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November 19, 2002

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

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021170-TP

Re: Approval of Collocation Agreement with Progress Telecom Corporation

Dear Ms. Bayó:

Please find enclosed for approval and filing an original and two (2) copies of the Collocation Agreement between Sprint-Florida, Incorporated (Sprint) and Progress Telecom Corporation.

If you have any questions on this matter, please contact my assistant Teri Harless at 850-599-1563.

Sincerely,

Susan S. Masterton

cc: Progress Telecom Corporation  
Cathy J. Quinn  
263 13<sup>th</sup> Ave. South  
Mail Code BB2-3  
St. Petersburg, FL 33701

Enclosure

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021170-TP

**MASTER COLLOCATION LICENSE AGREEMENT**

**August 1, 2002**

**Progress Telecom Corporation**

**and**

**Sprint-Florida, Incorporated**

DOCUMENT NUMBER-DATE

12671 NOV 19 8

FPSC-COMMISSION CLERK

*filed 8-21-02*

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**SPRINT LOCAL TELEPHONE COMPANIES  
MASTER COLLOCATION LICENSE AGREEMENT**

This Agreement is made this 1st day of August, 2002, by and between Progress Telecom Corporation a Florida corporation (the "Licensee") and Sprint-Florida, Incorporated ("Sprint").

**1. DEFINITIONS.**

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

- 1.1. "Act" means the Communications Act of 1934, as amended.
- 1.2. "Active Collocation Space" means the space within a Sprint premises that has sufficient telecommunications infrastructure systems to house telecommunications equipment. Infrastructure systems includes floors capable of supporting equipment loads, heating, ventilating and air conditioning (HVAC) systems (AC poser), high efficiency filtration, humidity controls, remote alarms, compartmentation and smoke purge. Space within controlled environmental vaults (CEVs), huts and cabinets and similar eligible structures that can be designated for physical collocation shall be considered Active Collocation Space.
- 1.3. "Cable Vault" shall mean a location in a Premises where facilities enter the Premises from the Outside Cable Duct and access the Inner Duct for distribution within the Premises.
- 1.4. "Central Office Building" or "Building" shall mean a structure (not including a controlled environment vault ("CEV")) housing Sprint equipment that is under the control of Sprint and for which Sprint has the right to grant access and/or occupation by third parties.
- 1.5. "Collocation Arrangement" refers to a single, specific provision of Collocation in a particular Premises, not limited to a cage enclosing Licensee's equipment within the Premises.
- 1.6. "Collocation Point of Termination" shall mean the physical demarcation point as described in Section 5.
- 1.7. "Collocation Space" shall mean an area of space as agreed between the parties, located in a Building to be used by Licensee to house telecommunications equipment. Additionally, roof or wall space used for wireless interconnection shall be included in the definition where applicable.

- 1.8. "Controlled Environment Vault" shall mean a below ground room other than a Central Office Building which is controlled by Sprint and which is suitable for collocation of telecommunications equipment.
- 1.9. "Date of Occupancy" shall mean the date on which Licensee first occupies the Collocation Space pursuant to this Agreement.
- 1.10. "Effective Date" is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.
- 1.11. "Inactive Collocation Space" means the space within the central office where infrastructure systems do not currently exist and must be constructed and where Active Collocation space has been exhausted. The designation of Inactive Collocation Space is applicable to space within central offices only; other Sprint Premises such as CEVs, Huts, and Vaults shall be considered Active Collocation Space.
- 1.12. "Inner Duct" or "Conduit" shall mean any passage or opening in, on, under, over or through the Sprint Central Office Building cable or conduit systems.
- 1.13. "Live load capacity" as it relates to a Licensee's collocation space refers to the structural strength of the floor to support the weight of Licensee's property and equipment installed in the collocated space.
- 1.14. "LOE" shall mean Licensee-owned equipment.
- 1.15. "Outside Cable Duct" shall mean any space located outside the Central Office Building and owned by or under the control of Sprint through which Sprint runs its cable, conduit or other associated facilities.
- 1.16. "Physical Collocation" is as defined in 47 CFR 51.5.
- 1.17. "Premises" is as defined in 47 C.F.R. 51.5.
- 1.18. "Tariffed Service" shall mean the interconnection of Licensee's equipment and Sprint's equipment pursuant to the Sprint Access Service tariffs as filed with the Federal Communications Commission ("FCC"), or applicable state tariffs.
- 1.19. "Virtual Collocation" is as defined in 47 C.F.R. 51.5.

## **2. TERM.**

- 2.1. This Agreement shall be deemed effective upon execution by both Parties, provided however that if Customer has any outstanding past due obligations to Sprint, this Agreement will not be effective until such time as any past due obligations with Sprint are paid in full.
- 2.2. This Agreement shall terminate two years from the date of execution.

- 2.3. In the event of either Party's material breach of any of the terms or conditions hereof, including the failure to make any undisputed payment when due, the non-defaulting Party may immediately terminate this Agreement in whole or in part provided that the non-defaulting Party so advises the defaulting Party in writing of the event of the alleged default and the defaulting Party does not remedy the alleged default within ninety (90) days after written notice thereof.
- 2.4. Termination of this Agreement for any cause shall not release either Party from any liability which at the time of termination has already accrued to the other Party or which thereafter may accrue in respect to any act or omission prior to termination or from any obligation which is expressly stated herein to survive termination.
- 2.5. Notwithstanding the above, should Sprint sell or trade substantially all the assets in an exchange or group of exchanges that Sprint uses to provide Telecommunications Services, then Sprint may terminate this Agreement in whole or in part as to that particular exchange or group of exchanges upon sixty (60) days prior written notice.
- 2.6. Termination. Licensee may terminate occupancy in a particular Collocation Space upon thirty (30) calendar days prior written notice to Sprint. Upon termination of such occupancy, Licensee at its expense shall remove its equipment and other property from the Collocation Space. Licensee shall have thirty (30) calendar days from the termination date to complete such removal, including the removal of all equipment and facilities of Licensee's Guests; provided, however, that Licensee shall continue payment of monthly fees to Sprint until such date as Licensee has fully vacated the Collocation Space. Licensee will surrender the Collocation Space to Sprint in the same condition as when first occupied by Licensee, except for ordinary wear and tear.
- 2.7. Licensee shall be responsible for the cost of removing any enclosure, together with all supporting structures (e.g., racking, conduits), of an Adjacent Collocation arrangement at the termination of occupancy and restoring the grounds to their original condition. Upon termination of Licensee's right to possession without termination, Licensee shall surrender possession and vacate the Collocation Space within thirty (30) calendar days. Failure to surrender the Collocation Space within 30 days shall be considered abandonment and Sprint will have the right to remove the equipment and other property of Licensee or the Licensee's Guest at Licensee's expense and with no liability for damage or injury to Licensee's property.
- 2.8. Should Sprint under any section of this Agreement remove any of Licensee's equipment from its collocation space, Sprint will deliver to Licensee any equipment removed by Sprint only upon payment by Licensee of the cost of removal, storage and delivery, and all other amounts due Sprint under this Agreement. Sprint is hereby given lien, subordinate only to any purchase money or financing lien in connection with the construction, reconstruction or extension Licensee's equipment located in Sprint's premises or removed therefrom, with

power of public or private sale, to cover any amounts due Sprint under the provisions of this Agreement. Such lien shall not operate to prevent Sprint or joint users from pursuing, at their option, any other remedy in law, equity or otherwise, including any other remedy provided in this Agreement.

- 2.9. Surrender of Keys. Licensee shall surrender all keys, access cards and Sprint-provided photo identification cards to the Collocation Space and the Building to Sprint, and shall make known to Sprint the combination of all combination locks remaining on the Collocation Space.
- 2.10. If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives available, Sprint shall have the right, for good cause shown, and upon 30 days prior notice, to reclaim the Collocation Space or any portion thereof, any Inner Duct, Outside Cable Duct, Cable Vault space or other Sprint-provided facility in order to fulfill its common carrier obligations, any order or rule of the state commission or the FCC, or Sprint's tariffs to provide telecommunications services to its end user customers. In such cases, Sprint will reimburse Licensee for reasonable direct costs and expenses in connection with such reclamation.
- 2.11. If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives, to require Licensee to move to equivalent space in the Building upon receipt of sixty (60) days written notice from Sprint, in which event, Sprint shall pay all moving costs, and the License Fee provided for herein shall remain the same.

### **3. SCOPE OF AGREEMENT.**

- 3.1. Sprint will provide Collocation to Licensee in accordance with this Agreement for the purposes of Interconnection to Sprint pursuant to the Act (including 47 U.S.C. § 251(c)(2)) and for obtaining access to Sprint's UNEs pursuant to the Act (including 47 U.S.C. § 251(c)(3)). Collocation shall be provided on a nondiscriminatory basis, on a "first-come, first-served" basis, and otherwise in accordance with the requirements of the Act (including 47 U.S.C. § 251(c)(6)).
- 3.2. Prices and fees for collocation and other services under this Agreement are contained in the price list attached hereto as Attachment B. In the event Sprint files tariffs for pricing of collocation and other services covered by this agreement, such pricing in the tariffs will control over Attachment B as of the date the tariff becomes effective. The terms and conditions of this Agreement will control over any terms and conditions in the tariff.
- 3.3. This Agreement states the general terms and conditions upon which Sprint will grant to Licensee a non-exclusive license to gain access to and occupy the Collocation Space, and other associated facilities as may be necessary, for the sole and exclusive purpose of providing telecommunications service as specifically identified on a completed, numbered and dated Site Collocation License executed

by both Parties (which Site Collocation License shall be in substantially the form attached as Attachment A). Such service will be provided by installing, maintaining and operating Licensee's equipment, which will interconnect with telecommunications services and facilities provided by Sprint or others in accordance with this Agreement.

#### **4. CHANGE IN LAW**

- 4.1. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the texts of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment of the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Act to the Parties or in which the court, FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, "Amended Rules"), either Party may, by providing written notice to the other Party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.
- 4.2. Notwithstanding any other provision of this Agreement to the contrary, this section shall control. Any rates, terms or conditions thus developed or modified shall be substituted in place of those previously in effect and shall be deemed to have been effective under this Agreement as of the effective date established by the Amended Rules, whether such action was commenced before or after the Effective Date of this Agreement. Should the Parties be unable to reach agreement with respect to the applicability of such order or the resulting appropriate modifications to this Agreement, either party may invoke the Dispute Resolution provisions of this Agreement, it being the intent of the parties that this Agreement shall be brought into conformity with the then current obligations under the Act as determined by the amended rules.

#### **5. COLLOCATION OPTIONS.**

- 5.1. Cageless. Sprint will offer Collocation Space to allow Licensee to collocate its equipment and facilities, and without requiring the construction of a cage or similar structure. Sprint will allow Licensee to have access to its equipment and facilities 24 hours a day, 7 days a week without need for a security escort provided that Licensee has met Sprint's safety and security requirements. Sprint may require Licensee to use a central entrance to the Sprint Central Office. Sprint shall make cageless collocation available in single bay increments, including space adjacent or next to Sprint's equipment. Except where Licensee's equipment requires special technical considerations (e.g., special cable racking, isolated



ground plane), Sprint will assign cageless Collocation Space in conventional equipment rack lineups where feasible. For equipment requiring special technical considerations, Licensee must provide the equipment layout, including spatial dimensions for such equipment pursuant to generic requirements contained in Telcordia GR-63-Core and shall be responsible for constructing all special technical requirements associated with such equipment pursuant to this Agreement.

- 5.2. Caged. Sprint will authorize the enclosure of Licensee's equipment and facilities at Licensee's option. Sprint will provide guidelines and specifications upon request. Based on Licensee's request, space and cage enclosures in amounts as small as that sufficient to house and maintain a single rack or bay or equipment will be made available. At Licensee's option, Sprint will permit Licensee to arrange with a third party vendor to construct a Collocation Arrangement enclosure at Licensee's sole expense. If Licensee is the first CLEC in a Sprint Premises, Licensee will not be responsible for the entire cost of site preparation and security. Licensee's third party vendor will be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. The third party vendor shall bill Licensee directly for all work performed for Licensee and Sprint will have no liability for nor responsibility to pay such charges imposed by the third party vendor. Licensee must provide the local Sprint building contact with one Access key used to enter the locked enclosure. Except in case of emergency, Sprint will not access Licensee's locked enclosure prior to notifying Licensee and obtaining authorization.
  - 5.2.1. Sprint has the right to review Licensee's plans and specifications prior to allowing construction to start. Sprint will complete its review within fifteen (15) calendar days. Sprint has the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications. Sprint can require Licensee to remove or correct, at its cost, any structure that does not meet these plans.
- 5.3. Shared (Subleased) Caged Collocation. Licensee may allow other telecommunications carriers to share its caged collocation arrangement pursuant to terms and conditions agreed to by Licensee ("Host") and other telecommunications carriers ("Guests"). Licensee will notify Sprint in writing upon execution of any agreement between the Host and its Guest within twelve (12) calendar days of its execution. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall contain a certification by Licensee that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement.
  - 5.3.1. As Host, Licensee will be the sole interface and responsible party to Sprint for the purpose of submitting applications for initial and additional equipment placements of Guest (to the extent required under other sections of the Standard Offer); for assessment and payment of rates and charges applicable to the Collocations space; and for the purposes of

ensuring that the safety and security requirements of this Agreement are fully complied with by the Guest, its employees and agents. In making shared cage arrangements, Sprint will not increase the cost of site preparation or nonrecurring charges above the cost of provisioning such a cage of similar dimensions and material to a Licensee.

5.3.2. Sprint will not place unreasonable restrictions on Licensee's use of a cage, and as such will allow Licensee to contract with other CLECs to share the cage in a sublease type arrangement. If two (2) or more CLECs have interconnection agreements with Sprint utilize a shared collocation cage, Sprint will permit each CLEC to order UNEs and provision service from the shared collocation space, regardless of which CLEC was the original collocater.

