 DBMS, at no charge to CLEC, if the CLEC uses AT&T's E911 Gateway to maintain the CLEC's end user records. AT&T will then provide CLEC an error and status report. This report will be provided in a timely fashion and in accordance with the methods and procedures described in the documentation to be provided to the CLEC.

2.4.5. AT&T shall provide the CLEC with a file containing the Master Street Address Guide (MSAG) for the CLEC's respective exchanges or communities.

2.4.6. The MSAG will be provided on a routine basis but only for those areas where CLEC is authorized to do business as a local exchange service provider and AT&T is the 911 service provider.

2.4.7. Where AT&T manages the DBMS, AT&T shall establish a process for the management of NPA splits by populating the DBMS with the appropriate NPA codes.

2.4.8. Intentionally Left Blank.

3.0 CLEC RESPONSIBILITIES

3.1. Call Routing

- 3.1.1 CLEC will transport 911 calls from each point of interconnection (POI) to the AT&T SR office of the E911 system, where AT&T is the 911 Service Provider.
- 3.1.2 CLEC shall provide interconnection at each appropriate AT&T 911 Selective Router that serves each exchange area in which CLEC chooses to provide telephone exchange service.

3.2 Facilities and Trunking

- 3.2.1 CLEC shall provide interconnection at each appropriate AT&T 911 Selective Router that serves each exchange area in which CLEC chooses to provide telephone exchange service.
- 3.2.2 The Parties agree that CLEC will not have to establish 911 trunking or interconnection to AT&T's 911 Selective Routers and therefore AT&T shall not provide 911 services for those telephony applications in which CLEC does not offer services which permit end users to place outgoing voice calls provided that:
 - 3.2.2.1 Having represented and warranted to AT&T that it will not offer services permitting end users to place outgoing voice calls, CLEC agrees that it will not provide such services to its end users over the facilities or network elements furnished by AT&T and will provide sufficient notice to AT&T before doing so; and
 - 3.2.2.2 CLEC understands and agrees that, should it decide to provide services permitting end users to place outgoing voice calls, it is required to meet all applicable Commission 911 service requirements;
 - 3.2.2.3 CLEC understands and agrees that, should it decide to provide voice service, it is required to meet all applicable Commission 911 service requirements;
 - 3.2.2.4 CLEC agrees to begin implementing access to 911 sufficiently in advance of the planned implementation of services involving outgoing voice service to meet its 911 requirements under this Interconnection Agreement and Applicable Law. CLEC understands that the steps it must take to fulfill its 911 obligation include, but are not limited to, obtaining NXX(s) from Neustar for the exchange area(s) CLEC plans to serve, submission of the appropriate form(s) to AT&T, and, following AT&T's processing of such form(s), obtaining approval from the appropriate E911 Customer(s) for the CLEC's 911 service architecture. CLEC further understands that E911 Customer approval may include testing 911 trunks with appropriate PSAP(s). CLEC understands that, based on AT&T's prior experience with CLEC implementation of 911, these steps may require a minimum of sixty (60) days;
 - 3.2.2.5 CLEC agrees to indemnify and hold AT&T harmless from the consequences of CLEC's decision to not interconnect with AT&T's 911 Selective Routers.
- 3.2.3 CLEC acknowledges that its End Users in a single local calling scope may be served by different SRs and CLEC shall be responsible for providing facilities to route 911 calls from its End Users to the proper E911 SR.
- 3.2.4 Except in configurations identified in sections 3.2.2 above, CLEC shall provide a minimum of two (2) one-way outgoing E911 trunk(s) dedicated for originating 911 emergency service calls to each AT&T 911 Selective Router, where applicable. Where SS7 connectivity is available and required by the applicable 911 Customer, the Parties agree to implement Common Channel Signaling trunking rather than CAMA/ MF trunking.

- 3.2.5 CLEC shall maintain transport capacity sufficient to route 911 traffic over trunks dedicated to 911 Interconnection between the CLEC switch and the AT&T SR.
- 3.2.6 CLEC shall provide sufficient trunking and facilities to route CLEC's originating 911 calls to the designated AT&T 911 SR. CLEC is responsible for requesting that trunking and facilities be routed diversely for 911 connectivity.
- 3.2.7 CLEC is responsible for determining the proper quantity of trunks and facilities from its switch(es) to the AT&T 911 SR.
- 3.2.8 CLEC shall engineer its 911 trunks to attain a minimum P.01 grade of service as measured using the "busy day/busy hour" criteria or, if higher, at such other minimum grade of service as required by Applicable Law or duly authorized Governmental Authority.
- 3.2.9 CLEC shall monitor its 911 circuits for the purpose of determining originating network traffic volumes. If CLEC's traffic study indicates that additional circuits are needed to meet the current level of 911 call volumes, CLEC shall request additional circuits from AT&T.
- 3.2.10 CLEC will cooperate with AT&T to promptly test all 911 trunks and facilities between CLEC's network and the AT&T 911 Selective Router(s), in accordance with industry standards, to assure proper functioning of 911 service.
- 3.2.11 CLEC is responsible for the isolation, coordination and restoration of all 911 network maintenance problems to CLEC's demarcation (for example, collocation). AT&T will be responsible for the coordination and restoration of all 911 network maintenance problems beyond the demarcation (for example, collocation). CLEC is responsible for advising AT&T of the circuit identification and the fact that the circuit is a 911 circuit when notifying AT&T of a failure or outage. The Parties agree to work cooperatively and expeditiously to resolve any 911 outage. AT&T will refer network trouble to CLEC if no defect is found in AT&T' 911 network. The Parties agree that 911 network problem resolution will be managed expeditiously at all times.
- 3.3 Database
 - 3.3.1 Once E911 trunking has been established and tested between CLEC's End Office and all appropriate SR, CLEC or its representatives shall be responsible for providing CLEC's End User 911 Records to AT&T for inclusion in AT&T' DBMS on a timely basis. AT&T and CLEC shall arrange for the automated input and periodic updating of CLEC's End User 911 Records.
 - 3.3.2 CLEC or its agent shall provide initial and ongoing updates of CLEC's End User 911 Records that are MSAG-valid in electronic format based upon established NENA standards.
 - 3.3.3 CLEC shall adopt use of a Company ID on all CLEC End User 911 Records in accordance with NENA standards. The Company ID is used to identify the carrier of record in facility configurations.
 - 3.3.4 CLEC is responsible for providing AT&T updates to the ALI database; in addition, CLEC is responsible for correcting any CLEC-caused errors that may occur during the entry of their data to the AT&T 911 DBMS.
 - 3.3.5 CLEC shall be solely responsible for providing test records and conducting call-through testing on all new exchanges.
- 3.4 Other
 - 3.4.1 CLEC is responsible for collecting from its End Users and remitting to the appropriate municipality or other governmental entity any applicable 911 surcharges assessed on the local service provider and/or End Users

by any municipality or other governmental entity within whose boundaries the CLEC provides local exchange service.

4.0 INTENTIONALLY LEFT BLANK.

5.0 RESPONSIBILITIES OF BOTH PARTIES

5.1 The Parties shall jointly coordinate the provisioning of transport capacity sufficient to route originating 911 calls from CLEC to the designated AT&T 911 Selective Router(s).

5.2 911 Surcharge Remittance for PSAP;

5.2.1 For CLEC's own switch(es), the Parties agree that:

5.2.1.1 AT&T is not responsible for collecting and remitting applicable 911 surcharges or fees directly to municipalities or government entities where such surcharges or fees are assessed by said municipality or government entity, and

5.2.1.2 AT&T is not responsible for providing the 911 Customer detailed monthly listings of the actual number of access lines, or breakdowns between the types of access lines (e.g. residential, business, payphone, Centrex, PBX and exempt lines).

5.2.1.3 Facility based CLECs shall be responsible for collecting and remitting all applicable 911 fees and surcharges on a per line basis to the appropriate PSAP or other governmental authority responsible for collection of such fees and surcharges.

5.2.2 For Resellers, the ILEC shall serve as a clearinghouse between Resellers and PSAPs except where state law requires Reseller to collect and remit directly to the appropriate 911 Authority. The Parties agree that:

5.2.2.1 AT&T shall include Reseller information when providing the 911 Customer with detailed monthly listings of the actual number of access lines, or breakdowns between the types of access lines (e.g. residential, business, payphone, Centrex, PBX and exempt lines).

6.0 METHODS AND PRACTICES

6.1 With respect to all matters covered by this Appendix, each Party will comply with all of the following to the extent that they apply to E911 Service: (i) all FCC and applicable state Commission rules and regulations, (ii) any requirements imposed by any Governmental Authority other than a Commission, and (iii) the principles expressed in the recommended standards recommended by NENA.

