



ORIGINAL



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June 2, 2005

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

050393-TP

Re: Approval of Amendment No. One to Interconnection Agreement between  
Sprint-Florida, Incorporated and Sprint Communications Company  
Limited Partnership

Dear Ms. Bayó:

Please find enclosed for approval and filing Amendment No. One adding collocation provisions to the Interconnection Agreement between Sprint-Florida, Incorporated and Sprint Communications Company Limited Partnership filed with the Commission in Docket No. 050169-TP on March 7, 2005.

If you have any questions on this matter, please contact me at 850-599-1276.

Sincerely,

Nancy Schnitzer

cc: Director  
Local Carrier Markets  
Sprint  
6450 Sprint Parkway  
KSOPHN0116-1B671  
Overland Park, KS 66251

Enclosure

DOCUMENT NUMBER-DATE

05484 JUN-7 05

FPSC-COMMISSION CLERK

**AMENDMENT NO. 1 TO  
INTERCONNECTION AGREEMENT  
BETWEEN  
Sprint Communications Company, Limited Partnership  
AND  
SPRINT- FLORIDA, INCORPORATED**

This Amendment is made this 1st day of February, 2005, by and between Sprint Communications Company, Limited Partnership ("CLEC"), a Delaware limited partnership, and Sprint – Florida, Incorporated ("Sprint"), a Florida corporation.

**1. BACKGROUND**

CLEC and Sprint entered into an Interconnection Agreement ("Agreement") on February 1, 2005 for the state of Florida.

CLEC and Sprint desire to modify the Agreement to incorporate terms and conditions consistent with collocations provisions.

In consideration of the terms and conditions contained in this Amendment No. 1, the Parties agree to add the following to the agreement:

**2. TERMS AND CONDITIONS**

**A The agreement is amended to add the following definitions:**

"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.

"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.

"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.

"Collocation Arrangement" refers to a single, specific provision of Collocation in a particular Premise, not limited to a cage enclosing Licensee's equipment within the

Premise.

“Collocation Point of Termination” shall mean the physical demarcation point as described in Section 5.

“Collocation Space” shall mean an area of space as agreed between the parties, located in a Premises 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.

“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.

“Date of Occupancy” shall mean the date on which Licensee first occupies the Collocation Space pursuant to this Agreement.

“Effective Date” is the date referenced in the opening paragraph on page 1 of the Agreement, unless otherwise required by the Commission.

“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.

“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.

“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.

“LOE” shall mean Licensee-owned equipment.

“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.

“Physical Collocation” is as defined in 47 CFR 51.5.

“Premises” is as defined in 47 C.F.R. 51.5.

“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.

“Virtual Collocation” is as defined in 47 C.F.R. 51.5.

**B The Agreement is amended to add the following, Part I.**

**PART I COLLOCATION**

**62. SCOPE OF COLLOCATION TERMS**

- 62.1. Sprint will provide Collocation to CLEC 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)).
- 62.2. Prices and fees for collocation and other services under this Agreement are contained in Table Two. 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 Table Two 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.
- 62.3. This Agreement states the general terms and conditions upon which Sprint will grant to CLEC the non-exclusive right 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 upon submission of an approved and provisioned Application for collocation service. Such service will be provided by installing, maintaining and operating CLEC's equipment, which will interconnect with Telecommunications Services and facilities provided by Sprint or others in accordance with this Agreement.
- 62.4. CLEC will be responsible for construction of the collocation arrangement using Sprint approved contractors ("Approved Contractor") to perform the collocation work. CLEC must contract directly with an Approved Contractor for the construction of its portion of the arrangement.
- 62.5. For CLEC's collocation arrangements that were installed by Sprint prior to the effective date of this Agreement the following terms, conditions shall apply in addition to those collocation terms in Part A.
- 62.5.1. The rates in TABLE TWO - ADDENDUM FOR SPRINT PROVISIONED ARRANGEMENTS will apply.
- 62.5.2. In the event CLEC desires to decommission the use of the Collocation

Space in a manner that requires additional engineering or preparation work by Sprint, CLEC will complete a subsequent Application (augment request) detailing all information regarding the modification to the Collocation Space. Sprint will perform the work to decommission CLEC's collocation arrangement that was installed by Sprint.

62.5.3. Four (4) pre-existing collocation arrangements exist that are provisioned by Sprint and all materials are provided by Sprint at the time of this Amendment:

Lake Brantley, FL – LKBRFLXADS1 – Circuit ID: 85.RLFS.825085..UFLG

Maitland, FL – MTLDFLXADS1 – Circuit ID: 85.RLFS.390129..UFLG

Winter Park, FL – WNPKFLXAPS0 – Circuit ID: 85.RLFS.390127..UFLG

Winter Park, FL – WNPKFLXEDS0 – Circuit ID: 85.RLFS.390128..UFLG

### **63. TERMINATION OF COLLOCATION SPACE**

- 63.1. CLEC may terminate occupancy in a particular Collocation Space upon thirty (30) Days prior written notice to Sprint. Upon termination of such occupancy, CLEC at its expense shall remove its equipment and other property from the Collocation Space. CLEC shall have thirty (30) Days from the termination date to complete such removal, including the removal of all equipment and facilities of CLEC's Guests; provided, however, that CLEC shall continue payment of monthly fees to Sprint until such date as CLEC has fully vacated the Collocation Space. CLEC will surrender the Collocation Space to Sprint in the same condition as when first occupied by CLEC, except for ordinary wear and tear.
- 63.2. CLEC 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.
- 63.3. Upon termination of CLEC's right to possession without termination, CLEC shall surrender possession and vacate the Collocation Space within thirty (30) Days. Failure to surrender the Collocation Space within thirty (30) Days shall be considered abandonment and Sprint will have the right to remove the equipment and other property of CLEC or the CLEC's Guest at CLEC's expense and with no liability for damage or injury to CLEC's property.
- 63.4. Should Sprint under any section of this Agreement remove any of CLEC's equipment from its collocation space, Sprint will deliver to CLEC any equipment



removed by Sprint only upon payment by CLEC of the cost of removal, storage and delivery, and all other amounts due Sprint under this Agreement. Should CLEC fail to remove any of its equipment deemed abandoned, title thereto shall pass to Sprint under this Agreement as if by a Bill of Sale. Nothing herein shall limit Sprint from pursuing, at its option, any other remedy in law, equity, or otherwise related to CLEC's occupancy in the Collocation Space, including any other remedy provided in this Agreement.

63.5. CLEC 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.

63.6. If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives available, Sprint shall have the right, for good cause shown, and upon thirty (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 CLEC for reasonable direct costs and expenses in connection with such reclamation.

63.7. If it becomes necessary in Sprint's reasonable judgment, and there are no other reasonable alternatives, to require CLEC to move to equivalent space in the Premises upon receipt of sixty (60) Days written notice from Sprint, in which event, Sprint shall pay all moving costs, and the Collocation License Fee provided for herein shall remain the same.

