

ORIGINAL



Nancy Schnitzer
Docket Manager

Southern Operations
Box 2214
Tallahassee, FL 32316
Voice 850 599 1276
Fax 850 878 0777

October 24, 2003

031002-TP

Ms. Blanca S. Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED FPSC
03 OCT 24 PM 3:21
COMMISSION
CLERK

RE: Notice of Adoption of Level 3 Communications, LLC and Sprint-Florida, Incorporated
Interconnection, Unbundling, and Resale Agreement and Amendment by XO Florida,
Inc.

Dear Ms. Bayó:

Sprint-Florida, Incorporated hereby provides notice to the Florida Public Service Commission of the adoption by of the Interconnection, Unbundling, and Resale Agreement and Amendment for the State of Florida entered into by Level 3 Communications, LLC and Sprint-Florida, Incorporated which was filed with the Commission on August 9, 2002 in Docket No. 020878-TP.

XO Florida, Inc. is adopting the agreement as provided by Section 252(i) of the Telecom Act of 1996.

Enclosed are the original signed and two (2) copies of the agreement between Sprint-Florida, Incorporated and XO Florida, Inc. for your records.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact Chrystal Whitt at (850) 599-1563.

Sincerely,

Nancy Schnitzer

cc: Karen M. Potkul
XO Communications, Inc.
1924 Deere Ave.
Santa Ana, CA 92705

Enclosure

DOCUMENT NUMBER-DATE

10528 OCT 24 03

FPSC-COMMISSION CLERK

Master Interconnection and Resale Agreement

This Master Network Interconnection and Resale Agreement ("Agreement") between XO Florida, Inc. ("XO") and Sprint - Florida, Inc. ("Sprint"), (herein collectively the "Parties"), is entered into and effective this 17th day of October, 2003 for the State of Florida.

NOW THEREFORE, the Parties agree as follows:

The Parties agree that the Agreement between the Parties shall consist of the Master Interconnection and Resale Agreement for the State of Florida entered into by and between Sprint and Level 3 Communications, LLC, dated July 8, 2002 (the "Level 3 Interconnection Agreement") (herein referred to as the "Adopted Agreement"), amended as follows:

TERM:

This Agreement shall be in force for the period commencing with the date set forth above, and will expire pursuant to the terms and conditions governing the term of the Adopted Agreement, including but not limited to, the provisions regarding post-expiration.

MODIFICATIONS:

PARTIES:

XO Florida, Inc. is hereby substituted in the Adopted Agreement for Level 3 Communications, LLC.

DEFINITIONS:

The following definitions are added to the Agreement:

"Bill and Keep" is as defined in the FCC's rules and orders, including the FCC ISP Order.

"EAS/Local (§251(b)(5)) Traffic" is as defined in the Telecommunications Act of 1996 and FCC ISP Order, and the Adopted Agreement, to the extent consistent with current federal law.

"ISP-bound Traffic" is as defined in the FCC ISP Order.

DOCUMENT NUMBER-DATE

10528 OCT 24 8

FPSC-COMMISSION CLERK

CHARGES AND PAYMENTS:

Section 6.2 is hereby deleted.

COMPENSATION:

Sections 36.1, and 36.2 are hereby deleted and replaced with the following:

36.1 Sprint offered to exchange all traffic pursuant to the interim compensation regime, including the exchange of ISP-bound Traffic at the FCC ordered rates in the state of Florida pursuant to the FCC ISP Order and usage based intercarrier compensation for such traffic will be applied as provided in this Amendment. Compensation for traffic exchanged under the Agreement in markets XO was serving pursuant to an interconnection agreement shall be as follows:

36.1.1 ISP-Bound Traffic

36.1.1.1 Identification of ISP-bound Traffic – The Parties shall presume that local traffic delivered from one Party to the other that exceeds a 3:1 ratio of terminating to originating traffic is ISP-bound Traffic. This presumption may be rebutted as permitted in the FCC ISP Order.

36.1.1.2 Growth Ceilings for ISP-Bound Traffic – After the effective date of this Agreement, intercarrier compensation for ISP-bound Traffic originated by end users of one Party and terminated by the other Party will be subject to the following growth ceilings: each party may receive compensation for 2002 up to a ceiling equal to the number of ISP-bound minutes for which that party was entitled to compensation for 2001 (based on first quarter 2001 ISP-bound minutes annualized plus a 10% growth factor) plus another 10% growth factor. For 2003 and beyond, to the extent this Agreement remains in effect, the ceiling shall be equal to the number of minutes calculated for the 2002 ceiling. The ceiling shall continue in place until such time as revised ISP-bound MOU caps or Bill and Keep or other compensation structures are established by a court or regulatory body of competent jurisdiction, at which time either Party may invoke the change-in-law provision of the applicable Interconnection Agreement.

36.1.1.3 ISP-bound MOUs exceeding the 2002 growth ceiling will be subject to Bill and Keep compensation.

36.1.1.3.1 Intercarrier compensation for ISP-bound Traffic exchanged between Sprint and XO shall be billed in accordance with the following rates:

36.1.1.3.1.1 \$.001 per MOU from the effective date of this Amendment through June 13, 2003.

36.1.1.3.1.2 \$.0007 per MOU from June 14, 2003 until thirty six (36) months after the effective date of the FCC ISP Order or until further FCC action on intercarrier compensation, whichever is later.

36.1.2 EAS/Local (§251 (b)(5)) Traffic

36.2 Local (§251 (b)(5)) Traffic

36.2.1 Each Party shall terminate all Local (§251(b)(5)) Traffic (i.e. traffic below the 3:1 ratio) utilizing Sprint's cost-based rates for End Office Switching, Tandem Switching and Common Transport.

NOTICES:

Section 19.1 is hereby amended to read:

If to XO:

Karen Potkul
Vice President, Regulatory
& External Affairs
XO Communications, Inc.
1924 E. Deere Avenue
Santa Ana, CA 92705
Tel. 949.417.7766
Fax 949.417.7377
karen.potkul@xo.com

To Sprint:

Director – Local Carrier Services
Sprint
6480 Sprint Parkway
Mailstop: KSOPHM0316-3B925
Overland Park, KS 66251

RESERVATIONS:

The Parties agree that nothing in this Agreement shall constitute a precedent in any other proceeding and further neither Party will assert in any other any proceeding that this Agreement should be considered as precedent. Notwithstanding neither Party waives its rights to participate and fully present its' respective positions in any proceeding dealing with the any issue addressed in this Agreement or the Adopted Agreement.

AMENDMENT:

This Adopted Agreement shall be amended to include the collocation terms, conditions and pricing attached hereto as Attachments 1 and 2.

GENERAL:

Except as modified above, the Agreement shall in all other respects reflect the same terms as the Adopted Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly respective authorized representatives.

Sprint – Florida, Incorporated

By: _____

Name: William E. Cheek

Title: VP-Sales & Account Mgmt

Date: _____

XO Florida, Inc.

By: _____

Name: Lee Weiner

Title: Senior Vice President, General Counsel

Date: _____

ATTACHMENT 1- COLLOCATION

1 DEFINITIONS.

For the purposes of this Agreement, the following terms or phrases shall have the meaning set forth below:

- 1.1 "Act" means the Communications Act of 1934, as amended.
- 1.2 "Cable Vault" shall mean a location in a Premises where facilities enter the Premises from the Outside Cable Duct and access the Inner Duct for distribution within the Premises.
- 1.3 "Central Office Building" or "Building" shall mean a structure (not including a controlled environment vault ("CEV")) housing Sprint equipment that is under the control of Sprint and for which Sprint has the right to grant access and/or occupation by third parties.
- 1.5 "Collocation Arrangement" refers to a single, specific provision of Collocation in a particular Premises, not limited to a cage enclosing XO's equipment within the Premises.
- 1.7 "Collocation Space" shall mean an area of space as agreed between the parties, located in a Building to be used by XO to house telecommunications equipment. Additionally, roof or wall space used for wireless interconnection shall be included in the definition where applicable.
- 1.8 "Controlled Environment Vault" shall mean a below ground room other than a Central Office Building which is controlled by Sprint and which is suitable for collocation of telecommunications equipment under controlled temperature and humidity.
- 1.10 "Effective Date" is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.
- 1.11 "Inner Duct" or "Conduit" shall mean any passage or opening in, on, under, over or through the Sprint Central Office Building cable or conduit systems.
- 1.12 "Live load capacity" as it relates to a XO's collocation space refers to the structural strength of the floor to support the weight of XO's property and equipment installed in the collocated space.
- 1.13 "Outside Cable Duct" shall mean any space located outside the Central Office Building and owned by or under the control of Sprint through which Sprint runs its cable, conduit or other associated facilities.
- 1.14 "Physical Collocation" is as defined in 47 CFR 51.5.

1.15 "Premises" is as defined in 47 C.F.R. 51.5.

1.17 "Virtual Collocation" is as defined in 47 C.F.R. 51.5.

2. SCOPE OF COLLOCATION SECTION

2.1 Sprint will provide Collocation to XO in accordance with this Agreement for the purposes of Interconnection to Sprint pursuant to the Act (including 47 U.S.C. § 251(c)(2)) and for obtaining access to Sprint's UNEs pursuant to the Act (including 47 U.S.C. § 251(c)(3)). Collocation shall be provided on a nondiscriminatory basis, on a "first-come, first-served" basis, and otherwise in accordance with the requirements of the Act (including 47 U.S.C. § 251(c)(6)).

2.1 Prices and fees for collocation and other services under this Agreement are contained in Table Two.

2.2 This Agreement states the general terms and conditions upon which Sprint will grant to XO a non-exclusive license to gain access to and occupy the Collocation Space, and other associated facilities as may be necessary, for the sole and exclusive purpose of providing telecommunications service as specifically identified on a completed, numbered and dated Site Collocation License executed by both Parties (which Site Collocation License shall be in substantially the form attached as Attachment A). Such service will be provided by installing, maintaining and operating XO's equipment, which will interconnect with Telecommunications Services and facilities provided by Sprint or others in accordance with this Agreement.

3 TERMINATION OF COLLOCATION SPACE

3.1 Termination. XO may terminate occupancy in a particular Collocation Space upon thirty (30) calendar days prior written notice to Sprint. Upon termination of such occupancy, XO at its expense shall remove its equipment and other property from the Collocation Space. XO shall have thirty (30) calendar days from the termination date to complete such removal, including the removal of all equipment and facilities of XO's Guests; provided, however, that XO shall continue payment of monthly fees to Sprint until such date as XO has fully vacated the Collocation Space. XO will surrender the Collocation Space to Sprint in the same condition as when first occupied by XO, except for ordinary wear and tear.

