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September 24, 2001

BY FEDERAL EXPRESS

Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RECEIVED-FPSC
01 SEP 25 AM 11:33
COMMISSION
CLERK

**Re: Exario Telecom, Inc. Application for Authority to Provide Alternative
Local Exchange Service Within the State of Florida 011238-TX**

Attn: Division of Records and Reporting:

Enclosed please find one (1) original, six (6) copies, and (1) "Stamp & Return" copy of Exario Telecom, Inc. Application for Authority to Provide Alternative Local Exchange Service Within the State of Florida, along with a check in the amount of \$250.00 to cover the required application fee.

Please acknowledge receipt of this filing by returning, file-stamped, the extra copy of this cover letter in the self addressed stamped envelope provided for that purpose.

Questions regarding this filing may be directed to the undersigned at 202-828-9805.

Sincerely,

John Dodge
John C. Dodge

Counsel for: Exario Telecom, Inc.

This claim of confidentiality was filed by or on behalf of a "telco" for Confidential DN 12034-01. The document is in locked storage pending advice on handling. To access the material, your name must be on the CASR. If undocketed, your division director must obtain written EXD/Tech permission before you can access it.

Enclosure

cc: Paul Bannwart

RECEIVED & FILED

RJM
FPSC-BUREAU OF RECORDS

145933_2.DOC

Check received with filing and forwarded to Fiscal for deposit. Fiscal to forward a copy of check to RAR with proof of deposit.

Initials of person who filed the check:
[Signature]

DOCUMENT NUMBER DATE

12033 SEP 25 01

FPSC-COMMISSION CLERK

**** FLORIDA PUBLIC SERVICE COMMISSION ****

**DIVISION OF REGULATORY OVERSIGHT
CERTIFICATION SECTION**

**APPLICATION FORM
for
AUTHORITY TO PROVIDE
ALTERNATIVE LOCAL EXCHANGE SERVICE
WITHIN THE STATE OF FLORIDA**

011238-7X

Instructions

- ◆ This form is used as an application for an original certificate and for approval of the assignment or transfer of an existing certificate. In the case of an assignment or transfer, the information provided shall be for the assignee or transferee (See Page 12).
- ◆ Print or type all responses to each item requested in the application and appendices. If an item is not applicable, please explain why.
- ◆ Use a separate sheet for each answer which will not fit the allotted space.
- ◆ Once completed, submit the original and six (6) copies of this form along with a non-refundable application fee of \$250.00 to:

**Florida Public Service Commission
Division of Records and Reporting
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6770**

- ◆ If you have questions about completing the form, contact:

**Florida Public Service Commission
Division of Regulatory Oversight
Certification Section
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
(850) 413-6480**

APPLICATION

1. This is an application for (check one):

Original certificate (new company).

Approval of transfer of existing certificate: Example, a non-certificated company purchases an existing company and desires to retain the original certificate of authority.

Approval of assignment of existing certificate: Example, a certificated company purchases an existing company and desires to retain the certificate of authority of that company.

Approval of transfer of control: Example, a company purchases 51% of a certificated company. The Commission must approve the new controlling entity.

2. Name of company:

Exario Telecom, Inc.

3. Name under which the applicant will do business (fictitious name, etc.):

Exario Telecom, Inc.

4. Official mailing address (including street name & number, post office box, city, state, zip code):

*600 Parsippany Road
Parsippany, NJ 07054*

5. Florida address (including street name & number, post office box, city, state, zip code):

Exario Telecom, Inc. has no sales office in Florida. Its equipment is located at the following address:

*1 NE 1st Street – Floor 5
Miami, FL 33132*

6. Structure of organization:

- | | |
|--|--|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Corporation |
| <input checked="" type="checkbox"/> Foreign Corporation | <input type="checkbox"/> Foreign Partnership |
| <input type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership |
| <input type="checkbox"/> Other | |

7. If individual, provide:

This item is not applicable because Exario Telecom, Inc. is a corporation.

8. If incorporated in Florida, provide proof of authority to operate in Florida:

(a) The Florida Secretary of State corporate registration number:

Exario Telecom, Inc. is incorporated in Delaware.

9. If foreign corporation, provide proof of authority to operate in Florida:

(a) The Florida Secretary of State corporate registration number:

F01000004270

10. If using fictitious name-d/b/a, provide proof of compliance with fictitious name statute (Chapter 865.09, FS) to operate in Florida:

(a) The Florida Secretary of State fictitious name registration number:

Exario Telecom, Inc. is not using a fictitious name.

11. If a limited liability partnership, provide proof of registration to operate in Florida:

(a) The Florida Secretary of State registration number:

Exario Telecom, Inc. is not a limited liability partnership.

12. If a partnership, provide name, title and address of all partners and a copy of the partnership agreement.

This item is not applicable because Exario Telecom, Inc. is a corporation.

13. If a foreign limited partnership, provide proof of compliance with the foreign limited partnership statute (Chapter 620.169, FS), if applicable.

This item is not applicable because Exario Telecom, Inc. is a corporation.

14. Provide F.E.I. Number (if applicable):

Exario's Federal Employer Identification Number (FIN) is 22-3731105.

15. Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been:

(a) adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime, or whether such actions may result from pending proceedings.
Provide explanation.

None of Exario Telecom, Inc.'s officers, directors, or any of the ten largest stockholders have previously been adjudged bankrupt, mentally incompetent, or found guilty of any felony or of any crime.

(b) an officer, director, partner or stockholder in any other Florida certificated telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

None of Exario Telecom, Inc.'s officers, directors, or any of the ten largest stockholders have previously been an officer, director, partner or stockholder in any other Florida certificated telephone company.

16. Who will serve as liaison to the Commission with regard to the following?

(a) The application:

Name: John C. Dodge, Esq.
Title: Cole, Raywid & Braverman, L.L.P.
Address: 1919 Pennsylvania Avenue, N.W., Suite 200
City/State/Zip: Washington, D.C. 20006
Telephone No.: (202) 659-9750 Fax No.: (202) 452-0067

Internet E-Mail Address: JDodge@crblaw.com

Internet Website Address: www.crblaw.com

(b) Official point of contact for the ongoing operations of the company:

Name: Paul Bannwart
Title: CLEC Interconnection Manager
Address: 600 Parsippany Road
City/State/Zip: Parsippany, NJ 07054
Telephone No.: (973) 590-2700 Fax No.: (973) 590-2701

Internet E-Mail Address: PBannwart@exario.net

Internet Website Address: www.exario.net

(c) Complaints/Inquiries from customers:

Name: Paul Bannwart
Title: CLEC Interconnection Manager
Address: 600 Parsippany Road
City/State/Zip: Parsippany, NJ 07054
Telephone No.: (973) 590-2700 Fax No.: (973) 590-2701

Internet E-Mail Address: PBannwart@exario.net
Internet Website Address: www.exario.net

17. List the states in which the applicant:

- (a) has operated as an alternative local exchange company.

Exario Telecom, Inc. has not operated as an alternative local exchange company in any state.

- (b) has applications pending to be certificated as an alternative local exchange company.

Exario Telecom, Inc. has applications pending in New Jersey, Maryland, the District of Columbia, Washington, and Colorado.

- (c) is certificated to operate as an alternative local exchange company.

Exario Telecom, Inc. is certificated to operate as an alternative local exchange company in California, Texas, New York, and Massachusetts (effective 9/8/01), and has received interim authorization in Pennsylvania.

- (d) has been denied authority to operate as an alternative local exchange company and the circumstances involved.

Exario Telecom, Inc. has not been denied authority to operate in any state.

- (e) has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved.

Exario Telecom has not had any regulatory penalties imposed for violations of telecommunications statutes.

- (f) has been involved in civil court proceedings with an interexchange carrier, local exchange company or other telecommunications entity, and the

circumstances involved.

Exario Telecom has not been involved in a civil court proceeding with an interexchange carrier, local exchange company, or other telecommunications entity.

18. Submit the following:

- A. Managerial capability: give resumes of employees/officers of the company that would indicate sufficient managerial experiences of each.**

See Exhibit A.

- B. Technical capability: give resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance.**

See Exhibit B.

C. Financial capability.

Exario Telecom, Inc. does not have audited financials for the past three years. It was only incorporated in May 2001. Its financial capability is outlined in Exhibit C.