#### 64. COLLOCATION OPTIONS

64.1. **Cageless.** Sprint will offer Collocation Space to allow CLEC to collocate its equipment and facilities, and without requiring the construction of a cage or similar structure. **Sprint shall make cageless collocation available in single bay increments.** For equipment requiring special technical considerations, CLEC 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.

64.2. **Caged.** Sprint will authorize the enclosure of CLEC's equipment and facilities at CLEC's option. Sprint will provide guidelines and specifications upon request. Based on CLEC's request, space for cage enclosures in amounts as small as that sufficient to house and maintain a single rack or bay or equipment will be made available. CLEC will arrange with an Approved Contractor to construct a Collocation Arrangement enclosure at CLEC's sole expense. The Approved Contractor will be responsible for filing and receiving any and all necessary permits and/or licenses for such construction. The Approved

Contractor shall bill CLEC directly for all work performed for CLEC and Sprint will have no liability for, nor responsibility to pay, such charges imposed by the Approved Contractor. CLEC must provide the local Sprint building contact with one Access key necessary for entering the locked enclosure. Except in case of emergency, Sprint will not access CLEC's locked enclosure prior to notifying CLEC and obtaining authorization.

64.2.1. Sprint has the right to review CLEC's plans and specifications prior to allowing construction to start. Sprint will complete its review within fifteen (15) Days of receipt of such plans. Sprint has the right to inspect the enclosure after construction to make sure it is constructed according to the submitted plans and specifications. Sprint can require CLEC to remove or correct, at its cost, any structure that does not meet these plans.

64.3. 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, subject to zoning or other state and local regulations and future use by Sprint or other requesting Telecommunications Carriers pursuant to an application submitted under Section 66.

64.3.1. CLEC 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 CLEC elect such an option, CLEC must arrange with an Approved Contractor to construct an Adjacent Arrangement structure in accordance with this Agreement.

64.3.2. Sprint maintains the right to review CLEC's plans and specifications prior to construction of an Adjacent Arrangement(s). Sprint will complete its review within thirty (30) calendar days of site selection and receipt of plans. Except that such time period may be extended if any delay is due to the actions of CLEC. 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 CLEC to correct any deviations from approved plans found during such inspection(s).

64.3.3. Sprint will provide AC power, as requested, subject to being technically feasible. At its option, CLEC 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.

64.3.4. Subject to CLEC being on the waiting list, in the event that space in a Sprint Premises becomes available, Sprint will provide the option to the CLEC to relocate its equipment from an Adjacent Facility into the Sprint



Premises. In the event CLEC chooses to relocate its equipment, appropriate charges will apply, including charges to vacate the adjacent collocation arrangement and charges applicable for collocation within the Sprint Premises.

64.4. 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. § 51.321).

64.4.1. CLEC may lease to Sprint, at no cost to Sprint, equipment that meets applicable FCC requirements and in accordance with this Agreement, for the sole purpose of having Sprint maintain the equipment in accordance with terms and conditions mutually agreed upon by the Parties.

64.4.2. Virtually collocated equipment shall be purchased by CLEC. Sprint does not assume any responsibility for the design, engineering, testing or performance for the end-to-end connection of CLEC's equipment, arrangement or facilities.

64.4.3. CLEC will arrange with an Approved Contractor to construct and install CLEC's equipment in the virtual collocation arrangement.

64.4.4. Sprint will maintain, and repair CLEC'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. CLEC will be charged labor charges as identified on Table Two. The following services are not covered by this Agreement:

64.4.4.1. services to resolve software or hardware problems resulting from products provided by parties other than Sprint or causes beyond the control of Sprint;

64.4.4.2. service of attached, related, collateral or ancillary equipment or software not covered by this Section;

64.4.4.3. repairing damage caused to CLEC's collocated equipment by persons other than Sprint, or its authorized contractors, or

64.4.4.4. repairing damage to other property or equipment caused by operation of CLEC's collocated equipment and not caused by the sole negligence of Sprint.

64.4.5. CLEC 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 CLEC for the benefit of Sprint and CLEC shall take all reasonable action to enforce such warranties and indemnities where available to Sprint. CLEC shall execute,

upon presentation, such documents and instruments as may be required to allow Sprint manufacturer's warranty coverage for any equipment. CLEC 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.

64.4.5.1. In the event Sprint's right to quiet enjoyment is breached, either by CLEC'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 CLEC and all of Sprint's obligations relating to the affected equipment shall terminate immediately.

64.4.6. Sprint's preparation, if any, of the Premises (e.g., Power fusing, environmental, etc.) for the Virtual Collocation arrangement will be charged to CLEC at rates on Table Two or as filed in a tariff and approved by the Commission.

64.5. Shared (Subleased) Caged Collocation. CLEC may allow other telecommunications carriers to share its caged collocation arrangement pursuant to terms and conditions agreed to by CLEC ("Host") and other telecommunications carriers ("Guests"). CLEC will notify Sprint in writing upon execution of any agreement between the Host and its Guest within twelve (12) calendar days of its execution. Included in this notification, will be an Augment Application that outlines the equipment to be installed by the Guest. Any new equipment additions will be clearly outlined on the Application. An Augment Application Fee will only be rendered for this application in the event that additional engineering or preparation work by Sprint is required in accordance with section 77.1.2.1. Further, such notice shall include the name of the Guest(s) and their term of agreement, and shall contain a certification by CLEC that said agreement imposes upon the Guest(s) the same terms and conditions (excluding rates) for collocation space as set forth in this Agreement, including that Guest may only locate equipment necessary for interconnection to Sprint and accessing Sprint's unbundled network elements in accordance with Applicable Rules, including but not limited to 47 U.S.C. 251 (C) (3), 47 U.S.C. 251 (C) (2), and 47 C.F.R. 51.323(b-c).

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

64.5.2. Sprint will not place unreasonable restrictions on CLEC's use of a cage, and as such will allow CLEC to contract with other CLECs to share the cage in a sublease type arrangement. If two (2) or more CLECs that 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 collocator.

64.5.3. If Host terminates a Collocation Arrangement, Host will provide Guest thirty (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.

64.6. Contiguous Space. To the extent possible, Sprint will provide CLEC with contiguous space for any subsequent request for physical collocation space, but makes no assurances that contiguous space will be available.

## **65. DEMARCATION POINT**

- 65.1. Sprint will designate the point of demarcation, unless otherwise mutually agreed to by the Parties, in or adjacent to its Collocation Space. At CLEC's request, Sprint will identify the location(s) of other possible demarcation points available to CLEC, and CLEC 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 CLEC's equipment that is available.
- 65.2. Each Party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point.
- 65.3. At CLEC'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 CLEC's option, serve as the demarcation point. If CLEC elects not to provide a POT frame, Sprint will agree to handoff the interconnection cables to CLEC at its equipment, at CLEC's designated demarcation point. When CLEC elects to install its own POT frame/cabinet, CLEC will be responsible for providing and installing the required DC power panel.