7.0 CONTINGENCY

7.1 The terms and conditions of this Appendix represent a negotiated plan for providing E911 Service.

7.2 The Parties agree that the E911 Service is provided for the use of the E911 Customer, and recognize the authority of the E911 Customer to establish service specifications and grant final approval (or denial) of service configurations offered by AT&T and CLEC.

8.0 BASIS OF COMPENSATION

- 8.1 Rates for access to 911 and E911 Databases, Interconnection and call routing of E911 call completion to a PSAP are set forth in the Pricing Schedule or applicable AT&T Commission-approved access tariff.
- 8.2 Intentionally Left Blank.
- 8.3 Charges will begin on the date connection to E911 service commences.

9.0 MONTHLY BILLING

- 9.1 AT&T will render to CLEC monthly statements showing the amounts determined as provided in Section 7.0 above. Payment will be made in accordance with Section 9 Assurance of Payment, Section 10 , Billing/Payment of Rates and Charges and Section 11 Dispute Resolution of the General Terms and Conditions of this Agreement, including the provisions governing resolution of billing disputes.

10.0 LIABILITY

- 10.1 The Parties' liability with respect to 911/E911 services shall be governed by the provisions of the General Terms and Conditions of the agreement.

ATTACHMENT 16: NETWORK SECURITY AND LAW ENFORCEMENT

This Attachment 16: Network Security and Law Enforcement to the Agreement sets forth terms and conditions concerning certain Network Security and Law Enforcement requirements.

1.0 Protection of Service and Property

- 1.1 The Parties will exercise due care to prevent harm or damage to their respective employees, agents or customers, or their property. The Parties' employees, agents, or representatives agree to take reasonable and prudent steps to ensure the adequate protection of their respective property and services. In recognition of its obligation under this attachment, AT&T agrees to take the following reasonable and prudent steps, including but not limited to:
 - 1.2 Restricting access to CLEC equipment, support equipment, systems, tools and data, or spaces which contain or house CLEC equipment to the extent AT&T provides this protection to its own facilities. AT&T will provide access to CLEC employees and its agents based on CLEC providing a list of authorized personnel. If escorted, CLEC employees and authorized agents must present identification required by AT&T.
 - 1.3 AT&T will follow mutually agreed upon notification procedures in the event it becomes necessary for a AT&T employee to enter into the exclusive CLEC collocated space.
 - 1.4 Complying at all times with mutually agreed to CLEC security and safety procedures and requirements, including but not limited to sign in, identification, and escort requirements while in spaces which house or contain CLEC equipment or equipment enclosures.
 - 1.5 Allowing CLEC to inspect or observe spaces which house or contain CLEC equipment or equipment enclosures after such time as AT&T has turned over the collocation area to CLEC and to furnish CLEC with all keys, entry codes, lock combinations, or other materials or information which may be needed to gain entry into any secured CLEC space.
 - 1.6 Provide card access, coded locks or keyed locks providing security to the exclusive CLEC collocated space that is unique to that space.
 - 1.7 Ensuring that the area which houses CLEC's equipment is adequately secured to prevent unauthorized entry to the same level as AT&T provides to itself.
 - 1.8 Limiting the keys used in AT&T's keying systems for cages which contain or house CLEC equipment or equipment enclosures to its employees for required access only. Any access required other than emergency will be coordinated with CLEC to allow escort opportunity. AT&T will change locks at CLEC's request and expense where a security breach is known or suspected and the breach is not caused by AT&T.
 - 1.9 Where CLEC requests these specifications and is amenable to funding said custom work, installing security studs in the hinge plates of doors having exposed hinges with removable pins if such leads to spaces which contain or house CLEC equipment or equipment enclosures.
 - 1.10 Controlling unauthorized access from passenger and freight elevators by continuous surveillance or by installing security partitions, security grills, locked gates or doors between elevator lobbies and spaces which contain or house CLEC equipment or equipment enclosures.
 - 1.11 Providing prompt notification to designated CLEC personnel to indicate an actual or attempted security breach of which AT&T is aware.
 - 1.12 CLEC and AT&T further agree to:
 - 1.12.1 Providing a mutually acceptable back-up and recovery plan to be used in the event of a security system failure or emergency.

1.12.2 Installing Controls:

- to disconnect a user for a pre-determined period of inactivity on authorized ports;
- to protect customer proprietary information; and,
- to databases to ensure both ongoing operational and update integrity.

1.12.3 Logical Security

- assuring that all approved system and modem access be secured through security servers. Access to or connection with a network element will be established through a secure network or security gateway.
- agreeing to comply with AT&T Corporate Security Instruction 3.03 "Computer Security Requirements," March 1993, and AT&T Network Security Requirements 4.0, March 1996.

2.0 Revenue Protection

- 2.1 AT&T will make available to CLEC to the extent that AT&T provides to itself or any LSP all present and future fraud prevention or revenue protection features, including prevention, detection, or control functionality embedded within any of the network elements. These features include, but are not limited to, screening codes and call blocking of international, 900 and 976 numbers.
- 2.2 AT&T will provide to CLEC the same procedures to detect and correct the accidental or malicious alteration of software underlying Network Elements or their subtending operational support systems by unauthorized third parties in the same manner it does so for itself.
- 2.3 AT&T will make a reasonable effort to protect and correct against unauthorized physical attachment to loop facilities from the Main Distribution Frame up to and including the Network Interface Device, including clip-on fraud.

3.0 Law Enforcement Interface

- 3.1 AT&T will provide five (5) day a week 8:00 a.m. to 5:00 p.m. installation and information retrieval pertaining to lawful, manual traps and information retrieval on customer invoked CLASS services pertaining to non-emergency calls such as annoyance calls. AT&T will provide assistance twenty-four (24) hours per day for situations involving immediate threat to life or at the request of law enforcement officials. AT&T will provide a twenty-four (24) hour contact number to administer this process.

ATTACHMENT 17: Performance Measurements

- 1.0 **AT&T MIDWEST REGION 5-STATE Requirements:**
- 1.1 Except as otherwise provided herein, the Performance Measurements in the Performance Measurements Plans most recently adopted or ordered, in a generic/non-CLEC specific proceeding, by the Commission that approved this Agreement under Section 252(e) of the Act are incorporated herein. Modifications and/or deletions to Performance Measurements in that proceeding or any successor proceeding shall be automatically incorporated into this Agreement by reference in the month indicated by the Commission's order. The list of proceedings, by state, in which a Performance Measurements Plan has been adopted or ordered, is included in Section 2.1.3 below. For the purpose of this Agreement in Michigan, these measurements will be effective with the first full month of performance after Commission approval of the measurements.
- 1.2 The Performance Measurements Plans may include a remedy plan providing liquidated damages payments where such a plan was also approved by the Commission in a generic/non-CLEC specific proceeding. Any subsequent Commission-ordered additions, modifications and/or deletions to the remedies provisions of the Performance Measurements Plans, in that proceeding or any successor proceeding, to which no participating party has objected, shall be automatically incorporated into this Agreement by reference in the month indicated by the Commission's order. The list of proceedings, by state, in which a Performance Measurements (Remedy) Plan has been adopted or ordered, is included in Section 1.3, below. For the purpose of this Agreement, in Michigan, the Remedy Plan will be effective with the first full month of performance after Commission approval of the Remedy Plan.
- 1.3 Proceedings, by state, in which a Performance Measurements Plan has been adopted or ordered by the respective Commission under the specific authority identified herein, or under any successor authority or docket, shall be the effective plan under this Agreement. Currently, such dockets are as follows:
- Illinois – 83 IL. Administrative Code Part 731
- Indiana – Cause No. 41657
- Michigan – Case No. U-11830
- Ohio – Case No. 00-942-TP-COI
- Wisconsin – Docket No. 6720-TI-198 (Performance Measurements only)
- Wisconsin – AT&T Midwest Remedy Plan as approved by the Commission in CLEC-specific ICA.
- 1.4 *Provisions of this Performance Measurements Attachment will terminate in accordance with Section 6.5 (Section 6.6 for Illinois and Michigan) of the AT&T MIDWEST REGION 5-STATE Remedy Plan.*

ATTACHMENT 18: DIRECTORY ASSISTANCE LISTING

This Attachment 18: Directory Assistance Listing (DAL) sets forth terms and conditions, when technically feasible and/or available, for which AT&T agrees to license its Directory Assistance List License (DALL) to CLEC.