Further, the following (which includes supporting documentation) should be provided:

1. **written explanation** that the applicant has sufficient financial capability to provide the requested service in the geographic area proposed to be served.

*Exario Telecom, Inc. is a wholly owned subsidiary of Exario Networks, Inc. Exario Networks' investors will provide the funds necessary to enter the local exchange telecommunications market in Florida. Exario Networks' financial strength and its ability to support its subsidiary in providing the above services is exhibited in its most recent Consolidated Financial Reports, which is attached hereto as **Exhibit C**.*

2. **written explanation** that the applicant has sufficient financial capability to maintain the requested service.

Exario Telecom, Inc. is a wholly owned subsidiary of Exario Networks, Inc. Exario Networks' investors will provide the funds necessary to enter the local exchange telecommunications market in Florida. Exario Networks' financial

*strength and its ability to support its subsidiary in providing facilities-based local exchange services is exhibited in its most recent Consolidated Financial Reports, which is attached hereto as **Exhibit C**.*

3. **written explanation** that the applicant has sufficient financial capability to meet its lease or ownership obligations.

*Exario Telecom, Inc. is a wholly owned subsidiary of Exario Networks, Inc. Exario Networks' investors will provide the funds necessary to enter the local exchange telecommunications market in Florida. Exario Networks' financial strength and its ability to support its subsidiary in meeting the above obligations is exhibited in its most recent Consolidated Financial Reports, which is attached hereto as **Exhibit C**.*

19. Waiver Request

Exario Telecom, Inc. hereby requests a waiver to Fla. Admin. Code § 25-4.017 Uniform System of Accounts. Exario Telecom, Inc. will keep its records in accordance with Generally Accepted Accounting Principles (GAAP).

THIS PAGE MUST BE COMPLETED AND SIGNED

AFFIDAVIT

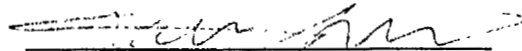
By my signature below, I, the undersigned officer, attest to the accuracy of the information contained in this application and attached documents and that the applicant has the technical expertise, managerial ability, and financial capability to provide alternative local exchange company service in the State of Florida. I have read the foregoing and declare that, to the best of my knowledge and belief, the information is true and correct. I attest that I have the authority to sign on behalf of my company and agree to comply, now and in the future, with all applicable Commission rules and orders.

Further, I am aware that, pursuant to Chapter 837.06, Florida Statutes, "Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083."

UTILITY OFFICIAL:

Nathan Stratton

Chief Technology Officer and Director



Signature

9/18/01

Date

Telephone No.
(973) 590-2700

Fax No.
(973) 590-2701

Address: Exario Telecom, Inc.
600 Parsippany Road
Parsippany, NJ 07054

THIS PAGE MUST BE COMPLETED AND SIGNED

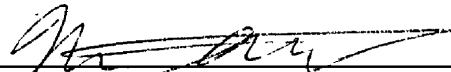
APPLICANT ACKNOWLEDGMENT STATEMENT

- 1. REGULATORY ASSESSMENT FEE:** I understand that all telephone companies must pay a regulatory assessment fee in the amount of .15 of one percent of gross operating revenue derived from intrastate business. Regardless of the gross operating revenue of a company, a minimum annual assessment fee of \$50 is required.
- 2. GROSS RECEIPTS TAX:** I understand that all telephone companies must pay a gross receipts tax of two and one-half percent on all intra and interstate business.
- 3. SALES TAX:** I understand that a seven percent sales tax must be paid on intra and interstate revenues.
- 4. APPLICATION FEE:** I understand that a non-refundable application fee of \$250.00 must be submitted with the application.

UTILITY OFFICIAL:

Nathan Stratton

Chief Technology Officer and Director


Signature

9.21.01
Date

Telephone No. Fax No.
(973) 590-2700 (973) 590-2701

Address: Exario Telecom, Inc.
 600 Parsippany Road
 Parsippany, NJ 07054

EXHIBIT LIST

EXHIBIT A – MANAGERIAL CAPABILITY

EXHIBIT B – TECHNICAL CAPABILITY

EXHIBIT C – FINANCIAL CAPABILITY

EXHIBIT D - AFFIDAVIT

EXHIBIT A

MANAGERIAL CAPABILITY

Exario Telecom is led by an experienced and talented management team that has attracted an outstanding group of creative, dynamic, and energetic people that form the foundation of Exario's organization.

Thomas Mizzone, CEO and founder.

Thomas co-founded Exario in 1996 with the goal of providing the latest connectivity tools to help companies strengthen their business. Prior to 1996, he served as a financial auditor and Director of Information Technology at Mizzone, Scorzo & Co., where he designed and managed the firm's IP network and information systems. Thomas also consulted with the firm's clientele on WAN design and network implementation. He holds a B.S. in Accounting from Messiah College.

Nathan Stratton, CTO.

Nathan joined Exario in April 2000 from Tricetel Consulting, a telecommunications consulting firm he founded in 1998 to serve the CLEC market. During his time as a consultant, Nathan designed and built domestic and international voice and data networks and served as an advisor for 26 CLEC turn-ups nationwide. In 1994 Nathan founded NetRail, a provider of T1-OC3 Internet connectivity for business clients, including the U.S. Department of Treasury and Yahoo! At NetRail, Nathan was responsible for building a telco-grade IP/frame-relay/ATM network connecting seven markets nationwide, as well as data center/co-location facilities in major cities across the U.S.

David Worth, CIO and Founder.

David co-founded Exario with Tom Mizzone in 1996. Before starting the company, he worked as an IT Consultant for Deloitte & Touche Consulting Group. Earlier in his career he served as a Systems Engineer for AT&T where he designed and managed systems supporting the AT&T Global Calling Card line. David holds a B.S. in Information Systems from Messiah College and an M.B.A. from Seton Hall University.

James Bennett, CFO.

James joined Exario in April 2000 as Vice President of Finance and Operations and in January 2001 assumed the roll of CFO. Before joining Exario James was an investment banker at Donaldson, Lufkin & Jenrette (DLJ now CS First Boston). During his time at DLJ James executed a variety of financings and mergers and acquisitions for both public and private companies. Before joining DLJ James was with Citigroup in their global finance department. James holds a B.S. in Finance and Accounting from Texas Tech University.

William Fazakerly, Executive Vice President West Coast Operations.

William brings over 25 years experience in the electronics industry to Exario. Prior to joining the company in June 1999, he founded and held management positions, including

Vice President of Engineering, Vice President of Sales and Marketing, Chief Technology Officer, and COO, at Scientific Micro Systems and Ikos Systems, both publicly traded companies based in Silicon Valley. William has a B.S. in Electrical Engineering and an M.B.A. in Computer Science from the University of California, Berkeley and has completed two years of graduate work in Engineering and Economics at Stanford University.

Troy Centazzo, Vice President Marketing and Corporate Development.

Troy Centazzo joined the Exario team in March 2000 as Vice President, Corporate Development, and was named Vice President, Marketing and Corporate Development in February 2001. Prior to working at Exario, Troy was an investment banker in the Datacom Group at Donaldson, Lufkin & Jenrette (DLJ, now CS First Boston), where he worked on a variety of financing and mergers & acquisitions transactions. Troy also worked as division manager of a technology manufacturing company and founded the Rhode Island Enterprise Zone Program, the state's nationally recognized economic development initiative designed to revitalize urban areas. Troy has a B.A. in Economics and Public Policy from Brown University. He also holds a Juris Doctorate and M.B.A. from the School of Law and Darden School of Business, respectively, at the University of Virginia.

Christian E. Samay -- General Counsel and Chief Legal Officer.

Christian joined Exario in May of 2000 from the law firm of McCarter & English, LLP. Christian has spent much of his legal career representing Fortune 1000 companies in the litigation and negotiation of matters involving telecommunications, purchase and license agreements, securities, insurance, employment, contracts, and intellectual property. Christian is a graduate of Bucknell University and the Seton Hall University School of Law. In 1999, the Governor of the State of New Jersey appointed Christian to serve as a Board member on the Higher Education Student Assistance Authority, which is responsible for the management of approximately \$1,000,000,000 in student aid funds.

Justin Hall-Tipping, Director.