## **66. APPLICATION PROCESS**

- 66.1. Upon CLEC'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 CLEC. CLEC will submit an Application when initially requesting Collocation Space, or modifying the use of the Collocation Space. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in CLEC's Collocation Space(s), the amount of square footage required (or, in the case of Cageless Collocation, bay space) for the current year plus the next calendar year from the date of application, as well as the associated power requirements, floor loading, and heat release of each piece.
- 66.2. CLEC will complete the Application, and return it 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 a collocation request until a complete Application and all required documents are submitted.
- 66.2.1. In the event CLEC desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Sprint, CLEC will complete a subsequent Application (augment request) detailing all information regarding the modification to the Collocation Space. 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.

- 66.2.1.1. There are two levels of augments, minor and major. Minor augments include things such as DC power fuse changes or extensions of AC electric circuits for occasional use outlets and lights where sufficient circuit capacity is available. Major augments include things such as additions or removals of cross connect cables, power cables, entrance cables and all requests for additional physical collocation space (caged or cageless).
- 66.3. Sprint will bill CLEC for the Application Fee (or Augment Application Fee) within thirty (30) days of Sprint's response to Application request.
- 66.4. If CLEC wishes Sprint to consider multiple methods for collocation on a single Application, CLEC 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 CLEC provides adequate information and its preferences with its Application, Sprint may not require an additional Application, nor would CLEC be required to restart the quotation interval should its first choice not be available in a requested Premises. Only one collocation arrangement will be provisioned per Application. Sprint will not select for CLEC the type of collocation to be ordered.
- 66.5. Within ten (10) Days after receiving CLEC's Application for collocation, Sprint will inform CLEC whether the Application meets each of Sprint's established collocation standards. Should CLEC submit a revised Application curing any deficiencies in an Application for collocation within ten days after being informed of them, CLEC shall retain its original position within any collocation queue that Sprint maintains. If Sprint informs CLEC that there is a deficiency in an Application, Sprint will provide sufficient detail so that CLEC has a reasonable opportunity to cure each deficiency.
- 66.6. All revisions to an initial request for a Physical Collocation Arrangement submitted by CLEC 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. CLEC will be required to pay any applicable Application fees.
- 66.7. Sprint shall provide confirmation of space availability within ten (10) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications submitted. Space availability response will be increased by five (5) Days for every five (5) additional Applications received.
- 66.7.1. Sprint will notify CLEC 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.
- 66.7.2. In order to increase the amount of space available for collocation, Sprint



will, upon request, remove obsolete unused equipment, from its Premises to increase the amount of space available for collocation.

- 66.8. After notifying the CLEC that Sprint has no available space in the requested Central Office (“Denial of Application”), Sprint will allow the CLEC, upon request, to tour the entire Central Office within ten (10) Days, or other mutually agreeable timeframe, of such Denial of Application. In order to schedule said tour the request for a tour of the Central Office must be received by Sprint within five (5) Days of the Denial of Application.
- 66.8.1. If CLEC 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.
- 66.8.2. 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.
- 66.8.3. Sprint will simultaneously notify the telecommunications carriers on the waiting list when space becomes available if there is enough space to accommodate additional collocation. Subsequent to the granting of a Petition for Waiver, if CLEC has been denied space at a Sprint Premises and challenges Sprint on space availability at said Premises, CLEC will be **given** priority for space assignment if, as a result of the challenge, space is found to be available. CLEC will reaffirm its collocation request within thirty (30) Days of such notification; otherwise, it will be dropped to the bottom of the list. Upon request, Sprint will advise CLEC as to its position on the list.
- 66.8.4. If CLEC’s Application for Physical Collocation is denied due to lack of space, Sprint will place CLEC on the waiting list for collocation in particular Premises according to the date CLEC submitted its Application and not the date of denial for lack of space.
- 66.8.5. 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) Days of the date at which a Premises runs out of physical collocation space.
- 66.9. Sprint will provide a price quote within ten (10) Days of receipt of a complete and accurate Application and applicable Application fee for one (1) to five (5) Applications. Price quote response will be increased by five (5) Days for every five (5) additional Applications received. The quotation will include the applicable nonrecurring and recurring rates.
- 66.10. CLEC has thirty (30) Days from receipt of the quotation to accept the



quotation in writing. The quotation expires after thirty (30) Days. After thirty (30) 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, CLEC does not notify Sprint that physical collocation should proceed.

66.11. CLEC will indicate its intent to proceed with equipment installation in a Sprint Premises by accepting the price quote, which constitutes a Bona Fide Firm Order (BFFO). Space preparation for the Collocation Space will not begin until Sprint receives the BFFO. If CLEC 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, CLEC's Application will be treated as a Revision.

66.12. All applicable fees, including the administrative, project management and transmission engineering fees, will be billed within thirty (30) of the BFFO.

## **67. SPACE RESERVATION**

67.1. The parties may reserve physical collocation space for their own specific uses for the remainder of the current year, plus twelve (12) months in accordance with Section 66. 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.

## **68. PROVISIONING INTERVALS**

68.1. Sprint will complete its work associated with the provisioning of Caged Physical (including Shared Caged), Cageless Physical, and Virtual Collocation arrangements within ninety (90) Days of receipt of a BFFO. Sprint will complete its work associated with the provisioning of Adjacent Collocation arrangements (as defined in 64.3) within one hundred-twenty (120) Days of receipt of a BFFO. If Sprint is unable to complete its work as provided herein, the parties may agree to a mutually acceptable interval or Sprint may petition the Commission for waiver.

## **69. CONSTRUCTION AND COMMENCEMENT OF BILLING**

69.1. An Approved Contractor, is required to perform the construction of physical collocation space, provided however, that any such Approved Contractor shall be subject to Sprint's security standards. Sprint reserves the right to reject any CLEC subcontractor upon the same criteria that Sprint would use on its own subcontractors. CLEC will notify Sprint in writing when construction of physical collocation space is complete.

69.2. Sprint shall have the right to inspect CLEC's construction of physical

collocation arrangement, completed installation of equipment and facilities prior to CLEC turning up such equipment and facilities. CLEC shall provide written notification to Sprint when CLEC 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 CLEC that Sprint is not exercising its right to inspect such Collocation space at that time and that CLEC may turn up its equipment and facilities. Failure of Sprint to either inspect the Collocation space or notify CLEC 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. CLEC shall have the right to be present at such inspection, and if CLEC is found to be in non-compliance with the terms and conditions of this Agreement that relate to the installation of CLEC's collocation arrangement and CLEC's Collocated equipment and facilities, CLEC shall correct any deviations within five (5) Days after the walk through and prior to turning up its equipment and facilities.