3.2 XO shall be responsible for the cost of removing any enclosure, together with all supporting structures (e.g., racking, conduits), of an Adjacent Collocation arrangement at the termination of occupancy and restoring the grounds to their original condition.

3.3 Upon termination of XO's right to possession without termination, XO

shall surrender possession and vacate the Collocation Space within thirty (30) calendar days. Failure to surrender the Collocation Space within 30 days shall be considered abandonment and Sprint will have the right to remove the equipment and other property of XO or XO's Guest at XO's expense and with no liability for damage or injury to XO's property.

- 3.4 Should Sprint under any section of this Agreement remove any of XO's equipment from its collocation space, Sprint will deliver to XO any equipment removed by Sprint only upon payment by XO of the cost of removal, storage and delivery, and all other amounts due Sprint under this Agreement. Should XO fail to remove any of its equipment deemed abandoned, title thereto shall pass to Sprint under this Agreement as if by a Bill of Sale. Nothing herein shall limit Sprint from pursuing, at its option, any other remedy in law, equity, or otherwise related to XO's occupancy in the Collocation Space, including any other remedy provided in this Agreement.
- 3.5 Surrender of Keys. XO shall surrender all keys, access cards and Sprint-provided photo identification cards to the Collocation Space and the Building to Sprint, and shall make known to Sprint the combination of all combination locks remaining on the Collocation Space.
- 3.6 If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives available, Sprint shall have the right, for good cause shown, and upon 30 days prior notice, to reclaim the Collocation Space or any portion thereof, any Inner Duct, Outside Cable Duct, Cable Vault space or other Sprint-provided facility in order to fulfill its common carrier obligations, any order or rule of the state commission or the FCC to provide Telecommunications Services to its end user customers. In such cases, Sprint will reimburse XO for reasonable direct costs and expenses in connection with such reclamation.
- 3.7 If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives, to require XO to move to equivalent space in the Premises upon receipt of sixty (60) days written notice from Sprint, in which event, Sprint shall pay all reasonable direct costs in connection with such move, and the Collocation License Fee provided for herein shall remain the same.
- 3.8 XO reserves the right to dispute such reclamation and relocation under the dispute resolution provisions of this agreement.

4 COLLOCATION OPTIONS

- 4.1 Cageless. Sprint will offer Collocation Space to allow XO to collocate its equipment and facilities, and without requiring the construction of a cage

or similar structure. Sprint will allow XO to have access to its equipment and facilities 24 hours a day, 7 days a week without need for a security escort provided that XO has met Sprint's safety and security requirements. Sprint may require XO to use a central entrance to the Sprint Central Office. Sprint shall allow cageless collocation in single bay increments. Sprint will assign cageless Collocation Space in conventional equipment rack line ups where feasible. For equipment requiring special technical considerations, XO must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in Telcordia GR-63-Core and shall be responsible for constructing all special technical requirements associated with such equipment pursuant to this Agreement.

- 4.2 Caged. Sprint will authorize the enclosure of XO's equipment and facilities at XO's option. Sprint will provide guidelines and specifications upon request. Based on XO's request, space and cage enclosures in amounts as small as that sufficient to house and maintain a single rack or bay or equipment will be made available. At XO's option, Sprint will permit XO to construct or to arrange with a third party vendor to construct a Collocation Arrangement enclosure at XO's sole expense. XO or XO's third party vendor will be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. XO's third party vendor shall bill XO directly for all work performed for XO and Sprint will have no liability for nor responsibility to pay such charges imposed by the third party vendor. XO must provide the local Sprint building contact with one Access key used to enter the locked enclosure. Except in case of emergency, Sprint will not access XO's locked enclosure prior to notifying XO and obtaining authorization.
- 4.3 If XO is the first CLEC in a Sprint Premises, XO will be responsible for the cost of site preparation and security in accordance Applicable Law.
 - 4.3.1 Sprint has the right to review XO's plans and specifications prior to allowing construction to start. Sprint will complete its review within fifteen (15) calendar days of receipt of such plans. Sprint has the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications. Sprint can require XO to remove or correct, at its cost, any structure that does not meet these plans.
- 4.4 Shared (Subleased) Caged Collocation. XO may allow other telecommunications carriers to share its caged collocation arrangement pursuant to terms and conditions agreed to by XO ("Host") and other telecommunications carriers ("Guests"). XO will notify Sprint in writing upon execution of any agreement between the Host and its Guest within twelve (12) calendar days of its execution. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall

contain a certification by XO that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement.

4.4.1 As Host, XO will be the sole interface and responsible party to Sprint for the purpose of submitting applications for initial and additional equipment placements of Guest (to the extent required under other sections of this Agreement); for assessment and payment of rates and charges applicable to the Collocations space; and for the purposes of ensuring that the safety and security requirements of this Agreement are fully complied with by the Guest, its employees and agents. In making shared cage arrangements, Sprint will not increase the cost of site preparation or nonrecurring charges above the cost of provisioning such a cage of similar dimensions and material to a CLEC.

4.4.2 Sprint will not place unreasonable restrictions on XO's use of a cage, and as such will allow XO to contract with other CLECs to share the cage in a sublease type arrangement. For each CLEC that has an interconnection agreement with Sprint and utilizes a shared collocation cage, Sprint will permit each CLEC to order UNEs and provision service from the shared collocation space, regardless of which CLEC was the original collocator.

4.4.3 If Host terminates a Collocation Arrangement, Host will provide Guest 30 days notice. Guest will assume all obligations and rights of Host as to that Collocation Arrangement if Guest remains in the Collocation Space, including payment of all charges.

4.5 Adjacent Collocation. Sprint will provide adjacent collocation arrangements ("Adjacent Arrangement") where space within the Premises is legitimately exhausted, subject to technical feasibility. Both Parties will mutually agree on the location of the designated space on the adjacent structure (such as a CEV or similar structure) will be placed. If a mutual agreement cannot be reached, Sprint will decide the location, if that location is to be on Sprint property, subject to zoning or other state and local regulations. Unless prohibited by zoning or other state and local regulations and other planned future use as provided in 51.323(f)(4), Sprint will not unreasonably withhold agreement as to the site desired by XO.

4.5.1 XO will provide a concrete pad, the structure housing the arrangement, HVAC, lighting, and all facilities that connect the structure (i.e. racking, conduits, etc.) to the Sprint point of interconnection. Should XO elect such an option, XO must arrange with a third party vendor to construct an Adjacent

Arrangement structure in accordance with this Agreement.

- 4.5.2 Sprint maintains the right to review XO's plans and specifications prior to construction of an Adjacent Arrangement(s). Sprint will complete its review within thirty (30) calendar days of site selection and receipt of plans. Except that such time period may be extended if any delay is due to the actions of XO. Sprint may inspect the Adjacent Arrangement(s) following construction and prior to commencement to ensure the design and construction comply with submitted plans. Sprint may require XO to correct any deviations from approved plans found during such inspection(s).
- 4.5.3 Sprint will provide AC power, as requested, subject to being technically feasible. At its option, XO may choose to provide its own AC power to the adjacent structure as long as the AC power source is from the same provider as Sprint's.
- 4.5.4 Upon XO's request to remain on the waiting list for space in the original structure, in the event that space in a Sprint Premises becomes available, Sprint will provide the option to the CLEC to relocate its equipment from an Adjacent Facility into the Sprint Premises. In the event CLEC chooses to relocate its equipment, appropriate charges will apply, including charges to vacate the adjacent collocation arrangement and charges applicable for collocation within the Sprint Premises. Charges to vacate the adjacent collocation will be provided to XO and approved by XO prior to its relocation.
- 4.6 Contiguous Space. To the extent possible, Sprint will provide XO with contiguous space for any subsequent request for physical collocation space, but makes no assurances that contiguous space will be available.
- 4.7 Virtual Collocation. Sprint will provide virtual collocation, subject to being technically feasible, if physical collocation is not practical for technical reasons or because of space limitations and in accordance with the Act (including 47 U.S.C. § 251(c)(6) and 47 C.F.R. § 51.323).

- 4.7.1 XO may lease to Sprint, at no cost to Sprint, equipment that meet applicable FCC requirements and in accordance with this Agreement, for the sole purpose of having Sprint install and maintain the equipment in accordance with terms and conditions mutually agreed upon by the Parties.
- 4.7.2 Virtually collocated equipment shall be purchased by XO. Sprint does not assume any responsibility for the design, engineering, testing or performance for the end-to-end connection of XO's equipment, arrangement or facilities.
- 4.7.3 Sprint will, at a minimum, install, maintain, and repair XO's collocated equipment within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of Sprint, Sprint's affiliates or third parties. The following services are not covered by this Agreement:
 - 4.7.3.1 services to resolve software or hardware problems resulting from products provided by parties other than Sprint or causes beyond the control of Sprint;
 - 4.7.3.2 service of attached, related, collateral or ancillary equipment or software not covered by this section;
 - 4.7.3.3 repairing damage caused to XO's collocated equipment by persons other than Sprint, or its authorized contractors, or
 - 4.7.3.4 repairing damage to other property or equipment caused by operation of XO's collocated equipment and not caused by the sole negligence of Sprint.
- 4.7.4 XO warrants that Sprint shall have quiet enjoyment of the equipment. Sprint will be entitled to the benefit of any applicable manufacturer's warranties and indemnities and, to the extent assignable, such warranties and indemnities are hereby assigned by XO for the benefit of Sprint and XO shall take all reasonable action to enforce such warranties and indemnities where available to Sprint. XO shall execute, upon presentation, such documents and instruments as may be required to allow Sprint manufacturer's warranty coverage for any equipment. XO warrants that it has full authority to lease the equipment under the terms and conditions set forth herein and that there are no restrictions, legal or otherwise, which would preclude it from so doing.

4.7.4.1 In the event Sprint's right to quiet enjoyment is breached, either by XO's failure to make or cause to be made payment to the equipment manufacturer of the full purchase price for the equipment when such payment becomes due, or otherwise, Sprint may give written notice to XO and all of Sprint's obligations relating to the affected equipment shall terminate immediately.

4.7.5 Sprint's preparation, if any, of the Premises (e.g., Power, environmental, etc.) for the Virtual Collocation equipment will be charged to XO at rates agreed on by the Parties or as established by the Commission.