1.0 Introduction

- 1.1 AT&T owns and maintains databases containing directory assistance subscriber listing information (name, address and published telephone number or an indication of non-published or non-list status).
- 1.2 Currently, AT&T uses the directory assistance subscriber listing information in its databases to provide directory assistance (DA) service to individuals who call AT&T's DA office to obtain such information. Inasmuch as AT&T provides DA service under contract for Independent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs), AT&T's database also contains directory assistance listing information for other ILEC and CLEC End Users.
- 1.3 CLEC, or its agent, wishes to provide DA service to CLEC's End Users and therefore wishes to load its databases with directory assistance subscriber listings contained in AT&T's DA database.

2.0 Service Provided

- 2.1 AT&T agrees to license requested directory assistance listing information contained in its database, under the following terms and conditions and as defined in Exhibit A to this Attachment:
 - 2.1.1 AT&T shall provide directory assistance listing information in a mutually acceptable format.
- 2.2 AT&T shall provide directory assistance listing information to CLEC via a mutually acceptable mode of transmission. Once the mode of transmission has been determined, AT&T will provide to CLEC the initial load of directory assistance listing information in a mutually agreed upon timeframe.
- 2.3 In the event a telephone service subscriber has a "non-published" listing, a "non-published" classification will be identified in lieu of the telephone number information and will be considered part of the Listing Information. The last name, first name, street number, street name, community, and zip code will be provided as part of the Listing Information. The information provided for non-published End Users can only be used for two purposes. First, the non-published status may be added to the listing in CLEC's database for the sole purpose of adding/correcting the non-published status of the listings in the database. Second, addresses for non-published End Users may be used for verification purposes. If a caller provides the address for a requested listing, CLEC may verify the listing by matching the caller-provided address with the address in CLEC's dates. CLEC may not provide the address information of a requested listing of a non-published subscriber to a caller under any circumstances. CLEC can notify the End User that the requested listing is non-published.
- 2.4 The Parties agree to exchange subscriber listing information in readily accessible electronic formats and to provide such data in a timely fashion upon request.
- 2.5 Compensation for the exchange of directory listing information of underlying carriers will be negotiated between the requesting party and such underlying carriers.

3.0 Use Of Subscriber Listing Information

- 3.1 CLEC is authorized to use the subscriber listing information provided under this Attachment for any lawful Telecommunications Service. CLEC may use the directory assistance listing information licensed and provided pursuant to this Appendix in compliance with all applicable laws, regulations, and rules including any subsequent decision by the FCC or a court regarding the use of directory assistance listings.
- 3.2 Upon termination of this Agreement, the Parties will cease using, for any purpose whatsoever, the subscriber listing information provided hereunder.

- 3.3 Emergency Notification for Non-Published Telephone Numbers – AT&T shall provide for Emergency Notification for Non-Published Telephone Numbers (hereinafter, "ENNP Service"), whereby any End User with a non-published listing in AT&T's DA database will be notified that a CLEC End User is attempting to contact the non-published party in the event of an emergency.
- 3.3.1 If a CLEC operator receives a request for a non-published listing and the calling party identifies an emergency situation, the CLEC operator will take the calling party's information and relay it to an AT&T operator via a pre-designated contact number.
- 3.3.2 AT&T will verify the listing of the non-published party at the time the CLEC operator requests service. AT&T will attempt to contact the non-published party within 15 minutes. If no contact is made, (i.e. no answer and if no message can be left), the AT&T operator will try to make contact within the next 12 hours. If a voice mail or answering system is reached, AT&T will leave the contact information.
- 3.3.3 AT&T will contact the CLEC operator as to the status of notification: whether the message was delivered, left on voice mail or answering machine, or whether the non-published party could not be contacted.
- 3.3.4 Only calls identified as an emergency will be forwarded to AT&T for ENNP Service; however, the identification of such emergency will be left to the discretion of CLEC and its operators.

4.0 Assignment

- 4.1 The directory assistance listings provided by AT&T shall remain the property of AT&T. CLEC, or its third party DA provider/agent, shall take appropriate measures at least equal to the measures CLEC uses for its own listings to guard against any unauthorized use of the listings provided to it hereunder.

5.0 Subcontracting of Directory Assistance Listings

- 5.1 If CLEC elects to use a subcontractor for the DA services, CLEC may transfer the directory assistance listing information to its DA subcontractor in compliance with all applicable laws, regulations, and rules including any subsequent decision by the FCC or a court regarding the use of directory assistance listings. The provision of directory assistance listing information to a subcontractor by either Party is subject to the Confidentiality and Proprietary Information provision contained in the General Terms and Conditions of this Agreement.

6.0 Liability

- 6.1 Indemnification and limitation of liability of provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of the Agreement.

7.0 Pricing

- 7.1 The prices at which AT&T agrees to provide CLEC with Directory Assistance Listing (DAL) are contained in the Appendix Pricing, Schedule of Prices.

8.0 Term of Attachment

- 8.1 This Attachment will continue in force for the length of the Interconnection Agreement, but no less than twelve (12) months. At the expiration of the term of the Interconnection Agreement to which this Attachment is attached, or twelve months, whichever ever occurs later, either Party may terminate this Attachment upon one hundred-twenty (120) calendar days written notice to the other Party. As of the effective date of this Agreement, if CLEC has already fulfilled its requirement to subscribe to AT&T's DA services for a twelve month period, or anytime after CLEC has met the twelve (12) month period, CLEC may terminate use of AT&T DA services upon one hundred-twenty (120) days advance written notice to AT&T.

- 8.2 If CLEC terminates this Attachment prior to the expiration of the term of this Attachment, CLEC shall pay AT&T, within thirty (30) days of the issuance of any bills by AT&T, all amounts due for actual services provided under this Attachment, plus estimated monthly charges for the unexpired portion of the term. Estimated charges will be based on an average of the actual monthly service provided by AT&T pursuant to this Attachment prior to the termination. However, if CLEC has fulfilled the twelve (12) month minimum service requirement, and provides one hundred-twenty days notice, termination charges are not applicable.

ATTACHMENT 19: WHITE PAGES - OTHER (WP-O)

This Attachment 19: White Pages-Other (WP-O), to the Agreement sets forth AT&T's and CLEC's agreement to the following terms and conditions for the printing and distribution of White Pages directories in facilities based environments.

1.0 Introduction

- 1.1 AT&T publishes White Pages directories for geographic local service areas in which CLEC provides local exchange telephone service in the same area(s), and CLEC wishes to include listings information for its End Users in the appropriate AT&T White Pages directories.
- 1.2 CLEC also desires distribution to CLEC's End Users of the White Pages directories that include listings of CLEC's End Users.
- 1.3 AT&T will make available to CLEC, for CLEC's End Users, non-discriminatory access to White Pages directory listings, as described in Section 2 of this Attachment.

2.0 Service Provided

- 2.1 Subject to Applicable Law and any publishing company requirements regarding the provision of White Page directories, AT&T will include in appropriate White Pages directories the primary alphabetical listings of all CLEC End Users located within the local directory scope. When CLEC provides its subscriber listing information to AT&T's listings database, CLEC will receive for its End User, one primary listing in AT&T's White Pages directory and a listing in AT&T's directory assistance database at no charge, other than applicable service order charges as set forth in the Pricing Schedule..
 - 2.1.1 Where a CLEC End User requires foreign, non-listed, non-published, enhanced or other listings in addition to the primary listing to appear in the White Pages directory, AT&T will assess a switched based CLEC a monthly charge for such listings at AT&T tariff rates. An additional monthly charge at AT&T's tariff rate applies when CLEC wishes to list an End User in AT&T's Directory Assistance database but does not wish to have its End User listed in AT&T's White Pages directory. In addition, CLEC may elect to have its End User unlisted and the listing not published in AT&T's White Pages directory for a monthly charge at AT&T's tariff rates for those non-published, non-listed services.
 - 2.1.1.1 Intentionally Left Blank
- 2.2 CLEC will furnish to AT&T subscriber listing information pertaining to CLEC End Users located within the local directory scope, along with such additional information as AT&T may require to prepare and print the alphabetical listings of said directory.
- 2.3 CLEC will provide subscriber listing information of its subscribers to AT&T via a mechanical or manual feed of the directory listing information to AT&T's Directory Listing database. AT&T will accept listing information from CLEC according to the manual and mechanized listing methods, procedures, and ordering instructions provided via the CLEC Online web site. CLEC agrees to submit all listing information via only a mechanized process within six (6) months of the effective date of this agreement, or upon CLEC reaching a volume of two hundred listing updates per day, whichever comes first. Notwithstanding the foregoing, CLEC may continue to manually submit directory listing information for complex caption sets with two (2) or greater degrees of indent. Both parties will use commercially reasonable efforts to ensure the accuracy of the submission and processing of the listing updates. CLECs' subscriber listings will be interfiled (interspersed) in the directory among AT&T's subscriber listing information. CLEC will submit listing information within three (3) Business Days of installation, disconnection or other change in service (including change of non-listed or non-published status) affecting the Directory Assistance database or the directory listing of a CLEC End Users. AT&T shall process CLEC orders for updates to subscriber listing information within three (3) Business Days of receipt. CLEC must submit all listing information intended for publication by the directory close date.