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

5.4. Adjacent Collocation. Sprint will provide adjacent collocation arrangements ("Adjacent Arrangement") where space within the Premises is legitimately exhausted, subject to technical feasibility. Both Parties will mutually agree on the location of the designated space on the Sprint property where the adjacent structure (such as a CEV or similar structure) will be placed. If a mutual agreement cannot be reached, Sprint will decide the location. Unless prohibited by zoning or other state and local regulations, Sprint will not withhold agreement as to the site desired by Licensee, subject only to reasonable safety and maintenance requirements.

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

5.4.2. Sprint maintains the right to review Licensee's plans and specifications prior to construction of an Adjacent Arrangement(s). Sprint will complete its review within thirty (30) calendar days of receipt of the Bona Fide Firm Order (BFFO). Except that such time period may be extended if any delay is due to the actions of Licensee. Sprint may inspect the Adjacent Arrangement(s) following construction and prior to commencement to ensure the design and construction comply with submitted plans. Sprint may require Licensee to correct any deviations from approved plans found during such inspection(s).

- 5.4.3. Sprint will provide AC power, as requested, subject to being technically feasible. At its option, Licensee may choose to provide its own AC power to the adjacent structure as long as the AC power source is from the same provider as Sprint's.
- 5.4.4. Subject to Licensee being on the waiting list, in the event that space in a Sprint Premises becomes available, Sprint will provide the option to the Licensee to relocate its equipment from an Adjacent Facility into the Sprint Premises. In the event Licensee chooses to relocate its equipment, appropriate charges applicable for collocation within the Sprint Premises will apply.
- 5.5. Contiguous Space. To the extent possible, Sprint will provide Licensee with contiguous space for any subsequent request for physical collocation space, but makes no assurances that contiguous space will be available.
- 5.6. Virtual Collocation. Sprint will provide virtual collocation, subject to being technically feasible, if physical collocation is not practical for technical reasons or because of space limitations and in accordance with the Act (including 47 U.S.C. § 251(c)(6) and 47 C.F.R. § 51.323).
- 5.6.1. Licensee may from time to time, lease to Sprint, at no cost to Sprint, equipment that meet applicable FCC requirements and in accordance with this Agreement, for the sole purpose of having Sprint install and maintain the equipment in accordance with terms and conditions mutually agreed upon by the Parties.
- 5.6.2. Virtually collocated equipment shall be purchased by Licensee. Sprint does not assume any responsibility for the design, engineering, testing or performance for the end-to-end connection of Licensee's equipment, arrangement or facilities.
- 5.6.3. Sprint will, at a minimum, install, maintain, and repair Licensee's collocated equipment within the same time periods and with failure rates that are no greater than those that apply to the performance of similar functions for comparable equipment of Sprint, Sprint's affiliates or third parties. The following services are not covered by this Agreement: 1) services to resolve software or hardware problems resulting from products provided by parties other than Sprint or causes beyond the control of Sprint; 2) service of attached, related, collateral or ancillary equipment or software not covered by this section; 3) repairing damage caused to Licensee's collocated equipment by persons other than Sprint, or its authorized contractors, or 4) repairing damage to other property or equipment caused by operation of Licensee's collocated equipment and not caused by the sole negligence of Sprint.
- 5.6.4. Licensee warrants that Sprint shall have quiet enjoyment of the equipment. Sprint will be entitled to the benefit of any applicable manufacturer's

warranties and indemnities and, to the extent assignable, such warranties and indemnities are hereby assigned by Licensee for the benefit of Sprint and Licensee shall take all reasonable action to enforce such warranties and indemnities where available to Sprint. Licensee shall execute, upon presentation, such documents and instruments as may be required to allow Sprint manufacturer's warranty coverage for any equipment. Licensee warrants that it has full authority to lease the equipment under the terms and conditions set forth herein and that there are no restrictions, legal or otherwise, which would preclude it from so doing.

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

5.6.5. Sprint's preparation, if any, of the Premises (e.g., Power, environmental, etc.) for the Virtual Collocation equipment will be charged to Licensee at rates agreed on by the Parties or as filed in a tariff and approved by the Commission.

5.7. A "Splitter" is a device that divides the data and voice signals concurrently moving across the loop, directing the voice traffic through copper tie cables to the switch and the data traffic through another pair of copper tie cables to multiplexing equipment for delivery to the packet-switched network. The Splitter may be directly integrated into the DSLAM equipment or may be externally mounted.

5.7.1. Splitters

5.7.1.1. Option One. In providing access to the High Frequency Spectrum Network Element, Licensee may purchase, install and maintain the splitter in their caged or cageless collocation space. There are two wiring configurations associated with the DSLAMS: (1) the DSLAM is direct wired to the POTS Splitter and (2) the DSLAM is direct wired to the MDF. All wiring connectivity from Licensee's Splitter(s) (Sprint analog voice input to the splitter and combined analog voice/data output from the splitter) will be cabled out to the Sprint distribution frame for cross connection with jumpers. Sprint will provide and, if requested, install the cabling from Licensee's Collocation Space to Sprint's distribution frame and be reimbursed, as applicable, per the normal collocation process, except that no charges shall apply for any reassignment of

carrier facilities ("CFA") or reduction of existing facilities. Licensee will make all cable connections to their equipment.

5.7.1.2. Option Two - Lease

5.7.1.2.1. Licensee may from time to time, lease to Sprint, at no cost to Sprint, rack mounted POTS splitters that meet applicable FCC requirements, such as the requirements for POTS splitters contained in Annex E in the ADSL standard, T1.413-1998 "Network and Customer Interfaces – Asymmetric Digital Subscriber Line (ADSL) Metallic Interface", and subsequent revisions (the "Splitters") for the sole purpose of having Sprint install the Splitter(s), replace Splitter(s), and replace the Splitter cards in Sprint's Central Offices.

5.7.2. Application and Provisioning

- 5.7.2.1. For each Splitter that Licensee desires to place in a Sprint Central Office in which Licensee is already collocated, Licensee will submit to Sprint an Application. If Licensee is not yet collocated, Licensee will request Splitter provisioning at the time of application for collocation.
- 5.7.2.2. Sprint will complete the installation within 60 calendar days following Firm Order Commitment and Sprint's receipt of the Splitter(s). Sprint will provide Licensee with a deployment schedule for completing installation of the Splitters if the installation will be completed in less than 60 days.
- 5.7.2.3. Licensee agrees to pay the actual costs of the engineering work within 30 days of receipt of Sprint's invoice. Licensee will also pay the full costs of transportation of the Splitters to the applicable Sprint Central Office.
- 5.7.2.4. The Parties agree that each Splitter provided by Licensee to Sprint under a License shall constitute a lease of such Splitter by Licensee to Sprint, at no cost, for the term of the License.

5.7.3. Installation

- 5.7.3.1. Sprint agrees to place the Splitters in the applicable Central Offices in an appropriate location chosen by Sprint. Sprint will use reasonable efforts to install the Splitter in a relay rack or bay as close to the main distribution frame as is reasonably practicable. Unless otherwise agreed upon in writing between the Parties, rack space will be allocated on a shelf by shelf basis.
- 5.7.3.2. All wiring connectivity from Licensee's splitter (Sprint analog voice input to the splitter and combined analog voice/data output from the Splitter) will be cabled out to the Sprint main distribution frame for cross connection with jumpers if practicable.
- 5.7.3.3. Sprint will provide and install the cabling from the Splitter(s) to Sprint's main distribution frame and from the Splitter(s) to Licensee's Collocation Space at pricing set forth in Attachment B, except that no charges shall apply for any reassignment of carrier facilities or reduction of existing facilities.

#### 5.7.4. Cards

- 5.7.4.1. Licensee is responsible for ordering and providing to Sprint splitter cards as necessary to effectively operate the Splitter. Sprint will install such cards per Licensee's instructions. Licensee will provide one empty card for every shelf to be used for repair and maintenance until such time as the card must be used to fill the shelf to capacity. Licensee is responsible for Splitter assignments and monitoring for exhaust based on block and pin assignments.
- 5.7.4.2. Card and Splitter Replacement
  - 5.7.4.2.1. During the term of each License that includes Splitters, Sprint agrees to replace the Splitter cards if requested to do so by Licensee. Sprint and Licensee shall take efforts to minimize possible service disruptions, including, but not limited to, replacing Splitter cards during maintenance windows. Sprint will not use the Splitters for any purposes other than that for which they were designed. Sprint may perform these obligations through Sprint's employees or any qualified company.
  - 5.7.4.2.2. Licensee will provide replacement cards and replacement Splitters as required. Replacement Splitters will be either new or of like-new quality.

Upon Licensee's written request, Sprint will return the replaced Splitter(s) to Licensee. Licensee agrees to pay the full costs of transportation of replacement Splitters to and from Sprint's central office.

5.7.4.2.3. The following services are not covered by this Agreement: 1) services to resolve software or hardware problems resulting from products provided by parties other than Sprint or causes beyond the control of Sprint; 2) service of attached, related, collateral or ancillary equipment or software not covered by this Agreement; 3) repairing damage caused to the Splitter by persons other than Sprint, or its authorized contractors, or 4) repairing damage to other property or equipment caused by operation of the Splitter and not caused by the sole negligence of Sprint.

#### 5.7.5. Co-operative Testing and Inspection

5.7.5.1. Licensee agrees that operation of the Splitters will not commence before Licensee provides a device to Sprint, which will allow Sprint to test when it installs the Splitters and cabling.

5.7.5.2. Sprint agrees to allow Licensee to have reasonable, escorted access to the Splitters and the termination points for cooperative testing and inspection upon the request of either party, at a time mutually agreeable to both parties and in accordance with Sprint's Co-operative Testing Policy. The requesting party agrees to pay the other party's actual costs calculated on a time and material basis.

5.7.5.3. When the Licensee is provided test access to the splitter and its termination points, Licensee will at all times permit only those of its employees, contractors, or agents to make such testing who are properly certified as qualified under reasonable terms and conditions determined by Sprint within its sole discretion, and under such contract arrangements reasonably required by Sprint of Licensee.

#### 5.7.6. Payment

5.7.6.1. Sprint shall perform replacement of the cards and the Splitters on a time and materials basis as needed. Licensee will make Payment according to the License for maintenance services within 30 days of receipt by Licensee of Sprint's invoice.

5.7.6.2. Prices for all other services associated with the Splitters, including rack or bay space, are reflected in the price list or applicable tariff.

#### 5.7.7. Return of Splitters

5.7.7.1. Upon termination of any License that includes Splitters (by expiration or otherwise) Sprint will insure that the Splitter is in as good operating order, repair, condition and appearance as when received, less normal wear and tear, and excepting physical damage, loss, destruction, theft or governmental taking in which case the provisions of Section 10 shall apply. Licensee agrees to provide Sprint via pre-paid delivery with a medium for packaging and transportation of such Splitter. Licensee absolves Sprint of any damage, which may occur as a result of Splitter transportation to Licensee.

#### 5.7.8. Labeling

5.7.8.1. Sprint agrees that, upon the request of Licensee, it shall cause the Splitters to be plainly, permanently, and conspicuously marked, by metal tag or plate supplied by Licensee to be affixed thereto, indicating Licensee's ownership of the Splitters. Sprint will not remove, destroy or obliterate any such marking. Sprint agrees to keep all Splitters free from any marking or labeling which might be interpreted as a claim of ownership thereof by Sprint or any party other than the Licensee.

#### 5.7.9. Loss and Damage

5.7.9.1. Licensee shall bear the risk of loss or damage to the Splitter, except that occasioned by Sprint's willful acts or gross negligence, with respect to any damage, destruction, loss, theft or governmental taking of any Splitter.

#### 5.7.10. Warranty

5.7.10.1. Licensee warrants to Sprint that, so long as no event of default has occurred and is continuing under this Amendment, neither Licensee nor any assignee of Licensee will disturb Sprint's quiet and peaceful possession of the Splitters and Sprint's unrestricted use thereof for its intended purposes and Licensee warrants that Sprint shall have quiet enjoyment of the Splitters.



Sprint will be entitled to the benefit of any applicable manufacturer's warranties and indemnities and, to the extent assignable, such warranties and indemnities are hereby assigned by Licensee for the benefit of Sprint and Licensee shall take all reasonable action to enforce such warranties and indemnities where available to Sprint. Licensee shall execute, upon presentation, such documents and instruments as may be required to allow Sprint manufacturer's warranty coverage for any Splitter. Licensee warrants that it has full authority to lease the Splitters under the terms and conditions set forth herein and that there are no restrictions, legal or otherwise, which would preclude it from so doing.

**5.7.11. Payment to Manufacturer**

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

**5.7.12. Forecast**

**5.7.12.1.** Licensee will provide monthly forecast information to Sprint updated quarterly on a rolling twelve-month basis for requests for Voice Grade Loops (including Subloops), Non-Voice Grade Loops (including Subloops), and HFS UNEs. An initial forecast meeting should be held soon after the first implementation meeting. A forecast should be provided at or prior to the first implementation meeting. The forecasts shall project the gain/loss of shared lines on a monthly basis by Sprint wire center and shall include a description of any major network projects planned by Licensee that will affect the demand. Forecast information shall be subject to the confidentiality provisions of this Agreement. Forecast information will be used solely for network planning and operations planning and shall not be disclosed within Sprint except as required for such purposes. Under no circumstances shall Licensee's specific forecast information be disclosed to Sprint's retail organization (excluding solely those operational personnel engaged in network and operations planning), product planning, sales or marketing.

5.7.12.2. Upon request of either Party, the Parties shall meet to review their forecasts going forward if forecasts vary significantly from actual results.

5.7.12.3. Each Party shall provide a specified point of contact for planning purposes.

**5.7.13. Indemnification**

5.7.13.1. Each Party, whether a Licensee or Sprint, agrees that should it cause any non-standard DSL technologies to be deployed or used in connection with or on Sprint facilities, that Party will pay all costs associated with any damage, service interruption or other telecommunications service degradation, or damage to the other Party's facilities.