4.8 Collocation of Splitters

4.8.1 Splitters will be installed by XO in XO's physical collocation space or installed and maintained by Sprint in a common area on racks leased by XO.

4.8.2 Customer will provide all splitters.

4.8.3 Physical Collocation of Splitters. There are two wiring configurations associated with the DSLAMS installed in XO's physical collocation space:

4.8.3.1 the DSLAM is direct wired to the POTS Splitter; and

4.8.3.2 the DSLAM is direct wired to the MDF.

4.8.4 Sprint will provide and install the cabling from XO's Collocation Space to the Splitter in the common area and/or to Sprint's main distribution frame at pricing set forth in Table Two.

4.8.4.1 Installation

4.8.4.1.1 Installing Splitters and Cabling

4.8.4.1.1.1 Sprint agrees to place the Splitters in the applicable Central Offices in an appropriate location chosen by Sprint. Sprint will use reasonable efforts to install the Splitter in a relay rack or bay as close to the main distribution frame as is reasonably practicable. Unless otherwise agreed upon in writing between the Parties,

rack space will be allocated on a shelf by shelf basis.

- 4.8.4.1.1.2 Sprint agrees that, upon the request of XO, it shall cause the Splitters to be plainly, permanently, and conspicuously marked, by metal tag or plate supplied by XO to be affixed thereto, indicating XO's ownership of the Splitters. Sprint will not remove, destroy or obliterate any such marking. Sprint agrees to keep all Splitters free from any marking or labeling which might be interpreted as a claim of ownership thereof by Sprint or any party other than XO.
- 4.8.4.1.1.3 XO will pay for installation, engineering, floor space, relay rack space and other recurring expenses associated with the Splitter Shelf in common area at pricing set forth in Table Two.
- 4.8.4.1.1.4 All wiring connectivity from XO's splitter (Sprint analog voice input to the splitter and combined analog voice/data output from the Splitter) will be cabled out to the Sprint main distribution frame for cross connection with jumpers if practicable.
- 4.8.4.1.1.5 Sprint will provide and install the cabling from the Splitter(s) to Sprint's main distribution frame and from the Splitter(s) to XO's Collocation Space at pricing set forth in Table Two.

4.8.4.2 Providing and Replacing Cards in the Common Area

- 4.8.4.2.1 XO is responsible for ordering and providing to Sprint splitter cards as necessary to effectively operate the Splitter. Sprint will install such

cards per XO's instructions. XO will provide one empty card for every shelf to be used for repair and maintenance until such time as the card must be used to fill the shelf to capacity. XO is responsible for Splitter assignments and monitoring for exhaust based on block and pin assignments.

4.8.4.2.2 Card Replacement

4.8.4.2.2.1 During the term of each collocation arrangement that includes Splitters, Sprint agrees to replace the Splitter cards if requested to do so by XO. Sprint and XO shall take efforts to minimize possible service disruptions, including, but not limited to, replacing Splitter cards during maintenance windows. Sprint will not use the Splitters for any purposes other than that for which they were designed. Sprint may perform these obligations through Sprint's employees or any qualified company.

4.8.4.2.2.2 XO will provide replacement cards as required. Replacement cards will be either new or of like-new quality. Upon XO's written request, Sprint will return the replaced cards(s) to XO. XO agrees to pay the full costs of transportation of replacement cards to and from Sprint's central office.

4.8.4.2.3 Upon termination of any collocation arrangement that includes Splitters (by expiration or otherwise) Sprint will return the Splitter to XO. XO will be charged time and material costs for removal of any Splitters. XO agrees to provide Sprint via pre-paid delivery with a medium for packaging and transportation of such Splitter. XO absolves Sprint of any

damage, which may occur as a result of Splitter transportation to XO.

4.8.5 The following services are not covered by this Agreement:

- 4.8.5.1 services to resolve software or hardware problems resulting from products provided by parties other than Sprint or causes beyond the control of Sprint;
- 4.8.5.2 service of attached, related, collateral or ancillary equipment or software not covered by this Agreement;
- 4.8.5.3 repairing damage caused to the Splitter by persons other than Sprint, or its authorized contractors, or
- 4.8.5.4 repairing damage to other property or equipment caused by operation of the Splitter and not caused by the sole negligence of Sprint.

5 DEMARCATION POINT

- 5.1 Sprint will designate the point of demarcation between XO's collocated facilities and Sprint's facilities, unless otherwise mutually agreed to by the Parties, in or adjacent to its Collocation Space. At XO's request, Sprint will identify the location(s) of other possible demarcation points available to XO, and XO will designate from these location(s) the point(s) of demarcation between its collocated equipment and Sprint's equipment. Sprint will use its best efforts to identify the closest demarcation point to XO's equipment that is available.
- 5.2 Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point.
- 5.3 At XO's option and expense, a point of termination (POT) bay, frame or digital cross-connect may be placed in or adjacent to the Collocation Space that may, at XO's option, serve as the demarcation point. If XO elects not to provide a POT frame, Sprint will agree to handoff the interconnection cables to XO at its equipment, at XO's designated demarcation point. When XO elects to install its own POT frame/cabinet, Sprint must still provide and install the required DC power panel.

6 APPLICATION PROCESS

- 6.1 Upon XO's selection of a Premises in which it desires to collocate its Equipment, Sprint will provide a then current collocation application form (the "Application") to XO. XO will submit an Application when initially requesting Collocation Space, or modifying the use of the Collocation

Space. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in XO's Collocation Space(s), an estimate of the amount of square footage required (or, in the case of Cageless Collocation, bay space), as well as the associated power requirements, floor loading, and heat release of each piece.

- 6.1.1 XO will complete the Application, and return it, along with the appropriate Application Fee, to Sprint. The Application shall include complete details of the collocation and interconnection requested, including, but not limited to, specific floor space, power, and environmental conditioning requirements. Sprint will not process an Application until both the Application and the applicable Application fee are received.
- 6.1.2 Application Augment Fee. In the event XO desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Sprint, XO will complete a subsequent Application detailing all information regarding the modification to the Collocation Space together with payment of the appropriate Application Augment Fee. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions.
- 6.1.3 No Subsequent Fee. Where XO modifies the use of the Collocation Space or adds equipment that requires no additional engineering or preparation work on the part of Sprint, Sprint will not impose additional charges or additional intervals that would delay XO's operation. XO will notify Sprint of the modifications or additional equipment prior to installation.
- 6.1.4 If Collocation Space is unavailable or XO withdraws its request, the Application fee, less the costs incurred by Sprint (e.g. engineering record search and administrative activities required to process the Application) will be refunded.
- 6.2 Multiple Methods. If XO wishes Sprint to consider multiple methods for collocation on a single Application, XO will need to include in each Application a prioritized list of its preferred methods of collocating, e.g., caged, shared, or other, as well as adequate information, (e.g., specific layout requirements, cage size, number of bays, requirements relative to adjacent bays, etc.) for Sprint to process the Application for each of the preferred methods. If XO provides adequate information and its preferences with its Application, Sprint may not require an additional Application, nor will XO be required to restart the quotation interval if XO's first choice is not available in a requested Premises. Only one

collocation arrangement will be provisioned per application. Sprint will not select for XO the type of collocation to be ordered.

- 6.3 Within ten (10) calendar days after receiving XO's Application for collocation, Sprint will inform XO whether the Application meets each of Sprint's established collocation standards. Should XO submit a revised Application curing any deficiencies in an Application for collocation within ten days after being informed of them, XO shall retain its original position within any collocation queue that Sprint maintains. If Sprint informs XO that there is a deficiency in an Application, Sprint will provide sufficient detail so that XO has a reasonable opportunity to cure each deficiency.
- 6.4 Revisions. All revisions to an initial request for a Physical Collocation Arrangement submitted by XO must be in writing. A new interval for the Physical Collocation Arrangement will be established which shall not exceed two months beyond the originally established date. XO will be required to pay any applicable Application fees.
- 6.5 Space Availability Response. Sprint shall provide confirmation of space availability within ten (10) calendar days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications submitted. Space availability response will be increased by five (5) calendar days for every five (5) additional Applications received.
 - 6.5.1 Sprint will notify XO in writing as to whether its request for Collocation Space has been granted or denied due to lack of space. The notification will also include a possible future space relief date, if applicable.
 - 6.5.2 In order to increase the amount of space available for collocation, Sprint will, upon request, remove obsolete unused equipment, from its Premises to increase the amount of space available for collocation.
- 6.6 Denial of Application. After notifying XO that Sprint has no available space in the requested Central Office ("Denial of Application"), Sprint will allow XO, upon request, to tour the entire Central Office within ten (10) calendar days, or other mutually agreeable timeframe, of such Denial of Application. In order to schedule said tour the request for a tour of the Central Office must be received by Sprint within five (5) calendar days of the Denial of Application.
 - 6.6.1 If XO contests Sprint's notice that there is not sufficient space in the Central Office, the parties agree to seek expedited resolution of the dispute at the Commission pursuant to Section 251(c)(6) of the Act. If the Commission determines that space is not available, Sprint will not be required to conduct a review of floor

space availability in the same central office more frequently than once every six months.

- 6.6.2 On a first come, first serve basis, Sprint will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate.
- 6.6.3 Sprint will simultaneously notify the telecommunications carriers on the waiting list when space becomes available if there is enough space to accommodate additional collocation. Subsequent to the granting of a Petition for Waiver, if XO has been denied space at a Sprint Premises and challenges Sprint on space availability at said Premises, XO will be given priority for space assignment if, as a result of the challenge, space is found to be available. XO will reaffirm its collocation request within thirty (30) calendar days of such notification; otherwise, it will be dropped to the bottom of the list. Upon request, Sprint will advise XO as to its position on the list.
- 6.6.4 If XO's Application for Physical Collocation is denied due to lack of space, Sprint will place XO on the waiting list for collocation in particular Premises according to the date XO submitted its Application and not the date of denial for lack of space.
- 6.6.5 Sprint will maintain on its Website a notification document that will indicate all Premises that are without available space. Sprint will update such document within ten (10) calendar days of the date at which a Premises runs out of physical collocation space.
- 6.7 Price Quote. Sprint will provide a price quote within thirty (30)-calendar days (or in accordance with Applicable Law) of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications. Price quote response will be increased by five (5) calendar days for every five (5) additional Applications received. The quotation will include the applicable nonrecurring and recurring rates and (where applicable) the estimated construction or provisioning interval.
- 6.8 XO has sixty-five (65) calendar days from receipt of the quotation to accept the quotation in writing. The quotation expires after sixty-five (65) calendar days. After sixty-five (65) calendar days, a new Application and Application fee are required. Collocation Space is not reserved until the quotation is accepted. Sprint need not meet the deadlines for provisioning Physical Collocation if, after receipt of any price quotation provided by Sprint, XO does not notify Sprint that physical collocation should proceed.
- 6.9 Bona Fide Firm Order (BFFO). XO will indicate its intent to proceed with

equipment installation in a Sprint Premises by accepting the price quote, which constitutes a BFFO. The BFFO must be received by Sprint no later than sixty-five (65) calendar days after Sprint's provisioning of the price quote in response to XO's Application. If XO makes changes to its Application in light of Sprint's written Application Response, Sprint may be required to re-evaluate and respond to the change(s). In this event, XO's Application will be treated as a Revision.