- 2.4 AT&T will provide electronic directory listing verification to CLEC through the Web Listing Lookup on the AT&T CLEC Online website. Upon request, AT&T will provide daily electronic directory listing verification via AT&T's White Page listing systems at no charge to CLEC. Each report will reflect CLEC subscriber directory listings successfully processed on the previous workday. Information for directory listing verification is located on the AT&T CLEC Online website.
- 2.4.1 In addition, at least sixty (60) calendar days prior to the business office close date for a particular directory, AT&T will provide CLEC, upon request, an electronic verification report, in directory appearance format, of all subscriber listings, containing the listing information that will appear in the directory. CLEC will make its request for an electronic verification list at least eighty (80) calendar days prior to the Business Office Close Date for a particular directory. AT&T will accept standing requests for electronic verification lists on those White Page directories specified by CLEC.
- 2.4.2 CLEC specific directory listing verification list in a fielded data validation format, also is available upon request through AT&T's White Page systems. This listing shall contain only CLEC's subscribers, and shall be in a format that may be electronically searched and sorted. CLEC will review this electronic verification list and will submit any necessary additions, deletions or modifications to AT&T via the appropriate directory listing correction process no less than thirty (30) calendar days prior to the AT&T Business Office Close date for that directory, provided that AT&T made the electronic verification list available to CLEC in a timely manner as specified above.
- 2.5 Publication schedules for the White Pages: CLEC can access via the AT&T CLEC Online website, the directory close dates for areas where CLEC is providing local service. AT&T will provide directory schedule updates, including the directory schedule for a new calendar year, within fourteen (14) calendar days of the publisher's notification to AT&T of the schedule or update, but not later than thirty (30) calendar days prior to such changes becoming effective.
- 2.6 Each CLEC subscriber will receive one copy per primary End User listing, as provided by CLEC, of AT&T's White Pages directory in the same manner and at the same time that they are delivered to AT&T subscribers during the annual delivery of newly published directories.
- 2.6.1 AT&T will deliver one copy per primary End User listing of AT&T's White Pages, as described in Section 2.6 above, at no charge. AT&T has no obligation to warehouse White Pages directories for CLEC or provide White Pages directories to CLEC's End Users subsequent to the annual distribution of newly published directories. CLEC may arrange for additional directory distribution services with AT&T's directory publishing affiliate, pursuant to terms and conditions agreed to by the publisher and CLEC.
- 2.7 Intentionally Left Blank.
- 2.8 Intentionally Left Blank.
- 2.9 AT&T shall direct its directory publishing affiliate to offer CLEC the opportunity to include in the "Information Pages", or comparable section of its White Pages directories (covering the territory where CLEC is certified to provide local service), information provided by CLEC for CLEC's installation, repair, customer service and billing information. AT&T directory publishing will include such CLEC information in the "Information Pages" pursuant to terms and conditions agreed to by the publishing affiliate and CLEC.
- 2.10 Intentionally Left Blank

3.0 Use Of Subscriber Listing Information

- 3.1 CLEC grants AT&T authority to serve as a contact for all independent and Third Party directory publishers who seek to include CLEC's subscriber listing information in an area directory, and to handle the CLEC's subscriber listing information in the same manner as AT&T's subscriber listing information. CLEC further authorizes AT&T to include and use the CLEC subscriber listing information provided to AT&T pursuant to this Attachment in AT&T's White Pages directory, AT&T's Directory Assistance databases, and to provide CLEC subscriber listing information to directory publishers. Included in this authorization is the release of CLEC listings to requesting competing carriers as required by Section 271(c)(2)(B)(vii)(II) and to directory

publishers as required in Section 251(b)(3) and any applicable regulations and orders. Also included in this authorization is AT&T's use of CLEC's subscriber listing information in AT&T's directory assistance, directory assistance related products and services, and directory publishing products and services.

- 3.2 AT&T further agrees not to charge CLEC for serving as a contact with independent and Third Party directory publishers, no matter what number or type of requests are fielded. In exchange for the handling of CLEC's subscriber list information to directory publishers, CLEC agrees that it will receive no compensation for AT&T's receipt of the subscriber list information or for the subsequent release of this information to directory publishers provided such release is limited to publishers to which AT&T transmits its own listing information. Such CLEC subscriber list information shall be intermingled with AT&T's subscriber list information and the subscriber list information of other companies that have authorized a similar release of their subscriber list information by AT&T.
- 3.3 The subscriber listing information will remain the property of CLEC. Except as stated in Section 3.1 herein, AT&T will not sublicense, assign, sell or transfer the subscriber listing information provided hereunder, nor will AT&T authorize any other company or any person to use the subscriber listing information for any other purpose. AT&T will take appropriate measures to guard against any unauthorized use of the listings provided to it hereunder (at least the same measures AT&T takes to protect its own listings from unauthorized use), whether by AT&T, its agents, employees or others.

4.0 Rates

- 4.1 Rates associated with this Attachment are in the Pricing Schedule.

5.0 Liability

- 5.1 Indemnification and limitation of liability of provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of the Agreement.



ATTACHMENT 20MW - ABT: NON-INTERCOMPANY SETTLEMENTS (NICS)



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1.0 Introduction

- 1.1 This Attachment sets forth the terms and conditions under which AT&T MIDWEST REGION 5-STATE will perform the revenue settlement of LEC-carried intrastate/intraLATA or interstate/intraLATA local/toll alternately billed calls between each of the aforementioned regions and the CLEC via the Centralized Message Distribution System (CMDS) Non-Intercompany Settlement (NICS) reports.

2.0 Definitions

- 2.1 “Non-Intercompany Settlement (NICS)” means a revenue settlement process for messages which originate from CLEC and bill to AT&T MIDWEST REGION 5-STATE and messages which originate from AT&T MIDWEST REGION 5-STATE and bill to CLEC. NICS messages must originate and bill within the same AT&T-Owned ILEC across the five (5) individual states which make up this region.
- 2.2 “Non-Intercompany Settlements System” or “NICS System” means the national system administered by Telcordia that is used in the settlement of revenues for calls that are originated and billed by two (2) different Local Exchange Carriers (LECs) within a single CMDS Direct Participant’s territory to another for billing. NICS applies to calls involving another LEC where the Earning Company and the Billing Company are located within AT&T MIDWEST REGION 5-STATE.

3.0 General Provisions

- 3.1 NICS shall apply only to alternately billed messages (calling card, third number billed and collect calls) originated by AT&T MIDWEST REGION 5-STATE billed by CLEC (when the CLEC is using its own End Office Switch), or messages originated by CLEC and billed by AT&T MIDWEST REGION 5-STATE within the same AT&T MIDWEST REGION 5-STATE State (i.e., messages for intrastate/intraLATA traffic only).

3.1.1 For example, an alternately billed call originating within AT&T-ILLINOIS territory and billed to a CLEC within AT&T-ILLINOIS would be covered by this section; a call originating within AT&T-ILLINOIS but billing outside of AT&T-ILLINOIS would not be covered by NICS.

- 3.2 NICS does not extend to 900 or 976 calls or to other pay per call services.
- 3.3 The Telcordia Technologies NICS report is the source for revenue to be settled between AT&T MIDWEST REGION 5-STATE, and CLEC. NICS settlement will be incorporated into the CLEC’s monthly invoice.
- 3.4 This Attachment does not cover calls originating and billing within a state outside of AT&T MIDWEST REGION 5-STATE.
- 3.5 NICS does not include any interLATA and/or intraLATA long distance charges assessed by an Interexchange Carrier (IXC).
- 3.6 The Party billing the End User shall be responsible for all uncollectible amounts.
- 3.7 Net payment shall be due within thirty (30) calendar days of the date of the invoice.

4.0 Responsibilities of the Parties

- 4.1 Each Party is responsible for submitting the appropriate Exchange Message Interface (EMI) End User billable record (as defined in the Telcordia Technologies NICS System Specifications document) to Telcordia CMDS for inclusion in the NICS report when an alternately billed call originates from its End User.