5.7.13.2. For any technology, Licensee represents that its use of any Sprint network element, or of its own equipment or facilities in conjunction with any Sprint network element, will not materially interfere with or impair service over any facilities of Sprint, its affiliated companies or connecting and concurring carriers, cause damage to Sprint's plant, impair the privacy of any communications carried over Sprint's facilities or create hazards to employees or the public. Upon reasonable written notice and after a reasonable opportunity to cure, Sprint may discontinue or refuse service if Licensee violates this provision, provided that such termination of service will be limited to Licensee's use of the element(s) causing the violation. Sprint will not disconnect the elements causing the violation if, after receipt of written notice and opportunity to cure, Licensee demonstrates that their use of the network element is not the cause of the network harm.

**6. DEMARCATION POINT.**

6.1. Sprint will designate the point of demarcation, unless otherwise mutually agreed to by the Parties, in or adjacent to its Collocation Space. At Licensee's request, Sprint will identify the location(s) of other possible demarcation points available to Licensee, and Licensee will designate from these location(s) the point(s) of demarcation between its collocated equipment and Sprint's equipment. Sprint will use its best efforts to identify the closest demarcation point to Licensee's equipment that is available.

6.2. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. For 2-wire and 4-wire connections to Sprint's network, Sprint may offer, as an option to Licensee, a demarcation point that is a common block on Sprint designated conventional

distributing frame. Licensee will be responsible for providing, and Licensee's third party vendor shall be responsible for installing and properly labeling/stenciling, the common block, and necessary cabling. Licensee or its agent must perform all required maintenance to equipment/facilities on its side of the demarcation point, following, and may self-provision cross-connects that may be required within the Collocation Space to activate service requests.

- 6.3. At Licensee's option and expense, a point of termination (POT) bay, frame or digital cross-connect may be placed in or adjacent to the Collocation Space that may, at Licensee's option, serve as the demarcation point. If Licensee elects not to provide a POT frame, Sprint will agree to handoff the interconnection cables to Licensee at its equipment, at Licensee's designated demarcation point. When Licensee elects to install its own POT frame/cabinet, Sprint must still provide and install the required DC power panel.

## **7. APPLICATION PROCESS.**

- 7.1. Upon Licensee's selection of a Premises in which it desires to collocate its Equipment, Sprint will provide a then current collocation application form (the "Application") to Licensee. Licensee will submit an Application when initially requesting Collocation Space, or modifying the use of the Collocation Space in a manner that exceeds its forecasted space and power requirements. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in Licensee's Collocation Space(s), an estimate of the amount of square footage required (or, in the case of Cageless Collocation, bay-space), as well as the associated power requirements, floor loading, and heat release of each piece.
  - 7.1.1. Licensee will complete the Application, and return it, along with the appropriate Application Fee, to Sprint. The Application shall include complete details of the collocation and interconnection requested, including, but not limited to, specific floor space, power, and environmental conditioning requirements. Sprint will not process an Application until both the Application and the applicable Application fee are received.
  - 7.1.2. Application Augment Fee. In the event Licensee desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Sprint, Licensee will complete a subsequent Application detailing all information regarding the modification to the Collocation Space together with payment of the appropriate Application Augment Fee. Such modifications to the Premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements, changes to power plant requirements, and equipment additions.

- 7.1.3. No Subsequent Fee. Where Licensee modifies the use of the Collocation Space or adds equipment that requires no additional engineering or preparation work on the part of Sprint, Sprint will not impose additional charges or additional intervals that would delay Licensee's operation. Licensee will notify Sprint of the modifications or additional equipment prior to installation.
- 7.1.4. If Collocation Space is unavailable or Licensee withdraws its request, the Application fee, less the costs incurred by Sprint (e.g. engineering record search and administrative activities required to process the Application) will be refunded.
- 7.2. Multiple Methods. If Licensee wishes Sprint to consider multiple methods for collocation on a single Application, Licensee will need to include in each Application a prioritized list of its preferred methods of collocating, e.g., caged, shared, or other, as well as adequate information, (e.g., specific layout requirements, cage size, number of bays, requirements relative to adjacent bays, etc.) for Sprint to process the Application for each of the preferred methods. If Licensee provides adequate information and its preferences with its Application, Sprint may not require an additional Application, nor would Licensee be required to restart the quotation interval should its first choice not be available in a requested Premises. Sprint will not select for Licensee the type of collocation to be ordered.
- 7.3. Within ten days after receiving Licensee's Application for Physical Collocation, Sprint must inform Licensee whether the Application meets each of Sprint's established collocation standards. Should Licensee submit a revised Application curing any deficiencies in an Application for Physical Collocation within ten days after being informed of them, Licensee shall retain its original position within any collocation queue that Sprint maintains. If Sprint informs Licensee that there is a deficiency in an Application, Sprint must provide sufficient detail so that Licensee has a reasonable opportunity to cure each deficiency.
- 7.4. In order to increase the amount of space available for collocation, Sprint will, upon request, remove obsolete unused equipment, from its Premises to increase the amount of space available for collocation.
- 7.5. Revisions. All revisions to an initial request for a Physical Collocation Arrangement submitted by Licensee must be in writing. A new interval for the Physical Collocation Arrangement will be established which shall not exceed two months beyond the originally established date. Licensee will be required to pay any applicable application fees.
- 7.6. Price Quote. Sprint will provide a price quote within fourteen (14) calendar days of providing the response to the request for space availability for one (1) to five (5) applications, and within twenty (20) calendar days for six (6) or more applications. The quotation will include the applicable nonrecurring and recurring

rates, and (where applicable) the estimated construction or provisioning interval no later than those specified above.

- 7.7. Licensee has sixty-five (65) calendar days from receipt of the quotation to accept the quotation in writing. The quotation expires after sixty-five (65) calendar days. After sixty-five (65) calendar days, a new Application and Application fee are required. Collocation Space is not reserved until the quotation is accepted. Sprint need not meet the deadlines for provisioning Physical Collocation if, after receipt of any price quotation provided by Sprint, Licensee does not notify Sprint that physical collocation should proceed.
- 7.8. Bona Fide Firm Order (BFFO). For physical, both caged and cageless, and virtual collocations, Licensee will indicate its intent to proceed with equipment installation in a Sprint Premises by accepting the price quote, which constitutes a BFFO. The BFFO must be received by Sprint no later than sixty-five (65) calendar days after Sprint's provisioning of the price quote in response to Licensee's Application. If Licensee makes changes to its application in light of Sprint's written Application Response, Sprint may be required to re-evaluate and respond to the change(s). In this event, Licensee's Application will be treated as a Revision.
- 7.9. Space preparation for the Collocation Space will not begin until Sprint receives the Bona Fide Firm Order and all applicable fees, including all non-recurring charges.

## **8. APPLICATION RESPONSE.**

- 8.1. Application Intervals. Sprint shall provide confirmation of space availability for one (1) to five (5) applications submitted within ten (10) calendar days from the receipt of a completed application and application fee. For six (6) to twenty (20) applications, Sprint shall provide confirmation of space availability within twenty-five (25) calendar days from the receipt of a completed application and application fee. Should Licensee submit twenty-one (21) or more application request within five (5) business days, confirmation of space availability will be increased by five (5) calendar days for every five (5) additional reports requested or fraction thereof. In addition to response time for confirmation of space availability, and additional twenty (20) calendar days will be required for estimated price.
  - 8.1.1. Sprint will notify Licensee in writing as to whether its request for Collocation Space has been granted or denied due to lack of space. The notification will also include a possible future space relief date, if applicable.
  - 8.1.2. In its notification, Sprint will also inform Licensee if the space available for the requested Premises will be Active or Inactive Collocation Space. If Licensee's space is placed in Inactive Space, then the notification shall also

include rationale for placing the requested space in such category, including all power and other factors used in making the determination.

- 8.2. **Denial of Application.** After notifying the Licensee that Sprint has no available space in the requested Central Office (“Denial of Application”), Sprint will allow the Licensee, upon request, to tour the entire Central Office within ten (10) calendar days of such Denial of Application. In order to schedule said tour within ten (10) calendar days, the request for a tour of the Central Office must be received by Sprint within five (5) calendar days of the Denial of Application.
- 8.2.1. If Licensee contests Sprint’s notice that there is not sufficient space in the Central Office, the parties agree to seek expedited resolution of the dispute at the Commission pursuant to Section 251(c)(6) of the Act. If the Commission determines that space is not available, Sprint will not be required to conduct a review of floor space availability in the same central office more frequently than once every six months.
- 8.2.1.1. At the same time that Sprint notifies Licensee of a denial of space, Sprint will file a copy of the letter with the Commission that contains the information required by Applicable Rules, subject to proprietary protections.
- 8.2.2. On a first come, first serve basis, Sprint will maintain a waiting list of requesting carriers who have either received a Denial of Application or, where it is publicly known that the Premises is out of space, have submitted a Letter of Intent to collocate.
- 8.2.3. Sprint will simultaneously notify the telecommunications carriers on the waiting list when space becomes available within ten (10) calendar days if there is enough space to accommodate additional collocation. Subsequent to the granting of a Petition for Waiver, if Licensee has been denied space at a Sprint Premises and challenges Sprint on space availability at said Premises, Licensee will be given priority for space assignment if, as a result of the challenge, space is found to be available. Licensee will reaffirm its collocation request within thirty (30) calendar days of such notification; otherwise, it will be dropped to the bottom of the list. Upon request, Sprint will advise Licensee as to its position on the list.
- 8.2.4. If Licensee’s Application for Physical Collocation is denied due to lack of space, Sprint will place Licensee on the waiting list for collocation in particular Premises according to the date Licensee submitted its Application and not the date of denial for lack of space.
- 8.2.5. Sprint will maintain on its website a notification document that will indicate all Premises that are without available space. Sprint will update such document within ten (10) calendar days of the date at which a Premises runs out of physical collocation space.

## 9. CONSTRUCTION.

- 9.1. Sprint shall permit Licensee or its designated subcontractor to perform the construction of physical collocation space, provided however, that any such Licensee subcontractor shall be subject to Sprint's security standards. Sprint reserves the right to reject any Licensee subcontractor upon the same criteria that Sprint would use on its own subcontractors. Licensee will notify Sprint in writing when construction of physical collocation space is complete. Sprint will commence billing (1) upon notice of completion; (2) 90 business days from Licensee's acceptance of the price quote; or (3) upon commencement of operations, whichever is earliest.
- 9.2. Sprint Inspection. Sprint shall have the right to inspect Licensee's completed installation of equipment and facilities prior to Licensee turning up such equipment and facilities. Licensee shall provide written notification to Sprint when Licensee has completed its installation of equipment and facilities in the Collocation space, and Sprint shall, within five (5) Business Days of receipt of such notice, either (i) inspect such Collocation space or (ii) notify Licensee that Sprint is not exercising its right to inspect such Collocation space at that time and that Licensee may turn up its equipment and facilities. Failure of Sprint to either inspect the Collocation space or notify Licensee of its election not to inspect such space within the foregoing five (5) Business Day period shall be deemed an election by Sprint not to inspect such Collocation space. Licensee shall have the right to be present at such inspection, and if Licensee is found to be in non-compliance with the terms and conditions of this Agreement that relate to the installation and use of Licensee's Collocated equipment and facilities, Licensee shall modify its installation to achieve compliance prior to turning up its equipment and facilities.
- 9.3. To the extent Sprint performs the construction of the Physical Collocation Arrangement, Sprint shall construct the Collocated Space in compliance with mutually agreed collocation request. Any deviation to Licensee's order must thereafter be approved by Licensee. The Parties acknowledge that Licensee approved deviations may require additional construction time and may incur additional Licensee expenses. Licensee shall pay the incremental cost incurred by Sprint as the result of Revision applicable to construction of any Collocation Space. Licensee will pay all nonrecurring charges set forth on the price quote, prior to Sprint commencing construction of the collocation space.
- 9.4. Extraordinary Construction Costs. Licensee will be responsible for all extraordinary costs, as determined in accordance with the Act, incurred by Sprint to prepare the Collocation space for the installation of Licensee's equipment and for extraordinary costs to maintain the Collocation space for Licensee's equipment on a going-forward basis. Extraordinary costs may include costs for such items as asbestos removal, fire suppression system or containment, modifications or expansion of cable entry facility, increasing the DC power system infrastructure capacity, increasing the capacity of the standby AC system

(if available) or the existing commercial power facility, conversion of non-Collocation space, compliance with federal and state requirements, or other modifications required by local ordinances. Sprint will charge for these extraordinary costs on a time-sensitive or time-and-materials basis and will allocate the costs fairly among itself, Licensee and other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to Licensee prior to commencing such work. Extraordinary costs will only be billed to Licensee if such costs have been authorized by Licensee. Sprint must advise Licensee if extraordinary costs will be incurred.

- 9.5. Permits. Each Party or its agents will diligently pursue filing for the permits required for the scope of work to be performed by that Party or its agents.
- 9.6. Acceptance Walk Through. Sprint will notify Licensee when construction of a Collocation Space is complete. The Parties will complete an acceptance walk through of each provisioned Collocation Space. Sprint will commence to correct any deviations to Licensee's original or jointly amended requirements within five (5) calendar days after the walk through. If Licensee does not conduct an acceptance walk through within 15 days of the notification that the Collocation Space construction is complete, Licensee will be deemed to have accepted the Collocation Space and billing will commence.
- 9.7. If, at anytime, Licensee cancels its order for Physical Collocation, Caged, Shared Cage, or Adjacent Space Collocation, or Virtual Collocation, Licensee will reimburse Sprint for any actual expenses incurred and not already paid, which may include incidental equipment costs, material ordered, provided or used; labor; transportation, DS0, DS1 and DS3 cable and all other associated costs. Sprint shall provide Licensee with a detailed listing showing the costs incurred plus monthly recurring costs for six months or the number of months remaining in the contract term whichever is less.

## **10. SPACE RESERVATION.**

- 10.1. Licensee may reserve Collocation space for its future use in Sprint's Premises. Sprint shall notify Licensee in writing if another Telecommunications Carrier requests Collocation space that is reserved by Licensee. Licensee shall, within five (5) Business Days of receipt of such notice, provide Sprint either (i) written notice that Licensee relinquishes such space or (ii) enforce its reservation of space. Failure of Licensee to respond to Sprint within the foregoing five (5) Business Day period shall be deemed an election by Licensee to relinquish such space.
- 10.2. The parties may reserve floor space for their own specific uses for the remainder of the current year, plus twelve (12) months. Neither Sprint, nor any of its affiliates, will reserve space for future use on terms more favorable than those that apply to other telecommunications carriers seeking to reserve collocation space for their own future use. Upon request, Sprint will provide justification for



denying a request to reserve space to Licensee based on a demand and facility forecast. Licensee will pay the cost of preparing the justification. Sprint will not exclusively and unilaterally reserve active space that is supported by existing telecommunications infrastructure space. Sprint will disclose to Licensee the space it reserves for its own future growth and for its interLATA, advanced services, and other affiliates.