Justin Hall-Tipping joined SG Capital Partners from Reuters, where he was Director of the Data Intelligence Group. Prior to this, he was CEO of HeartBeat Corp., a multimedia software company. Previously, he was a partner of NEPA Venture Fund, a venture fund specializing in start-up and early stage companies, and a Vice President of Capital Commitment in CS First Boston's proprietary trading area. Justin received a B.Sc. with honors in International Finance and Banking from City University, London, and his M.B.A. from Harvard Business School.

Dwight Scott, Director.

Dwight Scott is the Chief Financial Officer of El Paso Global Networks, an El Paso Corporation company. Prior to joining El Paso Global Networks, Dwight spent the last 12 years as an investment banker, with his last position being as Managing Director at Donaldson, Lufkin, Jenrette (DLJ). Dwight holds his Bachelor's degree from University of North Carolina Chapel Hill and his M.B.A. from the University of Texas Austin.

EXHIBIT B

TECHNICAL CAPABILITY

The senior management of Exario has extensive experience in telecommunications service provision, and highly qualified technical consultants have been retained to ensure that Exario's operations will meet the most demanding standards for service quality and reliability. Furthermore, by employing state-of-the art technology, Exario's services will be equal, if not superior, in quality to the services of other certificated telecommunications service providers.

EXHIBIT C

FINANCIAL CAPABILITY

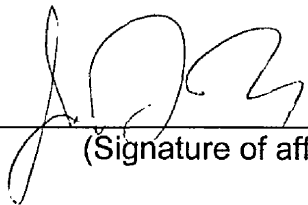
Exario Telecom, Inc. hereby submits Exario Networks, Inc. Consolidated Financial Reports under seal and separate cover. These reports contain proprietary confidential business information, and Exario Telecom, Inc. requests these documents be kept confidential and exempt from Fla. Stat. § 119.07(1) and § 24(a), Art. I of the Florida State Constitution.

EXHIBIT D

Affidavit Swearing to the Truth and Accurateness of the Financial Statements

State of **New Jersey**
County of **Morris**

James Bennett makes this oath and says that he is **Acting Chief Financial Officer** of **Exario Telecom, Inc.**, that he has examined the foregoing unaudited financial statements, and that to the best of his knowledge, information, and belief, all statements of fact contained in the said unaudited financial statements are true and correct.



(Signature of affiant)

Subscribed and sworn before me

This 14th day of August, 2001


Notary Public

LINDA ANN SENS
A Notary Public of New Jersey
My Commission Expires October 1, 2001

TITLE SHEET

FLORIDA TELECOMMUNICATIONS PRICE LIST

This Price List contains the descriptions, regulations, and rates applicable to the furnishing of service and facilities for alternative local exchange telecommunications services provided by Exario Telecom, Inc. with principal offices at 600 Parsippany Road, Parsippany, New Jersey 07054. This Price List applies for services furnished within the state of Florida. This Price List is on file with the Florida Public Service Commission, and copies may be inspected, during normal business hours, at the Company's principal place of business.

ISSUED: September 25, 2001

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

EFFECTIVE:

DOCUMENT NUMBER-DATE

12033 SEP 25 01

FPSC-COMMISSION CLERK

CHECK SHEET

The sheets listed below, which are inclusive of this Price List, are effective as of the date shown at the bottom of the respective page(s). Original and revised sheets as named below comprise all changes from the original Price List and are currently in effect as of the date of the bottom of this page.

<u>Page</u>	<u>Revision</u>
1	Original
2	Original
3	Original
4	Original
5	Original
6	Original
7	Original
8	Original
9	Original
10	Original
11	Original
12	Original
13	Original
14	Original
15	Original
16	Original
17	Original
18	Original
19	Original
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21	Original
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ISSUED: September 25, 2001**EFFECTIVE:**

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

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57 Original
58 Original

ISSUED: September 25, 2001

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Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

TABLE OF CONTENTS

1.0 TECHNICAL TERMS AND ABBREVIATIONS - CERTAIN TERMS USED GENERALLY THROUGHOUT THIS PRICE LIST ARE DEFINED BELOW..... 10

2.0 RULES, REGULATIONS AND SERVICE QUALITY CRITERIA..... 13

2.1 UNDERTAKING 13

 2.1.1 General..... 13

 2.1.2 Services..... 13

 2.1.3 Shortage of Equipment or Facilities 14

 2.1.4 Terms and Conditions..... 14

 2.1.5 Limitations on Liability 17

 2.1.6 Notification of Service-Affecting Conditions 21

 2.1.7 Provision of Equipment and Facilities..... 22

 2.1.8 Non-routine Installation 23

 2.1.9 Special Construction 23

 2.1.10 Ownership of Facilities 24

 2.1.11 Liability for Use of 911..... 25

2.2 PROHIBITED USES..... 26

 2.2.1 General..... 26

 2.2.2 Resale..... 26

 2.2.3 Interference..... 26

 2.2.4 Assignment and Transfer 27

2.3 OBLIGATIONS OF THE CUSTOMER..... 28

 2.3.1 General..... 28

 2.3.2 Liability of the Customer 30

2.4 CUSTOMER EQUIPMENT AND CHANNELS 31

 2.4.1 General..... 31

 2.4.2 Station Equipment 31

 2.4.3 Interconnection of Facilities 32

 2.4.4 Inspections 33

2.5 CUSTOMER DEPOSITS AND ADVANCE PAYMENTS 34

 2.5.1 Advance Payments 34

 2.5.2 Deposits 34

ISSUED: September 25, 2001

EFFECTIVE:

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

2.6	PAYMENT ARRANGEMENTS	35
2.6.1	Payments for Service.....	35
2.6.2	Billing and Collection of Charges	36
2.6.3	Billing Disputes.....	37
2.6.4	Discontinuance of Service	39
2.6.5	Changes in Service Requested.....	42
2.6.6	Allowance for Interruptions in Service	42
2.6.7	Credit Allowance.....	43
2.6.8	Use of Another Means of Communications.....	44
2.6.9	Application of Credits for Interruptions in Service	44
2.6.10	Cancellation for Service Interruption	45
2.7	CANCELLATION OF SERVICE/TERMINATION LIABILITY	46
2.7.1	General.....	46
2.7.2	Termination Liability.....	46
2.8	CUSTOMER LIABILITY FOR UNAUTHORIZED USE OF THE NETWORK	47
2.8.1	Unauthorized Use of the Network.....	47
2.8.2	Liability for Unauthorized Use	49
2.9	USE OF CUSTOMER'S SERVICE BY OTHERS	49
2.9.1	Resale and Sharing.....	49
2.9.2	Joint Use Arrangements	50
2.10	TRANSFERS AND ASSIGNMENTS	50
2.10.1	Generally.....	50
2.11	NOTICES AND COMMUNICATIONS.....	51
2.11.1	Generally.....	51
2.12	PRIVACY RULES	52
2.12.1	General.....	52
2.13	RESERVED FOR FUTURE USE	53
3.0	DESCRIPTION OF SERVICES	54
3.1	GENERAL.....	54
3.1.1	Primary Rate Interface.....	54
3.1.2	PBX Trunk Service	56
3.2	SPECIAL ASSEMBLIES AND INDIVIDUAL CASE BASIS (ICB) ARRANGEMENTS.....	57

ISSUED: September 25, 2001

EFFECTIVE:

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

3.2.1 General.....57
3.2.2 Primary Rate Interface.....58
DURATION OF SERVICE 58
INSTALLATION CHARGE..... 58
MONTHLY RATE 58
3.2.3 PBX Trunk Service58
Service Order and Modification Charges.....58
Recurring Charges 58

ISSUED: September 25, 2001

EFFECTIVE:

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

SYMBOLS SHEET

The following symbols are only used to indicate changes or revisions to the Price List as follows:

- D** Delete Or Discontinue
- I** Change Resulting In An Increase To A Customer's Bill
- M** Moved From Another Price List Location
- N** New
- R** Change Resulting In A Reduction To A Customer's Bill
- T** Change In Text Or Regulation But No Change In Rate Or Charge

ISSUED: September 25, 2001

EFFECTIVE:

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

PRICE LIST FORMAT

- A. Sheet Numbering: Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the Price List. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.
- B. Sheet Revision Numbers: Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the Florida Public Service Commission. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc. the Florida Public Service Commission follows in the Price List approval process, the most current sheet number on file with the Florida Public Service Commission is not always the Price List page in effect. Consult the Check Sheet for the sheet currently in effect.
- C. Paragraph Numbering Sequence: There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2.
 - 2.1.
 - 2.1.1.
 - 2.1.1.A.
 - 2.1.1.A.1.
 - 2.1.1.A.1.(a).
 - 2.1.1.A.1.(a).I.
 - 2.1.1.A.1.(a).I.(i).
 - 2.1.1.A.1.(a).I.(i).(1).