5.0 Limitation of Liability

- 5.1 Except as otherwise provided herein, Limitation of Liability will be governed by the General Terms & Conditions of this Agreement:
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- 5.1.1 AT&T MIDWEST REGION 5-STATE assume no liability for any LEC's or CLEC's receipt of appropriate revenues due to it from any other entity. CLEC agrees that AT&T MIDWEST REGION 5-STATE will not be liable to it for damages (including, but not limited to, lost profits and exemplary damages) which may be owed to it as a result of any inaccurate or insufficient information resulting from any entity's actions, omissions, mistakes, or negligence and upon which AT&T MIDWEST REGION 5-STATE may have relied in preparing settlement reports or performing any other act under this Attachment.
- 5.1.2 AT&T MIDWEST REGION 5-STATE will not be liable for any losses or damages arising out of errors, interruptions, defects, failures, or malfunction of services provided pursuant to this Attachment, including those arising from associated equipment and data processing systems, except such losses or damages caused by the sole negligence of AT&T MIDWEST REGION 5-STATE. Any losses or damage for which AT&T MIDWEST REGION 5-STATE is held liable under this Attachment will in no event exceed the amount that CLEC would have billed AT&T MIDWEST REGION 5-STATE per CLEC's existing tariff for the services provided hereunder during the period beginning at the time AT&T MIDWEST REGION 5-STATE receives notice of the error, interruption, failure or malfunction, to the time service is restored.
- 5.1.3 AT&T MIDWEST REGION 5-STATE assumes no responsibility with regard to the correctness of the data supplied by CLEC when this data is accessed and used by a Third Party.
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ATTACHMENT 21: NUMBERING

This Attachment 21: Numbering sets forth the terms and conditions under which the Parties will coordinate with respect to numbering resources consistent with the industry guidelines and with applicable law as administered by NANPA (North American Numbering Plan Administrator).

1.0 Numbering

- 1.1 Nothing in this Section will be construed to limit or otherwise adversely impact in any manner either Party's right to employ or to request and be assigned any North American Numbering Plan (NANP) numbers including, but not limited to, central office (NXX) codes pursuant to the Central Office Code Assignment Guidelines (ATIS-0300051) or the Thousands-Block Number (NXX-X) Pooling Administration Guidelines (ATIS-0300066), or to establish, by tariff or otherwise, Exchanges and Rating Points corresponding to such NXX codes. Each Party is responsible for administering the NXX codes and blocks assigned to it.
- 1.2 Each Party agrees to make available to the other, via the Telcordia® LERG™ Routing Guide ("LERG"), up-to-date listings of its own assigned NPA-NXX codes and blocks, along with associated Rating Points and Exchanges.
- 1.3 It will be the responsibility of each Party to program and update its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes and blocks at all times. The Parties agree to perform such programming and updating within industry standard intervals, provided that both Parties have met the requirements established within ATIS-approved industry guidelines. Neither Party will impose fees or charges on the other Party for such required programming and updating activities.
- 1.4 It will be the responsibility of each Party to input required data into the Telcordia Business Integrated Routing and Rating Database System (BIRRD) and/or other appropriate system(s) necessary to update the LERG, unless negotiated otherwise.
- 1.5 Neither Party is responsible for notifying the other Parties' end users of any changes in dialing arrangements, including those due to NPA exhaust, unless otherwise ordered by the Commission, the FCC, or a court.
- 1.6 During the term of this Agreement, where CLEC is utilizing its own switch, to provide telecommunications services on its own behalf, or on the behalf of any customer of the CLEC, CLEC shall contact the North American Numbering Plan Administrator for the assignment of numbering resources.

2.0 NXX Codes

- 2.1 Each Party agrees to utilize NXX codes in a manner consistent with authorized industry standard rules and guidelines and any agency of governmental authority exercising appropriate jurisdiction.

3.0 Code Transfer (a.k.a. NXX Migration)

- 3.1 Code transfer, as described in industry guidelines (ATIS-0300051), will be provided upon request. The Party that initiates a code transfer request from the other Party to itself agrees to pay an NXX Migration charge as set forth in the applicable Pricing Schedule.

ATTACHMENT 22: DA – DIRECTORY ASSISTANCE FOR FACILITIES BASED

This Attachment 22: DA-Facilities Based sets forth the terms and conditions under which AT&T agrees to provide Directory Assistance (DA) for CLEC as a facilities based switch provider.

1.0 Services

- 1.1 DA consists of providing subscriber listing information (name, address, and published or non-list telephone number or an indication of non-published status) to CLEC's End Users who call DA according to current AT&T methods and practices or as subsequently modified, for the home NPA and/or local/intraLATA serving area, where available, to CLEC's End Users who dial 411, 1/0+411, 555-1212, 1/0+555-1212, or 1/0+NPA-555-1212 or other dialing arrangement.
- 1.2 Directory Assistance Call Completion (DACC) service consists of AT&T completing a call to the requested number on behalf of CLEC's End User, utilizing the Interactive Voice System (IVS) or having the operator complete the call. AT&T will provide DACC to CLEC's End Users for local, intrastate IntraLATA and, if available, interstate IntraLATA calls.
- 1.3 AT&T agrees to provide DACC only in areas where CLEC can furnish Automatic Number Identification (ANI) from CLEC's End Users to AT&T's switch and where CLEC obtains DA service from AT&T.
- 1.4 CLEC commits that AT&T's provision of DACC does not interfere with any contractual arrangement that CLEC has with another operator services provider. CLEC agrees to indemnify AT&T from any and all causes of action which may be brought by an alternate operator services provider based on allegations that AT&T has interfered with any such contractual arrangement solely by virtue of AT&T's provision of DACC to CLEC under this Attachment.

2.0 Definitions - The following terms are defined as set forth below:

- 2.1 **Non-List Number** - A telephone number that, at the request of the telephone subscriber, is not published in a telephone directory, but is available by calling a AT&T DA Operator.
- 2.2 **Non-Published Number** - A telephone number that, at the request of the telephone subscriber, is neither published in a telephone directory nor provided by a AT&T DA Operator.
- 2.3 **Published Number** - A telephone number that is published in a telephone directory and is available upon request by calling a AT&T DA Operator.
- 2.4 **IntraLATA Home NPA (HNPA)** - Where a LATA is comprised of one area code or Numbering Plan Area (NPA).
- 2.5 **IntraLATA Foreign NPA (FNPA)** - Where a single LATA includes one or two Numbering Plan Areas (NPA's). FNPA DA calls may be classified as interstate IntraLATA or intrastate IntraLATA DA calls.
- 2.6 **National Directory Assistance (NDA)**: Consists of a service whereby End Users may request directory assistance information outside their LATA or Home NPA for a listed telephone number for residential, business and government accounts throughout the 50 states.
- 2.7 **Business Category Search (BCS)**: A service which will provide CLEC End Users the ability to request business telephone number listings for a specified category of business, when the name of the business is not known. Telephone numbers may be requested for local and national businesses.
- 2.8 **Reverse Directory Assistance (RDA)**: A nonregulated informational service. Consists of providing listed local and national name and address information associated with a telephone number that a CLEC End User provides to the DA operator.
- 2.9 **Operator Services Questionnaire (OSQ)**: An ordering form where the CLEC specifies the operator and directory assistance services that it is purchasing from AT&T, the service areas in which the operator and directory assistance services will be offered, and other information.

2.9.1 **Reference/Rater Information:** AT&T databases referenced by an AT&T Operator for CLEC DA specific information as provided by the CLEC such as its business office, repair and DA rates.

3.0 Call Branding

3.1 For CLECs electing to purchase Directory Assistance service from AT&T, the CLEC must request either that AT&T brand the service in the CLEC's name, or that branding be "silent" (i.e., no name announcement), in accordance with the requirements of 47 C.F.R. 51.217(d). Rates for CLEC branding, whether CLEC's name or silent, are located in the Pricing Schedule.

3.1.1 For the AT&T's exchanges where CLEC elects to purchase DA Services, CLEC will provide AT&T with a completed OSQ indicating the specific branding phrase to be used to identify CLEC. The standard phrase will be consistent with the general form and content currently used by CLEC in branding its respective services. CLEC's name used in branding calls may be subject to Commission regulations and should be similar to the name in which CLEC is doing business.

3.2 Branding Load Charges:

3.2.1 An initial non-recurring load charge applies per state, per brand, per TOPs switch, per OCN for the establishment of CLEC specific branding. An additional non-recurring load charge applies per state, per brand, per TOPs switch, per OCN for each subsequent change to the branding announcement. In addition, a per call charge applies for every DA call handled by AT&T on behalf of CLEC. See applicable rates in the Pricing Schedule.

4.0 Directory Assistance (DA) Reference/Rater Information

4.1 For those AT&T's exchanges where CLEC elects to purchase DA services, CLEC must provide CLEC Reference/Rater Information to AT&T.