- 69.3. Sprint will complete its work associated with the Collocated Space in compliance with a mutually agreed to collocation request. Any deviation to CLEC's order must thereafter be approved by CLEC. The Parties acknowledge that CLEC approved deviations may require additional construction time and may incur additional CLEC expenses. CLEC shall pay the incremental cost incurred by Sprint as the result of any Revision to the Collocation request. CLEC will pay all applicable fees, including any nonrecurring charges required by Sprint.
- 69.4. CLEC 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 CLEC's equipment and for extraordinary costs to maintain the Collocation space for CLEC'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, CLEC and other collocators. An estimate of such costs, as determined in accordance with the Act, will be provided to CLEC prior to commencing such work. Extraordinary costs will only be billed to CLEC if such costs have been authorized by CLEC. Sprint must advise CLEC if extraordinary costs will be incurred.
- 69.5. 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.
- 69.6. Sprint will notify CLEC 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 CLEC's original or jointly amended requirements within five (5) Days after the walk through. If CLEC does not conduct an acceptance walk through within fifteen (15) Days of the notification that the Collocation Space construction is complete, CLEC will be deemed to have accepted the Collocation Space and billing will commence.

- 69.7. If the CLEC occupies the space prior to the acceptance walk through, billing will commence effective the date of occupancy.
- 69.8. CLEC must submit a written request to cancel its order for Physical, Caged, Shared Cage, Adjacent Space, or Virtual Collocation. CLEC 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.

## **70. EQUIPMENT**

- 70.1. CLEC may only locate equipment necessary for interconnection to Sprint and accessing Sprint's unbundled network elements in accordance with Applicable Rules, including but not limited to 47 U.S.C. 251 (C) (3), 47 U.S.C. 251 (C) (2), and 47 C.F.R. 51.323(b-c).
- 70.2. CLEC'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.
- 70.3. 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 CLEC that are more stringent than the safety requirements it imposes on its own equipment. If Sprint denies collocation of CLEC's equipment, citing safety standards, Sprint must provide to CLEC 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 CLEC's equipment does not meet NEBS Level 1 safety requirements, CLEC will be given ten (10) 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, CLEC will not activate the equipment during the pendency of the dispute.
- 70.4. CLEC must notify Sprint in writing that collocation equipment installation is complete and is operational with Sprint's network. If CLEC fails to place operational telecommunications equipment in the collocated space and connect

with Sprint's network within one-hundred-eighty (180) Days of CLEC's acceptance of Sprint's price quote, or other time period mutually agreed to by the CLEC and Sprint, Sprint may terminate the applicable Collocation Space upon written notice. CLEC 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.

## **71. AUGMENTS AND ADDITIONS**

- 71.1. When CLEC modifies the Collocation Arrangement or adds equipment that requires no additional space preparation work on the part of Sprint, Sprint may not impose additional charges or additional intervals that would delay the CLEC's operation. CLEC will notify Sprint of the modifications or additional equipment prior to installation.
- 71.2. In the event CLEC desires to modify or decommission the use of the Collocation Space in a manner that requires additional engineering or preparation work by Sprint, CLEC will complete a subsequent Application (augment request) detailing all information regarding the modification to the Collocation Space. 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.
- 71.3. Sprint will bill CLEC for the Application Fee within thirty (30) days of Sprint's response to Application request.
- 71.4. CLEC must submit an Application and applicable Application fee to obtain a price quote. CLEC must provide an accurate front equipment view (a.k.a. rack elevation drawing) specifying bay(s) for the CLEC's point of termination. Sprint will not process an augment collocation request until a complete Augment Application and all required documents are submitted. The price quote will contain the charges and the construction interval for that application. The construction interval for augments will not exceed forty-five (45) Days from BFFO. If special or major construction is required, Sprint will work cooperatively with CLEC to negotiate mutually agreeable construction intervals for augments.

## **72. USE OF COMMON AREAS**

- 72.1. CLEC, its employees, agents and invitees shall have a non-exclusive right to use those portions of the common area of the Building as are designated by Sprint from time to time, including, but not limited to, the right to use rest rooms in proximity to the Collocation Space, corridors and other access ways from the entrance to the Building, the Collocation Space, and the parking areas for vehicles of persons while working for or on behalf of CLEC 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 CLEC'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 CLEC's right to access its Collocation Space.

- 72.2. 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 CLEC, Sprint and any other building occupant. CLEC shall not waste or permit the waste of water.
- 72.3. 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 CLEC's Collocation Space. Sprint shall not be liable to CLEC or any other party for loss of or damage to the Collocation Space or CLEC equipment unless Sprint has failed to provide Building and Premises security in accordance with its normal business practices.
- 72.4. Sprint shall furnish passenger elevator service as necessary to reach the Collocation Space or common areas to which CLEC has access pursuant to the terms of this Agreement twenty-four (24) hours a day, seven (7) days a week. Freight elevator service when used by Approved Contractors, employees or agents shall be provided in a non-discriminatory manner as reasonably determined by Sprint.

### **73. CO-CARRIER CROSS CONNECTION**

- 73.1. For the term of this agreement, unless earlier terminated, Sprint shall furnish co-carrier cross-connects in compliance with 47 C.F.R. 51.323(h).
- 73.2. Co-carrier cross-connects ("CCXCs") are connections between CLEC and another collocated telecommunications carrier other than Sprint, and are only available when both collocation arrangements (either caged, cageless, and/or virtual) being interconnected are within the same Sprint premises, provided that the collocated equipment is also used for interconnection with Sprint and/or for access to Sprint's unbundled network elements. Sprint shall provide such CCXCs from CLEC's collocation arrangement to the collocation arrangement of another telecommunications carrier in the same Sprint premises under the terms and conditions of this Agreement. CCXC is provided at the same transmission level from CLEC to another telecommunications carrier.
- 73.2.1. Sprint will provide such CCXCs for non-adjacent collocation arrangements at the expense of CLEC per CLEC's request. Sprint will

provide connections between CLEC's own non-adjacent virtual and/or physical collocation arrangements within the same central office at the expense of CLEC and provisioned per CLEC's order.

73.2.2. Sprint, at its sole discretion, shall permit CLEC to self-provision CCXCs to interconnect its network with that of another adjacently collocated telecommunications carrier in the same Sprint premises without application.

73.2.3. In those cases where CLEC's virtual and/or physical collocation space is adjacent in the central office, CLEC may have the option, at Sprint's sole discretion, of using CLEC's own technicians to deploy direct connections ("DCs") using either electrical or optical facilities between the collocation spaces and constructing its own dedicated cable support structure according to Sprint's technical and safety standards.

73.3. The term "Adjacent" in this Section 85 refers to collocation arrangements in the same Premises that have a common border; and is not referring to the form of Physical Collocation as described in 47 C.F.R. 51.323(k)(3).