## **11. PROVISIONING INTERVALS.**

- 11.1. Caged Provisioning Intervals: Sprint will complete construction, including power, for collocation arrangements in Active Collocation Space within a maximum of 105 calendar days from receipt of a complete and accurate Bona Fide Firm Order. When Active Collocation Space has been exhausted, Sprint will complete construction of all other caged collocation spaces (i.e., caged, shared cage and adjacent space collocation) within 126 calendar days. If Sprint is unable to complete construction as provided herein, the parties may agree to a mutually acceptable interval or Sprint may petition the Commission for waiver.
- 11.2. Cageless Provisioning Intervals: Sprint will complete construction of Active Collocation Space requests for cageless collocation in 60 calendar days from the receipt of Licensee's Bona Fide Firm order where the Licensee is installing all of its own bays. Sprint will complete construction of Active Collocation Space requests for cageless collocation in 60 calendar days from the receipt of Licensee's Bona Fide Firm order where Sprint will be installing all or some of the bays. Sprint will complete construction of cageless collocation in Premises such as CEVs, Huts and Vaults in 105 calendar days from the receipt of Licensee's Bona Fide Firm order where Sprint will be installing all or some of the bays.
- 11.3. Virtual Provisioning Intervals: Sprint will complete construction of virtual collocation arrangements in 60 calendar days from the receipt of the Licensee's Bona Fide Firm Order.

## **12. EQUIPMENT.**

- 12.1. Equipment Type. Licensee may locate equipment necessary for interconnection to Sprint under 47.U.S.C. 251 (C) (2) and accessing Sprint's unbundled network elements under 47.U.S.C. 251 (C) (3).
- 12.2. Licensee's equipment and facilities shall not be placed or operated in such a manner that creates hazards or causes physical harm to any individual or the public.
- 12.3. All equipment to be collocated must meet Level 1 safety requirements as set forth in Telcordia Network Equipment and Building Specifications (NEBS), but Sprint will not impose safety requirements on Licensee that are more stringent than the safety requirements it imposes on its own equipment. Sprint may not deny collocation of Licensee's equipment because the equipment fails to meet NEBS

reliability standards. If Sprint denies collocation of Licensee's equipment, citing safety standards, Sprint must provide to Licensee within five (5) business days of the denial a list of all equipment that Sprint locates within the Premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that Sprint contends the competitor's equipment fails to meet. In the event that Sprint believes that the collocated equipment is not necessary for interconnection or access to unbundled network elements or determines that Licensee's equipment does not meet NEBS Level 1 safety requirements, Licensee will be given ten (10) calendar days to comply with the requirements or remove the equipment from the collocation space. If the parties do not resolve the dispute, the Parties may file a complaint at the Commission seeking a formal resolution of the dispute. While the dispute is pending, Sprint will not prevent or otherwise delay installation of the disputed equipment in the Collocation space; however, Licensee will not activate the equipment during the pendency of the dispute.

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

### **13. AUGMENTS AND ADDITIONS.**

- 13.1. When Licensee adds equipment within initial forecasted demand parameters that requires no additional space preparation work on the part of Sprint, Sprint may not impose additional charges or additional intervals that would delay the Licensee's operation.
- 13.2. Sprint will provide reduced intervals, not to exceed the interval for a new collocation space, to Licensee with existing physical collocation space that requests augments. In such instances, the Licensee must provide an accurate front equipment view (a.k.a. rack elevation drawing) specifying bay(s) for the Licensee's point of termination.
- 13.3. The reduced provisioning interval will apply only when Licensee provides a complete Application accompanied by the applicable Application Fee.
- 13.4. Licensee must submit an Application and applicable Application fee to obtain a price quote. The price quote will contain the charges and the construction interval

for that application. The construction interval for augments will not exceed 90 calendar days after acceptance and authorization by Licensee. If special or major construction is required, Sprint will work cooperatively with Licensee to negotiate mutually agreeable construction intervals for augments.

#### 14. USE OF COMMON AREAS.

- 14.1. Licensee, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by Sprint from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas adjacent to the Building for vehicles of persons while working for or on behalf of Licensee at the Collocation Space; provided, however, that Sprint shall have the right to reserve parking spaces for Sprint's exclusive use or use by other occupants of the Building. Sprint does not guarantee that there is or will be sufficient parking spaces in parking areas to meet Licensee's needs. Sprint does not guarantee that restroom facilities or water will be available. All common areas shall remain under the exclusive control and management of Sprint, and Sprint shall have the right to change the level, location and arrangement of parking areas and other common areas, as Sprint may deem necessary. Use of all common areas shall be subject to such reasonable rules and regulations as Sprint may from time to time impose, consistent with Licensee's right to access its Collocation Space.
- 14.2. Water. Sprint, where water is available for its own use, shall furnish running water from regular Building outlets for drinking, lavatory and toilet purposes drawn through fixtures installed by Sprint, for the non-exclusive use of Licensee, Sprint and any other building occupant. Licensee shall not waste or permit the waste of water.
- 14.3. Security Service. Sprint shall furnish Building and Premises security in accordance with its normal business practices. Other than the locks on the entrances to the Collocation Space, Sprint shall provide no security specific to Licensee's Collocation Space. Sprint shall not be liable to Licensee or any other party for loss of or damage to the Collocation Space or LOE unless Sprint has failed to provide Building and Premises security in accordance with its normal business practices.
- 14.4. Elevator Service. Sprint shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which Licensee has access pursuant to the terms of this Agreement 24 hours a day, seven days a week. Freight elevator service when used by Licensee's contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Sprint.

## 15. SPRINT'S SERVICES AND OBLIGATIONS.

- 15.1. Adjacent in this Section 14 is referring to collocations in the same premises that have a common border; and is not referring to a form of physical collocation as described in CFR Part 47 51.323(k)(3).
- 15.2. For the term of this Agreement, unless earlier terminated, Sprint shall furnish the following services:
- 15.3. Interconnection. Sprint shall permit Licensee to interconnect its network, via cross-connect facilities, with that of another adjacent collocating telecommunications carrier at the Sprint Premises. Sprint will provide such cross-connect facilities for non-adjacent locations at the expense of the Licensee per the Licensee's request.
  - 15.3.1. If a Licensee occupies more than one Collocation Space location within the Premises, Licensee may interconnect its equipment contained in the two separate adjacent Collocation Space locations. Sprint will provide such cross-connect facilities for non-adjacent locations at the expense of the Licensee per the Licensees request.
- 15.4. Transmission Facility Options. For both Physical Collocation and Virtual Collocation, Licensee may purchase unbundled transmission facilities (and any necessary Cross-Connection) from Sprint, provide its own transmission facilities, or utilize the transmission facilities of a third party. The transmission facilities shall be terminated at the Licensee's Collocation Space or at a mutually agreed upon location within Sprint's Premises.

## 16. RATES.

- 16.1. The rates for collocation are listed on Attachment B.
- 16.2. If Licensee is the first CLEC in the Sprint premises, Licensee will not be responsible for the entire cost of site preparation and security. However, ancillary charges for unique collocator requests for collocation options directly attributable to the requesting collocator will not be prorated. Examples include power arrangements, remote switch module related options and POT bay-related options.
- 16.3. The rates and charges in this Agreement do not include costs for any Americans with Disability Act (ADA) construction generated or caused by the physical collocation space request. If required, ADA construction will be provided on an ICB. If Sprint is required to upgrade a Premises, or portion of the Premises to comply with the ADA which arises as a direct result of Licensee's Collocation Arrangement, Sprint will prorate the total forward-looking economic cost of the upgrade, and allocate the charge to each CLEC collocated within the Premises, based on the total space utilized by each collocated CLEC. Should Sprint benefit in any way whatsoever from the ADA upgrades, it shall share in the proration of costs. Should Sprint be the sole beneficiary of an upgrade (e.g., an upgrade would

have had to be made regardless of whether or not a CLEC was collocated in the Premises), Sprint shall absorb all of the costs related to such an upgrade.

## 17. SPRINT SERVICES AND OBLIGATIONS.

17.1. Environmental Controls. Sprint shall furnish air conditioning and/or other environmental controls for the area in which the Collocation Space is located in a manner consistent with those provided elsewhere in the Building. Sprint shall furnish air conditioning and/or other environmental controls for the Collocation Space based on information provided by Licensee to Sprint in its application which Licensee hereby represents to Sprint is sufficient to allow the LOE to function without risk of harm or damage to the Collocation Space, the Building or any equipment or facilities of Sprint or any other occupant of the Building. These environmental conditions shall adhere to Telecordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed standards.

17.1.1. If Licensee locates equipment or facilities in the Collocation Space which Sprint determines, in the exercise of its sole discretion, affect the temperature or other environmental conditions otherwise maintained by Sprint in the Building, Sprint reserves the right to provide and install supplementary air conditioning units or other environmental control devices in the Collocation Space, and the cost of providing, installing, operating and maintaining any such supplementary air conditioning units or other environmental control devices made necessary solely by Licensee's equipment or facilities shall be paid by Licensee to Sprint. If supplementary air conditioning units or other environmental control devices are required for more than one Licensee each Licensee will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation.

17.2. Electricity. If Sprint, in the exercise of its reasonable business judgment, determines that the electricity provided to Licensee pursuant to this Section is insufficient to support the activity being carried on by the Licensee in the Collocation Space, Sprint may require the installation of additional electrical circuits to provide Licensee with additional electricity and Licensee shall reimburse Sprint for any expenses incurred in making such additional electrical circuits available to Licensee's Collocation Space. Licensee shall also pay for additional electricity provided via these circuits.

17.2.1. Licensee covenants and agrees that Sprint shall not be liable or responsible to Licensee for any loss, damage or expense which Licensee may sustain or incur if either the quality or character of electrical service is changed or is no longer suitable for Licensee's requirements.

17.2.2. Licensee covenants and agrees that its use of electric current shall never exceed the capacity of existing feeders to the Building or the Collocation

Space, when reviewed in conjunction with electrical usage of other occupants in the Building.

- 17.2.3. Central office power supplied by Sprint into the Licensee equipment area shall be supplied in the form of power feeders (cables) on cable racking into the designated Licensee equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of Licensee equipment. The termination location shall be as agreed by the parties.
- 17.2.4. Sprint shall provide power as requested by Licensee to meet Licensee's need for placement of equipment, interconnection, or provision of service.
- 17.2.5. Sprint power equipment supporting Licensee's equipment shall:
  - 17.2.5.1. Comply with applicable industry standards (e.g., Telecordia, NEBS and IEEE) or manufacturer's equipment power requirement specifications for equipment installation, cabling practices, and physical equipment layout or at minimum, at parity with that provided for similar Sprint equipment;
  - 17.2.5.2. Have redundant power feeds with physical diversity and battery back-up as required by the equipment manufacturer's specifications for Licensee equipment, or, at minimum, at parity with that provided for similar Sprint equipment;
  - 17.2.5.3. Provide, upon Licensee's request, the capability for real time access to power performance monitoring and alarm data that impacts (or potentially may impact) Licensee traffic;
  - 17.2.5.4. Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of Licensee equipment plus or minus 2 feet to the left or right of Licensee's final request; and
  - 17.2.5.5. Provide feeder cable capacity and quantity to support the ultimate equipment layout for Licensee's equipment in accordance with Licensee's collocation request.
- 17.2.6. Sprint shall provide cabling that adheres to Telecordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;
- 17.2.7. Sprint shall provide Lock Out-Tag Out and other electrical safety procedures and devices in conformance with the most stringent of OSHA or industry guidelines.
- 17.2.8. Sprint will provide Licensee with written notification within ten (10) business days of any scheduled AC or DC power work or related activity

in the collocated facility that will or might cause an outage or any type of power disruption to Licensee equipment located in Sprint facility. Sprint shall provide Licensee immediate notification by telephone of any emergency power activity that would impact Licensee's equipment.

- 17.3. Fire Safety System. Subject to the provisions of Section 6.6.3 hereof, Sprint may furnish an existing Halon 1301 Fire Suppression System, or may, but is not obligated to, provide its equivalent, to provide fire protection in the Collocation Space designed to comply with the National Fire Protection Association ("NFPA") 12A Standard on Halon 1301 Fire Extinguishing Systems or with NFPA standard 2001 dealing with alternative fire suppression agents. Sprint shall furnish fire and smoke detection systems designed to comply with the NFPA 72E Standard on Automatic Fire Detectors in effect as of the collocation date.
- 17.3.1. Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Sprint as required by applicable fire codes.
- 17.3.2. Sprint and Sprint's insurance carriers will perform regular inspections of fire protection systems, and Licensee hereby agrees to provide Sprint and Sprint's insurance carriers access to the Collocation Space for purposes of such inspections, via pass key or otherwise. Sprint agrees to provide Licensee with notice of its intent to access Licensee's Collocation Space where, in Sprint's sole discretion, such notice is practicable; provided, however, that no failure of Sprint to give such notice will affect Sprint's right of access or impose any liability on Sprint. Sprint will, at its expense, maintain and repair the fire and smoke detection systems unless maintenance or repair is required due to the act or omission of Licensee, its employees, agents or invitees, in which case Licensee shall reimburse Sprint for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, the Licensee shall, if at fault, and at Sprint's option, replace Halon or other fire extinguishing material discharged as a result of Licensee's act or omission. Licensee shall have no duty to inspect fire protection systems outside the Collocation Space; provided, however, if Licensee is aware of damage to the fire protection systems it shall promptly notify Sprint.
- 17.3.3. Licensee is aware the Collocation Space will contain a fire detection system and may contain a fire suppression system. In the event of discharge, Sprint is relieved of all liability for damage to equipment or personal injury except in cases where such damage to equipment or personal injury is due to the gross negligence or willful misconduct of Sprint, its officers, agents or employees.
- 17.4. Repairs. Sprint shall, at its sole expense, except as hereinafter provided, provide repair and maintenance of heating, cooling and lighting equipment and regularly scheduled refurbishment or decorating to the Collocation Space, Building and Premises, in a manner consistent with Sprint's normal business practices.