ISSUED: September 25, 2001**EFFECTIVE:**

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

- D. Check Sheets: When a Price List filing is made with the Florida Public Service Commission, an updated check sheet accompanies the Price List filing. The check sheet lists the sheets contained in the Price List, with a cross-reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some pages). The Price List user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the Florida Public Service Commission.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

**1.0 TECHNICAL TERMS AND ABBREVIATIONS - CERTAIN TERMS USED
GENERALLY THROUGHOUT THIS PRICE LIST ARE DEFINED BELOW.**

Advance Payment: Part or all of a payment required before the start of service.

Automatic Number Identification ("ANI"): Allows the automatic transmission of a caller's billing account telephone number to a local exchange company, interexchange carrier or a third party subscriber. The primary purpose of ANI is to allow for billing of toll calls.

Company or Exario: Exario Telecom, Inc., the issuer of this Price List.

Customer or Subscriber: The person, firm or corporation which orders or requests service, or takes other such affirmative action as to establish a relationship with, and receive service from the Company, and/or is responsible for the payment of charges and compliance with the Company's regulations.

Inside Wire: Wiring, riser cable or house cable located within a multi-dwelling unit and/or within the customer's premises.

Joint User: A person, firm or corporation which is designated by the Customer as a user of services furnished to the Customer by the Company and to whom a portion of the charges for the service will be billed under a joint user arrangement as specified herein.

Kbps: Kilobits per second, denotes thousands of bits per second.

Mbps: Megabits, denotes millions of bits per second.

Network: Refers to the Company's facilities, equipment, and services provided under this Price List.

ISSUED: September 25, 2001

EFFECTIVE:

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600 Parsippany Road
Parsippany, New Jersey 07054

Other Telephone Company: An Exchange Telephone Company other than the Company or issuer of this Price List.

Public Safety Agency: The State or any city, county, municipal corporation, public district, public authority, or functional division located in whole or in part within the State which provides or has the authority to provide fire fighting, law enforcement, ambulances, medical, or emergency services. Referred to the customer as Universal Emergency Telephone Number Service.

Public Safety Answering Point (PSAP): A location operated and maintained by a Public Safety Agency at which requests for fire fighting, law enforcement, ambulance, medical, or other emergency services are answered.

Recurring Charges: The monthly charges to the Customer for services, facilities and equipment, which continue for the agreed upon duration of the service.

Service Commencement Date: The first day following the date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this Price List, in which case the Service Commencement Date is the date of the Customer's acceptance date. The Company and Customer may mutually agree on a substitute Service Commencement Date.

Service Order: A written request for Communications Services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this Price List, but the duration of the service is calculated from the Service Commencement Date.

Shared: A facility or equipment system or subsystem that can be used simultaneously by several Customers.

Two-way: A service attribute that includes outward dial capabilities for outbound calls and the ability to receive inbound calls.

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Parsippany, New Jersey 07054

Universal Emergency Telephone Number (911) Service: Wherever feasible, the Company will provide a universal Central Office number "911" for the use of Public Safety Agencies having the responsibility to protect the safety and property of the general public. It is intended that use of 911 Service will provide the public with a means of simple and direct telephone access to a Public Safety Answering Point.

User or end-user: Any person or entity that obtains the Company's services provided under this Price List, regardless of whether such person or entity is so authorized by the Customer.

ISSUED: September 25, 2001

EFFECTIVE:

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Parsippany, New Jersey 07054

SECTION 2 - RULES, REGULATIONS AND SERVICE QUALITY CRITERIA

2.0 Rules, Regulations and Service Quality Criteria

2.1 Undertaking

2.1.1 General

2.1.1.A The Company undertakes to furnish alternative local exchange according to the terms of this Price List for one-way and/or two-way information transmission between points within its local exchange service territory within the State of Florida.

2.1.2 Services

2.1.2.A Customers and users may use services and facilities provided under this Price List to obtain access to services offered by other service providers. The Company is responsible under this Price List only for the services and facilities provided hereunder, and it assumes no responsibility for any service provided by any other entity that purchases access to the Company network in order to originate or terminate its own services, or to communicate with its own customers.

ISSUED: September 25, 2001

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2.1.3 Shortage of Equipment or Facilities

2.1.3.A The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of lack of facilities, or due to some other cause beyond the Company's control.

2.1.3.B The furnishing of service under this Price List is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

2.1.4 Terms and Conditions

2.1.4.A Except for services specifically offered on a per-use or ICB basis, service is provided for a minimum period of one month, 24-hours per day. For purpose of computing charges in this Price List, a month is considered to have 30 days.

2.1.4.B Customers may be required to enter into written Service Orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this Price List. Customer will also be required to execute any other documents as may be reasonably requested by the Company.

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- 2.1.4.C Except as otherwise stated in this Price List, at the expiration of the initial term specified in each Service Order, or in any extension thereof, service shall continue on a month to month basis at the then current rates unless terminated by either party upon 30 days written notice. Any termination shall not relieve Customer of its obligation to pay any charges incurred under the service order and this Price List prior to termination. The rights and obligations, which by their nature extend beyond the termination of the term of the service order shall survive such termination.
- 2.1.4.D In any action between the parties to enforce any provision of this Price List, the prevailing party shall be entitled to recover its legal fees and court costs from the non-prevailing party in addition to other relief a court may award.
- 2.1.4.E Service may be terminated upon written notice to the Customer if:
- 2.1.4.E.1 Customer is using the service in violation of this Price List; or
 - 2.1.4.E.2 Customer is using the service in violation of the law.
- 2.1.4.F This Price List shall be interpreted and governed by the laws of the State of Florida without regard for its choice of law provision.
- 2.1.4.G Another Telephone Company must not interfere with the right of any person or entity to obtain service directly from the Company. No person or entity shall be required to make any payment, incur any penalty, monetary or otherwise, or purchase any services in order to have the right to obtain service directly from the Company.

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Parsippany, New Jersey 07054

- 2.1.4.H To the extent that either the Company or any other Telephone Company controls available cable pairs, conduit, duct space, raceways, or other facilities needed by the other to reach a person or entity in connection with the provision of the services offered under this Price List or the similar service of another telephone company, the party exercising such control shall make them available to the other on terms equivalent to those under which the Company makes similar facilities under its control available to its customers. At either party's reasonable request, the Company and the other Telephone Company shall jointly attempt to obtain from the owner of the property access for the other party to serve a person or entity.

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600 Parsippany Road
Parsippany, New Jersey 07054

2.1.5 Limitations on Liability

- 2.1.5.A Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representatives, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in Sections 2.6.6, 2.6.7, and 2.6.9.

- 2.1.5.B Except for the extension of allowances to the Customer for interruptions in service as set forth in Sections 2.6.6, 2.6.7, and 2.6.9, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service;

- 2.1.5.C The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed;

- 2.1.5.D The Company shall not be liable for any claims for loss or damages involving:
 - 2.1.5.D.1 Any act or omission of: (a) the Customer, (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen;

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Parsippany, New Jersey 07054

- 2.1.5.D.2 Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
- 2.1.5.D.3 Any unlawful or unauthorized use of the Company's facilities and services;
- 2.1.5.D.4 Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the transmission of communications by means of Company-provided facilities or services; or by means of the combination of Company-provided facilities or services with Customer-provided facilities or services;
- 2.1.5.D.5 Breach in the privacy or security of communications transmitted over the Company's facilities;
- 2.1.5.D.6 Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in section 2.1.5, preceding;

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Parsippany, New Jersey 07054

- 2.1.5.D.7 Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
- 2.1.5.D.8 Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
- 2.1.5.D.9 Any intentional, wrongful act of a Company employee when such act is not within the scope of the employee's responsibilities for the Company and/or is not authorized by the Company;
- 2.1.5.D.10 Any representations made by Company employees that do not comport, or that are inconsistent, with the provisions of this Price List;
- 2.1.5.D.11 Any act or omission in connection with the provision of 911, E911, or similar services;
- 2.1.5.D.12 Any noncompletion of calls due to network busy conditions; and
- 2.1.5.D.13 Any calls not actually attempted to be completed during any period that service is unavailable.