## **74. RATES**

74.1. The rates for collocation are listed on Table Two.

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

74.3. 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 CLEC'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.

74.4. Facility Modifications

74.4.1. To the extent that a modification is made for the specific benefit of any



particular party, costs of modification are to be proportionately born by those who directly benefit including the ILEC. The cost is allocated using the proportion of the new space occupied to the total new space made available.

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

74.4.3. None of the costs will be allocated to a third party that gains incidental benefit, but did not cause the modification or modify their facilities.

74.4.4. If a current user of space subsequently initiates new uses of the modified facility by other parties to avoid modification costs or if new entrants use the facility, they will share in the modification costs. The modifying party(s) may recover a proportionate share of the modification costs from parties that later are able to obtain access as a result of the modification. If measurable depreciation has occurred as a result of the modification, the subsequent party may pay a lower cost.

74.4.5. Parties requesting or joining in a modification also will be responsible for resulting costs to maintain the facility on an ongoing basis.

## **75. SPRINT SERVICES AND OBLIGATIONS**

75.1. 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 CLEC to Sprint in its Application which CLEC hereby represents to Sprint is sufficient to allow the CLEC equipment to function without risk of harm or damage to the Collocation Space, the Building or any equipment or facilities of Sprint or any other occupant of the Building. These environmental conditions shall adhere to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2 or other mutually agreed upon standards.

75.1.1. If CLEC 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 CLEC's equipment or facilities shall be paid by CLEC to Sprint. If supplementary air conditioning units or other environmental control devices are required for

more than one CLEC each CLEC will pay a pro-rata share of such costs, in proportion to the space occupied by each as compared to the total space available for collocation.

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

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

75.2.2. CLEC agrees to request in writing, via a complete and accurate Application, all electrical needs to power its equipment. The Application shall contain the total power needs, the date needed, and the exact location where termination of the electrical power shall occur. Actual power usage of the CLEC's equipment shall not exceed the requested capacity.

75.2.3. Central office power supplied by Sprint into the CLEC equipment area shall be supplied in the form of power feeders (cables) on cable racking into the designated CLEC equipment area. The power feeders (cables) shall efficiently and economically support the requested quantity and capacity of CLEC equipment. The termination location shall be as agreed by the parties.

75.2.4. Sprint shall provide power as requested by CLEC to meet CLEC's need for placement of equipment, interconnection, or provision of service.

75.2.5. Sprint power equipment supporting CLEC's equipment shall:

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

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

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

- 75.2.5.4. Provide central office ground, connected to a ground electrode located within the Collocated Space, at a level above the top of CLEC equipment plus or minus 2 feet to the left or right of CLEC's final request; and
  - 75.2.5.5. Provide feeder cable capacity and quantity to support the ultimate equipment layout for CLEC's equipment in accordance with CLEC's collocation request.
- 75.3. Sprint shall provide cabling that adheres to Telcordia Network Equipment Building System (NEBS) standards GR-63-CORE Issue 2;
- 75.3.1. 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.
  - 75.3.2. Sprint will provide CLEC 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 CLEC equipment located in Sprint facility. Sprint shall provide CLEC immediate notification by telephone of any emergency power activity that would impact CLEC's equipment.
- 75.4. Subject to the provisions of Section 75.4.1.2 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.
- 75.4.1. Stand alone fire extinguishers will be provided in and about the Building and the Collocation Space by Sprint as required by applicable fire codes.
    - 75.4.1.1. Sprint and Sprint's insurance carriers will perform regular inspections of fire protection systems, and CLEC 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 CLEC with notice of its intent to access CLEC'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 CLEC, its employees, agents or invitees, in which case CLEC shall reimburse Sprint for the cost of such repair or replacement. If a Halon or alternative fire suppression system is in place, the CLEC shall, if at fault, and at Sprint's option,

replace Halon or other fire extinguishing material discharged as a result of CLEC's act or omission. CLEC shall have no duty to inspect fire protection systems outside the Collocation Space; provided, however, if CLEC is aware of damage to the fire protection systems it shall promptly notify Sprint.

- 75.4.1.2. CLEC 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.
- 75.5. 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.
- 75.5.1. 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 CLEC. If Sprint shall fail to commence the repairs or maintenance within twenty (20) Days after written notification, provided that the delay are not caused by CLEC, CLEC'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.
- 75.5.2. Sprint shall, where practical, provide CLEC with twenty-four (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. CLEC shall pay Sprint for overtime and for any other expenses incurred if such work is done during other than normal working hours at CLEC's request. CLEC shall have the right, at its sole expense, to be present during repair or maintenance of the Collocation Space.
- 75.5.3. 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 CLEC or CLEC's employees, invitees or agents, shall be paid by CLEC to Sprint within ten (10) Days after being billed for the repairs and maintenance by Sprint.
- 75.6. Sprint shall provide CLEC 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 CLEC by e-mail of any unplanned service outages. Notification of any unplanned service outages shall be made as soon as practicable after Sprint learns that such outage has



occurred.

75.7. 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 CLEC'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.

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

75.8. For physical collocation, subject to reasonable building rules and any applicable Security Arrangements, CLEC 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.

75.8.1. 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 CLEC'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 its third party contractors.

75.8.2. 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 is not responsible 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, unless the damage is the result of gross negligence or willful misconduct on the part of Sprint.

75.9. Sprint shall have access to CLEC'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 CLEC'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 CLEC's Collocation Space has been established, and if conditions permit, Sprint will provide CLEC with notice (except in emergencies) of its intent to access the Collocation Space, thereby providing CLEC the option to be present at the time of access. CLEC 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.

75.9.1. To enter the Collocation Space for the purposes of examining or inspecting same and of making such repairs or alterations as Sprint deems necessary. CLEC hereby waives any claim for damage, injury, interference with CLEC'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.

75.10. 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 CLEC from the Collocation Space or any portion thereof.

## **76. CLEC'S OBLIGATIONS**

76.1. CLEC shall regularly inspect the Collocation Space to ensure that the Collocation Space is in good condition. CLEC 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). CLEC shall provide regular janitorial service to its Collocation Space and keep the Collocation Space clean and trash free.

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

76.2.1. CLEC must obtain non-employee photo identification cards for each CLEC employee or Approved Contractor. Temporary identification cards may otherwise be provided by Sprint for employees or agents, contractors and invitees of CLEC who may require occasional access to the Collocation Space.

76.2.2. CLEC will supply to Sprint the completed access form for employees or Approved Contractor who require access to the Premises. Sprint may reasonably deny access to any person 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.

76.2.3. Sprint may issue security cards, codes, or keys to CLEC's listed employees or Approved Contractor where such systems are available and their use by CLEC will not otherwise compromise building security. The

rate for the issuance of security cards is listed on Table Two.