- 6.10 Space preparation for the Collocation Space will not begin until Sprint receives the BFFO and all applicable fees, including all non-recurring charges required by Sprint at the time of the BFFO.

7 SPACE RESERVATION

- 7.1 The parties may reserve floor space for their own specific uses for the remainder of the current year, plus twelve (12) months. Neither Sprint, nor any of its affiliates, will reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use.

8 PROVISIONING INTERVALS

- 8.1 Sprint will complete construction of Caged Physical (including Shared Caged), Cageless Physical, and Virtual Collocation arrangements within ninety (90) calendar days of receipt of a BFFO. Sprint will complete construction of Adjacent Collocation arrangements (as defined in 4.5) within one hundred twenty (120) calendar days of receipt of a BFFO. If Sprint is unable to complete construction as provided herein, the parties may agree to a mutually acceptable interval or Sprint may petition the Commission for waiver.

9 CONSTRUCTION AND COMMENCEMENT OF BILLING

- 9.1 Sprint shall permit XO or its designated subcontractor to perform the construction of physical collocation space, provided however, that any such XO subcontractor shall be subject to Sprint's security standards. Sprint reserves the right to reject any XO subcontractor upon the same criteria that Sprint would use on its own subcontractors. XO will notify Sprint in writing when construction of physical collocation space is complete.
- 9.2 Sprint Inspection. Sprint shall have the right to inspect XO's completed installation of equipment and facilities prior to XO turning up such equipment and facilities. XO shall provide written notification to Sprint when XO has completed its installation of equipment and facilities in the Collocation space, and Sprint shall, within five (5) Business Days of receipt of such notice, either (i) inspect such Collocation space or (ii)

notify XO that Sprint is not exercising its right to inspect such Collocation space at that time and that XO may turn up its equipment and facilities. Failure of Sprint to either inspect the Collocation space or notify XO of its election not to inspect such space within the foregoing five (5) Business Day period shall be deemed an election by Sprint not to inspect such Collocation space. XO shall have the right to be present at such inspection, and if XO is found to be in non-compliance with the terms and conditions of this Agreement that relate to the installation and use of XO's Collocated equipment and facilities, XO shall modify its installation to achieve compliance prior to turning up its equipment and facilities.

- 9.3 To the extent Sprint performs the construction of the Physical Collocation Arrangement, Sprint shall construct the Collocated Space in compliance with mutually agreed collocation request. Any deviation to XO's order must thereafter be approved by XO. The Parties acknowledge that XO approved deviations may require additional construction time and may incur additional XO expenses. XO shall pay the incremental cost incurred by Sprint as the result of Revision applicable to construction of any Collocation Space. XO will pay all applicable fees, including any nonrecurring charges required by Sprint, prior to Sprint commencing construction of the collocation space.
- 9.4 Extraordinary Construction Costs. XO will be responsible for all extraordinary costs, as determined in accordance with the Act, incurred by Sprint to prepare the Collocation space for the installation of XO's equipment and for extraordinary costs to maintain the Collocation space for XO's equipment on a going-forward basis. Extraordinary costs may include costs for such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, increasing the DC power system infrastructure capacity, increasing the capacity of the standby AC system (if available) or the existing commercial power facility, conversion of non-Collocation space, compliance with federal and state requirements, or other modifications required by local ordinances. Sprint will charge for these extraordinary costs on a time-sensitive or time-and-materials basis and will allocate the costs fairly among itself, XO and other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to XO prior to commencing such work. Extraordinary costs will only be billed to XO if such costs have been authorized by XO. Sprint must advise XO if extraordinary costs will be incurred.
- 9.5 Permits. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents.
- 9.6 Acceptance Walk Through. Sprint will notify XO when construction of a Collocation Space is complete. The Parties will complete an acceptance

walk through of each provisioned Collocation Space. If Sprint has deviated or otherwise not complied with XO's original or jointly amended requirements or with the terms and conditions of this Agreement, Sprint shall correct that deviation or noncompliance prior to XO's acceptance of the Collocation Space. Sprint will commence to correct any such deviations or noncompliance within five (5) calendar days after the walk through. If XO does not conduct an acceptance walk through within 15 days of the notification that the Collocation Space construction is complete, XO will be deemed to have accepted the Collocation Space and billing will commence.

- 9.7 If, at anytime, XO cancels its order for Physical Collocation, Caged, Shared Cage, or Adjacent Space Collocation, or Virtual Collocation, XO will reimburse Sprint for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs. Sprint shall provide XO with a detailed listing showing the costs incurred and for which XO is responsible for reimbursement.

10 EQUIPMENT

- 10.1 Equipment Type. XO may only locate equipment necessary for interconnection to Sprint and accessing Sprint's unbundled network elements in accordance with Applicable Rules, including but not limited to 47 U.S.C. 251 (C) (3), 47 U.S.C. 251 (C) (2), and 47 CFR 51.323(b-c).
- 10.2 XO's equipment and facilities shall not be placed or operated in such a manner that creates hazards or causes physical harm to any individual or the public.
- 10.3 All equipment to be collocated must meet Level 1 safety requirements as set forth in Telcordia Network Equipment and Building Specifications (NEBS), but Sprint will not impose safety requirements on XO that are more stringent than the safety requirements it imposes on its own equipment. Sprint may not deny a collocation request of XO's equipment because the equipment fails to meet NEBS reliability/performance standards. If Sprint denies collocation of XO's equipment, citing safety standards, Sprint must provide to XO within five (5) business days of the denial a list of all equipment that Sprint locates within the Premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that Sprint contends the competitor's equipment fails to meet. In the event that Sprint believes that the collocated equipment is not necessary for interconnection or access to unbundled network elements or determines that XO's equipment does not meet NEBS Level 1 safety requirements, XO will be given ten (10) calendar days to comply with the requirements or remove the equipment

from the collocation space. If the parties do not resolve the dispute, the Parties may file a complaint at the Commission seeking a formal resolution of the dispute. While the dispute is pending, Sprint will not prevent or otherwise delay installation of the disputed equipment in the Collocation space; however, XO will not activate the equipment during the pendency of the dispute.

- 10.4 XO must notify Sprint in writing that collocation equipment installation is complete and is operational with Sprint's network. If XO fails to place operational telecommunications equipment in the collocated space and connect with Sprint's network within 180 calendar days of XO's acceptance of Sprint's price quote, or other time period mutually agreed to by XO and Sprint, Sprint may terminate the applicable Collocation Space upon written notice. XO will reimburse Sprint for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs. Sprint shall provide XO with a detailed listing of the costs.

11 AUGMENTS AND ADDITIONS

- 11.1 When XO modifies the Collocation Arrangement or adds equipment that requires no additional space preparation work on the part of Sprint, Sprint may not impose additional charges or additional intervals that would delay XO's operation. XO will notify Sprint of the modifications or additional equipment prior to installation.
- 11.2 Sprint will provide reduced intervals, not to exceed the interval for a new collocation space, to XO with existing physical collocation space that requests augments. In such instances, XO must provide an accurate front equipment view (a.k.a. rack elevation drawing) specifying bay(s) for XO's point of termination.
- 11.3 The reduced provisioning interval will apply only when XO provides a complete Application accompanied by the applicable Application Fee.
- 11.4 XO must submit an Application and applicable Application fee to obtain a price quote. The price quote will contain the charges and the construction interval for that application. The construction interval for augments will not exceed ninety (90) calendar days from BFFO. If special or major construction is required, Sprint will work cooperatively with XO to negotiate mutually agreeable construction intervals for augments.

12 USE OF COMMON AREAS

- 12.1 XO, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by

Sprint from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas for vehicles of persons while working for or on behalf of XO at the Collocation Space; provided, however, that Sprint shall have the right to reserve parking spaces for Sprint's exclusive use or use by other occupants of the Building. Sprint does not guarantee that there is or will be sufficient parking spaces in parking areas to meet XO's needs. Sprint does not guarantee that restroom facilities or water will be available. All common areas shall remain under the exclusive control and management of Sprint, and Sprint shall have the right to change the level, location and arrangement of parking areas and other common areas, as Sprint may deem necessary. Use of all common areas shall be subject to such reasonable rules and regulations as Sprint may from time to time impose, consistent with XO's right to access its Collocation Space.

- 12.2 Water. Sprint, where water is available for its own use, shall furnish running water from regular Building outlets for drinking, lavatory and toilet purposes drawn through fixtures installed by Sprint, for the non-exclusive use of XO, Sprint and any other building occupant. XO shall not waste or permit the waste of water.
- 12.3 Security Service. Sprint shall furnish Building and Premises security in accordance with its normal business practices. Other than the locks on the entrances to the Collocation Space, Sprint shall provide no security specific to XO's Collocation Space. Sprint shall not be liable to XO or any other party for loss of or damage to the Collocation Space or XO equipment caused by third parties unless Sprint has failed to provide Building and Premises security in accordance with its normal business practices.
- 12.4 Elevator Service. Sprint shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which XO has access pursuant to the terms of this Agreement 24 hours a day, seven days a week. Freight elevator service when used by XO's contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Sprint.