- 17.4.1. Sprint shall not be obligated to inspect the Collocation Space, make any repairs or perform any maintenance unless first notified of the need in writing by Licensee. If Sprint shall fail to commence such repairs or maintenance within 20 days after written notification, provided that such delays are not caused by Licensee, Licensee's sole right and remedy shall be, after further notice to Sprint, to make such repairs or perform such maintenance and to deduct that cost and expenses from the physical collocation fees payable; provided, however, that the amount of such deduction shall not exceed the reasonable value of such repairs or maintenance.
- 17.4.2. Sprint shall, where practical, provide Licensee with 24 hours prior notice before making repairs and/or performing maintenance on the Collocation Space; provided, however, that Sprint shall have no obligation to provide such notice if Sprint determines, in the exercise of its sole discretion, that such repair or maintenance must be done sooner in order to preserve the safety of the Building or the Collocation Space, or if required to do so by any court or governmental authority. Work shall be completed during normal working hours or at other times identified by Sprint; provided, however, that Licensee shall pay Sprint for overtime and for any other expenses incurred if such work is done during other than normal working hours at Licensee's request. Licensee shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.
- 17.4.3. The cost of all repairs and maintenance performed by or on behalf of Sprint to the Collocation Space which are, in Sprint's reasonable judgment, beyond normal repair and maintenance, or are made necessary as a result of misuse or neglect by Licensee or Licensee's employees, invitees or agents, shall be paid by Licensee to Sprint within 10 days after being billed for such repairs and maintenance by Sprint.
- 17.5. Sprint shall provide Licensee with notice via email three (3) business days prior to those instances where Sprint or its subcontractors perform work which is known to be a service affecting activity. Sprint will inform Licensee by email of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Sprint learns that such outage has occurred.
- 17.6. Interruption of Services. Sprint reserves the right to stop any service when Sprint deems such stoppage necessary by reason of accident or emergency, or for repairs, improvements or otherwise; however, Sprint agrees to use its best efforts not to interfere with Licensee's use of Collocation Space. Sprint does not warrant that any service will be free from interruptions caused by labor controversies, accidents, inability to obtain fuel, water or supplies, governmental regulations, or other causes beyond the reasonable control of Sprint.



- 17.6.1. No such interruption of service shall be deemed an eviction or disturbance of Licensee's use of the Collocation Space or any part thereof, or render Sprint liable to Licensee for damages, by abatement of Licensee Fees or otherwise, except as set forth in the Tariff, or relieve Licensee from performance of its obligations under this Agreement. Licensee hereby waives and releases all other claims against Sprint for damages for interruption or stoppage of service.
- 17.7. Access. For physical collocation, subject to reasonable building rules and any applicable Security Arrangements, Licensee shall have the right of entry twenty-four (24) hours per day seven (7) days a week to the Building, common areas, Collocation Space and common cable space.
- 17.7.1. Sprint, at Licensee's expense, may issue non-employee photo identification cards for each Licensee employee or vendor. Temporary identification cards may otherwise be provided by Sprint for employees or agents, contractors and invitees of Licensee who may require occasional access to the Collocation Space.
- 17.7.2. Sprint may issue access cards, codes, or keys to Licensee's listed employees or vendors where such systems are available and their use by Licensee will not otherwise compromise building security.
- 17.7.3. Sprint reserves the right to close and keep locked all entrance and exit doors of the Premises during hours Sprint may deem advisable for the adequate protection of the Premises. Use of the Premises at any time it is unattended by appropriate Sprint personnel, or on Sundays and state and federal or other holidays recognized by Sprint, or, if Licensee's Collocation Space is not fully segregated from areas of the Premises containing Sprint equipment, shall be subject to such reasonable rules and regulations as Sprint may from time to time prescribe for its own employees and third party contractors.
- 17.7.4. To require all persons entering or leaving the Premises during such hours as Sprint may from time to time reasonably determine to identify themselves to a watchman by registration or otherwise and to establish their right to leave or enter, and to exclude or expel any solicitor or person at any time from the Collocation Space or the Premises. Sprint assumes no responsibility and shall not be liable for any damage resulting from the admission or refusal to admit any unauthorized person or from the admission of any authorized person to the Premises, provided that such damage is not the result of gross negligence or willful misconduct on the part of Sprint.
- 17.8. Access Right of Sprint. Sprint shall have access to Licensee's Physical Collocation Space at all times, via pass key or otherwise, to allow Sprint to react to emergencies, to maintain the space (not including Licensee's equipment), and

to monitor compliance with the rules and regulations of the Occupational Health and Safety Administration or Sprint, or other regulations and standards including but not limited to those related to fire, safety, health, and environmental safeguards. If a secure enclosure defining the location of the Licensee's Collocation Space has been established, and if conditions permit, Sprint will provide Licensee with notice (except in emergencies) of its intent to access the Collocation Space, thereby providing Licensee the option to be present at the time of access. Licensee shall not attach, or permit to be attached, additional locks or similar devices to any door or window, nor change existing locks or the mechanism thereof.

- 17.8.1. To enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Sprint deems necessary. Licensee hereby waives any claim for damage, injury, interference with Licensee's business, any loss of occupancy or quiet enjoyment of the Collocation Space, and any other loss occasioned by the exercise of Sprint's access rights, except in the event such damages result solely from the gross negligence or willful misconduct of Sprint.
- 17.8.2. To use any means Sprint may deem proper to open Collocation Space doors or enclosures in an emergency. Entry into the Collocation Space obtained by Sprint by any such means shall not be deemed to be forcible or unlawful entry into or a detainment of or an eviction of Licensee from the Collocation Space or any portion thereof.

## **18. LICENSEE'S OBLIGATIONS.**

- 18.1. Inspection and Janitorial. Licensee shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. Licensee shall promptly notify Sprint of any damage to the Collocation Space or of the need to perform any repair or maintenance of the Collocation Space, fixtures and appurtenances (including hardware, heating, cooling, ventilating, electrical and other mechanical facilities in the Collocation Space). Licensee shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.
- 18.2. Security Arrangements. Licensee agrees to abide by all of Sprint's security practices for non-Sprint employees with access to the Building, including, without limitation:
  - 18.2.1. Licensee will supply to Sprint, and update as changes occur, a list of its employees or approved vendors who require access to the Premises. The list will include the social security numbers of all such individuals. Sprint may reasonably object to any person on the list, in which case that person will be denied entry into the building. Sprint's objections will be consistent with the grounds for denying access to personnel of its own contractors or for denying employment directly with Sprint.

- 18.2.2. Licensee is responsible for returning identification and access cards, codes, or keys of its terminated employees or its employees who no longer require access to the Collocation Space. All cards, codes, or keys must be returned upon termination of the applicable Collocation Space. Licensee will reimburse Sprint actual costs due to unreturned or replacement cards, codes, or keys.
- 18.2.3. Licensee's employees, agents, invitees and vendors must display identification cards at all times.
- 18.2.4. Licensee will assist Sprint in validation and verification of identification of its employees, agents, invitees and vendors by providing a telephone contact available 24 hours a day, seven days a week to verify identification.
- 18.2.5. Removal of all furniture, equipment or similar articles will be based on local Sprint security practices. These security practices will not be more stringent for Licensee than Sprint requires for its own employees or Sprint's contractors.
- 18.2.6. Before leaving the Collocation Space unattended, Licensee shall close and securely lock all doors and windows and shut off unnecessary equipment in the Collocation Space. Any injury to persons or damage to the property of Sprint or any other party with equipment in the Building resulting from Licensee's failure to do so shall be the responsibility of Licensee. Licensee will defend and indemnify Sprint from and against any claim by any person or entity resulting in whole or in part from Licensee's failure to comply with this section.
- 18.2.7. Licensee agrees that Sprint may provide a security escort for physical collocation, at no cost or undue delay to Licensee, to Licensee personnel while on Sprint Premises. While such escort shall not be a requirement to Licensee's entry into the Building, Licensee must allow the security escort to accompany Licensee personal at all times and in all areas of the Building, including the Collocation Space, if so requested.
- 18.2.8. Licensee shall post in a prominent location visible from the common Building area, the names and telephone numbers of emergency contact personnel along with names and telephone numbers of their superiors for 24 hour emergency use by Sprint. Licensee shall promptly update this information as changes occur.
- 18.3. Electricity. Licensee will provide Sprint with written notification within ten (10) business days of any scheduled AC or DC power work or related activity in the collocated facility that will or might cause an outage or any type of power disruption to Sprint equipment located in Licensee facility. Licensee shall provide Sprint immediate notification by telephone of any emergency power activity that would impact Sprint equipment.

- 18.4. Uninterruptible Power Supply (UPS). Licensee shall not provision and/or install UPS systems within the Sprint premises. The customer is permitted to install Inverted Power Systems if and only if documented compliance with National Equipment Building Standards (NEBS) III and Listing by Underwriters Laboratory (UL) has been met.
- 18.5. Electro-Chemical Stationary Batteries. Licensee shall not place Electro-Chemical Storage Batteries of any type inside the collocation space.
- 18.6. Interruption of Services. Licensee shall provide Sprint with written notice three (3) business days prior to those instances where Licensee or its subcontractors perform work, which is to be a known service affecting activity. Licensee will inform Sprint by email of any unplanned service outages. The parties will then agree upon a plan to manage the outage so as to minimize customer interruption. Notification of any unplanned service outage shall be made as soon as practicable after Licensee learns that such outage has occurred so that Sprint can take any action required to monitor or protect its service.
- 18.7. Telephone. Licensee may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by Licensee and at Licensee's expense, Sprint will provide basic telephone service with a connection jack in the Collocation Space.
- 18.8. Fire Protection Systems. Licensee shall, with the prior written consent of Sprint, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that Licensee may not install or use sprinklers or carbon dioxide fire suppression systems within the Building or the Collocation Space.
- 18.8.1. If any governmental bureau, department or organization or Sprint's insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the Building in which the Collocation Space of Licensees in general are located, such changes, modifications, or additions shall be made by Sprint and Licensee shall reimburse Sprint for the cost thereof in the same proportion as the size of the Licensee's Collocation Space as compared to the total available collocation space in the affected portion of the Building.
- 18.9. Hazardous Materials. Licensee shall identify and shall notify Sprint in writing of any Hazardous Materials Licensee may bring onto the Premises, and will provide Sprint copies of any inventories or other data provided to State Emergency Response Commissions ("SERCs"), Local Emergency Planning Committees ("LEPCs"), or any other governmental agencies if required by the Emergency Planning and Community Right to Know Act (41 U.S.C. 11001, et seq.). Licensee, its agents and employees shall transport, store and dispose of Hazardous

Materials in accordance with all applicable federal, state or local laws, ordinances, rules and regulations. Licensee will promptly notify Sprint of any releases of Hazardous Materials and will copy Sprint on any notification of or correspondence with any governmental agency which may be required by any environmental law as a result of such release.

- 18.9.1. Licensee shall provide Sprint copies of all Material Safety Data Sheets ("MSDSs") for materials or chemicals regulated under the OSHA Hazard Communication Standard (29 C.F.R. 1910.1200) that are brought onto the property. All such materials shall be labeled in accordance with 29 C.F.R. 1910.1200 and applicable state regulations if such regulations are more stringent.
- 18.9.2. If Sprint discovers that Licensee has brought onto Sprint's Premises Hazardous Materials without notification, or is storing or disposing of such materials in violation of any applicable environmental law, Sprint may, at Sprint's option and without penalty, terminate the applicable Collocation Space or, in the case of pervasive violation, this Agreement or suspend performance hereunder. Licensee shall be responsible for, without cost to Sprint, the complete remediation of any releases or other conditions caused by its storage, use or disposal of Hazardous Materials. Licensee shall also be responsible for removing and disposing of all Hazardous Materials on its Collocation Space at the termination of the applicable Collocation Space or this Agreement. If Sprint elects to terminate the applicable Collocation Space or this Agreement or discontinue the performance of services hereunder due to the storage, use or disposal of Hazardous Materials contrary to the terms of this Agreement, Licensee shall have no recourse against Sprint and shall be responsible for all costs and expenses associated with such termination or suspension of service in addition to being responsible for any remedies available to Sprint for defaults under this Agreement.
- 18.9.3. Licensee shall indemnify and hold harmless Sprint, its successors and assigns against, and in respect of, any and all damages, claims, losses, liabilities and expenses, including, without limitation, all legal, accounting, consulting, engineering and other expenses, which may be imposed upon, or incurred by, Sprint or asserted against Sprint by any other party or parties (including, without limitation, Sprint's employees and/or contractors and any governmental entity) arising out of, or in connection with, Licensee's use, storage or disposal of Hazardous Materials.
- 18.9.4. For purposes of this Section, "Hazardous Materials" shall mean any toxic substances and/or hazardous materials or hazardous wastes (including, without limitation, asbestos) as defined in, or pursuant to, the OSHA Hazard Communication Standard (29 CFR Part 1910, Subpart Z), the Resource Conservation and Recovery Act of 1976 (42 U.S.C.

Section 6901, et seq.), or regulations adopted pursuant to those statutes, the Toxic Substances Control Act (15 U.S.C. Section 2601, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.) or any other federal, state or local environmental law, ordinance, rule or regulation. The provisions of this Section shall survive the termination, cancellation, modification or recession of this Agreement.