ISSUED: September 25, 2001

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Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

- 2.1.5.E The Company shall be indemnified, defended and held harmless by the Customer or end-user from and against any and all claims, loss, demands, suits, expense, or other action or any liability whatsoever, including attorney fees, whether suffered, made, instituted, or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, failure to maintain presence, condition, location, use or removal of any Company or Customer equipment or facilities or service provided by the Company.
- 2.1.5.F The Company does not guarantee nor make any warranty with respect to installations provided by it for use in or near an explosive atmosphere. The Company shall be indemnified, defended and held harmless by the Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, including attorney fees, whether suffered, made, instituted or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the service.

ISSUED: September 25, 2001

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600 Parsippany Road
Parsippany, New Jersey 07054

2.1.5.G The Company assumes no responsibility for the availability or performance of any cable or satellite systems or related facilities under the control of other entities, whether affiliated with the Company, or for other facilities provided by other entities used for service to the Customer, even if the Company has acted as the Customer's agent in arranging for such facilities or services. Such facilities are provided subject to such degree of protection or nonpreemptibility as may be provided by the other entities. THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

2.1.6 Notification of Service-Affecting Conditions

- 2.1.6.A Except as otherwise stated in this Price List, any claim of whatever nature against the Company shall be deemed conclusively to have been waived unless presented in writing to the Company within thirty (30) days after the date of the occurrence that gave rise to the claim.
- 2.1.6.B The Company will provide the Customer reasonable notification of service-affecting activities that may occur in normal operation of its business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer but affect many Customers' services. No specific advance notification period is applicable to all service activities. The Company will work cooperatively with the Customer to determine the reasonable notification requirements. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.

ISSUED: September 25, 2001

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Parsippany, New Jersey 07054

2.1.7 Provision of Equipment and Facilities

- 2.1.7.A Except as otherwise indicated, the Customer shall install, construct, maintain and operate any customer-provided equipment connected to the facilities of the company in compliance with industry and regulatory standards so that the Customer provided equipment inter-operates with the company's facilities satisfactorily and without causing harm to or interference with any company facilities or services.
- 2.1.7.B The Company shall not be responsible for the installation, operation or maintenance of any Customer-provided communications equipment. Where such equipment is connected to service furnished pursuant to this Price List, the responsibility of the Company shall be limited to the furnishing of services under this Price List and to the maintenance and operation of such services in the proper manner. Subject to this responsibility, the Company shall not be responsible for:
- 2.1.7.B.1 the through transmission of signals generated by Customer-provided equipment or for the quality of, or defects in, such transmission; or
 - 2.1.7.B.2 the reception of signals by Customer-provided equipment; or
 - 2.1.7.B.3 network control signaling where such signaling is performed by Customer-provided network control signaling equipment.

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600 Parsippany Road
Parsippany, New Jersey 07054

2.1.8 Non-routine Installation

2.1.8.A At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company may apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

2.1.9 Special Construction

2.1.9.A Subject to the agreement of the Company and to all of the regulations contained in this Price List, special construction of facilities may be undertaken on a reasonable-efforts basis at the request of the Customer. Special construction is that construction undertaken:

- 2.1.9.A.1 where facilities are not presently available, and there is no other requirement for the facilities so constructed;
- 2.1.9.A.2 of a type other than that which the Company would normally utilize in the furnishing of its services;
- 2.1.9.A.3 over a route other than that which the Company would normally utilize in the furnishing of its services;
- 2.1.9.A.4 in a quantity greater than that which the Company would normally construct;
- 2.1.9.A.5 on an expedited basis;

ISSUED: September 25, 2001

EFFECTIVE:

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Parsippany, New Jersey 07054

2.1.9.A.6 on a temporary basis until permanent facilities are available;

2.1.9.A.7 involving abnormal costs; or

2.1.9.A.8 in advance of its normal construction.

2.1.10 Ownership of Facilities

2.1.10.A Title to all facilities provided in accordance with this Price List remains in the Company, its agents, contractors, or suppliers.

ISSUED: September 25, 2001

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2.1.11 Liability for Use of 911

2.1.11.A The Company assumes no liability for any infringement, or invasion of any right of privacy or any person or persons caused, or claimed to be caused, directly or indirectly by the use of 911 Service. The Public Safety Agency agrees, except where the events, incidents, or eventualities set forth in this sentence are the result of the Company's gross negligence or willful misconduct, to release, indemnify, defend and hold harmless the Company from any and all loss or claims whatsoever, whether suffered, made, instituted, or asserted by the Public Safety Agency or by any other party or person, for any personal injury to or death of any person or persons, or for any loss, damage, or destruction of any property, whether owned by the customer or others. The Public Safety Agency also agrees to release, indemnify, defend and hold harmless the Company for any infringement or invasion of the right of privacy of any person or persons, caused or claimed to have been caused, directly or indirectly, by the installation, operation, failure to operate, maintenance, removal, presence, condition, occasion, or use of 911 Service features and the equipment associated therewith, or by any services furnished by the Company in connection therewith, including, but not limited to, the identification of the telephone number, address, or name associated with the telephone used by the party or parties accessing 911 Service hereunder, and which arise out of the negligence or other wrongful act of the Public Safety Agency, its user, agencies or municipalities, or the employees or agents of any one of them, or which arise out of the negligence, other than gross negligence or willful misconduct, of the Company, its employees or agents.

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Parsippany, New Jersey 07054

2.2 Prohibited Uses

2.2.1 General

2.2.1.A The services the Company offers shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all required governmental approvals, authorizations, licenses, consents and permits.

2.2.2 Resale

2.2.2.A The Company may offer its services for resale. To the extent the company authorizes resale of its services it may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws, FCC and state regulations, policies, orders, and decisions.

2.2.3 Interference

2.2.3.A The Company may require a Customer to immediately shut down its transmission of signals if said transmission is causing interference to others.

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600 Parsippany Road
Parsippany, New Jersey 07054

2.2.4 Assignment and Transfer

- 2.2.4.A A customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the prior written consent of the Company. The Company may permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated communications services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this Price List will apply. Additionally, Customer may be liable for termination charges if customer terminates any contract prior to expiration of its term.

ISSUED: September 25, 2001

EFFECTIVE:

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600 Parsippany Road
Parsippany, New Jersey 07054

2.3 Obligations of the Customer

2.3.1 General

2.3.1.A The Customer shall be responsible for:

2.3.1.A.1 the payment of all applicable charges pursuant to this Price List;

2.3.1.A.2 damage to or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer; or the noncompliance by the Customer with these regulations; or by fire or theft or other casualty on the Customer's Premises, unless caused by the gross negligence or willful misconduct of the employees or agents of the Company; providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees and agents shall be installing or maintaining the Company's facilities and equipment. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company employees or property might result from installation or maintenance by the Company. The Customer shall be responsible for properly identifying, and in compliance with all applicable state and federal regulations for monitoring, removing and disposing of any hazardous material (e.g. friable asbestos) prior to any construction or installation work; complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Customer premises or the rights-of-way for which Customer may be responsible; and granting or obtaining permission for Company agents or employees to enter the premises of the Customer at any time for the purpose of installing, inspecting,

ISSUED: September 25, 2001

EFFECTIVE:

Christian E. Samay, General Counsel
Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

maintaining, repairing, or upon termination of service as stated herein, removing the facilities or equipment of the Company;

- 2.3.1.A.3 not creating or allowing to be placed any liens or other encumbrances on the Company's equipment or facilities; and
- 2.3.1.A.4 making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which service is interrupted for such purposes.
- 2.3.1.A.5 The Company will assist the Customer with obtaining access to inside wire, conduit space and telecommunications facilities as necessary to the company's efficient and cost-effective provision of service. Customer will assist Company in obtaining access to inside wire, conduit, and telecom closets, owned or controlled by any third parties such as landlords and/or their agents.