- 76.2.4. CLEC is responsible for returning identification and security 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. CLEC will reimburse Sprint actual costs due to unreturned or replacement cards, codes, or keys.
- 76.2.5. CLEC's employees, agents, invitees and Approved Contractors must display identification cards at all times.
- 76.2.6. CLEC will assist Sprint in validation and verification of identification of its employees, agents, invitees and Approved Contractors by providing a telephone contact available twenty-four (24) hours a day, seven (7) days a week to verify identification.
- 76.2.7. 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 CLEC than Sprint requires for its own employees or Sprint's contractors.
- 76.2.8. Before leaving the Collocation Space unattended, CLEC 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 CLEC's failure to do so shall be the responsibility of CLEC. CLEC will defend and indemnify Sprint from and against any claim by any person or entity resulting in whole or in part from CLEC's failure to comply with this section.
- 76.2.9. CLEC agrees that Sprint may provide a security escort for physical collocation, at no cost or undue delay to CLEC, to CLEC personnel while on Sprint Premises. While such escort shall not be a requirement to CLEC's entry into the Building, CLEC must allow the security escort to accompany CLEC personnel at all times and in all areas of the Building, including the Collocation Space, if so requested.

- 76.2.10. CLEC 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. CLEC shall promptly update this information as changes occur.
- 76.3. CLEC 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 CLEC facility. CLEC shall provide Sprint immediate notification by telephone of any emergency power activity that would impact Sprint equipment.
- 76.4. CLEC shall not provision and/or install Uninterruptible Power Supply ("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.
- 76.5. CLEC shall not place Electro-Chemical Storage Batteries of any type inside the collocation space.
- 76.6. CLEC shall provide Sprint with written notice three (3) Business Days prior to those instances where CLEC or its Approved Contractors perform work, which is to be a known service affecting activity. CLEC will inform Sprint by e-mail of any unplanned service outages. The parties will then agree upon a plan to manage the outage so as to minimize customer interruption. Notification of any unplanned service outage shall be made as soon as practicable after CLEC learns that such outage has occurred so that Sprint can take any action required to monitor or protect its service.
- 76.7. CLEC may, at its own expense, install and maintain regular business telephone service in the Collocation Space. If requested by CLEC and at CLEC's expense, Sprint will provide basic telephone service with a connection jack in the Collocation Space.
- 76.8. CLEC shall, with the prior written consent of Sprint, have the right to provide additional fire protection systems within the Collocation Space; provided, however, that CLEC may not install or use sprinklers or carbon dioxide fire suppression systems within the Building or the Collocation Space.
- 76.8.1. If any governmental bureau, department or organization or Sprint's insurance carrier requires that changes or modifications be made to the fire protection system or that additional stand alone fire extinguishing, detection or protection devices be supplied within that portion of the Building in which the Collocation Space of CLECs in general are located, such changes, modifications, or additions shall be made by Sprint and CLEC shall reimburse Sprint for the cost thereof in the same proportion as the size of the CLEC's Collocation Space as compared to the total available collocation

space in the affected portion of the Building.

76.9. CLEC shall identify and shall notify Sprint in writing of any Hazardous Materials CLEC 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.*). CLEC, 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. CLEC 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.

76.9.1. CLEC 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.

76.9.2. If Sprint discovers that CLEC 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. CLEC 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. CLEC 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, CLEC 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.

76.9.3. CLEC 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, CLEC's use,

storage or disposal of Hazardous Materials.

76.9.4. 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 C.F.R. 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.

76.10. CLEC 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. CLEC 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.

76.10.1. CLEC shall not exceed the Uniformly Distributed Live Load Capacity. Sprint shall evaluate and determine Live Load Capacity rating on a site specific basis prior to equipment installation. CLEC agrees to provide Sprint with equipment profile information prior to installation authorization.

76.10.2. CLEC 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.

76.10.3. CLEC shall not use the name of the Building or Sprint for any purpose other than that of the business address of CLEC, or use any picture or likeness of the Building on any letterhead, envelope, circular, notice, or advertisement, without the prior written consent of Sprint.

76.10.4. CLEC 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.

76.10.5. CLEC 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. CLEC 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.

76.10.6. CLEC 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.

76.10.7. CLEC shall not use the Collocation Space for housing, lodging or sleeping purposes.

76.10.8. CLEC shall not permit preparation or warming of food, presence of cooking or vending equipment, sale of food or smoking in the Collocation Space.

76.10.9. CLEC 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.

76.11. CLEC, its employees, agents, contractors, and business invitees shall:

76.11.1. 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

76.11.2. 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.

76.12. CLEC 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 CLEC.

76.12.1. 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. CLEC shall permit Sprint to inspect all construction operations within the Collocation Space.

76.12.2. 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 CLEC 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 CLEC to remove such fixtures and installations, alterations or additions at CLEC'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.

76.12.3. All fixtures and other equipment to be used by CLEC in, about or upon the Collocation Space shall be subject to the prior written approval of Sprint, which shall not be unreasonably withheld.

76.13. CLEC 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 CLEC desires signal, communications, alarm or other utility or service connections installed or changed, the same shall be made by and at the expense of CLEC. 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 CLEC, whether in the Collocation Space, the Building or otherwise, shall be sealed as quickly as possible by CLEC with Sprint-approved fire barrier sealants, or by Sprint at CLEC's cost.

- 76.14. CLEC equipment shall be connected to Sprint's grounding system.
- 76.15. CLEC hereby represents and warrants that the information provided to Sprint in any Application or other documentation relative to CLEC'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 CLEC 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.

## **77. BUILDING RIGHTS**

- 77.1. Sprint may, without notice to CLEC:
- 77.1.1. Change the name or street address of the Premises;
  - 77.1.2. Install and maintain signs on the exterior and interior of the Premises or anywhere on the Premises;
  - 77.1.3. 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;
  - 77.1.4. Have pass keys or access cards with which to unlock all doors in the Collocation Space, excluding CLEC's safes;
  - 77.1.5. Reduce heat, light, water and power as required by any mandatory or voluntary conservation programs;
  - 77.1.6. 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 CLEC's sole risk and responsibility;
  - 77.1.7. 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. Sprint shall limit inconvenience or annoyance to CLEC as reasonably possible under the circumstances;
  - 77.1.8. 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;

- 77.1.9. 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 CLEC 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;
- 77.1.10. 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 CLEC's right to access.
- 77.2. 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.
- 77.3. 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 CLEC agrees, upon demand, to execute any instrument as may be required to effectuate such subordination.