13 CROSS CONNECTIONS

- 13.1 Adjacent in this Section 13 refers to collocation arrangements in the same Premises that have a common border; and is not referring to the form of Physical Collocation as described in CFR Part 47 51.323(k)(3).
- 13.2 For the term of this Agreement, unless earlier terminated, Sprint shall furnish the following services:
 - 13.2.1 Interconnection. At XO's request Sprint will permit XO to interconnect its network with that of another telecommunications carrier at Sprint's Premises. Sprint, at its sole discretion, shall permit XO to install cross-connect facilities ("X-C") including, but not limited to dark fiber, to interconnect its network with that of another adjacently collocated telecommunications carrier at the Sprint Premises. If Sprint denies XO's request to install cross-connect facilities, Sprint will provide such cross connect facilities. Sprint will provide such cross-connect facilities for non-adjacent locations at the expense of XO per XO's request.
- 13.3 X-C is only available when both collocation arrangements (either caged, cageless, and/or virtual) being interconnected are within the same Sprint premises, provided that the collocated equipment is used for interconnection with Sprint and/or for access to the Sprint's unbundled network elements. Sprint shall provide such X-C connections from XO's

collocation arrangement to another collocation arrangement of a telecommunication carrier's (TC)'s within the same Sprint premises, or to a collocation arrangement of another TC in the same Sprint premises. X-C is provided at the same transmission level from XO to another TC.

13.4 Sprint will provision cross-connects in compliance with 41CFR 51.323(h).

14 RATES

14.1 The rates for collocation are listed on Table Two.

14.2 If XO is the first collector in the Sprint premises, XO will not be responsible for the entire cost of site preparation and security. However, ancillary charges for unique collocator requests for collocation options directly attributable to the requesting collocator will not be prorated. Examples include power arrangements, remote switch module related options and POT bay-related options.

14.3 The rates and charges in this Agreement do not include costs for any Americans with Disability Act (ADA) construction generated or caused by the physical collocation space request. If required, ADA construction will be provided on an ICB. If Sprint is required to upgrade a Premises, or portion of the Premises to comply with the ADA which arises as a direct result of XO's Collocation Arrangement, Sprint will prorate the total forward-looking economic cost of the upgrade, and allocate the charge to each CLEC collocated within the Premises, based on the total space utilized by each collocated CLEC to the extent permitted by Applicable Law. Should Sprint benefit in any way whatsoever from the ADA upgrades, it shall share in the proration of costs. Should Sprint be the sole beneficiary of an upgrade (e.g., an upgrade would have had to be made regardless of whether or not a CLEC was collocated in the Premises), Sprint shall absorb all of the costs related to such an upgrade.

14.4 Facility Modifications

14.4.1 To the extent that a modification is made for the specific benefit of any particular party, costs of modification are to be proportionately born by the particular parties that directly benefit including the ILEC. The cost is allocated using the proportion of the new space occupied to the total new space made available.

14.4.2 If a non-requesting party benefits from the modification, e.g. using the opportunity to bring their equipment or arrangement into compliance with certain standards, or making adjustments leading to improvement, then the party will be deemed to be sharing. This party will be responsible for its share of the modification costs.

- 14.4.3 None of the costs will be allocated to a third party that gains incidental benefit, but did not cause the modification or modify their facilities.
- 14.4.4 If a current user of space subsequently initiates new uses of the modified facility by other parties to avoid modification costs or if new entrants use the facility, they will share in the modification costs. The modifying party(s) may charge a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. If measurable depreciation has occurred of the modification, the subsequent party may pay a lower cost.
- 14.4.5 Parties requesting or joining in a modification also will be responsible for resulting costs to maintain the facility on an ongoing basis.

15 SPRINT SERVICES AND OBLIGATIONS

- 15.1 Environmental Controls. Sprint shall furnish air conditioning and/or other environmental controls for the area in which the Collocation Space is located in a manner consistent with those provided elsewhere in the Building. Sprint shall furnish air conditioning and/or other environmental controls for the Collocation Space based on information provided by XO to Sprint in its Application which XO hereby represents to Sprint is sufficient to allow XO equipment to function without risk of harm or damage to the Collocation Space, the Building or any equipment or facilities of Sprint or any other occupant of the Building. These environmental conditions shall adhere to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed standards.
 - 15.1.1 If XO locates equipment or facilities in the Collocation Space which Sprint reasonably determines, affect the temperature or other environmental conditions otherwise maintained by Sprint in the Building, Sprint reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Collocation Space, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by XO's equipment or facilities shall be paid by XO to Sprint. If supplementary air conditioning units or other environmental control devices are required for more than one CLEC each CLEC will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation. XO reserves the right to dispute under section 23, Sprint's

determination that XO's collocated equipment is responsible for Sprint's installation of supplementary air conditioning, as well as the costs Sprint seeks to recover from XO for providing and installing such supplementary air conditioning.

- 15.1.2 Electricity. If Sprint, in the exercise of its reasonable business judgment, determines that the electricity provided to XO pursuant to this Section is insufficient to support the activity being carried on by XO in the Collocation Space, Sprint may require the installation of additional electrical circuits to provide XO with additional electricity and XO shall reimburse Sprint for any expenses incurred in making such additional electrical circuits available to XO's Collocation Space. XO shall also pay for additional electricity provided via these circuits. XO reserves the right to dispute under section 23, Sprint's determination that XO's collocated equipment is responsible for Sprint's installation of additional electrical circuits, as well as the costs Sprint seeks to recover from XO for providing and installing such additional electrical circuits.
- 15.1.3 XO covenants and agrees that Sprint shall not be liable or responsible to XO for any loss, damage or expense which XO may sustain or incur if either the quality or character of electrical service is changed or is no longer suitable for XO's requirements as long as the electrical service that XO receives is at Parity with the electrical service that Sprint provides to itself, its affiliates, and other collocating parties.
- 15.1.4 XO agrees to request in writing, via a complete and accurate Application, all electrical needs to power its equipment. The Application shall contain the total power needs, the date needed, and the exact location where termination of the electrical power shall occur. Actual power usage of XO's equipment shall not exceed the requested capacity. If XO's actual power usage exceeds the requested capacity, Sprint will provide XO with written notice after which XO will have ten (10) days to correct the situation.
- 15.1.5 Central office power supplied by Sprint into the XO equipment area shall be supplied in the form of power feeders (cables) on cable racking into the designated XO equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of XO equipment. The termination location shall be as agreed by the parties.
- 15.1.6 Sprint shall provide power as requested by XO to meet XO's

need for placement of equipment, interconnection, or provision of service.

15.1.7 Sprint power equipment supporting XO's equipment shall:

15.1.7.1 Comply with applicable industry standards (e.g., Telcordia, NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout or at minimum, at parity with that provided for similar Sprint equipment;

15.1.7.2 Have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for XO equipment, or, at minimum, at parity with that provided for similar Sprint equipment;

15.1.7.3 Provide, upon XO's request and at XO's expense, the capability for real time access to power performance monitoring and alarm data that impacts (or potentially may impact) XO traffic;

15.1.7.4 Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of XO equipment plus or minus 2 feet to the left or right of XO's final request; and

15.1.7.5 Provide feeder cable capacity and quantity to support the ultimate equipment layout for XO's equipment in accordance with XO's collocation request.

15.1.8 Sprint shall provide cabling that adheres to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;

15.1.9 Sprint shall provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines.

15.1.10 Sprint will provide XO with written notification within ten (10) business days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to XO equipment located in Sprint facility. Sprint shall provide XO immediate notification by telephone of any emergency power activity that would impact XO's equipment.

15.2 Fire Safety System. Subject to the provisions of Section 6.6.3 hereof,

Sprint may furnish an existing Halon 1301 Fire Suppression System, or may, but is not obligated to, provide its equivalent, to provide fire protection in the Collocation Space designed to comply with the National Fire Protection Association (“NFPA”) 12A Standard on Halon 1301 Fire Extinguishing Systems or with NFPA standard 2001 dealing with alternative fire suppression agents. Sprint shall furnish fire and smoke detection systems designed to comply with the NFPA 72E Standard on Automatic Fire Detectors in effect as of the collocation date.

15.2.1 Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Sprint as required by applicable fire codes.

15.2.2 Sprint and Sprint’s insurance carriers will perform regular inspections of fire protection systems, and XO hereby agrees to provide Sprint and Sprint’s insurance carriers access to the Collocation Space for purposes of such inspections, via pass key or otherwise. Sprint agrees to provide XO with notice of its intent to access XO’s Collocation Space where such notice is practicable. No failure of Sprint to give such notice will affect Sprint’s right of access or impose any liability on Sprint where such notice is not practicable. Sprint will, at its expense, maintain and repair the fire and smoke detection systems unless maintenance or repair is required due to the act or omission of XO, its employees, agents or invitees, in which case XO shall reimburse Sprint for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, XO shall, if at fault, and at Sprint’s option, replace Halon or other fire extinguishing material discharged as a result of XO’s act or omission. XO shall have no duty to inspect fire protection systems outside the Collocation Space; provided, however, if XO is aware of damage to the fire protection systems it shall promptly notify Sprint.

15.2.3 XO is aware the Collocation Space will contain a fire detection system and may contain a fire suppression system. In the event of discharge, Sprint is relieved of all liability for damage to equipment or personal injury except in cases where such damage to equipment or personal injury is due to the gross negligence or willful misconduct of Sprint, its officers, agents or employees.

15.3 Repairs. Sprint shall, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishment or decorating to the Collocation Space, Building and Premises, in a manner consistent with Sprint’s normal business practices.

- 15.3.1 Sprint shall not be obligated to inspect the Collocation Space, make any repairs or perform any maintenance unless first notified of the need in writing by XO. If Sprint shall fail to commence such repairs or maintenance within ten (10) business days after written notification, provided that such delays are not caused by XO, XO's sole right and remedy shall be, after further notice to Sprint, to make such repairs or perform such maintenance and to deduct that cost and expenses from the physical collocation fees payable; provided, however, that the amount of such deduction shall not exceed the reasonable value of such repairs or maintenance.
- 15.3.2 Sprint shall, where practical, provide XO with 24 hours prior notice before making repairs and/or performing maintenance on the Collocation Space; provided, however, that Sprint shall have no obligation to provide such notice if Sprint determines, in the exercise of its reasonable discretion, that such repair or maintenance must be done sooner in order to preserve the safety of the Building or the Collocation Space, or if required to do so by any court or governmental authority. Work shall be completed during normal working hours or at other times identified by Sprint; provided, however, that XO shall pay Sprint for overtime and for any other expenses incurred if such work is done during other than normal working hours at XO's request. XO shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.
- 15.3.3 The cost of all repairs and maintenance performed by or on behalf of Sprint to the Collocation Space which are, in Sprint's reasonable judgment, beyond normal repair and maintenance, or are made necessary as a result of misuse or neglect by XO or XO's employees, invitees or agents, shall be paid by XO to Sprint within 10 days after being billed for such repairs and maintenance by Sprint unless XO disputes the charges under section 23.
- 15.4 Sprint shall provide XO with notice via email three (3) business days prior to those instances where Sprint or its subcontractors perform work which is known to be a service affecting activity. Sprint will inform XO by e-mail of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Sprint learns that such outage has occurred. If possible, the parties will then agree upon a plan to manage the outage so as to minimize customer interruption.
- 15.5 **Interruption of Services.** Sprint reserves the right to stop any service when Sprint deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Sprint agrees to use

its best efforts not to interfere with XO's use of Collocation Space. Sprint does not warrant that any service will be free from interruptions caused by labor controversies, accidents, inability to obtain fuel, water or supplies, governmental regulations, or other causes beyond the reasonable control of Sprint.