ISSUED: September 25, 2001

EFFECTIVE:

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600 Parsippany Road
Parsippany, New Jersey 07054

2.3.2 Liability of the Customer

- 2.3.2.A The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invitees, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.
- 2.3.2.B To the extent caused by any negligent or intentional act of the Customer as described in (A), preceding, the Customer shall indemnify, defend and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees, for
 - 2.3.2.B.1 any loss, destruction or damage to property of any third party;
 - 2.3.2.B.2 the death of or injury to persons, including, but not limited to, employees or invitees of either party; and
 - 2.3.2.B.3 any liability incurred by the Company to any third party pursuant to this or any other Price List of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.
- 2.3.2.C The Customer shall not assert any claim against any other Customer or user of the Company's services for damages resulting in whole or in part from or arising in connection with the furnishing of service under this Price List including but not limited to mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations, whether or not such other Customer or user contributed in any way to the occurrence of the damages, unless such damages were caused solely by the negligent or intentional act or omission of the other Customer or user. Nothing in this Price List is intended either to limit or to expand Customer's right to assert any claims against third parties for damages of any nature other than those described in the preceding sentence.

ISSUED: September 25, 2001

EFFECTIVE:

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600 Parsippany Road
Parsippany, New Jersey 07054

2.4 Customer Equipment and Channels

2.4.1 General

2.4.1.A A User may transmit or receive information or signals via the facilities of the Company. The Company's services are designed primarily for the transmission of voice-grade telephonic signals, appropriately formatted data and video signals, except as otherwise stated in this Price List. A User may transmit any form of signal that is compatible with the Company's equipment, but the Company does not guarantee that its services will be suitable for purposes other than the specific signals for which the service is designed.

2.4.2 Station Equipment

2.4.2.A Terminal equipment on the User's Premises and the electric power consumed by such equipment shall be provided by and maintained at the expense of the User. The User is responsible for the provision of wiring or cable to connect its terminal equipment to the Company Point of Connection. To the extent that the Company provides terminal equipment and/or wiring or cable, those items are offered separately and the terms and conditions of which they are provided are not subject to this Price List.

2.4.2.B The Customer is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall not cause damage to the Company-provided equipment and wiring; interfere or damage Company-provided services or the services or equipment of any other telecommunications or information service provider; or injure the Company's employees or other persons. The customer agrees to pay for any additional protective equipment the Company determines, at its sole discretion, necessary to protect the integrity and safety of its or any interconnected carrier's (or information service providers) facilities, services or personnel.

2.4.3 Interconnection of Facilities

- 2.4.3.A The Customer shall provide, at its sole expense, any equipment necessary to achieve compatibility between customer facilities and the facilities and equipment of the Company used for furnishing Communications Services.
- 2.4.3.B The Company at its sole discretion will determine whether Communications Services may be connected to the services or facilities of other communications carriers.
- 2.4.3.C Facilities furnished under this Price List may be connected to customer provided terminal equipment in accordance with the provisions of this Price List. All such terminal equipment shall be registered by the Federal Communications Commission pursuant to Part 68 of Title 47, Code of Federal Regulations; and all User-provided wiring shall be installed and maintained in compliance with those regulations.
- 2.4.3.D Users may interconnect communications facilities that are used in whole or in part for interstate communications to services provided under this Price List only to the extent that the user is an " end-user" as defined in Section 69.2(m), Title 47, Code of Federal Regulations (2001 edition).

ISSUED: September 25, 2001

EFFECTIVE:

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Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

2.4.4 Inspections

- 2.4.4.A Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth in Section 2.4.2(B) for the installation, operation, and maintenance of Customer-provided facilities, equipment, and wiring in the connection of Customer-provided facilities and equipment to Company-owned facilities and equipment.
- 2.4.4.B If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten days of receiving this notice, the Customer must take this corrective action and notify the Company of the action taken. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment and personnel from harm.

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2.5 Customer Deposits and Advance Payments

2.5.1 Advance Payments

2.5.1.A To safeguard its interests, the Company may require a Customer to make an advance payment before services and facilities are furnished. The advance payment will not exceed an amount up to one month of estimated monthly usage charges. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the Customer. The advance payment will be credited to the Customer's initial bill. An advance payment may be required in addition to a deposit.

2.5.2 Deposits

2.5.2.A The Company will not collect a deposit.

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2.6 Payment Arrangements

2.6.1 Payments for Service

2.6.1.A General

2.6.1.A.1 The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

2.6.1.B Taxes

2.6.1.B.1 The Customer is responsible for payment of any sales, use, gross receipts, excise, access or other local, state and federal taxes, charges or surcharges (however, designated) (excluding taxes on the Company's net income) imposed on or based upon the provision, sale or use of network services.

2.6.1.B.2 The Customer is responsible for payment of all charges incurred by the Customer or other users for services and facilities furnished to the Customer by the Company.

2.6.1.B.3 The Company concurs in the Municipal Utility Occupation tax of each Local Exchange Company tariff in the state of Florida to the extent those local taxes are both current and applicable to the services the Company provides. This amount will be separately stated on each bill to Customer.

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2.6.2 Billing and Collection of Charges

- 2.6.2.A The Customer is responsible for payment of all charges incurred by the Customer or other users of services and facilities furnished to the Customer by the Company.
- 2.6.2.B Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this Price List or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued
- 2.6.2.C If any portion of the payment is received by the Company after the date due, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment penalty shall be due to the Company. The late payment penalty shall be the portion of the payment not received by the date due, multiplied by a late factor. The late factor shall be the lesser of:
 - 2.6.2.C.1.(a) a rate of 1.5 percent per month; or
 - 2.6.2.C.1.(b) the highest interest rate which may be applied under state law for commercial transactions.
 - 2.6.2.C.1.(c) The Customer will be assessed a charge of twenty-five dollars (\$25.00) for each check submitted by the Customer to the Company which a financial institution refuses to honor.

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2.6.3 Billing Disputes

2.6.3.A All bills are presumed accurate, and shall be binding on the Customer unless notice of the disputed charge(s) is received by the Company within 9 days (commencing 5 days after such bills have been mailed or otherwise rendered per the Company's normal course of business). For the purposes of this section, "notice" is defined as written notice to the Company, containing sufficient documentation to investigate the dispute, including the account number under which the bill has been rendered, the date of the bill, and the specific items on the bill being disputed.

2.6.3.B Late Payment Charge

2.6.3.B.1 The undisputed portions of the bill must be paid by the payment due date to avoid assessment of a late payment charge on the undisputed amount under Section 2.6.2.C preceding.

2.6.3.B.2 In the event that a billing dispute is resolved by the Company in favor of the Customer, any disputed amount withheld pending resolution of the billing dispute shall not be subject to the late payment charge.

2.6.3.B.3 In the event that a billing dispute is resolved in favor of the Company, the Customer shall pay the late payment charge.

2.6.3.C Adjustments or Refunds to the Customer

2.6.3.C.1 In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.

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2.6.3.C.2 In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.

2.6.3.C.3 In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment by the Customer.

2.6.3.C.4 All adjustments or refunds provided by the Company to the Customer at the Customer's request, or provided by the Company to the Customer by way of compromise of a billing dispute, and which are accepted by the Customer, are final and constitute full satisfaction, settlement, and/or compromise of all of the Customer's claims for the billing period for which the adjustment or refund was issued.

2.6.3.D Unresolved Billing Disputes

2.6.3.D.1 In the case of a billing dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer has up to 90 days (commencing 5 working days after such bills have been mailed or otherwise rendered per the Company's normal course of business) to take the following course of action:

2.6.3.D.1.(a) First, the Customer may request and the Company will provide an in-depth review of the disputed amount.

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- 2.6.3.D.1.(b) Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

**Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
800-511-0809**

2.6.4 Discontinuance of Service

- 2.6.4.A Upon nonpayment of any amounts owed to the Company, the Company may, by giving eight (8) working days notice, discontinue or suspend service without incurring any liability. Before service is disconnected, the Company will make a good faith effort, by two attempts during reasonable hours, to reach the Customer by telephone to advise of the pending disconnection and the reason therefore. The Company will maintain a log or record of the attempts, showing the telephone number called and the time of call. In the alternative, the Company may provide personal notice in accordance with WAC 480-120-081(5).
- 2.6.4.B Upon violation of any of the other material terms or conditions for furnishing service or for any acts or omissions by the Customer, the Company may, by giving eight (8) working days' notice to the Customer, discontinue or suspend service without incurring any liability if such violation continues during that period.
- 2.6.4.C Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.