## **78. INSURANCE**

- 78.1. During the term of this Agreement, CLEC 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:
- 78.1.1. 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;
- 78.1.2. 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;
- 78.1.3. 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
- 78.1.4. 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

- 78.1.5. "All Risk" property insurance on a full replacement cost basis insuring CLEC's property situated on or within the Property, naming Sprint as loss payee. CLEC 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.
- 78.2. Nothing contained in this Section shall limit CLEC's liability to Sprint to the limits of insurance certified or carried.
- 78.3. All policies required of the CLEC 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.
- 78.4. CLEC 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.
- 78.5. Sprint will carry not less than the insurance coverages and limits required of CLEC.

## **79. INDEMNIFICATION**

- 79.1. CLEC shall indemnify and hold Sprint harmless from any and all claims arising from:
- 79.1.1. CLEC's use of the Collocation Space;
  - 79.1.2. the conduct of CLEC's business or from any activity, work or things done, permitted or suffered by CLEC in or about the Collocation Space or elsewhere;
  - 79.1.3. any and all claims arising from any breach or default in the performance of any obligation on CLEC's part to be performed under the terms of this Agreement; and
  - 79.1.4. any negligence of the CLEC, or any of CLEC's agents, and fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon.
- 79.2. If any action or proceeding is brought against Sprint by reason of any such claim, CLEC, upon notice from Sprint, shall defend same at CLEC's expense employing counsel satisfactory to Sprint. CLEC, 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 CLEC hereby waives all claims in respect thereof against Sprint.

79.3. CLEC shall at all times indemnify, defend, save and hold harmless Sprint from any claims, liens, demands, charges, encumbrances, litigation and judgments arising directly or indirectly out of any use, occupancy or activity of CLEC, or out of any work performed, material furnished, or obligations incurred by CLEC in, upon or otherwise in connection with the Collocation Space. CLEC shall give Sprint written notice at least ten (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 CLEC's liability under this Section.

79.3.1. 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, CLEC shall give Sprint written notice thereof as soon as CLEC obtains such knowledge.

79.3.2. CLEC shall, at its expense, within thirty (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 CLEC, from obtaining such discharge and release if CLEC fails or refuses to do the same within the thirty-day period.

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

## **80. LIMITATION OF LIABILITY**

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

80.2. 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.

## **81. PARTIAL DESTRUCTION**

81.1. 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. CLEC's rights to the applicable Collocation Space shall not terminate unless, within ninety (90) Days after the occurrence of such casualty, Sprint notifies CLEC of its election to terminate CLEC's rights to the applicable Collocation Space. If Sprint does not elect to terminate CLEC's rights to the applicable Collocation Space, Sprint shall repair the damage to the Collocation Space caused by such casualty.

81.2. Notwithstanding any other provision of this Agreement to the contrary, if any casualty is the result of any act, omission or negligence of CLEC, its agents, employees, contractors, CLECs, customers or business invitees, unless Sprint otherwise elects, the CLEC's rights to the applicable Collocation Space shall not terminate, and, if Sprint elects to make such repairs, CLEC shall reimburse Sprint for the cost of such repairs, or CLEC shall repair such damage, including damage



to the Building and the area surrounding it, and the License Fee shall not abate.

81.3. 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 ninety (90) Days of such casualty, terminate CLEC's rights to the applicable Collocation Space by giving written notice of its intent to terminate CLEC's rights to the applicable Collocation Space. The termination as provided in this paragraph shall be effective thirty (30) Days after the date of the notice.

## **82. EMINENT DOMAIN**

82.1. 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, CLEC'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 CLEC'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 CLEC for such cancellation, and the CLEC shall have no right to share in the condemnation award or in any judgment for damages caused by such eminent domain proceedings.

## **83. BANKRUPTCY**

83.1. If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy act shall be filed by or against CLEC, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare CLEC insolvent or unable to pay CLEC's debts, or CLEC makes an assignment for the benefit of its creditors, or a trustee or receiver is appointed for CLEC or for the major part of CLEC'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.

## **84. ASBESTOS**

84.1. CLEC is aware the Premises in which the Collocation Space is located may contain or have contained asbestos or asbestos containing building materials, and CLEC is hereby notified that the Premises in which the Collocation Space is located may contain asbestos or asbestos containing building material (ACBM). CLEC 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 CLEC's employees,

agents, or contractors may reasonably expect to encounter while performing activities in the Premises. CLEC 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 CLEC's use of the Collocation Space or placement of equipment onto ACBM or into areas containing asbestos identified by Sprint. Sprint agrees to provide CLEC reasonable notice prior to undertaking any asbestos control, abatement, or other activities which may disturb asbestos or ACBM that could potentially affect CLEC'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.

#### **85. MISCELLANEOUS**

- 85.1. CLEC 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.
- 85.2. 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 CLEC.
- 85.3. 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 CLEC by implication or otherwise unless expressly set forth herein.
- 85.4. In the event of work stoppages, Sprint may establish separate entrances for use by personnel of CLEC. CLEC shall comply with any emergency operating procedures established by Sprint to deal with work stoppages.
- 85.5. The individuals executing this Agreement on behalf of CLEC represent and warrant to Sprint they are fully authorized and legally capable of executing this Agreement on behalf of CLEC.

#### **C The agreement is amended to add the following Table 2:**

**Table 2**

Rate Element Description	Non-Recurring Rate	Monthly Recurring Rate
<b>Physical and Virtual Collocation Elements</b>		
<b>Application Fees</b>		
New Collocation - Application Fee	\$ 2,758.17	N/A
New Collocation - Administrative, Transmission Engineering & Project Management Fee	\$ 4,935.51	N/A
Minor Augment Fee	\$ 801.43	N/A
Minor Augment - Administrative & Project Management Fee	\$ 581.58	N/A
Minor Augment - Transmission Engineering Fee	\$ 569.49	N/A
Major Augment Fee	\$ 1,613.28	N/A
Major Augment - Administrative & Project Management Fee	\$ 1,451.88	N/A
Major Augment - Transmission Engineering Fee	\$ 1,672.88	N/A
Space Report (per wire center)	\$ 857.94	N/A
<b>Security Cage Construction</b>		
Security Cage - Engineering	\$ 688.54	N/A
Security Cage - Construction (per Linear Foot)	**	N/A
<b>Floor Space</b>		
Floor Space (per Square Foot)	N/A	\$ 7.87
<b>DC Power</b>		
Power Costs (per Load Ampere Ordered)	N/A	\$ 15.81
Power Cost connections - space to Power Plant up to 30 Amps	**	\$ 5.59
Power Cost connections - space to Power Plant 31-60 Amps	**	\$ 7.90
Power Cost connections - space/engineering to Power Plant 61-100 Amps	\$ 533.90 **	\$ 16.88
Additional Cost per Foot Over 110 Linear Feet	\$ 2.42 **	\$ 0.24
Power Costs connection - space/engineering to Power Plant 101-200 Amps	\$ 533.90 **	\$ 34.02
Additional Cost per Foot Over 110 Linear Feet	\$ 2.42 **	\$ 0.45
<b>AC Power</b>		
AC Outlet Engineering (per 20 amp convenience outlet)	\$ 106.78 **	N/A
Overhead Lights Engineering (per set of 2)	\$ 106.78 **	N/A
<b>Cross Connect Facilities</b>		
DS0 Switchboard Cable Space (per 100-Pair Cable)	**	\$ 2.34
DS0 Co-Carrier Direct Cabling Space (per 100-Pair Cable)	**	\$ 2.34
DS1 Cross Connect Cable Space (per DS1 in 28-pack Increments)	**	\$ 3.32
DS1 Co-Carrier Direct Cabling Space (per DS1 28-pack Cable)	**	\$ 3.32
DS3 Cross Connect Space (per DS3 in 12-pack Increments)	**	\$ 3.77
DS3 Co-Carrier Direct Cabling Space (per DS3 12-pack Cable)	**	\$ 3.77
Optical Cross-Connect Space (per 4-Fiber Cable)	**	\$ 7.41
Optical Cross-Connect Space (per 2-Fiber Cable) ***	**	\$ 3.70
Optical Co-Carrier Direct Cabling Space (per 4-Fiber Cable)	**	\$ 7.41
Optical Co-Carrier Direct Cabling Space (per 2-Fiber Cable) ***	**	\$ 3.70
Internal Cable Space (per 48-Fiber Cable)	N/A	\$ 30.89
Internal Cable Space (per 100-Pair Copper Stub Cable)	N/A	\$ 20.76
Internal Cable Space Engineering (per 48-Fiber Cable)	\$ 1,074.69	
Internal Cable Space Engineering (per 100-Pair Copper Stub Cable)	\$ 185.30	