- 18.10. **Various Prohibited Uses.** Licensee shall not do or permit anything to be done upon the Collocation Space, or bring or keep anything thereon which is in violation of any federal, state or local laws or regulations (including environmental laws or regulations not previously described), or any rules, regulations or requirements of the local fire department, Fire Insurance Rating Organization, or any other similar authority having jurisdiction over the Building. Licensee shall not do or permit anything to be done upon the Collocation Space which may in any way create a nuisance, disturb, endanger, or otherwise interfere with the telecommunications services of Sprint, any other occupant of the Building, their patrons or customers, or the occupants of neighboring property, or injure the reputation of the Premises.
- 18.10.1. Licensee shall not exceed the Uniformly Distributed Live Load Capacity. Sprint LTD Real Estate Planning shall evaluate and determine live load capacity rating on a site specific basis prior to equipment installation. Licensee agrees to provide Sprint Real Estate Planning with equipment profile information prior to installation authorization.
- 18.10.2. Licensee shall not paint, display, inscribe or affix any sign, trademark, picture, advertising, notice, lettering or direction on any part of the outside or inside of the Building, or on the Collocation Space, without the prior written consent of Sprint.
- 18.10.3. Licensee shall not use the name of the Building or Sprint for any purpose other than that of the business address of Licensee, or use any picture or likeness of the Building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Sprint.
- 18.10.4. Licensee shall not exhibit, sell or offer for sale, rent or exchange in the Collocation Space or on the Premises any article, thing or service except those ordinarily embraced within the use of the Collocation Space specified in Sections 3 and 11 of this Agreement without the prior written consent of Sprint.
- 18.10.5. Licensee shall not place anything or allow anything to be placed near the glass of any door, partition or window which Sprint determines is unsightly from outside the Collocation Space; take or permit to be taken in or out of other entrances of the Building, or take or permit to be taken on any passenger elevators, any item normally taken through service

- entrances or elevators; or whether temporarily, accidentally, or otherwise, allow anything to remain in, place or store anything in, or obstruct in any way, any passageway, exit, stairway, elevator, or shipping platform. Licensee shall lend its full cooperation to keep such areas free from all obstruction and in a clean and neat condition, move all supplies, furniture and equipment directly to the Collocation Space as soon as received, and move all such items and waste, other than waste customarily removed by employees of the Building.
- 18.10.6. Licensee shall not, without the prior written consent of Sprint: install or operate any lead-acid batteries, refrigerating, heating or air conditioning apparatus or carry on any mechanical business in the Collocation Space. Sprint may, in its sole discretion, withhold such consent, or impose any condition in granting it, and revoke its consent at will.
- 18.10.7. Licensee shall not use the Collocation Space for housing, lodging or sleeping purposes.
- 18.10.8. Licensee shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space.
- 18.10.9. Licensee shall not permit the use of any fermented, intoxicating or alcoholic liquors or substances in the Collocation Space or permit the presence of any animals except those used by the visually impaired.
- 18.11. Rules of Conduct. Licensee, its employees, agents, contractors, and business invitees shall
- 18.11.1. comply with all rules and regulations which Sprint may from time to time adopt for the safety, environmental protection, care, cleanliness and/or preservation of the good order of the Building, the Premises and the Collocation Space and its tenants and occupants, and
- 18.11.2. comply, at its own expense, with all ordinances which are applicable to the Collocation Space and with all lawful orders and requirements of any regulatory or law enforcement agency requiring the correction, prevention and abatement of nuisances in or upon the Collocation Space during the Term of this Agreement or any extension hereof.
- 18.12. Alterations. Licensee shall not make installations, alterations or additions in or to the Collocation Space without submitting plans and specifications to Sprint and securing the prior written consent of Sprint in each instance. Sprint's consent shall not be unreasonably withheld or unduly delayed for non-structural interior alteration to the Collocation Space that do not adversely affect the Building's appearance, value, structural strength and mechanical integrity. Such work shall be done at the sole expense of Licensee.

- 18.12.1. All installations, alterations and additions shall be constructed in a good and workmanlike manner and only new and good grades of material shall be used, and shall comply with all insurance requirements, governmental requirements, and terms of this Agreement. Work shall be performed at such times and in such manner as to cause a minimum of interference with Sprint's transaction of business. Licensee shall permit Sprint to inspect all construction operations within the Collocation Space.
- 18.12.2. All installations, alterations and additions which take the form of fixtures, except trade fixtures, placed in the Collocation Space by and at the expense of Licensee or others shall become the property of Sprint, and shall remain upon and be surrendered with the Collocation Space. Upon termination of this Agreement, however, Sprint shall have the right to require Licensee to remove such fixtures and installations, alterations or additions at Licensee's expense, and to surrender the Collocation Space in the same condition as it was prior to the making of any or all such improvements, reasonable wear and tear excepted.
- 18.12.3. All fixtures and other equipment to be used by Licensee in, about or upon the Collocation Space shall be subject to the prior written approval of Sprint, which shall not be unreasonably withheld.
- 18.13. Fireproofing Policy. Licensee shall not cut or drill into, drive nails or screws into, install conduit or wires, or in any way deface any part of the Collocation Space or the Building, outside or inside, without the prior written consent of Sprint. If Licensee desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of Licensee. Sprint shall have the right of prior approval of such utility or service connections, and shall direct where and how all connections and wiring for such service shall be introduced and run. In all cases, in order to maintain the integrity of the Halon space for proper Halon concentration, and to ensure compliance with Sprint's fireproofing policy, any penetrations by Licensee, whether in the Collocation Space, the Building or otherwise, shall be sealed as quickly as possible by Licensee with Sprint-approved fire barrier sealants, or by Sprint at Licensee's cost.
- 18.14. Equipment Grounding. LOE shall be connected to Sprint's grounding system.
- 18.15. Representations and Warranties. Licensee hereby represents and warrants that the information provided to Sprint in any application or other documentation relative to Licensee's request for telecommunications facility interconnection and Central Office Building collocation as contemplated in this Agreement is and shall be true and correct, and that Licensee has all necessary corporate and regulatory authority to conduct business as a telecommunications carrier. Any violation of this Section shall be deemed a material breach of this Agreement.



## **19. BUILDING RIGHTS.**

- 19.1. Sprint may, without notice to Licensee:
  - 19.1.1. Change the name or street address of the Premises;
  - 19.1.2. Install and maintain signs on the exterior and interior of the Premises or anywhere on the Premises;
  - 19.1.3. Designate all sources furnishing sign painting and lettering, ice, mineral or drinking water, beverages, foods, towels, vending machines or toilet supplies used or consumed in the Collocation Space;
  - 19.1.4. Have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding Licensee's safes;
  - 19.1.5. Reduce heat, light, water and power as required by any mandatory or voluntary conservation programs;
  - 19.1.6. Approve the weight, size and location of safes, computers and all other heavy articles in and about the Collocation Space and the Building, and to require all such items and other office furniture and equipment to be moved in and out of the Building or Collocation Space only at such times and in such a manner as Sprint shall direct and in all events at Licensee's sole risk and responsibility;
  - 19.1.7. At any time, to decorate and to make, at its own expense, repairs, alterations, additions and improvements, structural or otherwise, in or to the Collocation Space, the Premises, or any part thereof (including, without limitation, the permanent or temporary relocation of any existing facilities such as parking lots or spaces), and to perform any acts related to the safety, protection or preservation thereof, and during such operations to take into and through the Collocation Space or any part of the Premises all material and equipment required, and to close or suspend temporarily operation of entrances, doors, corridors, elevators or other facilities, provided that Sprint shall limit inconvenience or annoyance to Licensee as reasonably possible under the circumstances;
  - 19.1.8. Do or permit to be done any work in or about the Collocation Space or the Premises or any adjacent or nearby building, land, street or alley;
  - 19.1.9. Grant to anyone the exclusive right to conduct any business or render any service on the Premises, provided such exclusive right shall not operate to exclude Licensee from the use expressly permitted by this Agreement, unless Sprint exercises its right to terminate this Agreement with respect to all or a portion of the Collocation Space;

- 19.1.10. Close the Building at such reasonable times as Sprint may determine, under such reasonable regulations as shall be prescribed from time to time by Sprint subject to Licensee's right to access.
- 19.2. If the owner of the Building or Sprint sells, transfers or assigns any interest in the Building, or there is any material change in the Lease to which the Building is subject, and such sale, transfers assignment or material change in the Lease gives rise to an obligation which is inconsistent with this Agreement, Sprint's performance under this Agreement shall be excused to the extent of the inconsistency. Sprint hereby agrees that it will use its reasonable efforts to avoid any such inconsistency; provided, however, that this obligation shall in no way obligate Sprint to incur any out of pocket expenses in its efforts to avoid such inconsistencies.
- 19.3. This Agreement shall at all times be subject and subordinate to the lien of any mortgage (which term shall include all security instruments) that may be placed on the Collocation Space and Licensee agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

## **20. INSURANCE.**

- 20.1. During the term of this Agreement, Licensee shall carry, and shall cause any subcontractors to carry, with financially reputable insurers which are licensed to do business in all jurisdictions where any Property is located, not less than the following insurance:
- 20.1.1. *Commercial General Liability with limits of not less than \$1,000,000 combined single limit per occurrence and aggregate for bodily injury, property damage and personal and advertising injury liability insurance to include coverage for contractual and products/completed operations liability, naming Sprint as additional insured;*
- 20.1.2. *Business Auto liability, including all owned, non-owned and hired automobiles, in an amount of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage liability, naming Sprint as additional insured;*
- 20.1.3. *Workers' Compensation as provided for in the jurisdiction where the Property is located, with an Employer's Liability limit of not less than \$500,000 per accident or disease; and*
- 20.1.4. *Umbrella or excess liability in an amount not less than \$5,000,000 per occurrence and aggregate in excess of the above-referenced Commercial General, Business Auto and Employer's Liability, naming Sprint as additional insured; and*
- 20.1.5. *"All Risk" property insurance on a full replacement cost basis insuring Licensee's property situated on or within the Property, naming Sprint as*

loss payee. Licensee may elect to insure business interruption and contingent business interruption, as it is agreed that Sprint has no liability for loss of profit or revenues should an interruption of service occur.

- 20.2. Nothing contained in this section shall limit Licensee's liability to Sprint to the limits of insurance certified or carried.
- 20.3. All policies required of the Licensee shall contain evidence of the insurer's waiver of the right of subrogation against Sprint for any insured loss covered thereunder. All policies of insurance shall be written as primary policies and not contributing with or in excess of the coverage, if any, that Sprint may carry.
- 20.4. Licensee shall furnish to Sprint a certificate or certificates of insurance, satisfactory in form and content to Sprint, evidencing that the above coverage is in force and has been endorsed to guarantee that the coverage will not be cancelled or materially altered without first giving at least 30 days prior written notice to Sprint.
- 20.5. Licensee may, upon written notice to Sprint, self-insure all or part of the above requirements. Upon such disclosure, Licensee agrees that nothing diminishes Licensee's responsibilities to Sprint that would have otherwise been covered by the required insurance.
- 20.6. Sprint will carry not less than the insurance coverages and limits required of Licensee.

## **21. INDEMNIFICATION.**

- 21.1. Licensee shall indemnify and hold Sprint harmless from any and all claims arising from:
  - 21.1.1. Licensee's use of the Collocation Space;
  - 21.1.2. the conduct of Licensee's business or from any activity, work or things done, permitted or suffered by Licensee in or about the Collocation Space or elsewhere;
  - 21.1.3. any and all claims arising from any breach or default in the performance of any obligation on Licensee's part to be performed under the terms of this Agreement; and
  - 21.1.4. any negligence of the Licensee, or any of Licensee's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
- 21.2. If any action or proceeding is brought against Sprint by reason of any such claim, Licensee, upon notice from Sprint, shall defend same at Licensee's expense employing counsel satisfactory to Sprint. Licensee, as a material part of the

consideration to Sprint, hereby assumes all risk of damage to property or injury to persons in, upon or about the Collocation Space arising from any cause other than the sole negligence of Sprint, and Licensee hereby waives all claims in respect thereof against Sprint.

21.3. Licensee shall at all times indemnify, defend, save and hold harmless Sprint clear and harmless from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of Licensee, or out of any work performed, material furnished, or obligations incurred by Licensee in, upon or otherwise in connection with the Collocation Space. Licensee shall give Sprint written notice at least 10 business days prior to the commencement of any such work on the Collocation Space in order to afford Sprint the opportunity of filing appropriate notices of non-responsibility. However, failure by Sprint to give notice does not reduce Licensee's liability under this section.

21.3.1. If any claim or lien is filed against the Collocation Space, or any action or proceeding is instituted affecting the title to the Collocation Space, Licensee shall give Sprint written notice thereof as soon as Licensee obtains such knowledge.

21.3.2. Licensee shall, at its expense, within 30 days after filing of any lien of record, obtain the discharge and release thereof or post a bond in an amount sufficient to accomplish such discharge and release. Nothing contained herein shall prevent Sprint, at the cost and for the account of Licensee, from obtaining such discharge and release if Licensee fails or refuses to do the same within the 30 day period.

21.3.3. If Licensee has first discharged the lien as provided by law, Licensee may, at Licensee's expense, contest any mechanic's lien in any manner permitted by law.

## **22. LIMITATION OF LIABILITY.**

22.1. SPRINT SHALL BE LIABLE FOR DAMAGE TO OR DESTRUCTION OF LICENSEE'S EQUIPMENT AND OTHER PREMISES ONLY IF SUCH DAMAGE OR DESTRUCTION IS CAUSED BY SPRINT'S SOLE NEGLIGENCE OR WILLFUL MISCONDUCT.