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- 2.6.4.D Upon the Customer's insolvency, assignment for the benefit of creditors, filing or bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law, the Company may, upon giving eight (8) working days notice discontinue or suspend service without incurring any liability.
- 2.6.4.E Upon any governmental prohibition or required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may, upon giving eight (8) working days notice, discontinue service without incurring any liability. In the event of fraudulent use of the Company's network, the Company may without notice suspend or discontinue service. The Customer will be liable for all related costs as set forth in Section 2.7.2 of this Price List. The Customer will also be responsible for payment of any reconnection charges.
- 2.6.4.F Upon the Customer's use of any communications in a manner prohibited by Section 2.2.1.A of this Price List or in any manner that harms, impairs or interferes with the Company provided services or facilities, the Company may immediately discontinue service without incurring any liability. The Customer will be liable for all related costs as set forth in Section 2.7.2.A. of this Price List. The customer will also be responsible for payment of any reconnection charges.
- 2.6.4.G Upon the Company's discontinuance of service to the Customer under Section 2.6.4.A or 2.6.4.B, the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this Price List, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable.

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- 2.6.4.H Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levied against the Company that would have been chargeable to the Customer had service begun.
- 2.6.4.I Where the Company incurs any expense in connection with special construction, or where special arrangements of facilities or equipment have begun, before the Company receives a cancellation notice, a charge equal to the costs incurred, less net salvage, applies. In such cases, the charge will be based on such elements as the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.
- 2.6.4.J The special charges described in 2.6.4.H through 2.6.4.I will be calculated and applied on a case-by-case basis.

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2.6.5 Changes in Service Requested

- 2.6.5.A If the Customer makes or requests material changes in circuit engineering, equipment specifications, service parameters, premises locations, or otherwise materially modifies any provision of the application for service, the Customer's installation fee shall be adjusted accordingly.

2.6.6 Allowance for Interruptions in Service

- 2.6.6.A To the extent permitted by WAC 480-120-520, a credit allowance will be given when service is interrupted, except as specified in Section 2.6.7 following. A service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit or receive, because of a failure of a component furnished by the Company under this Price List.
- 2.6.6.B An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- 2.6.6.C If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.

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2.6.7 Credit Allowance

2.6.7.A No credit allowance will be made for any interruption in service:

- 2.6.7.A.1 Due to the negligence of or noncompliance with the provisions of this Price List by any person or entity other than the Company, including but not limited to the Customer or other common carriers connected to the service of the Company;
- 2.6.7.A.2 Due to the failure of power, equipment, systems, connections or services not provided by the Company;
- 2.6.7.A.3 Due to circumstances or causes beyond the control of the Company;
- 2.6.7.A.4 During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- 2.6.7.A.5 During any period in which the Customer continues to use the service on an impaired basis;
- 2.6.7.A.6 During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- 2.6.7.A.7 That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; and
- 2.6.7.A.8 That was not reported to the Company within thirty (30) days of the date that service was affected.

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2.6.8 Use of Another Means of Communications

- 2.6.8.A If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

2.6.9 Application of Credits for Interruptions in Service

- 2.6.9.A Credits for interruptions in service that is provided and billed on a flat rate basis for a minimum period of at least one month, beginning on the date that billing becomes effective, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the period of service during which the event that gave rise to the claim for a credit occurred. A credit allowance is applied on a pro rata basis against the rates specified hereunder and is dependent upon the length of the interruption. Only those facilities on the interrupted portion of the circuit will receive a credit.
- 2.6.9.B For calculating credit allowances, every month is considered to have thirty (30) days.
- 2.6.9.C A credit allowance will be given for interruptions in service of 15 minutes or more. Two or more interruptions of 15 minutes or more during any one 24-hour period shall be considered as one interruption.
 - 2.6.9.C.1 Interruptions of 24 hours or less are credited as follows:
 - 2.6.9.C.1.(a) Less than 15 minutes – None
 - 2.6.9.C.1.(b) 15 minutes up to but not including 3 hours - 1/10 Day
 - 2.6.9.C.1.(c) 3 hours up to but not including 6 hours - 1/5 Day
 - 2.6.9.C.1.(d) 6 hours up to but not including 9 hours - 2/5 Day

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- 2.6.9.C.1.(e) 9 hours up to but not including 12 hours - 3/5 Day
- 2.6.9.C.1.(f) 12 hours up to but not including 15 hours - 4/5 Day
- 2.6.9.C.1.(g) 15 hours up to but not including 24 hours - One Day
- 2.6.9.C.2 Where continuous interruptions are over 24 hours but less than 72 hours, interruptions will be credited 1/5 day for each three-hour period or fraction thereof that occurs following the expiration of the initial 24-hour period. No more than one full-day's credit will be allowed for any period of 24 hours..
- 2.6.9.C.3 Where interruptions are over 72 hours, interruptions will be credited 2 days for each full 24-hour period that occurs following the expiration of the initial 72-hour period. No more than 30 days credit will be allowed for any one-month period.

2.6.10 Cancellation for Service Interruption

2.6.10.A General

- 2.6.10.A.1 Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 8 hours or mere or cumulative service credits equaling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

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2.7 Cancellation of Service/Termination Liability

2.7.1 General

2.7.1.A Subject to WAC 480-120-081(1), if a Customer cancels a Service Order or terminates services before the completion of the minimum term for any reason whatsoever other than a service interruption (as defined in Section 2.6.6.A), the Customer agrees to pay to Company termination liability charges, which are defined below. These charges shall become due and owing as of the effective date of the cancellation or termination.

2.7.2 Termination Liability

2.7.2.A Customer's termination liability for cancellation of service shall be equal to:

- 2.7.2.A.1 all unpaid Non-Recurring charges reasonably expended by Company to establish service to Customer, plus;
- 2.7.2.A.2 any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by Company on behalf of Customer, plus;
- 2.7.2.A.3 all Recurring Charges specified in the applicable Service Order for the balance of the then current term discounted at the prime rate announced in the Wall Street Journal on the third business day following the date of cancellation;
- 2.7.2.A.4 minus a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.

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2.8 Customer Liability For Unauthorized Use of the Network

2.8.1 Unauthorized Use of the Network

2.8.1.A Unauthorized use of the network occurs when:

2.8.1.A.1 a person or entity that does not have actual, apparent, or implied authority to use the Network, obtains the Company's services provided under this Price List; or a person or entity that otherwise has actual, apparent, or implied authority to use the network, makes fraudulent use of the network to obtain the Company's services provided under this Price List, or uses specific services, which are not authorized.

2.8.1.B The following activities constitute fraudulent use:

2.8.1.B.1 Using the Network to transmit a message, locate a person, or otherwise give or obtain information, without payment for the service;

2.8.1.B.2 Using or attempting to use the Network with the intent to avoid payment, either in whole or part, of any of the Company's Price Listed charges by either rearranging, tampering with, or making connections not authorized by this Price List to any service components used to furnish the Company's services or using fraudulent means or devices, tricks, schemes, false or invalid numbers, false credit devices or electronic devices;

2.8.1.B.3 800/877/888 callers using the network with the intent of gaining access to a Customer's outbound calling capabilities on an authorized basis; and

2.8.1.B.4 Using fraudulent means or devices, tricks or schemes, false or invalid numbers, false credit devices, or electronic devices to defraud or mislead callers.

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- 2.8.1.C Customers are advised that use of telecommunications equipment and services, including that provided under this Price List, carries a risk of various forms of telecommunications fraud (including, but not limited to, toll and PBX fraud perpetrated by Users who gain access to a Customer's facilities, account numbers, security or authorization codes, etc.). Customers should take all necessary steps to restrict access to their facilities, including the equipment and services provided hereunder, and to detect and prevent unauthorized use of the equipment and services provided by the Company under this Price List.

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2.8.2 Liability for Unauthorized Use

- 2.8.2.A Except as provided for elsewhere in this Price List, the Customer is responsible for payment of all charges for services provided under this Price List furnished to the Customer or User. This responsibility is not changed due to any use, misuse, or abuse of the Customer's service or Customer-provided equipment by Users or other third parties, the Customer's employees, or the public.
- 2.8.2.B The Customer is liable for all costs incurred as a result of unauthorized use of the Network, including service charges and any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive charges.
- 2.8.2.C The Customer is responsible for payment of any charges related to the suspension and/or termination of service, and any charges for reconnection of service, incurred as a result of unauthorized use of the Network.