**Table 2: (continued)**

Physical and Virtual Collocation Elements (continued)	Non-Recurring Rate	Monthly Recurring Rate
<b>Security Card</b>		
Security Card (per Card)	\$ 15.00	N/A
<b>Additional Labor Charges (Physical or Virtual)</b>		
Additional Labor 1/4 hour CO Technician - Regular	\$ 17.48	N/A
Additional Labor 1/4 hour CO Technician - Overtime	\$ 26.22	N/A
Additional Labor 1/4 hour CO Technician - Premium	\$ 34.96	N/A
Additional Labor 1/4 hour CO Engineer	\$ 15.66	N/A
Additional Labor 1/4 hour OSP Technician - Regular	\$ 14.55	N/A
Additional Labor 1/4 hour OSP Technician - Overtime	\$ 21.83	N/A
Additional Labor 1/4 hour OSP Technician - Premium	\$ 29.10	N/A
Additional Labor 1/4 hour OSP Engineer	\$ 12.28	N/A
<b>Adjacent Onsite Collocation</b>	<b>Non-Recurring Rate</b>	<b>Monthly Recurring Rate</b>
All elements	ICB	ICB
<b>Remote Terminal Collocation</b>	<b>Non-Recurring Rate</b>	<b>Monthly Recurring Rate</b>
All elements	ICB	ICB

\*\* Customer is responsible for contracting for construction through approved third-party vendors. These prices are for Sprint's portion of the work required and do not include the customer's charges from their vendor.

\*\*\* Rate determined through ICB process and subsequent study after initial request.

**Table 2 Addendum for Sprint provisioned arrangements**

Rate Element Description	Non-Recurring Rate	Monthly Recurring Rate
<b>Physical Collocation Elements</b>		
<b>Cross Connect Facilities</b>		
DS0 Switchboard Cable (per 100-Pair Cable)	-	\$ 36.59
DS1 Cross Connect Cable (per DS1 in 28-pack Increments)	-	\$ 2.93
DS3 Cross Connect Cable (per DS3 in 12-pack Increments)	-	\$ 25.85
Optical Cross-Connect (per 4-Fiber Cable)	-	\$ 15.98
Internal Cabling (per linear foot)	-	\$ 0.14
Internal Conduit (per linear foot)	-	\$ 0.48
<b>Virtual Collocation Elements</b>	<b>Non-Recurring Rate</b>	<b>Monthly Recurring Rate</b>
<b>Cross Connect Facilities</b>		
DS0 Switchboard Cable (per 100-Pair Cable)		\$ 36.59
DS1 Cross Connect Cable (per DS1 in 28-pack Increments)		\$ 4.45

DS3 Cross Connect Cable (per DS3 in 12-pack Increments)	-	\$ 53.55
Optical Cross-Connect (per 4-Fiber Cable)	-	\$ 15.98
Internal Cabling (per linear foot)	-	\$ 0.19
Internal Conduit (per linear foot)		\$ 0.53
Physical and Virtual Collocation Elements (continued)	Non-Recurring Rate	Monthly Recurring Rate
Security Card		
Security Card (per Card)	\$ 15.00	N/A
Additional Labor Charges (Physical or Virtual)		
Additional Labor 1/4 hour CO Technician - Regular	\$ 17.48	N/A
Additional Labor 1/4 hour CO Technician - Overtime	\$ 26.22	N/A
Additional Labor 1/4 hour CO Technician - Premium	\$ 34.96	N/A
Additional Labor 1/4 hour CO Engineer	\$ 15.66	N/A
Additional Labor 1/4 hour OSP Technician - Regular	\$ 14.55	N/A
Additional Labor 1/4 hour OSP Technician - Overtime	\$ 21.83	N/A
Additional Labor 1/4 hour OSP Technician - Premium	\$ 29.10	N/A
Additional Labor 1/4 hour OSP Engineer	\$ 12.28	N/A
Adjacent Onsite Collocation	Non-Recurring Rate	Monthly Recurring Rate
All elements	ICB	ICB
Remote Terminal Collocation	Non-Recurring Rate	Monthly Recurring Rate
All elements	ICB	ICB

\*\* Customer is responsible for contracting for construction through approved third-party vendors. These prices are for Sprint's portion of the work required and do not include the customer's charges from their vendor.

\*\*\* Rate determined through ICB process and subsequent study after initial request.

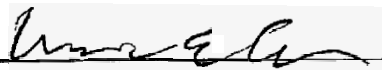
### 3. GENERAL

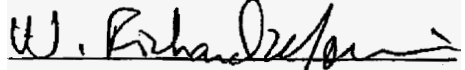
- A. Other than as set forth above, the Agreement remains unchanged and in full force and effect.
- B. Except as otherwise indicated defined terms in this Amendment have the same meaning as in the Agreement.
- C. This Amendment No. 1 executed by authorized representatives of Sprint and CLEC is made a part of and incorporates the terms and conditions of the Agreement.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. 1 the year and day first written above.

**SPRINT**

**CLEC**

By: 

By: 

Name (typed): William E. Cheek

Name (typed): W. Richard Morris

Title: AVP - Strategic Markets

Title: V.P. - External Affairs

Date: 5/27/05

Date: MAY 24 2005