4.2 When an AT&T Operator receives a rate request from a CLEC End User, where technically feasible and available, AT&T will quote the applicable DA rates as provided by the CLEC.

4.3 CLEC must furnish DA Reference/Rater Information in accordance with the process outlined in the OSQ. CLEC will furnish to AT&T a completed OSQ thirty (30) calendar days in advance of the date when the DA Services are to be undertaken. In all cases, the rates quoted to the CLEC End User and those applied to the call will be the CLEC's.

4.4 In accordance with the procedures set forth in the OSQ, CLEC may either adopt its own set of rates and charges for DA service (Custom Rates), or elect to duplicate the AT&T's DA rates in effect at the time the OSQ is submitted ("Mirrored Rates"). In the event CLEC elects to use Custom Rates or AT&T Mirrored Rates, such rates and charges will be provided and or updated by CLEC via the OSQ and quoted by the AT&T Operator upon request of a caller from a CLEC-subscribed line. Once the CLEC's rates are loaded, if AT&T changes its rates, AT&T will not be responsible for updating CLEC's rates unless CLEC sends an update to its Reference/Rater information via the OSQ, pursuant to Section 4.5 below.

4.5 If CLEC utilizes Custom Rates or AT&T's Mirrored Rates, it will inform AT&T, via the Operator Services Questionnaire (OSQ) of any changes to be made to such Reference/Rater Information fourteen (14) calendar days prior to the effective Reference/Rater change date. CLEC acknowledges that it is responsible to provide AT&T updated Reference/Rater Information in advance of when the Reference/Rater Information is to become effective.

4.6 An initial non-recurring charge will apply per state, per OCN, per TOPs switch for loading of CLEC's Custom or Mirrored DA Reference/Rater information. An additional non-recurring charge will apply per state, per OCN, per TOPs switch for each subsequent change to either the CLEC's Custom DA Reference or Rater information.

4.7 AT&T Directory Assistance operators will provide Directory Assistance Reference/Rater Information upon request to CLEC's End Users.

5.0 Responsibilities of AT&T

- 5.1 AT&T will perform DA Service for CLEC in those exchanges where CLEC elects to purchase such services from AT&T.
- 5.2 AT&T will provide and maintain its own equipment to furnish DA Services.
- 5.3 AT&T will provide DA Service to CLEC End Users using current and updated DA records and in accordance with AT&T's current methods, practices, and procedures or as subsequently modified.
- 5.4 AT&T will include current CLEC subscriber listing information in AT&T's DA database.

6.0 Responsibilities of Both Parties

- 6.1 The Party(ies) that provide the circuits between CLEC and AT&T offices will make such circuits available for use in connection with the DA services covered herein. When the total traffic exceeds the capacity of the existing circuits, the Party(ies) will provide additional circuits, to the extent necessary.
- 6.2 Facilities necessary for the provision of DA shall be provided by the Parties hereto, using standard trunk traffic engineering procedures to insure that the objective grade of service is met. Each party shall bear the costs for its own facilities and equipment.
- 6.3 Intentionally Left Blank

7.0 Responsibilities of CLEC

- 7.1 Should CLEC seek to obtain interexchange DA Service from AT&T, CLEC is responsible for ordering the necessary facilities under the appropriate interstate or intrastate Access Service Tariffs.
- 7.2 CLEC will furnish to AT&T, a completed and/or updated OSQ within the time frames identified in Sections 3.1.1, 4.3, and 4.5 above.
- 7.3 CLEC will send the DA listing records to AT&T for inclusion in AT&T DA database via electronic gateway as described in Attachment White Pages.
- 7.4 Subject to Section 11 of this Attachment 22, CLEC agrees that due to End Users quality and work force scheduling, AT&T will be the sole provider of DA Services for CLEC's local serving area(s) for a minimum of a one (1) year period.
- 7.5 CLEC agrees that AT&T may utilize CLEC's End User's listings contained in AT&T directory assistance database in providing existing and future AT&T directory assistance or DA related services. CLEC further agrees that AT&T can release CLEC's directory assistance listings stored in AT&T directory assistance database to competing providers.
- 7.6 As compensation for the rights granted in Section 7.5 above, AT&T shall pay to CLEC One Hundred Percent (100%) of the license fee AT&T collects from third parties in connection with AT&T's provision to third parties of CLEC's directory assistance listings. AT&T shall charge third parties the same license fee for CLEC's directory assistance listings that AT&T charges the third party for AT&T's directory assistance listings.
- 7.7 AT&T will make monthly payments to CLEC as required by Section 7.6 above. Such payments shall start within 31 days of the Effective Date of the Agreement and continue thereafter on a monthly basis. In the event of a dispute regarding the compensation calculated by AT&T, CLEC shall, within fourteen (14) business days after receipt of the payment, provide a written description detailing such dispute, and both Parties shall negotiate in good faith the resolution of the dispute. Should the Parties be unable to resolve the dispute informally, either party may seek resolution in any court or agency of competent jurisdiction.

8.0 Rates

- 8.1 The rates at which AT&T agrees to provide CLEC with Directory Assistance Services are contained in the applicable Pricing Schedule.

9.0 Monthly Billing

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

10.0 Liability

10.1 Indemnification and limitation of liability provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of the Agreement.

11.0 Terms of Attachment

11.1 This Attachment will continue in force for the length of the Interconnection Agreement, but no less than twelve (12) months. At the expiration of the term of the Interconnection Agreement to which this Attachment is attached, or twelve months, whichever occurs later, either Party may terminate this Attachment upon one hundred-twenty (120) calendar days written notice to the other Party. As of the effective date of this Agreement, if CLEC has already fulfilled its requirement to subscribe to AT&T's DA services for a twelve month period, or anytime after CLEC has met the twelve (12) month period, CLEC may terminate use of AT&T DA services upon one hundred-twenty (120) days advance written notice to AT&T.

11.2 If CLEC terminates this Attachment prior to the expiration of the term of this Attachment, CLEC shall pay AT&T, within thirty (30) days of the issuance of any bills by AT&T, all amounts due for actual services provided under this Attachment, plus estimated monthly charges for the unexpired portion of the term. Estimated charges will be based on an average of the actual monthly service (average of actual monthly service is based upon the most current three (3) months of service), provided by AT&T pursuant to this Attachment prior to the termination. However, if CLEC has fulfilled the twelve (12) month minimum service requirement, and provides one hundred-twenty (120) days notice, termination charges are not applicable.

ATTACHMENT 23: OS-FACILITIES BASED
AT&T PROVIDED LOCAL & INTRALATA
OPERATOR SERVICES

This Attachment 23: OS-Facilities Based sets forth the terms and conditions under which AT&T agrees to provide local and IntraLATA operator services (Operator Services) for CLEC as a facilities based switch provider. This Attachment applies only to Operator Services provided within a Local Access and Transport Area (LATA).

1.0 Services - AT&T will provide the following three tiers of Operator Services:

- 1.1 Fully-Automated Call Processing - Allows the caller to complete a call utilizing an automated system, without the assistance of an AT&T's Operator, hereafter called Operator. To use the automated system, the called party must also have TOUCH-TONE service to accept calls that are billed collect or to a third number.
- 1.2 Semi-Automated - Allows the caller to complete a call by receiving partial assistance from an Operator or when automated system cannot be activated.
- 1.3 Non-Automated - Allows the caller to complete a call by receiving full assistance from an Operator.

2.0 Call Types - AT&T will provide to CLEC the call types in Sections 2.1 through 2.7 below:

- 2.1 Fully Automated Collect and Bill to Third-Number Service - This service is limited to those calls placed collect or billed to a third number. The caller dials 0 plus the telephone number desired, the service selection codes and/or billing information as instructed by the automated system. The call is completed without the assistance of an Operator. This service may also include the following situations:
 - 2.1.1 The caller identifies himself or herself as disabled and gives the Operator the number to which the call is to be billed (either collect or third number).
 - 2.1.2 When due to trouble on the network or lack of service components, the automated call cannot be completed without assistance from an Operator.
- 2.2 Fully Automated Calling Card Service - This service is provided when the caller dials zero ("0"), plus the desired telephone number and the calling card number to which the call is to be charged. The call is completed without the assistance of an Operator. An authorized calling card for the purpose of this Attachment is one for which AT&T can perform billing validation.
- 2.3 Semi-Automated Station-To-Station - This service is limited to those calls placed sent paid, collect or billed to a third number. The caller dials 0 plus the telephone number desired and the call is completed with the assistance of an Operator. This service may also include the following situations:
 - 2.3.1 Where the caller does not dial 0 prior to calling the number desired from a public or semi-public telephone, or from a telephone where the call is routed directly to an Operator (excluding calling card calls).
- 2.4 Semi-Automated Person-To-Person - A service in which the caller dials 0 plus the telephone number desired and specifies to the Operator the particular person to be reached or a particular PBX station, department or office to be reached through a PBX attendant. This service applies even if the caller agrees, after the connection is established, to speak to any party other than the party previously specified. This service may also include the following situations:
 - 2.4.1 Where the caller does not dial a 0 prior to dialing the number from a public or semi-public telephone, or where the call is routed directly to an Operator.
- 2.5 Operator Handled Station-To-Station - A service provided when the caller dials 0 to reach an Operator, and the Operator dials a sent paid, collect or third number station-to-station call. These calls may originate from a private, public or semi-public telephone.