15.5.1 No such interruption of service shall be deemed an eviction or disturbance of CLEC's use of the Collocation Space or any part thereof, or render Sprint liable to CLEC for damages, by abatement of CLEC Fees or otherwise, except as set forth in the Tariff, or relieve CLEC from performance of its obligations under this Agreement. CLEC hereby waives and releases all other claims against Sprint for damages for interruption or stoppage of service.

15.6 Access. For physical collocation, subject to reasonable building rules and any applicable Security Arrangements, XO shall have the right of entry twenty-four (24) hours per day seven (7) days a week to the Building, common areas, Collocation Space and common cable space.

15.6.1 Sprint, at XO's expense, may issue non-employee photo identification cards for each XO employee or vendor. Temporary identification cards may otherwise be provided by Sprint for employees or agents, contractors and invitees of XO who may require occasional access to the Collocation Space.

15.6.2 Sprint may issue access cards, codes, or keys to XO's listed employees or vendors where such systems are available and their use by XO will not otherwise compromise building security.

15.6.3 Sprint reserves the right to close and keep locked all entrance and exit doors of the Premises during hours Sprint may deem advisable for the adequate protection of the Premises. Use of the Premises at any time it is unattended by appropriate Sprint personnel, or on Sundays and state and federal or other holidays recognized by Sprint, or, if XO's Collocation Space is not fully segregated from areas of the Premises containing Sprint equipment, shall be subject to such reasonable rules and regulations as Sprint may from time to time prescribe for its own employees and third party contractors.

15.6.4 To require all persons entering or leaving the Premises during such hours as Sprint may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to leave or enter, and to exclude or expel any solicitor or person at any time from the Collocation Space or the Premises. Sprint assumes no responsibility and shall not be liable for any damage resulting from the admission

or refusal to admit any unauthorized person or from the admission of any authorized person to the Premises, provided that Sprint provides Building and Premises Security in accordance with normal business practices and such damage is not the result of gross negligence or willful misconduct on the part of Sprint, its officers, agents or employees.

15.7 Access Right of Sprint. Sprint shall have access to XO's Physical Collocation Space at all times, via pass key or otherwise, to allow Sprint to react to emergencies, to maintain the space (not including XO's equipment), and to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Sprint, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. If a secure enclosure defining the location of XO's Collocation Space has been established, and if conditions permit, Sprint will provide XO with notice at the same interval as in 96.5 (except in emergencies) of its intent to access the Collocation Space, thereby providing XO the option to be present at the time of access. XO shall not attach, or permit to be attached, additional locks or similar devices to any door or window, nor change existing locks or the mechanism thereof.

15.7.1 To enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Sprint deems necessary. XO hereby waives any claim for damage, injury, interference with XO's business, any loss of occupancy or quiet enjoyment of the Collocation Space, and any other loss occasioned by the exercise of Sprint's access rights, except in the event such damages result solely from the gross negligence or willful misconduct of Sprint, its officers, agents or employees.

15.7.2 To use any means Sprint may deem proper to open Collocation Space doors or enclosures in an emergency. Entry into the Collocation Space obtained by Sprint by any such means shall not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of XO from the Collocation Space or any portion thereof.

16 XO'S OBLIGATIONS

16.1 Inspection and Janitorial. XO shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. XO shall promptly notify Sprint of any damage to the Collocation Space or of the need to perform any repair or maintenance of the Collocation Space, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical and other mechanical facilities in the Collocation

Space). XO shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.

16.2 Security Arrangements. XO agrees to abide by all of Sprint's security practices for non-Sprint employees with access to the Building, including, without limitation:

16.2.1 XO will supply to Sprint, and update as changes occur, a list of its employees or approved vendors who require access to the Premises. The list will include the social security numbers of all such individuals. Sprint may reasonably object to any person on the list, in which case that person will be denied entry into the building. Sprint's objections will be consistent with the grounds for denying access to personnel of its own contractors or for denying employment directly with Sprint.

16.2.2 XO is responsible for returning identification and access cards, codes, or keys of its terminated employees or its employees who no longer require access to the Collocation Space. All cards, codes, or keys must be returned upon termination of the applicable Collocation Space. XO will reimburse Sprint actual costs due to unreturned or replacement cards, codes, or keys.

16.2.3 XO's employees, agents, invitees and vendors must display identification cards at all times.

16.2.4 XO will assist Sprint in validation and verification of identification of its employees, agents, invitees and vendors by providing a telephone contact available 24 hours a day, seven days a week to verify identification.

16.2.5 Removal of all furniture, equipment or similar articles will be based on local Sprint security practices. These security practices will not be more stringent for XO than Sprint requires for its own employees or Sprint's contractors.

16.2.6 Before leaving the Collocation Space unattended, XO shall close and securely lock all doors and windows and shut off unnecessary equipment in the Collocation Space. Any injury to persons or damage to the property of Sprint or any other party with equipment in the Building resulting from XO's failure to do so shall be the responsibility of XO. XO will defend and indemnify Sprint from and against any claim by any person or entity resulting from, and to the extent of, XO's failure to comply with this section.

16.2.7 XO agrees that Sprint may provide a security escort for physical collocation, at no cost or undue delay to XO, to XO personnel

while on Sprint Premises. While such escort shall not be a requirement to XO's entry into the Building, XO must allow the security escort to accompany XO personal at all times and in all areas of the Building, including the Collocation Space, if so requested.

- 16.2.8 XO shall post in a prominent location visible from the common Building area, the names and telephone numbers of emergency contact personnel along with names and telephone numbers of their superiors for 24 hour emergency use by Sprint. XO shall promptly update this information as changes occur.
- 16.3 Electricity. XO will provide Sprint with written notification within ten (10) business days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Sprint equipment located in XO facility. XO shall provide Sprint immediate notification by telephone of any emergency power activity that would impact Sprint equipment.
- 16.4 Uninterruptible Power Supply (UPS). XO shall not provision and/or install UPS systems within the Sprint premises. The customer is permitted to install Inverted Power Systems if and only if documented compliance with National Equipment Building Standards (NEBS) III and Listing by Underwriters Laboratory (UL) has been met.
- 16.5 Electro-Chemical Stationary Batteries. XO shall not place Electro-Chemical Storage Batteries of any type inside the collocation space.
- 16.6 Interruption of Services. XO shall provide Sprint with written notice three (3) business days prior to those instances where XO or its subcontractors perform work, which is to be a known service affecting activity. XO will inform Sprint by e-mail of any unplanned service outages. The parties will then agree upon a plan to manage the outage so as to minimize customer interruption. Notification of any unplanned service outage shall be made as soon as practicable after XO learns that such outage has occurred so that Sprint can take any action required to monitor or protect its service.
- 16.7 Telephone. XO may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by XO and at XO's expense, Sprint will provide basic telephone service with a connection jack in the Collocation Space.
- 16.8 Fire Protection Systems. XO shall, with the prior written consent of Sprint, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that XO may not install or use sprinklers or carbon dioxide fire suppression systems within the Building or the Collocation Space.

16.8.1 If any governmental bureau, department or organization or Sprint's insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the Building in which the Collocation Space of CLECs are located, such changes, modifications, or additions shall be made by Sprint and XO shall reimburse Sprint for the cost thereof in the same proportion as the size of XO's Collocation Space as compared to the total available collocation space in the affected portion of the Building.

16.9 Hazardous Materials. XO shall identify and shall notify Sprint in writing of any Hazardous Materials XO may bring onto Sprint's Premises, and will provide Sprint copies of any inventories or other data provided to State Emergency Response Commissions ("SERCs"), Local Emergency Planning Committees ("LEPCs"), or any other governmental agencies if required by the Emergency Planning and Community Right to Know Act (41 U.S.C. 11001, *et seq.*). XO, its agents and employees shall transport, store and dispose of Hazardous Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. XO will promptly notify Sprint of any releases of Hazardous Materials and will copy Sprint on any notification of or correspondence with any governmental agency which may be required by any environmental law as a result of such release.

16.9.1 XO shall provide Sprint copies of all Material Safety Data Sheets ("MSDSs") for materials or chemicals regulated under the OSHA Hazard Communication Standard (29 C.F.R. 1910.1200) that are brought onto Sprint's Premises. All such materials shall be labeled in accordance with 29 C.F.R. 1910.1200 and applicable state regulations if such regulations are more stringent.

16.9.2 If Sprint discovers that XO has brought onto Sprint's Premises Hazardous Materials without notification, or is storing or disposing of such materials on Sprint's Premises in violation of any applicable environmental law, Sprint will provide XO with written notice of such violation. If XO has not cured such violation within 24 hours Sprint may suspend performance under this Agreement with respect to that Premises. In the case of pervasive violation, Sprint may without penalty terminate this Agreement or suspend performance hereunder. XO shall be responsible for, without cost to Sprint, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. XO shall also be responsible for removing and disposing of all Hazardous Materials on its

Collocation Space at the termination of the applicable Collocation Space or this Agreement. If Sprint elects suspend or terminate the applicable Collocation Space or this Agreement or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials contrary to the terms of this Agreement, XO shall have no recourse against Sprint and shall be responsible for all costs and expenses associated with such termination or suspension of service in addition to being responsible for any remedies available to Sprint for defaults under this Agreement.

16.9.3 Each Party shall indemnify and hold harmless the other Party, its successors and assigns against, and in respect of, any and all damages, claims, losses, liabilities and expenses, including, without limitation, all legal, accounting, consulting, engineering and other expenses, which may be imposed upon, or incurred by, the other Party or asserted against the other Party by any other party or parties (including, without limitation, the other Party's employees and/or contractors and any governmental entity) arising out of, or in connection with either Party's use, storage or disposal of Hazardous Materials.