22.2. SPRINT WILL NOT BE LIABLE FOR (A) ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, (B) ANY COMMERCIAL LOSS OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS OR PROFITS), OR (C) ANY LOSS, DAMAGE OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM USE OF OR INABILITY TO USE THE COLLOCATION SPACE EITHER SEPARATELY OR IN COMBINATION WITH OTHER EQUIPMENT OR SOFTWARE, BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT OR

ANY OTHER LEGAL THEORY, WHETHER OR NOT SPRINT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

**23. PARTIAL DESTRUCTION.**

- 23.1. If the Collocation Space or a portion thereof sufficient to make the Collocation Space substantially unusable shall be destroyed or rendered unoccupiable by fire or other casualty, Sprint may, at its option, restore the Collocation Space to its previous condition. Licensee's rights to the applicable Collocation Space shall not terminate unless, within 90 days after the occurrence of such casualty, Sprint notifies Licensee of its election to terminate Licensee's rights to the applicable Collocation Space. If Sprint does not elect to terminate Licensee's rights to the applicable Collocation Space, Sprint shall repair the damage to the Collocation Space caused by such casualty.
- 23.2. Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of Licensee, its agents, employees, contractors, Licensees, customers or business invitees, unless Sprint otherwise elects, the Licensee's rights to the applicable Collocation Space shall not terminate, and, if Sprint elects to make such repairs, Licensee shall reimburse Sprint for the cost of such repairs, or Licensee shall repair such damage, including damage to the Building and the area surrounding it, and the License Fee shall not abate.
- 23.3. If the Building shall be damaged by fire or other casualty to the extent that portions are rendered unoccupiable, notwithstanding that the Collocation Space may be directly unaffected, Sprint may, at its election within 90 days of such casualty, terminate Licensee's rights to the applicable Collocation Space by giving written notice of its intent to terminate Licensee's rights to the applicable Collocation Space. The termination as provided in this paragraph shall be effective 30 days after the date of the notice.
- 23.4. Notwithstanding any other provision of this Agreement, Sprint shall not be liable for any repair or restoration until, and then only to the extent that, insurance proceeds are received.

**24. EMINENT DOMAIN.**

- 24.1. If the Premises, or any portion thereof which includes a substantial part of the Collocation Space, shall be taken or condemned by any competent authority for any public use or purpose, Licensee's rights to the applicable Collocation Space shall end upon, and not before, the date when the possession of the part so taken shall be required for such use or purpose. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of the Premises, or if the grade of any street or alley adjacent to the Premises is changed by any competent authority and such change of grade makes it necessary or desirable to remodel the Premises to conform to the changed grade, Sprint shall have the right

to terminate Licensee's rights to the applicable Collocation Space upon not less than 30 days notice prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Sprint to Licensee for such cancellation, and the Licensee shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

**25. BANKRUPTCY.**

25.1. If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act shall be filed by or against Licensee, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare Licensee insolvent or unable to pay Licensee's debts, or Licensee makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for Licensee or for the major part of Licensee's property, Sprint may, if Sprint so elects but not otherwise, and with or without notice of such election or other action by Sprint, forthwith terminate this Agreement.

**26. CONFIDENTIALITY AND PUBLICITY.**

26.1. All information which is disclosed by one party ("Disclosing Party") to the other ("Recipient") in connection with this Agreement, or acquired in the course of performance of this Agreement, shall be deemed confidential and proprietary to the Disclosing Party and subject to this Agreement, such information including but not limited to, orders for services, usage information in any form, and CPNI as that term is defined by the Act and the rules and regulations of the FCC ("Confidential and/or Proprietary Information").

26.2. During the term of this Agreement, and for a period of one (1) year thereafter, as to Confidential and/or Proprietary Information Recipient shall

26.2.1. use it only for the purpose of performing under this Agreement,

26.2.2. hold it in confidence and disclose it only to employees or agents who have a need to know it in order to perform under this Agreement, and

26.2.3. safeguard it from unauthorized use or Disclosure using no less than the degree of care with which Recipient safeguards its own Confidential Information.

26.3. Recipient shall have no obligation to safeguard Confidential Information

26.3.1. which was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party,

26.3.2. which becomes publicly known or available through no breach of this Agreement by Recipient,

- 26.3.3. which is rightfully acquired by Recipient free of restrictions on its Disclosure, or
- 26.3.4. which is independently developed by personnel of Recipient to whom the Disclosing Party's Confidential Information had not been previously disclosed.
- 26.4. Recipient may disclose Confidential Information if required by law, a court, or governmental agency, provided that Disclosing Party has been notified of the requirement promptly after Recipient becomes aware of the requirement, and provided that Recipient undertakes all lawful measures to avoid disclosing such information until Disclosing Party has had reasonable time to obtain a protective order. Recipient agrees to comply with any protective order that covers the Confidential Information to be disclosed.
- 26.5. Each Party agrees that in the event of a breach of this Article 26 by Recipient or its representatives, Disclosing Party shall be entitled to equitable relief, including injunctive relief and specific performance. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.
- 26.6. Unless otherwise agreed, neither Party shall publish or use the other Party's logo, trademark, service mark, name, language, pictures, symbols or words from which the other Party's name may reasonably be inferred or implied in any product, service, advertisement, promotion, or any other publicity matter, except that nothing in this paragraph shall prohibit a Party from engaging in valid comparative advertising. This section shall confer no rights on a Party to the service marks, trademarks and trade names owned or used in connection with services by the other Party or its Affiliates, except as expressly permitted by the other Party.
- 26.7. Neither Party shall produce, publish, or distribute any press release nor other publicity referring to the other Party or its Affiliates, or referring to this Agreement, without the prior written approval of the other Party. Each party shall obtain the other Party's prior approval before discussing this Agreement in any press or media interviews. In no event shall either Party mischaracterize the contents of this Agreement in any public statement or in any representation to a governmental entity or member thereof.
- 26.8. Except as otherwise expressly provided in this Article 26, nothing herein shall be construed as limiting the rights of either Party with respect to its customer information under any applicable law, including without limitation § 222 of the Act.

## **27. ASBESTOS.**

- 27.1. Licensee is aware the Premises in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and Licensee is hereby notified that the Premises in which the Collocation Space is

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

## **28. ASSIGNMENT.**

- 28.1. This Agreement is not assignable in whole by Licensee without the prior written consent of Sprint, which consent shall not be unreasonably withheld; provided, however, that Licensee may assign this Agreement to a subsidiary or affiliate of Licensee if such subsidiary or affiliate (i) agrees in writing to be bound by the terms of this Agreement, and (ii) provides Sprint with any and all evidence of its compliance with the terms hereof as would have been required of Licensee had this Agreement not been assigned, including, but not limited to, current certificates of insurance as required by Section 19 hereof.
- 28.2. Any attempt to assign this Agreement without such prior written consent shall be void and of no effect and will be a material breach of this Agreement. Sprint's consent to any assignment of this Agreement shall not be deemed a waiver of the need to obtain such consent as to any future assignment or of Sprint's right to withhold consent to such assignment. If Licensee requests that Sprint consent to the assignment of this Agreement, Licensee shall pay all costs and expenses, including, but not limited to, reasonable attorneys' fees, of Sprint in evaluating, processing, documenting, administering and approving such assignment, whether or not the requested assignment is eventually approved.
- 28.3. In no event shall this Agreement or any rights or privileges hereunder be an asset of Licensee under any bankruptcy, insolvency or reorganization proceedings.
- 28.4. Sprint may assign this Agreement and thereafter shall not be liable hereunder.



28.5. Subject to the terms of this Agreement, Sprint and Licensee agree this Agreement shall bind and inure to the benefit of the respective successors and assigns of both Sprint and Licensee.

**29. ENTIRE AGREEMENT.**

29.1. This Agreement, and any Exhibits which are made a part of this Agreement, subject only to the terms of any applicable tariff on file with the state Commission or the FCC, contains the entire agreement between the parties.

**30. NO PARTNERSHIP.**

30.1. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venturers or of any other association between Sprint and Licensee.

**31. DISPUTE RESOLUTION.**

31.1. The Parties recognize and agree that the Commission has jurisdiction to implement and enforce all terms and conditions of this Agreement. Accordingly, the Parties agree that any dispute arising out of or relating to this Agreement that the Parties themselves cannot resolve may be submitted to the Commission for resolution. The Parties agree to seek expedited resolution by the Commission, and shall request that resolution occur in no event later than sixty (60) days from the date of submission of such dispute. If the Commission appoints an expert(s) or other facilitator(s) to assist in its decision making, each party shall pay half of the fees and expenses so incurred. During the Commission proceeding each Party shall continue to perform its obligations under this Agreement provided, however, that neither Party shall be required to act in any unlawful fashion. This provision shall not preclude the Parties from seeking relief available in any other forum.

31.2. If any matter is subject to a bona fide dispute between the Parties, the disputing Party shall within thirty (30) days of the event giving rise to the dispute, give written notice to the other Party of the dispute and include in such notice the specific details and reasons for disputing each item.

31.3. If the Parties are unable to resolve the issues related to the dispute in the normal course of business within thirty (30) days after delivery of notice of the Dispute, to the other Party, the dispute shall be escalated to a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute, but in no event shall such resolution exceed 60 days from the initial notice. The specific format for such discussions will be left to the discretion of

the designated representatives, provided, however, that all reasonable requests for relevant information made by one Party to the other Party shall be honored.

- 31.4. After such period either Party may file a complaint with the FCC or the Commission.

## 32. MISCELLANEOUS.

- 32.1. Force Majeure. Wherever there is provided in this Agreement a time limitation for performance of any construction, repair, maintenance or service, the time provided for shall be extended for as long as, and to the extent that, delay in compliance with such limitation is due to an act of God, strikes, governmental control or other factors beyond the reasonable control of Sprint or Licensee.
- 32.2. Unenforceable Provisions. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a court or regulatory agency to be invalid, void, or unenforceable, the remainder of this Agreement, and all applications thereof, not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- 32.3. The Parties acknowledge that the respective rights and obligations of each Party as set forth in this Agreement are based on the text of the Act and the rules and regulations promulgated thereunder by the FCC and the Commission as of the Effective Date ("Applicable Rules"). In the event of any amendment to the Act, any effective legislative action or any effective regulatory or judicial order, rule, regulation, arbitration award, dispute resolution procedures under this Agreement or other legal action purporting to apply the provisions of the Act to the Parties or in which the FCC or the Commission makes a generic determination that is generally applicable which revises, modifies or reverses the Applicable Rules (individually and collectively, Amended Rules), either Party may, by providing written notice to the other party, require that the affected provisions of this Agreement be renegotiated in good faith and this Agreement shall be amended accordingly to reflect the pricing, terms and conditions of each such Amended Rules relating to any of the provisions in this Agreement.
- 32.4. Contingency. This Agreement is subject to change, modification, or cancellation as may be required by a regulatory authority or court in the exercise of its lawful jurisdiction.
- 32.5. Notice. Any notice to be given by either party to the other pursuant to the provisions of this Agreement or of any law, present or future, shall be given in writing by personal service, by certified or registered mail with postage prepaid and return receipt requested, or by recognized courier service to the other party for whom it is intended.
- 32.6. Any notice or demand to Sprint shall be addressed to:  
Director-Local Markets

Sprint  
6480 Sprint Parkway  
Mailstop: KSOPHM0310-3A453  
Overland Park, KS 66251  
913-315-7839- Voice  
913-315-0628- Fax

Any notice or demand to Licensee shall be addressed to:

Cathy J. Quinn  
Progress Telecom Corporation  
263 13<sup>th</sup> Ave. South  
Mail Code BB2-3  
St. Petersburg, FL 33701  
727-820-5611 (T)  
727-820-5973 (F)  
Cquinn@progresstelecom.com

- 32.6.1. Any party to this Agreement may change its address for the purpose of receiving notices or demands by a written notice to the other party, given in the manner described in this Section. Such notice of change of address shall not become effective, however, until the actual receipt by the other party.
- 32.7. Headings. The headings of this Agreement are for convenience only and shall not be used to construct or modify the terms of this Agreement.
- 32.8. Execution in Counterparts. This Agreement may be executed in copies, each of which shall constitute an original, but any of which taken together shall constitute one in the same document. In the event of a conflict between the provisions of any original Agreement with the provisions of any other original Agreement, the provisions of Sprint's original Agreement will govern and control.
- 32.9. Brokers. Licensee warrants that it has had no dealings with any broker or agent in connection with this Agreement, and covenants to pay, hold harmless and indemnify Sprint from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent with respect to this Agreement or the negotiation thereof.
- 32.10. Waiver of Default. Sprint and Licensee agree that the waiver by either party of a breach of any term, covenant, or condition contained herein shall not be deemed a waiver of any subsequent breach of the same any other term, covenant or condition.
- 32.11. Changes to Agreement. This Agreement and all of its terms, provisions, covenants and conditions cannot be changed or terminated orally. This

Agreement may only be modified or amended by an instrument in writing executed by Sprint and Licensee.

- 32.12. Agreement Effective. Submission of this instrument for examination or signature by Sprint does not constitute a reservation of or option for license, and it is not effective, as a license or otherwise, until execution and delivery by both Sprint and Licensee.
- 32.13. Representations. Neither Sprint nor its agents have made any representation or warranties with respect to the Collocation Space of this Agreement except as expressly set forth herein; no rights, easements, or licenses shall be acquired by Licensee by implication or otherwise unless expressly set forth herein.
- 32.14. Work Stoppages. In the event of work stoppages, Sprint may establish separate entrances for use by personnel of Licensee. Licensee shall comply with any emergency operating procedures established by Sprint to deal with work stoppages.
- 32.15. Governing Law. The laws of the State of Florida govern the validity, construction, performance and effect of this Agreement.
- 32.16. Authorized Representatives. The individuals executing this Agreement on behalf of Licensee represent and warrant to Sprint they are fully authorized and legally capable of executing this Agreement on behalf of Licensee.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

"SPRINT"

"LICENSEE"

Sprint - Florida, Incorporated

Progress Telecom Corporation

By: 

By: 

William E. Cheek  
(Printed Name)

Elizabeth A. Walker  
(Printed Name)

President Wholesale Markets  
(Title)

Vice President Customer Service Delivery  
and Network Operations  
(Title)



# ATTACHMENT A - SAMPLE SITE LICENSE TO MASTER COLLOCATION AGREEMENT

Sprint and Licensee are Parties to a Master Collocation Agreement dated [enter agreement date]. Capitalized terms used in this Site Collocation License Agreement have the same meaning as such terms in the Master Collocation Agreement unless otherwise indicated.