2.6 Operator Handled Person-To-Person - A service in which the caller dials 0 and requests the Operator to dial the number desired and the person, station, department or office to be reached. The call remains a person-to-person call even if the caller agrees, after the connection is established, to speak to any party other than the party previously specified.

2.7 Intentionally Left Blank

3.0 Other Operator Assistance Services

3.1 Line Status Verification - A service in which the caller asks the Operator to determine the busy status of an access line.

3.2 Busy Line Interrupt - A service in which the caller asks the Operator to interrupt a conversation in progress, to determine if one of the parties is willing to speak to the caller requesting the interrupt. A Busy Line Interrupt charge will apply even if no conversation is in progress at the time of the interrupt or the parties interrupted refuse to terminate the conversation in progress.

3.3 Handling of Emergency Calls To Operator - To the extent CLEC's NXX encompasses multiple emergency agencies, AT&T will agree to query the caller as to his/her community and to transfer the caller to the appropriate emergency agency for the caller's community. CLEC will provide to AT&T the communities associated with CLEC's NXX(s).

3.4 Calling Card - Calls billed to a CLEC proprietary calling card (0+ or 0- access) will be routed via transfer to the CLEC operator.

3.5 Reference/Rater Information - are AT&T's databases referenced by an AT&T Operator for CLEC OS specific information as provided by the CLEC such as its business office, repair and OS rates.

4.0 Call Branding:

4.1 The process by which an Operator, either live or recorded, will identify the OS provider as being CLEC, audibly and distinctly to the CLEC End User at the beginning of each OS call. In all cases, AT&T will brand OS call in CLEC's name.

4.1.1 For CLECs electing to purchase operator and directory assistance service from AT&T, the CLEC may request either that AT&T brand the service in the CLEC's name, or that branding be "silent" (i.e., no name announcement), in accordance with the requirements of 47 C.F.R. 51.217(d). Rates for CLEC branding, whether CLEC's name or silent, are located in the Appendix Pricing, Schedule of Prices.

4.2 In the AT&T TOPs switches that serve the exchanges where CLEC elects to purchase Operator Services CLEC will provide AT&T with an Operator Services Questionnaire completed with the specific branding phrase to be used to identify CLEC. The standard phrase will be consistent with the general form and content currently used by the CLEC in branding its respective services. CLEC's name used in branding calls may be subject to Commission regulations and should be similar to the name in which CLEC is doing business.

4.3 Branding Load and Per Call Charges:

4.3.1 An initial non-recurring load charge applies per state, per brand, per TOPs switch, per OCN for the establishment of CLEC specific branding. An additional non-recurring load charge applies per state, per brand, per TOPs switch, per OCN for each subsequent change to the branding announcement. In addition, a per call charge applies for every OS call handled by AT&T on behalf of CLEC. See applicable rates in Appendix Pricing, Schedule of Prices.

5.0 Operator Service (OS) Reference/Rater Information

5.1 For those AT&T's TOPs switches that serve the exchanges where CLEC elects to purchase Operator Services, CLEC must provide CLEC Reference/Rater Information to AT&T.

- 5.2 When an AT&T Operator receives a rate request from a CLEC End User, where technically feasible and available, AT&T will quote the applicable OS rates as provided by the CLEC.
- 5.3 CLEC must furnish OS Reference/Rater Information in accordance with the process outlined in the Operator Services Questionnaire (OSQ). CLEC will furnish to AT&T a completed OSQ thirty (30) calendar days in advance of the date when the OS Services are to be undertaken. In all cases, the rates quoted to the CLEC End User and those applied to the call will be the CLEC's.
- 5.4 In accordance with the procedures set forth in the OSQ, CLEC may either adopt its own set of rates and charges for OS service (Custom Rates), or elect to duplicate the AT&T's OS rates in effect at the time the OSQ is submitted ("Mirrored Rates"). In the event CLEC elects to use Custom Rates or AT&T Mirrored Rates, such rates and charges will be provided and or updated by CLEC via the OSQ and quoted by the AT&T Operator upon request of a caller from a CLEC-subscribed line. Once the CLEC's rates are loaded, if AT&T changes its rates, AT&T will not be responsible for updating CLEC's rates unless CLEC sends an update to its Reference/Rater information via the OSQ, pursuant to Section 5.5 below.
- 5.5 If CLEC utilizes Custom Rates and/or Mirror Rates, it will inform AT&T, via the Operator Services Questionnaire (OSQ) of any changes to be made to such Rate/Reference Information fourteen (14) calendar days prior to the effective Rate/Reference change date. CLEC acknowledges that it is responsible to provide AT&T updated Rate/Reference Information in advance of when the Rate/Reference Information is to become effective.
- 5.6 An initial non-recurring charge will apply per state, per OCN, per TOPs switch for loading of CLEC's Custom or Mirrored OS Rate/Reference information. An additional non-recurring charge will apply per state, per OCN, per TOPs switch for each subsequent change to either the CLEC's Custom or Mirrored OS Rate or Reference information.

6.0 Responsibilities of AT&T

- 6.1 AT&T will provide and maintain such equipment as is required to furnish the Operator Services as described in this Attachment.
- 6.2 AT&T will provide Operator Services in accordance with the operator methods and practices in effect for AT&T at the time the call is made, unless otherwise agreed in writing by both Parties.
- 6.3 AT&T will accumulate and provide CLEC such data as necessary for CLEC to verify traffic volumes and bill its End Users.

7.0 Responsibilities of Both Parties

- 7.1 The Party(ies) that provide the circuits between CLEC and AT&T offices will make such circuits available for use in connection with the OS services covered herein. When the total traffic exceeds the capacity of the existing circuits, the Party(ies) will provide additional circuits, to the extent necessary.
- 7.2 Facilities necessary for the provision of OS shall be provided by the Parties hereto, using standard trunk traffic engineering procedures to insure that the objective grade of service is met. Each party shall bear the costs for its own facilities and equipment.

8.0 Responsibilities of CLEC

- 8.1 CLEC will be responsible for providing and maintaining the equipment and facilities necessary for signaling and routing calls with Automatic Number Identification (ANI) to each AT&T TOPs switch. Should CLEC seek to obtain interexchange OS from AT&T, CLEC is responsible for ordering the necessary facilities and may do so under the appropriate interstate or intrastate Access Service Tariffs. Nothing in this Agreement in any way changes the manner in which an interexchange Carrier obtains access service for the purpose of originating or terminating interexchange traffic.

8.2 CLEC will furnish in writing via the OSQ, to AT&T, thirty (30) Business Days in advance of the date when the OS services are to be undertaken, all End User records and information required by AT&T to provide the Service.

8.2.1 CLEC will provide AT&T updates to the OSQ fourteen (14) calendar days in advance of the date when changes are to become effective.

8.3 Subject to Section 12 of this Attachment 23, as to any end office where CLEC elects to purchase Operator Services and where AT&T furnishes the Operator Services provided by this Attachment, CLEC agrees that AT&T will be the sole provider of local and intraLATA toll Operator Services provided to CLEC in such end offices for a minimum of a one (1) year period.

9.0 Pricing

9.1 The rates for the Operator Services provided pursuant to this Attachment will be contained in the Pricing Schedule.

10.0 Monthly Billing

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

11.0 Liability

11.1 Indemnification and limitation of liability of provisions covering the matters addressed in this Appendix are contained in the General Terms and Conditions portion of the Agreement.

12.0 Terms of Attachment

12.1 This Attachment will continue in force for the length of the Interconnection Agreement, but no less than twelve (12) months. At the expiration of the term of the Interconnection Agreement to which this Attachment is attached, or twelve months, whichever ever occurs later, either Party may terminate this Attachment upon one hundred-twenty (120) calendar days written notice to the other Party. As of the effective date of this Agreement, if CLEC has already fulfilled its requirement to subscribe to AT&T's OS services for a twelve month period, or anytime after CLEC has met the twelve (12) month period, CLEC may terminate use of AT&T DA services upon one hundred-twenty (120) days advance written notice to AT&T.