16.9.4 For purposes of this Section, "Hazardous Materials" shall mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation, asbestos) as defined in, or pursuant to, the OSHA Hazard Communication Standard (29 CFR Part 1910, Subpart Z), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.), or regulations adopted pursuant to those statutes, the Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall survive the termination, cancellation, modification or recession of this Agreement.

16.10 Various Prohibited Uses. XO shall not do or permit anything to be done upon the Collocation Space, or bring or keep anything thereon which is in violation of any federal, state or local laws or regulations (including environmental laws or regulations not previously described), or any rules, regulations or requirements of the local fire department, Fire Insurance Rating Organization, or any other similar authority having jurisdiction over the Building. XO shall not do or permit anything to be done upon the Collocation Space which may in any way create a nuisance, disturb, endanger, or otherwise interfere with the Telecommunications Services of

Sprint, any other occupant of the Building, their patrons or customers, or the occupants of neighboring property, or injure the reputation of the Premises.

- 16.10.1 XO shall not exceed the Uniformly Distributed Live Load Capacity. Sprint shall evaluate and determine Live Load Capacity rating on a site specific basis prior to equipment installation. XO agrees to provide Sprint with equipment profile information prior to installing that equipment.
- 16.10.2 XO shall not paint, display, inscribe or affix any sign, trademark, picture, advertising, notice, lettering or direction on any part of the outside or inside of the Building, or on the Collocation Space, without the prior written consent of Sprint.
- 16.10.3 XO shall not use the name of the Building in any publicly available documents other than filings with the Commission, the FCC, courts, or other federal or state or state governmental entities for any purpose other than that of the business address of XO's facilities, or use any picture or likeness of the Building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Sprint.
- 16.10.4 XO shall not exhibit, sell or offer for sale, rent or exchange in the Collocation Space or on the Premises any article, thing or service except those ordinarily embraced within the use of the Collocation Space specified in Sections 3 and 11 of this Agreement without the prior written consent of Sprint.
- 16.10.5 XO shall not place anything or allow anything to be placed near the glass of any door, partition or window which Sprint reasonably determines is unsightly from outside the Collocation Space; take or permit to be taken in or out of other entrances of the Building, or take or permit to be taken on any passenger elevators, any item normally taken through service entrances or elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, or shipping platform. XO shall lend its full cooperation to keep such areas free from all obstruction and in a clean and neat condition, move all supplies, furniture and equipment directly to the Collocation Space as soon as received, and move all such items and waste, other than waste customarily removed by employees of the Building.
- 16.10.6 XO shall not, without the prior written consent of Sprint: install or operate any lead-acid batteries, refrigerating, heating or air

conditioning apparatus or carry on any mechanical business in the Collocation Space. Sprint may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.

- 16.10.7 XO shall not use the Collocation Space for housing, lodging or sleeping purposes.
- 16.10.8 XO shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space.
- 16.10.9 XO shall not permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Collocation Space or permit the presence of any animals except those used by the visually impaired.
- 16.11 Rules of Conduct. XO, its employees, agents, contractors, and business invitees shall:
 - 16.11.1 comply with all rules and regulations which Sprint may from time to time adopt for the safety, environmental protection, care, cleanliness and/or preservation of the good order of the Building, the Premises and the Collocation Space and its tenants and occupants, and
 - 16.11.2 comply, at its own expense, with all ordinances which are applicable to the Collocation Space and with all lawful orders and requirements of any regulatory or law enforcement agency requiring the correction, prevention and abatement of nuisances in or upon the Collocation Space during the Term of this Agreement or any extension hereof.
- 16.12 Alterations. XO shall not make installations, alterations or additions in or to the Collocation Space without submitting plans and specifications to Sprint and securing the prior written consent of Sprint in each instance. Sprint's consent shall not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Collocation Space that do not adversely affect the Building's appearance, value, structural strength and mechanical integrity. Such work shall be done at the sole expense of XO.
 - 16.12.1 All installations, alterations and additions shall be constructed in a good and workmanlike manner and only new and good grades of material shall be used, and shall comply with all insurance requirements, governmental requirements, and terms of this Agreement. Work shall be performed at such times and in such manner as to cause a minimum of interference with Sprint's transaction of business. XO shall permit Sprint to inspect all

construction operations within the Collocation Space.

- 16.12.2 All installations, alterations and additions which take the form of fixtures, except trade fixtures, placed in the Collocation Space by and at the expense of XO or others shall become the property of Sprint, and shall remain upon and be surrendered with the Collocation Space. Upon termination of this Agreement, however, Sprint shall have the right to require XO to remove such fixtures and installations, alterations or additions at XO's expense, and to surrender the Collocation Space in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.

- 16.12.3 All fixtures and other equipment to be used by XO in, about or upon the Collocation Space shall be subject to the prior written approval of Sprint, which shall not be unreasonably withheld.
- 16.13 Fireproofing Policy. XO shall not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Collocation Space or the Building, outside or inside, without the prior written consent of Sprint. If XO desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of XO. Sprint shall have the right of prior approval of such utility or service connections, and shall direct where and how all connections and wiring for such service shall be introduced and run. In all cases, in order to maintain the integrity of the Halon space for proper Halon concentration, and to ensure compliance with Sprint's fireproofing policy, any penetrations by XO, whether in the Collocation Space, the Building or otherwise, shall be sealed as quickly as possible by XO with Sprint-approved fire barrier sealants, or by Sprint at XO's cost.
- 16.14 Equipment Grounding. XO equipment shall be connected to Sprint's grounding system.
- 16.15 Representations and Warranties. XO hereby represents and warrants that the information provided to Sprint in any Application or other documentation relative to XO's request for telecommunications facility interconnection and Central Office Building collocation as contemplated in this Agreement is and shall be true and correct, and that XO has all necessary corporate and regulatory authority to conduct business as a telecommunications carrier. Any violation of this Section shall be deemed a material breach of this Agreement.

17 BUILDING RIGHTS

- 17.1 Sprint may, without notice to XO:
- 17.1.1 Change the name or street address of the Premises;
- 17.1.2 Install and maintain signs on the exterior and interior of the Premises or anywhere on the Premises;
- 17.1.3 Designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverages, foods, towels, vending machines or toilet supplies used or consumed in the Collocation Space;
- 17.1.4 Have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding XO's safes;
- 17.1.5 Reduce heat, light, water and power as required by any

mandatory conservation programs;

- 17.1.6 Approve the weight, size and location of safes, computers and all other heavy articles in and about the Collocation Space and the Building, and to require all such items and other office furniture and equipment to be moved in and out of the Building or Collocation Space only at such times and in such a manner as Sprint shall direct and in all events at XO's sole risk and responsibility;
 - 17.1.7 At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in the Premises, or any part thereof (including, without limitation, the permanent or temporary relocation of any existing facilities such as parking lots or spaces), and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through the Premises all material and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities, provided that Sprint shall limit inconvenience or annoyance to XO as reasonably possible under the circumstances;
 - 17.1.8 Do or permit to be done any work in or about the Collocation Space or the Premises or any adjacent or nearby building, land, street or alley;
 - 17.1.9 Grant to anyone the exclusive right to conduct any business or render any service on the Premises, provided such exclusive right shall not operate to exclude XO from the use expressly permitted by this Agreement;
 - 17.1.10 Close the Building at such reasonable times as Sprint may determine, under such reasonable regulations as shall be prescribed from time to time by Sprint subject to XO's right to access.
- 17.2 If the owner of the Building or Sprint sells, transfers or assigns any interest in the Building, or there is any material change in the Lease to which the Building is subject, and such sale, transfers assignment or material change in the Lease gives rise to an obligation which is inconsistent with this Agreement, Sprint's performance under this Agreement shall be excused to the extent of the inconsistency. Sprint hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation shall in no way obligate Sprint to incur any out of pocket expenses in its efforts to avoid such inconsistencies.
- 17.3 This Agreement shall at all times be subject and subordinate to the lien of

any mortgage (which term shall include all security instruments) that may be placed on the Collocation Space and XO agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

18 INSURANCE

- 18.1 During the term of this Agreement, XO shall carry, and shall cause any subcontractors to carry, with financially reputable insurers which are licensed to do business in all jurisdictions where any Property is located, not less than the following insurance:
- 18.1.1 Commercial General Liability with limits of not less than \$1,000,000 combined single limit per occurrence and aggregate for bodily injury, property damage and personal and advertising injury liability insurance to include coverage for contractual and products/completed operations liability, naming Sprint as additional insured;
 - 18.1.2 Business Auto liability, including all owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage liability, naming Sprint as additional insured;
 - 18.1.3 Workers Compensation as provided for in the jurisdiction where the Property is located, with an Employer's Liability limit of not less than \$500,000 per accident or disease; and
 - 18.1.4 Umbrella or excess liability in an amount not less than \$5,000,000 per occurrence and aggregate in excess of the above-referenced Commercial General, Business Auto and Employer's Liability, naming Sprint as additional insured; and
 - 18.1.5 "All Risk" property insurance on a full replacement cost basis insuring XO's property situated on or within the Property, naming Sprint as loss payee. XO may elect to insure business interruption and contingent business interruption, as it is agreed that Sprint has no liability for loss of profit or revenues should an interruption of service occur.
- 18.2 Nothing contained in this section shall limit XO's liability to Sprint to the limits of insurance certified or carried.
- 18.3 All policies required of XO shall contain evidence of the insurer's waiver of the right of subrogation against Sprint for any insured loss covered thereunder. All policies of insurance shall be written as primary policies and not contributing with or in excess of the coverage, if any, that Sprint may carry.

- 18.4 XO shall furnish to Sprint a certificate or certificates of insurance, satisfactory in form and content to Sprint, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled or materially altered without first giving at least 30 days prior written notice to Sprint.
- 18.5 Sprint will carry not less than the insurance coverages and limits required of XO.