2.9 Use of Customer's Service by Others

2.9.1 Resale and Sharing

- 2.9.1.A Any service provided under this Price List may be resold to or shared with other persons at the option of Customer, subject to compliance with any applicable laws or Florida Public Service Commission regulations governing such resale or sharing. Customer remains solely responsible for all use of services ordered by it or billed to its telephone number(s) pursuant to this Price List, for determining who is authorized to use its services, and for notifying the Company of any unauthorized use.

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2.9.2 Joint Use Arrangements

2.9.2.A Joint use arrangements will be permitted for all services provided under this Price List. From each joint use arrangement, one member will be designated as the Customer responsible for the manner in which the joint use of the service will be allocated. The Company will accept orders to start, rearrange, relocate, or discontinue service only from the Customer. Without affecting the Customer's ultimate responsibility for payment of all charges for the service, each joint user shall be jointly and separately responsible for the payment of the charges billed to it.

2.10 Transfers and Assignments

2.10.1 Generally

2.10.1.A Neither the Company nor the Customer may assign or transfer its rights or duties in connection with the services and facilities provided by the Company without the written consent of the other party, except that the Company may assign its rights and duties (a) to any subsidiary, parent company or affiliate of the Company, (b) pursuant to any sale or transfer of substantially all the assets of the Company; or (c) pursuant to any financing, merger or reorganization of the Company.

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2.11 Notices and Communications

2.11.1 Generally

- 2.11.1.A The Customer shall designate an address to which the Company shall mail or deliver all notices and other communications, except that Customer may also designate a separate address to which the Company's bills for service shall be mailed. The Company shall designate an address to which the Customer shall mail or deliver all notices and other communications, except that Company may designate a separate address on each bill for service to which the Customer shall mail payment on that bill.
- 2.11.1.B All notices or other communications required to be given pursuant to this Price List will be in writing. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the fifth business day following placement of the notice, communication or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.
- 2.11.1.C The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

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2.12 Privacy Rules

2.12.1 General

2.12.1.A Automatic Number Identification (ANI) derived information may be used only for billing, routing, screening, ensuring network performance, completing calls or performing, services directly related to the telephone caller's original call or transaction. Therefore, should the business that receives ANI information have an established customer relationship with the caller, the business may offer products or services to the caller that are directly related to the products or services previously purchased by the caller. The business that receives ANI information may not establish marketing lists or conduct ongoing market calls for unrelated products or services or sell the information derived from ANI (callers name, address, telephone billing number, purchasing habits, etc.) to third parties unless it gets the prior written consent of the caller.

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2.13 Reserved for Future Use

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3.0 Description of Services

3.1 General

- 3.1.1.A The regulations set forth in this section govern the application of rates for business local exchange services.

3.1.1 Primary Rate Interface

- 3.1.1.B Primary Rate Interface provides a Customer with an optional form of local exchange access based on the Primary Rate Interface (PRI) arrangement of the Integrated Services Digital Network (ISDN). PRI is a high-capacity access path for communications providing voice or data transmission over the public network.
- 3.1.1.C PRI provides the capability to transport customer information in the form of circuit-switched voice or data up to 64 kbps over any B channel.
- 3.1.1.D PRI is comprised of two components: PRI Access Facility, and ISDN PRI Interface.
- 3.1.1.E PRI Access Facility is an alternative for individual local exchange access loop services. PRI is provisioned on the 1.544 Mbps bandwidth and uses the ISDN architecture to provide the customer with the capabilities of simultaneous access, transmission, and switching of voice, data, and imaging services via channelized transport.
- 3.1.1.F ISDN PRI Interface is comprised of a limited set of standard user-network interfaces. The PRI customer premises equipment located at the customer premises must be compatible with the network interface.

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- 3.1.1.G PRI Feature availability and service capabilities are dependent on the facilities and digital technology providing the service.
- 3.1.1.H ISDN compatible terminal equipment is a requirement for operation. It is the customer's responsibility to power and obtain such equipment.
- 3.1.1.I This Price List does not apply to the transmission of packet data on the B or D channels.
- 3.1.1.J All PRI Interface arrangement configurations must have at least one 23 B+D Interface arrangement for signaling and control functions
- 3.1.1.K Each PRI trunk group is equipped with one telephone number. Additional numbers may be ordered in blocks or ordered on an individual basis.
- 3.1.1.L A PRI customer may select a 1 or 3-year contract. All PRI services and features at a given customer premises must be subscribed to the same payment option.
- 3.1.1.M During the contract period, the customer may add PRI service at the same monthly rate as specified in the initial contract. The contract period for these additional services will end coterminous with the initial contract.
- 3.1.1.N If the monthly rates on a contract are lowered, the subscriber may be allowed to cancel their existing contract without penalty, providing they sign-up for a new contract of equal or greater monetary value. The subscriber will be subject to all terms, conditions, and prices of the new contract.
- 3.1.1.O Prior to the expiration of the existing contract period, a customer may extend the contract for another contract period without incurring termination liability charges. The new contract will indicate the designated rates then in effect. The new contract period must be for a period of time that is equal to or greater than the remaining months in the old agreement. The contract period effective date will be the date the customers sign the new contract.
- 3.1.1.P PRI is available only where both endpoints of the circuit are served by the Company's network.

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3.1.2 PBX Trunk Service

- 3.1.2.A PBX Trunk service provides Customers with voice-grade communication channel(s) to the Customers Private Branch Exchange (PBX) or Hybrid Key System. PBX trunks will be provided over a T-1 link.
- 3.1.2.B Customers will pay a minimum charge for the underlying T-1 service and an additional charge for each DS0 used for data or voice transmission. The Customer may allocate DS0s for use in transmitting either voice or data or a combination of voice and data.
- 3.1.2.C PBX service will include Direct Inward Dialing (DID) functionality. DID provides the Customer with a single analog or digital connection that can carry one-way, inbound traffic. The number of digits to be out-pulsed must be specified by the Customer.
- 3.1.2.D DID telephone numbers can be obtained in blocks of 20 numbers. Additional monthly charges may apply, as specified in Section 4 following.
- 3.1.2.E A Customer who orders a PBX Trunk may be charged applicable Non-Recurring Charges, as specified in Section 4, for DID service.
- 3.1.2.F A PBX Trunk Customer may be charged applicable Non-Recurring Charges and Monthly Recurring Charges for PBX service as specified Section 4.

ISSUED: September 25, 2001

EFFECTIVE:

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Exario Telecom, Inc.
600 Parsippany Road
Parsippany, New Jersey 07054

3.2 Special Assemblies and Individual Case Basis (ICB) Arrangements.

3.2.1 General

- 3.2.1.A Arrangements will be developed on a case-by-case basis in response to a bona fide request from a Customer or prospective Customer to develop a bid for any switched or special access service that the Company is technically capable of providing but which is not offered under this Price List (special assembly), or to develop a competitive bid for a service that the Company offers under this Price List (ICB). Rates quoted in response to such competitive requests may be different than those specified for such services in this Price List. ICB and special assembly rates will be offered to the Customer in writing and on a nondiscriminatory basis.

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3.2.2 Primary Rate Interface

3.2.2.A PRI Access Facility

Duration of Service	Installation Charge	Monthly Rate
One-year plan	\$2,500	\$400
Three-year plan	\$1,000	\$300

3.2.3 PBX Trunk Service

Service Order and Modification Charges

PBX Trunk Services	Non-Recurring Charges
Account Setup (<i>per account</i>)	\$42.35
Account Changes Moves, Changes, Additions (<i>per change</i>)	\$20.19
Installation of DS1 Facility Access (<i>per DS1</i>)	\$240.00

Recurring Charges

PBX Trunk Services	Recurring Charges		
	Year 1 Monthly	Year 2 Monthly	Year 3 Monthly
DSO Channel (<i>per DSO</i>)	\$10.00	\$10.00	\$10.00
DS1 Facility Access (<i>per DS1</i>)	\$ 240.00	\$ 230.00	\$ 220.00

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