12.2 If CLEC terminates this Attachment prior to the expiration of the term of this Attachment, CLEC shall pay AT&T, within thirty (30) days of the issuance of any bills by AT&T, all amounts due for actual services provided under this Attachment, plus estimated monthly charges for the unexpired portion of the term. Estimated charges will be based on an average of the actual monthly service (average of actual monthly service is based upon the most current three (3) months of service), provided by AT&T pursuant to this Attachment prior to the termination. However, if CLEC has fulfilled the twelve (12) month minimum service requirement, and provides one hundred-twenty days notice, termination charges are not applicable.

ATTACHMENT 24: RECORDING-FACILITIES BASED

This Attachment 24: Recording-Facility Based to the Agreement sets forth the terms and conditions under which AT&T will provide recording, message processing and message detail services to CLEC as a facilities based provider.

1.0 Definitions

As used herein and for the purposes of this Attachment, the following terms shall have the meanings set forth below:

- 1.1 **Access Usage Record (AUR)** - A message record which contains the usage measurement reflecting the service feature group, duration and time of day for a message and is subsequently used to bill access to Interexchange Carriers (IXCs).
- 1.2 **Assembly and Editing** - The aggregation of recorded customer message details to create individual message records and the verification that all necessary information required to ensure all individual message records meet industry specifications is present.
- 1.3 **Centralized Message Distribution System (CMDS)** - The national network of private line facilities used to exchange Exchange Message Records (EMR) formatted billing data between AT&T and CLEC via the CMDS host.
- 1.4 **Data Transmission** - The forwarding by AT&T of IXC transported access usage record detail in EMR format over data lines or another mutually accepted medium to CLEC. End User billable detail may need to be transmitted via the CMDS host.
- 1.5 **Exchange Message Record (EMR)** - Industry standard message format as described in accordance with the Bellcore Practice BR010-200-010 developed for the interexchange of telecommunications message information.
- 1.6 **Interexchange Carrier (IXC)** - A third party transmission provider that carries long distance voice and non-voice traffic between user locations for a related recurring fee. IXCs provide service interstate and intrastate. (In some states IXCs are permitted to operate within a LATA).
- 1.7 **Interexchange Carrier Transported** - Telecommunications services provided by an IXC or traffic transported by facilities belong to an IXC.
- 1.8 **Message Processing** - The creation of individual EMI formatted Access Usage Records from individual recordings that reflect the service feature group, duration and time of day for a message, Carrier Identification Code, among other fields, for use in billing access to the Interexchange Carriers. Message Processing includes performing CMDS online edits required to ensure the AURs are consistent with CMDS specifications.
- 1.9 **Originating Local Exchange Carrier Company** - The company whose local exchange telephone network is used to originate calls thereby providing originating exchange access to IXCs.
- 1.10 **Provision of Message Detail** - The sorting of all AUR detail by Revenue Accounting Office, Operating Company Number or Service Bureau, splitting of data into packs for invoicing, and loading of data into files for data transmission to CLEC for those records created internally or received from other Local Exchange Carrier Companies or Interexchange Carriers through AT&T's internal network or national CMDS.

- 1.11 **Record** - A logical grouping of information as described in the programs that process information and create the data files.
- 1.12 **Recording** - The creation and storage on magnetic tape or other medium of the basic billing details of a message in Automatic Message Accounting (AMA) format.
- 1.13 **Service Switching Point (SSP)** - A signaling point that can launch queries to databases and receive/interpret responses used to provide specific customer services.
- 1.14 **Switching Control Point (SCP)** - The real time database system that contains routing instructions for 800 calls. In addition to basic routing instructions, the SCP may also provide vertical feature translations i.e., time of day, day of week routing, out of area screening and/or translation of the dialed 800 number to its assigned working telephone number.
- 1.15 **800 SCP Carrier Access Usage Summary Record (SCP Record)** - A summary record which contains information concerning the quantity and types of queries launched to an AT&T SCP. In those situations where charges are applicable for the production and delivery of SCP records, such charges will be those specified in the Pricing Schedule.
- 1.16 **Terminating Local Exchange Carrier Company** - The company whose local exchange telephone network is used to terminate calls thereby providing terminating exchange access to IXCs.

2.0 Responsibilities of The Parties

- 2.1 AT&T will record all IXC transported messages as specified by CLEC on Appendix II that are carried over all Feature Group Switched Access Services that are available to AT&T-provided recording equipment or operators. Unavailable messages (i.e., certain operator messages which are not accessible by AT&T-provided equipment or operators) will not be recorded. The recording equipment will be provided at locations selected by AT&T.
- 2.2 AT&T will perform assembly and editing, message processing and provision of applicable AUR detail for IXC transported messages if the messages are recorded by AT&T.
- 2.3 AT&T will provide AURs that are generated by AT&T.
- 2.4 Assembly and editing will be performed on all IXC transported messages recorded by AT&T.
- 2.5 Standard EMI record formats for the provision of access usage record detail will be established by AT&T and provided to CLEC.
- 2.6 Recorded AUR detail will not be sorted to furnish detail by specific end users, by specific groups of end users, by office, by feature group or by location.
- 2.7 AT&T will provide AUR detail to CLEC either in data files (normally a File transfer Protocol), using software and hardware acceptable to both Parties.
- 2.8 CLEC will identify separately the location any data transmissions should be sent (as applicable) and the number of times each month the information should be provided. (AT&T reserves the right to limit the frequency of transmission to existing AT&T processing and work schedules, (holidays, etc., i.e., holidays, weekends.)
- 2.9 AT&T and CLEC will mutually agree to follow CMDS industry standards for the packaging of records which determine the number of data files required to provide the AUR detail to CLEC.

- 2.10 Recorded AUR detail previously provided CLEC and lost or destroyed through no fault of AT&T will not be recovered and made available to CLEC except on an individual case basis at a cost determined by CLEC.
- 2.11 AT&T will record the applicable detail necessary to generate AUR and forward them to CLEC for its use in billing access to the IXC.
- 2.12 When CLEC is the Recording Company, CLEC agrees to provide its recorded Billable Messages detail and AUR detail data to AT&T Illinois under the same terms and conditions of this Section.

3.0 Basis of Compensation

- 3.1 Compensation for recording, assembly and editing, rating, message processing and provision of AURs provided hereunder will be on a reciprocal, no charge basis. .

4.0 Loss of Usage:

- 4.1 When either Party is notified that, due to error or omission, incomplete data has been provided to the non-Recording Company, each Party will make reasonable efforts to locate and/or recover the data and provide it to the non-Recording Company at no additional charge. Such requests to recover the data must be made within thirty (30) days from the date the details initially were made available to the non-Recording Company. If written notification is not received within thirty (30) days, shall have no further obligation to recover the data and shall have no further liability to the non-Recording Company.
- 4.2 If, despite timely notification by the non-Recording Company, AUR detail is lost and unrecoverable as a direct result of the Recording Company having lost or damaged tapes or incurred system outages while performing recording, assembly and editing, rating, message processing, and/or transmission of AUR detail, both Parties will estimate the volume of lost messages and associated revenue based on information available to it concerning the average revenue per minute for the average interstate and/or intrastate call. In such events, the Recording Company's liability to the non-Recording Company will be limited to the granting of a credit adjusting amounts otherwise due from it equal to the estimated net lost revenue associated with the lost AUR detail.
- 4.3 Each Party will not be liable for any costs incurred by the other Party when transmitting data files via data lines and a transmission failure results in the nonreceipt of data.
- 4.4 In those instances where the Recording Company realizes that, either because of a recording error or some other failure, data was lost or incomplete, the Recording Company will notify the non-Recording Company of such occurrence and will make reasonable efforts to locate and/or recover the data and provide it to the non-Recording Company at no additional charge. If AUR detail is lost and unrecoverable as a direct result of the Recording Company, both Parties will estimate the volume of lost messages and associated revenue based on information available to it concerning the average revenue per minute for the average interstate and/or intrastate call. In such events, the Recording Company's liability will be limited to the granting of a credit adjusting amounts otherwise due from it equal to the estimated net lost revenue associated with the lost AUR detail.

5.0 Indemnification

- 5.1 Except as otherwise expressly provided in this Attachment, Indemnification and limitation of liability provisions covering the matters addressed in this Attachment are contained in the General Terms and Conditions portion of the Agreement.

6.0 Warranties

AT&T ASSUMES NO RESPONSIBILITY WITH REGARD TO THE CORRECTNESS OF THE DATA SUPPLIED BY CLEC WHEN THIS DATA IS ACCESSED AND USED BY A THIRD PARTY.