## Part I Terms

1. Site name (central office name):
2. Site code (CLLI code):
3. Site address:
4. Site Legal Description:
5.  The Site is owned by Sprint.  
 The Site is leased by Sprint. A copy of the lease is attached to this Site Collocation License.
6. Type of Physical Collocation  
 Caged Collocation  
 Cageless Collocation  
 Virtual Collocation
7. Description of Licensee's Equipment:
8. Effective Date of Lease:
9. Term: 2 years from effective date
10. Early Termination: If Licensee desires to terminate this site lease before the end of the term shown above the Licensee shall submit a collocation augment application and applicable augment application fee reflecting a decommissioning of the collocation space. The Licensee shall surrender the collocation space to Sprint in the same condition as when first occupied by Licensee, except for ordinary wear and tear.
11. Sprint contact for emergencies:
12. Licensee contact for emergencies:
13. Special Provisions:
14. Notices:

<b>Sprint:</b>	Director-Local Carrier Markets	<b>Licensee:</b>	
	6480 Sprint Parkway		
	Mailstop: KSOPHM0316		
	Overland Park, KS 66251		
<b>With a Copy to:</b>	Regional Director Carrier Markets	<b>With a Copy to:</b>	

**Part II Compensation**

**1. ITEMIZED LISTING OF FEES**

<b>Rate Element, Unit of Measure (Specify which unit of measure used)</b>	<b>NRC or MRC<sup>1</sup></b>	<b>Rate per Unit</b>	<b>Quantity (list unit of measure)</b>	<b>Total (Rate X Quantity)</b>
APPLICATION FEE, Per Application	NRC	\$		\$
AUGMENT APPLICATION FEE, Per Modification	NRC	\$		\$
COLLOCATION SPACE, Per Square Foot -or- Per Equipment Bay	MRC	\$		\$
DC POWER INSTALLATION, Per Power Lead, Per Foot	NRC	\$		\$
DC POWER CONSUMPTION, Per Fuse Ampere	MRC	\$		\$
DC POWER CONSUMPTION (Nevada only), Per Load Ampere	MRC	\$		\$
DC POWER CONNECTION (Nevada only), Per Load Ampere (0-50, 51-100 or 101-200)	NRC	\$		\$
DC POWER CONNECTION (Nevada only), Per Load Ampere (0-50, 51-100 or 101-200)	MRC	\$		\$
AC POWER INSTALLATION, Per 20 Ampere Outlet	NRC	\$		\$
SECURITY ENCLOSURE, Per Square Foot (100 or 200 sq. ft.) -or- Per Cage and Per Linear Foot	NRC	\$		\$
INTERNAL CABLING, Per Linear Foot -or- Per Fiber Cable Arrangement	MRC	\$		\$
INTERNAL CONDUIT, Per Linear Foot	MRC	\$		\$
CONDUIT SPACE-PER FOOT, Per Linear Foot	MRC	\$		\$
CONDUIT SPACE-VAULT, Per Linear Foot -or- Per Fiber Cable Access	MRC	\$		\$

Rate Element, Unit of Measure <i>(Specify which unit of measure used)</i>	NRC or MRC <sup>1</sup>	Rate per Unit	Quantity <i>(list unit of measure)</i>	Total <i>(Rate X Quantity)</i>
RISER SPACE, Per Foot	MRC	\$		\$
DIVERSE RISER SPACE, Per Foot	MRC	\$		\$
INSTALLATION and/or MAINTENANCE, Per Half Hour -or- Per Quarter Hour (Nevada only)	NRC	\$		\$
CABLE PULL AND SPLICE, Per Half Hour	NRC	\$		\$
GROUNDING, Per Equipment Bay -or- Per 100 Sq. Ft. Caged Space	MRC	\$		\$
SECURITY CARD, Per Card	NRC	\$		\$
SWITCHBOARD CABLE & BLOCK, Per 100 Pair Cable with 100-pin Connecting Block	MRC	\$	Total cross- connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
<i>Cross-connects are usually ordered after the collocation is set-up, therefore the actual quantity may not be known at the time this agreement is signed. The Licensee will pay the rates shown below for each cross-connect ordered during the term of this agreement.</i>				
DS0 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$	Total cross - connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
DS1 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$	Total cross- connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
DS3 ELECTRICAL CROSS-CONNECT, Per <u>Single</u> 2-Wire Connection	MRC	\$	Total cross- connects ordered during term of this agreement.	Customer will pay the total charges which equal the quantity ordered times the rate listed.
<sup>1</sup> "MRC" shall mean monthly recurring charge, "NRC" shall mean non-recurring charge.				

## 2. ADJUSTMENTS

All rates will be subject to adjustment at the end of the initial term under Part I, Section 9 above.



## ATTACHMENT B - COLLOCATION RATES FOR FLORIDA

Rate Element, Unit of Measure	NRC or MRC	Florida
<b><u>Physical Collocation</u></b>		
Application Fee - per application	NRC	\$3,548.35
Augment Application Fee - per modification	NRC	\$1,016.12
<u>Collocation Space</u>		
Floor Space - per square foot	MRC	\$6.19
Floor Space - per equipment bay	MRC	N/A
Roof Space - per square foot	MRC	\$6.19
Transmitter/Receiver Space - per square foot	MRC	\$6.19
<u>Enclosures</u>		
Security Enclosure - per 100 sq. ft. enclosure	NRC	\$9,473.59
Security Enclosure - per 200 sq. ft. enclosure	NRC	\$13,263.53
Security Enclosure - per cage	NRC	N/A
Security Enclosure - per linear foot	NRC	N/A
<u>DC Power</u>		
DC Power - per fuse amp	MRC	\$11.41
DC Power - per power lead per foot	NRC	\$25.66
<u>DC Power (Nevada only)</u>		
<i>(non-redundant, only bill for 1 lead of A&amp;B lead combination)</i>		
DC Power - per lead ampere (and one of the following NRC/MRC pairs...)	MRC	N/A
DC Power - Connection to power plant 0-50 amperes	NRC	N/A
DC Power - Connection to power plant 0-50 amperes	MRC	N/A
DC Power - Connection to power plant 51-100 amperes	NRC	N/A
DC Power - Connection to power plant 51-100 amperes	MRC	N/A
DC Power - Connection to power plant 101-200 amperes	NRC	N/A
DC Power - Connection to power plant 101-200 amperes	MRC	N/A
<u>AC Power/Additional Lighting</u>		
AC Outlet - per 20 ampere increments for outlet	NRC	N/A
Additional Overhead Lighting - per dual 8' fixture with cable (qty 1 = 2 fixtures + 1 cable)	NRC	N/A
<u>Cabling and Conduit, Vault &amp; Riser Space</u>		
Internal Cabling - per linear foot	MRC	\$0.14
Internal Cabling - per fiber cable arrangement	MRC	N/A
Internal Conduit - per linear foot	MRC	\$0.48
Conduit Space - per linear foot	MRC	\$0.37
Conduit Space - per foot from 1st manhole to vault (fiber)	MRC	N/A
Conduit Space -Vault - per ft. of 9 conduit vault	MRC	\$1.16
Vault - per fiber cable access	MRC	N/A
Riser Space - per foot	MRC	\$4.45
Diverse Riser Space - per foot	MRC	\$4.45

Riser Space - per foot from vault to cage (fiber)	MRC	N/A
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Cross Connects

Switchboard Cable - per 100 pair with connecting block	MRC	\$36.59
DS0 Electrical Cross-Connect - per single DS0 connection	MRC	\$0.94
DS1 Electrical Cross-Connect - per single DS1 connection	MRC	\$2.93
DS3 Electrical Cross-Connect - per single DS3 connection	MRC	\$25.85
Optical Cross-Connect - per 4-fiber connection	MRC	ICB

Installation and/or Maintenance

Installation and/or Maintenance - Basic First Half Hour	NRC	\$40.00
Installation and/or Maintenance - Basic Add'l Half Hour	NRC	\$35.00
Installation and/or Maintenance - Overtime First Half Hour	NRC	\$45.00
Installation and/or Maintenance - Overtime Add'l Half Hour	NRC	\$40.00
Installation and/or Maintenance - Premium First Half Hour	NRC	\$50.00
Installation and/or Maintenance - Premium Add'l Half Hour	NRC	\$45.00

Maintenance - per 1/4 hour increments (Nevada only)	NRC	N/A
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Cable Pull and Splice - per half hour

Cable Pull and Spice - Basic First Half Hour	NRC	\$40.00
Cable Pull and Spice - Basic Add'l Half Hour	NRC	\$35.00
Cable Pull and Spice - Overtime First Half Hour	NRC	\$45.00
Cable Pull and Spice - Overtime Add'l Half Hour	NRC	\$40.00
Cable Pull and Spice - Premium First Half Hour	NRC	\$50.00
Cable Pull and Spice - Premium Add'l Half Hour	NRC	\$45.00

Miscellaneous

Grounding - per equipment bay	MRC	N/A
Grounding - per 100 sq. ft. caged space	MRC	N/A
Security Card - per card	NRC	N/A

Rate Element, Unit of Measure	NRC or MRC	Florida
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Virtual Collocation

Application Fee - per application	NRC	\$2,520.00
Augment Application Fee - per modification	NRC	\$1,016.12

Collocation Space

Floor Space - per square foot	MRC	ICB
Rack Space - per square foot	MRC	ICB
Floor Space - per equipment bay	MRC	N/A

DC Power

DC Power - per AMP	MRC	ICB
DC Power - per power lead per foot	NRC	ICB

DC Power (Nevada only)

*(non-redundant, only bill for 1 lead of A&B lead combination)*

DC Power - per <u>load</u> ampere (and one of the following NRC/MRC pairs...)	MRC	N/A
DC Power - Connection to power plant 0-50 amperes	NRC	N/A
DC Power - Connection to power plant 0-50 amperes	MRC	N/A
DC Power - Connection to power plant 51-100 amperes	NRC	N/A
DC Power - Connection to power plant 51-100 amperes	MRC	N/A
DC Power - Connection to power plant 101-200 amperes	NRC	N/A
DC Power - Connection to power plant 101-200 amperes	MRC	N/A

AC Power/Additional Lighting

AC Outlet - per 20 ampere increments for outlet	NRC	N/A
Additional Overhead Lighting - per dual 8' fixture with cable (qty 1 = 2 fixtures + 1 cable)	NRC	N/A

Cabling and Conduit, Vault & Riser Space

Internal Cabling - per linear foot	MRC	\$0.19
Internal Cabling - per fiber cable arrangement	MRC	N/A
Internal Conduit - per linear foot	MRC	\$0.53
Conduit Space - per foot from 1st manhole to vault (fiber)	MRC	N/A
Vault - per fiber cable access	MRC	N/A
Riser Space - per foot from vault to cage (fiber)	MRC	N/A

Cross Connects

Switchboard Cable - per 100 pair with connecting block	MRC	\$36.59
DS0 Electrical Cross-Connect - per single DS0 connection	MRC	\$1.30
DS1 Electrical Cross-Connect - per single DS1 connection	MRC	\$4.45
DS3 Electrical Cross-Connect - per single DS3 connection	MRC	\$53.55
Optical Cross-Connect - per 4-fiber connection	MRC	ICB

Installation and/or Maintenance

Installation and/or Maintenance - Basic First Half Hour	NRC	\$40.00
Installation and/or Maintenance - Basic Add'l Half Hour	NRC	\$35.00
Installation and/or Maintenance - Overtime First Half Hour	NRC	\$45.00
Installation and/or Maintenance - Overtime Add'l Half Hour	NRC	\$40.00
Installation and/or Maintenance - Premium First Half Hour	NRC	\$50.00
Installation and/or Maintenance - Premium Add'l Half Hour	NRC	\$45.00

Maintenance - per 1/4 hour increments (Nevada only)	NRC	N/A
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Miscellaneous

Grounding - per equipment bay	MRC	N/A
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Rate Element, Unit of Measure	NRC or MRC	Florida
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Line Sharing

96-Line Splitter Shelf - per shelf in common area only	MRC	\$20.70
Cross-Connect MDF to Collo Space - per 100 pair cable	MRC	\$36.36
Cross-Connect MDF to Splitter in Common Area - per 100 pair cable	MRC	\$28.23
Cross-Connect Splitter Common Area to Collo Space - per 100 pair cable	MRC	\$21.38

Rate Element, Unit of Measure	NRC or MRC	Florida
<b><u>Adjacent On-Site Collocation</u></b>		
Application Fee - per application	NRC	ICB
Augment Fee - per modification	NRC	ICB
<b><u>Collocation Space</u></b>		
Land Space - per square foot	MRC	ICB
<b><u>AC Power - if not available from power company</u></b>		
Power costs - per Kilowatt Hour	MRC	ICB
100 Amp Connection - Single Phase - 6 linear feet or less from CO	MRC	ICB
100 Amp Connection - Single Phase - 6 linear feet or less from CO	NRC	ICB
100 Amp Connection - Three Phase - 6 linear feet or less from CO	MRC	ICB
100 Amp Connection - Three Phase - 6 linear feet or less from CO	NRC	ICB
100 Amp Connection - Single Phase - more than 6 linear feet from CO	MRC	ICB
100 Amp Connection - Single Phase - more than 6 linear feet from CO	NRC	ICB
100 Amp Connection - Three Phase - more than 6 linear feet from CO	MRC	ICB
100 Amp Connection - Three Phase - more than 6 linear feet from CO	NRC	ICB
<b><u>DC Power</u></b>		
<b><u>Cabling and Conduit, Vault &amp; Riser Space</u></b>		
Conduit Space - per 4 conduits CO to Adjacent Structure	MRC	ICB
Conduit Space - per 4 conduits CO to Adjacent Structure	NRC	ICB
Conduit Space - per linear foot First Manhole to Vault	MRC	ICB
Riser Space - per linear foot Vault to Collo Area	MRC	ICB
Vault Space - cost per fiber cable access	MRC	ICB
Internal Cabling - per 24-fiber cable	MRC	ICB
<b><u>Cross Connects / Racking</u></b>		
Switchboard Cable - per 100 DS0	MRC	ICB
DS1 - per DS1	MRC	ICB
DS3 - per DS3	MRC	ICB
Optical (OCC) - per 4 fibers	MRC	ICB
Dedicated Cable Racking - per site	MRC	ICB
Dedicated Cable Racking - per site	NRC	ICB
<b><u>Miscellaneous</u></b>		
Maintenance	MRC	ICB
Security Card - per card	NRC	ICB