19 INDEMNIFICATION

- 19.1 XO shall indemnify and hold Sprint harmless from any and all claims arising from:
- 19.1.1 XO's use of the Collocation Space;
 - 19.1.2 the conduct of XO's business or from any activity, work or things done, permitted or suffered by XO in or about the Collocation Space or elsewhere;
 - 19.1.3 any and all claims arising from any breach or default in the performance of any obligation on XO's part to be performed under the terms of this Agreement; and
 - 19.1.4 any negligence of XO, or any of XO's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
- 19.2 If any action or proceeding is brought against Sprint by reason of any such claim, XO, upon notice from Sprint, shall defend same at XO's expense employing counsel satisfactory to Sprint. XO, as a material part of the consideration to Sprint, hereby assumes all risk of damage to property or injury to persons in, upon or about the Collocation Space arising from any cause other than the sole negligence of Sprint, and XO hereby waives all claims in respect thereof against Sprint.
- 19.3 XO shall at all times indemnify, defend, save and hold harmless Sprint clear and harmless from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of XO, or out of any work performed, material furnished, or obligations incurred by XO in, upon or otherwise in connection with the Collocation Space. XO shall give Sprint written notice at least 10 business days prior to the commencement of any such work on the Collocation Space in order to afford Sprint the opportunity of filing appropriate notices of non-responsibility. However, failure by Sprint to give notice does not reduce XO's liability under this section.
- 19.3.1 If any claim or lien is filed against the Collocation Space, or any

action or proceeding is instituted affecting the title to the Collocation Space, XO shall give Sprint written notice thereof as soon as XO obtains such knowledge.

- 19.3.2 XO shall, at its expense, within 30 days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Sprint, at the cost and for the account of XO, from obtaining such discharge and release if XO fails or refuses to do the same within the 30-day period.
- 19.3.3 If XO has first discharged the lien as provided by law, XO may, at XO's expense, contest any mechanic's lien in any manner permitted by law.

20 LIMITATION OF LIABILITY

- 20.1 SPRINT SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF XO'S EQUIPMENT AND OTHER PREMISES ONLY IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY SPRINT'S SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.
- 20.2 SPRINT WILL NOT BE LIABLE FOR (A) ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, (B) ANY COMMERCIAL LOSS OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR PROFITS), OR (C) ANY LOSS, DAMAGE OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM USE OF OR INABILITY TO USE THE COLLOCATION SPACE EITHER SEPARATELY OR IN COMBINATION WITH OTHER EQUIPMENT OR SOFTWARE, BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT OR ANY OTHER LEGAL THEORY, WHETHER OR NOT SPRINT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

21 PARTIAL DESTRUCTION

- 21.1 If the Collocation Space or a portion thereof sufficient to make the Collocation Space substantially unusable shall be destroyed or rendered unoccupiable by fire or other casualty, Sprint may, at its option, restore the Collocation Space to its previous condition. XO's rights to the applicable Collocation Space shall not terminate unless, within 90 days after the occurrence of such casualty, Sprint notifies XO of its election not to rebuild and to terminate XO's rights to the applicable Collocation Space. If Sprint does not elect to terminate XO's rights to the applicable Collocation Space, Sprint shall repair the damage to the Collocation Space caused by such casualty. Should Sprint elect to repair or rebuild the

Premises, the recurring charges for the Collocation Space will be proportionately abated to the extent and while XO was deprived of the use of the Collocation Space.

- 21.2 Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of XO, its agents, employees, contractors, XOs, customers or business invitees, unless Sprint otherwise elects, XO's rights to the applicable Collocation Space shall not terminate, and, if Sprint elects to make such repairs, XO shall reimburse Sprint for the cost of such repairs, or XO shall repair such damage, including damage to the Building and the area surrounding it, and the License Fee shall not abate.
- 21.3 If the Building shall be damaged by fire or other casualty to the extent that portions are rendered unoccupiable, notwithstanding that the Collocation Space may be directly unaffected, Sprint may, at its election within 90 days of such casualty, terminate XO's rights to the applicable Collocation Space by giving written notice of its intent to terminate XO's rights to the applicable Collocation Space. The termination as provided in this paragraph shall be effective 30 days after the date of the notice.

22 EMINENT DOMAIN

- 22.1 If the Premises, or any portion thereof which includes a substantial part of the Collocation Space, shall be taken or condemned by any competent authority for any public use or purpose, XO's rights to the applicable Collocation Space shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of the Premises, or if the grade of any street or alley adjacent to the Premises is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the Premises to conform to the changed grade, Sprint shall have the right to terminate XO's rights to the applicable Collocation Space upon not less than 30 days notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Sprint to XO for such cancellation, and XO shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

23 ASBESTOS

- 23.1 XO is aware the Premises in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and XO is hereby notified that the Premises in which the Collocation Space is located may contain asbestos or asbestos containing building material (ACBM). XO agrees that it is responsible for contacting

the appropriate Sprint manager responsible for the Premises to determine the presence, location and quantity of asbestos or ACBM that XO's employees, agents, or contractor's may reasonably expect to encounter while performing activities in the Premises. XO shall not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with, or resulting from the disturbance of asbestos or ACBM in the Premises unless such disturbance arises out of or in connection with, or results from XO's use of the Collocation Space or placement of equipment onto ACBM or into areas containing asbestos identified by Sprint. Sprint agrees to provide XO reasonable notice prior to undertaking any asbestos control, abatement, or other activities which may disturb asbestos or ACBM that could potentially affect XO's equipment or operations in the Collocation Space, including but not limited to the contamination of such equipment. Sprint will not have responsibility or liability for any damages, expenses, costs, fees, penalties of any kind arising out of, or in connection with the presence of asbestos in Sprint Premises.

24 MISCELLANEOUS

- 24.1 **Brokers.** To the extent XO has had any dealings with any broker or agent in connection with this Agreement, XO covenants to pay, hold harmless and indemnify Sprint from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Agreement or the negotiation thereof.
- 24.2 **Agreement Effective.** Submission of this instrument for examination or signature by Sprint does not constitute a reservation of or option for license, and it is not effective, as a license or otherwise, until execution and delivery by both Sprint and XO.
- 24.3 **Representations.** Neither Sprint nor its agents have made any representation or warranties with respect to the Collocation Space of this Agreement except as expressly set forth herein; no rights, easements, or licenses shall be acquired by XO by implication or otherwise unless expressly set forth herein.
- 24.4 **Work Stoppages.** In the event of work stoppages, Sprint may establish separate entrances for use by personnel of XO. XO shall comply with any emergency operating procedures established by Sprint to deal with work stoppages.

ATTACHMENT 2: Rates for the State of Florida

Rate Element Description	Non-Recurring Rate	Monthly Recurring Rate
Physical Collocation Elements		
Application Fees		
New Collocation – Physical Application Fee	\$ 3,548.35	N/A
Augment Fee	\$ 1,016.12	N/A
Space Report (per wire center)	\$ 845.49	N/A
Security Cage		
Security Cage Construction (per 100 Square Foot Enclosure)	\$ 9,473.59	N/A
Security Cage Construction (per 200 Square Foot Enclosure)	\$ 13,263.53	N/A
Floor Space		
Floor Space (per Square Foot)	N/A	\$ 6.19
Roof Space (per Square Foot)	N/A	\$ 6.19
Transmitter/Receiver Space (per Square Foot)	N/A	\$ 6.19
DC Power		
Power Costs (per Fuse Ampere)	N/A	\$ 11.41
Power Costs (per Power Lead, per Foot)	\$ 25.66	N/A
Cabling		
Internal Cable (per Linear Foot)	N/A	\$ 0.14
Internal Conduit (per Linear Foot)	N/A	\$ 0.48
Conduit Space (per Linear Foot)	N/A	\$ 0.37
Conduit Space - Vault (per Foot of 9 Conduit Vault)	N/A	\$ 1.16
Riser Space (per Foot)	N/A	\$ 4.45
Diverse Riser Space (per Foot)	N/A	\$ 4.45
Cross Connect Facilities		
Switchboard Cable (per 100 Pair with connecting block)	N/A	\$ 36.59
DS0 Cross Connect (per single DS0 connection)	N/A	\$ 0.94
DS1 Cross Connect (per single DS1 connection)	N/A	\$ 2.93
DS3 Cross Connect (per single DS3 connection)	N/A	\$ 25.85
Optical Cross-Connect (per 4-Fiber Cable)	N/A	ICB
Labor Charges		
Installation, Maintenance and/or Cable Pull & Splice - Basic First Half-hour	\$ 40.00	N/A
Installation, Maintenance and/or Cable Pull & Splice - Basic Additional Half-hour	\$ 35.00	N/A
Installation, Maintenance and/or Cable Pull & Splice - Overtime First Half-hour	\$ 45.00	N/A
Installation, Maintenance and/or Cable Pull & Splice - Overtime Additional Half-hour	\$ 40.00	N/A
Installation, Maintenance and/or Cable Pull & Splice - Premium First Half-hour	\$ 50.00	N/A
Installation, Maintenance and/or Cable Pull & Splice – Premium Additional Half-hour	\$ 45.00	N/A

ATTACHMENT 2: Rates for the State of Florida (continued)

Virtual Collocation Elements	Non-Recurring Rate	Monthly Recurring Rate
Application Fees		
New Collocation – Virtual Application Fee	\$ 2,520.00	N/A
Augment Fee	\$ 1,016.12	N/A
Space Report (per wire center)	\$ 845.49	N/A
Floor Space		
Floor Space (per Square Foot)	N/A	ICB
Rack Space (per Square Foot)	N/A	ICB
DC Power		
Power Costs (per Fuse Ampere)	N/A	ICB
Power Costs (per Power Lead, per Foot)	ICB	N/A
Cabling		
Internal Cable (per Linear Foot)	N/A	\$ 0.19
Internal Conduit (per Linear Foot)	N/A	\$ 0.53
Cross Connect Facilities		
Switchboard Cable (per 100 Pair with connecting block)	N/A	\$ 36.59
DS0 Cross Connect (per single DS0 connection)	N/A	\$ 1.30
DS1 Cross Connect (per single DS1 connection)	N/A	\$ 4.45
DS3 Cross Connect (per single DS3 connection)	N/A	\$ 53.55
Optical Cross-Connect (per 4-Fiber Cable)	N/A	ICB
Labor Charges (Physical or Virtual)		
Installation and/or Maintenance - Basic First Half-hour	\$ 40.00	N/A
Installation and/or Maintenance - Basic Additional Half-hour	\$ 35.00	N/A
Installation and/or Maintenance - Overtime First Half-hour	\$ 45.00	N/A
Installation and/or Maintenance - Overtime Additional Half-hour	\$ 40.00	N/A
Installation and/or Maintenance - Premium First Half-hour	\$ 50.00	N/A
Adjacent Onsite Collocation		
All elements	ICB	ICB
Remote Terminal Collocation		
All elements	ICB	ICB